

News Broadcasting & Digital Standards Authority
Order No. 120 (2021)

Order of NBDSA (formerly known as NBSA) on the complaint dated 11.11.2020 received from Mr.Indrajeet Ghorpade regarding a programme aired on Zee News on 2.11.2020

Complaint dated 5.11.2020 filed with the channel:

The complainant alleged that on 2.11.2020, Zee News aired a news programme about the Open Letter Sent by CCG to advertisers, which violated Section 1.1. and Section 1.2 of NBSA's Code of Conduct. The complaint stated that during the impugned programme, the news anchor Mr. Sudhir Chaudhary expressed his opinion about the Constitutional Conduct Group (CCG), a group of former officers of the All India and Central Services and addressed the Group as a "Gang". The anchor with a negative connotation claimed that the international media loved this "gang". He also called the Group a cunning group and alleged that the gang had cunningly used the word "*Constitutional*" in its name.

Further, the anchor inaccurately stated in the programme that CCG was trying to cut the finance of news channels that broadcast "*the truth*". The complainant stated that this claim was inaccurate as the open letter urged advertisers to stop funding channels that spread hatred and communal disharmony by running shows which communalise the spread of Covid-19, allege that the UPSC has allowed Muslims to '*infiltrate*' the higher civil services and dub sensitive advertisements about communal harmony as "*Love Jihad*". The letter did not urge advertisers to stop funding channels that show the truth.

Furthermore, the anchor also inaccurately reported that "*opposing extremism that has spread in Islam is seen by the CCG as hatred towards the Muslim community*". The complainant stated that the examples cited in the letter (communalising Covid, UPSC Jihad and love Jihad) are real examples of the prejudice that some news channels hold against the Muslim community in India. The show on UPSC Jihad was stopped by the Apex Court, and the case is ongoing; and that even NBSA has deemed communalisation of Covid as a violation of the Code of Conduct. Therefore, he submitted that it was inaccurate to say that CCG was misinterpreting opposition of religious extremism as hatred.

The complainant asserted that in the programme, the anchor also questioned the credibility of the members of CCG and accused them of being "*one-sided*". The anchor even questioned the past decisions taken by the CCG members while they were holding roles in public offices and alleged that they must have taken "*one-sided/partial decisions*". The complainant stated that the anchor made such claims without giving any evidence of the past work done by CCG members while they

were holding roles in public offices to prove his claims that their decisions were partial.

He stated that in the impugned programme, the anchor again inaccurately and without any evidence stated that CCG was falsely claiming that it is not associated with any political party and went on to speculate that the CCG's letters were in fact written by political parties and asked the viewers to guess who these writers were. The anchor ended the impugned news programme by reporting that CCG must be exposed, and such a system must be broken down.

The complainant stated that in the impugned programme, the anchor neither interviewed any member from CCG nor gave them a chance to express their point of view. The broadcaster had failed to air information that was accurate, objective, impartial and had also failed to ensure neutrality in its reportage. By airing the impugned programme, the broadcaster had defamed a group of former officers of the All India and Central Services who have worked with the Central and State Governments in different capacities. By vilifying this Group of concerned citizens of India, the broadcaster had not only defamed the individuals and misguided the viewers but had also endangered the lives of the members of CCG.

The complainant prayed for NBSA to take appropriate action against the broadcaster in accordance with its Regulations.

Complaint dated 11.11.2020 filed with NBSA

The complainant escalated the complaint to NBSA as the broadcaster had failed to respond within the time period stipulated under the Regulations.

Response from the broadcaster

In its reply dated 23.11.2020, the broadcaster acknowledged the receipt of an email dated 12.11.2020 from the Hon'ble News Broadcasting Standards Authority, along with a complaint/email dated 11.11.2020. At the outset, the broadcaster stated that in the complaint, false, frivolous, unsubstantiated and motivated allegations had been levelled against the content of its news programme 'DNA' aired on 2.11.2020. The broadcaster denied the allegations levelled in the complaint and submitted that it had not violated any of the Guidelines or Code of Ethics framed by the News Broadcasters Association.

In the impugned programme, the broadcaster stated that it had conducted an objective, fair and critical analysis of the open letter issued by the Constitutional Conduct Group ('CCG') to Companies, Business Houses and Corporates in India urging them to re-think policy on advertising on media channels that spread discord and divisiveness in the society. In the aforesaid letter, CCG had cited instances of media reporting's which communalised the spread of Covid-19, alleged infiltration

of Muslims in higher civil services and dubbed sensitive advertisements about communal harmony as '*Love Jihad*', as divisive in nature and had the tendency of spreading hatred in society on the basis of religion.

The broadcaster stated that since the aforesaid letter of CCG was based only on media reporting related to a particular religion and left aside other equally important constitutional issues, it had in the impugned conducted a fair analysis of the contents of the letter and the intention of CCG behind issuing such open letter. It asserted that since the letter was aimed at stopping the financial and economic flow to even those media channels that reported the truth. Therefore, the letter amounted to a systematic attack on freedom of the press.

The broadcaster asserted that the analysis in the impugned programme was completely impartial, without preconceived notions or biases which was evident from the fact that it had at the beginning of the show itself stated that news channels should not air toxic contents and that the broadcaster itself was against the act of spreading hatred in society. . It reiterated that it had conducted a detailed analysis of the CCG, and its intention behind issuing the aforesaid letter, as well as reported on the issues raised by CCG in the past. Therefore, since its analysis was based on facts it could not be considered false and defamatory or violative of the Code of Ethics. The broadcaster further stated that the present complaint lacked bona fide and had been filed for extraneous reasons.

Further, in the impugned programme, important questions regarding the conduct of CCG being selective were raised, inasmuch as all the instances cited in the letter were related to one particular religion, whereas the said so-called Constitutional Conduct Group were silent and never raised their voice over the other national and constitutional issues, for example - the lynching of Sadhus in Palghar, terrorist attack on our soldiers in Pulwama, riots happened in Delhi in February 2020, protests in Shaheen Bagh over CAA/NRC etc. It appeared that by way of the aforesaid letter, the CCG tried to create a false impression that exposing the extremist elements amounted to an attack on the entire Islam Religion and as such, the impugned programme raised another question as to whether exposing few extremist elements would amount to spreading hate against entire Islam.

The broadcaster further submitted that as responsible media house of the country, it respected each and every religion, and in the impugned show it also stated that it was only against the extremists who violated the law and not Islam. It reiterated that since no defamatory or objectionable content regarding the CCG was telecast, there was no question of violating Section 1.1 of the Code of Ethics as alleged. It further stated that CCG has a distinct tilt towards minority appeasement, and since the members of the Group were former civil servants, they were using their influence to

defund the media houses only because the news as per their agenda and liking was not shown.

The broadcaster stated that by writing such open letters or blogs, CCG had made an attempt to vitiate public discourse and was trying to cut the finance of news channels. That this amounted to an indirect threat to the media companies to get them to surrender to the ideologies of the Group. While criticising the media for reporting the truth, the Group miserably failed to acknowledge that the same media houses also highlighted many issues of national importance.

It reiterated that the aforesaid letter of CCG reeked of bias and appeared to be an attempt to stop the media from reporting on issues of national importance. The broadcaster accused the Group of having preconceived notions that the media was against a certain community when in reality, the media was only exposing those few people who, in the name of their religion, were taking the laws in to their hands.

The broadcaster vehemently denied the allegation that it had vilified, defamed the individuals and had not only misguided the viewers but also endangered the lives of the members of CCG. that since the aforesaid letter was an open letter and the names of the 95 members were already in public, it had in no words and actions endangered the lives of such individuals.

The broadcaster stated that it had abided by the principles of news reporting, broadcasting and journalistic norms, and the complaint had failed to establish any deviations therefrom by it. Therefore, it requested for the complaint to be dismissed at the outset.

Complaint dated 23.11.2020 filed with NBSA

The complainant reiterated the contents of his complaint. He requested his complaint to be reviewed by NBSA, as he was unsatisfied with the response received from the channel.

Decision of NBSA on 18.2.2021

NBSA considered the complaint, the response from the broadcaster and viewed the footage/CD of the broadcast. NBSA noted that the broadcaster had by calling the Constitutional Conduct Group a “gang” and a “cunning” Group engaged in mudslinging and attempted to defame the Group, which prima facie appears to be violative of the NBSA’s guidelines. NBSA decided that the broadcaster and the complainant be called for a hearing at a later date.

On being served with notice, the following were present at the hearing on 24.9.2021:

Complainant:

Mr. Indrajeet Ghorpade

Mr. Wajahat Habibullah, Former Chief Information Commissioner of India

Broadcaster:

Ms. Ritwika Nanda, Advocate

Mr. Piyush Choudhary, Compliance Officer NBDSA & Senior Manager, Legal

Ms. Annie, Assistant Manager, Legal

Submissions of the Complainant

The complainant submitted that in the impugned programme, the broadcaster has very notoriously tried to label the Constitutional Conduct Group (CCG) as a “*Gang*”. He submitted that even on previous occasions, the broadcaster has resorted to such kind of labelling when reporting on students of JNU and the protestors in Shaheen Bagh to dismiss the cause which they may be supporting.

In the present instance, he submitted that the CCG, through the open letter, was addressing advertisers and holding them accountable for the platforms they use for advertising. That it was pertinent to note that the Open Letter did not mention Zee News or the name of any other channel. It simply cited examples of dangerous news reporting practices that are currently prevalent in India which have been penalised and talked about its impact in our society, on businesses and on India’s GDP.

Despite the letter being fair criticism of how media functions in present times, the reporting by the broadcaster was entirely malicious. The broadcaster made no attempt to reach out to any member of the CCG for their inputs rather they associated the Group with a political party and further even discredited the work done by members of CCG during their professional careers.

Further, he stated that in the programme, the anchor blatantly questioned the credibility of the members of CCG and accused them of being “*one-sided*” and supporting a particular community. The anchor even questioned all the past decisions taken by the CCG members while they were holding roles in public offices and alleged that they must have taken “*one-sided/partial decisions*”. That such claims were made by the anchor without any evidence of any misjudgements/ wrongdoings by any members of CCG in India or abroad while they were holding roles in public offices. Furthermore, in the programme, it was asserted that the letter was written with the intent to cut the funding of channels which reported the truth, therefore the complainant questioned how did the broadcaster come to this conclusion in absence of any such statement in the letter. The complainant reiterated the allegations in his complaint and submitted that the defence presented by the broadcaster was unsatisfactory.

Mr Habibullah submitted that he was representing the CCG and had joined the hearing at the invitation of the complainant. He submitted that in the impugned programme, the broadcaster has not only implied but declared that CCG was a “gang”. That while he and the Group are supporters of the constitutionally guaranteed Freedom of Speech and Expression, however, the right did not extend to covering malice and defamation. He asserted that in the impugned programme, the broadcaster has questioned the intent behind the letter in a highly malicious fashion. That the broadcaster has failed to criticise the content of the letter, except to state that they are opposed to terrorism and therefore insinuated that CCG supports terrorism and associated terrorism with a particular community which requires corrective action. Further, during the programme, he submitted that the broadcaster has attempted to imply that CCG has a political bias. Mr Habibullah clarified that CCG does not speak for any political party and has on past occasions even criticised UPA Government for their role in UAPA law.

Submissions of the Broadcaster

The broadcaster submitted that the impugned programme was a Daily News Analysis broadcast on 2.11.2020 in respect of the Open Letter dated 31.10.2020 written by CCG to Companies, Business houses and Corporates in India urging them to re-think their policy on advertising on media channels that spread discord and divisiveness in the society. That it was pertinent to note that the open letter did not cite/mention any specific channel or specific reporting of any channel. However, what the open letter stated was that channels which communalised the spread of Covid-19, which alleged infiltration of Muslims in higher civil services and which dubbed the sensitive advertisements about communal harmony as ‘Love Jihad’ calling upon Corporates and Business Houses to not advertise on these channels that go against the fundamental rights and spread hatred and disharmony. The open letter which specifically talks about hatred at three instances was written by a group of eighty five very eminent people who have formerly held very high posts in the Indian Administration.

The broadcaster submitted that in the impugned programme it had objectively, fairly and impartially covered the complete contents of the Open Letter which was shown during the programme and even read out excerpts from the letter. The questions “*nafrat ki khabar dikhana nafrat kaise*” and “*kattarta ka virodh muslim virodh kaise*” put forth in the programme were raised in the context of the letter whether it was addressed to them or any other channel. At the outset, the broadcaster submitted that in the impugned programme the anchor questioned whether the authors of the letter can decide whether any news reporting is spreading hatred or not he stated that “*hum bhi mante hai ki nafrat failane walo ka bharishakar hona chahiye aur apko toxic content nhi dikhana chahiye lekin sawal yeh hai ki desh ke 95 log kya yeh tay kar sakte hai ki kya nafrat ko report karna bhi nafrat mana jayenga yan nahi*”.

The broadcaster submitted that in the letter it is stated that *“many well-established corporates have shown no hesitation in advertising their products on media channels which have made it a practice to ramp up their viewership by spewing hatred, creating divisions on the basis of religion and caste, manufacturing false narratives and making criminals out of law-abiding people. It is possible that these corporates have not given sufficient thought to how their acts have unwittingly strengthened the forces which divide the nation through deliberate false propaganda.”* and the impression that an average person gets after reading the letter is that the authors have already decided/ reached the conclusion that the channels are spewing hatred, creating divisions and manufacturing false narratives. The broadcaster submitted that the manner in which the letter was written and widely disseminated it appears that a conclusion has been reached that this is what the news channels are doing however no names have been cited in the letter to which the broadcaster has a specific objection.

NBDSA questioned the broadcaster whether an opinion about what news channels are doing is not within the right to freedom of speech and expression. The broadcaster stated that since the complainant was widely disseminating the letter, if the complainant alleges defamation it also has to assume some sort of responsibility for what it is disseminating in the community.

NBDSA also questioned that since the letter did not mention any channel, whether the contents of the letter were discussed by any other channel apart from the broadcaster? The broadcaster answered the question in negative. The broadcaster submitted that since the letter was written by a group of eminent persons, a normal reader would consider the contents of the letter to be true or to be factual. Therefore, the letter should have been balanced and the authors should have cited the reporting they were objecting to along with decision establishing that it was incorrect. Further, it submitted that in any case the authors are not the relevant authority to adjudge the correctness of a programme.

NBDSA stated that it appears that it was a general opinion of the CCG that news is distorted however since no channel had been specifically cited in the letter, the broadcaster is within its right to criticise the letter, but it cannot require the authors to cite examples and then target them for their failure to give specific examples.

The broadcaster submitted that they had not targeted the CCG, they stated that while CCG has a right to its opinion but the tenor of the letter is not in the sense of an opinion rather it is determinative. In the impugned programme, they have merely analysed the contents of the letter and stated that no specific instances have been highlighted by the author and the letter appears to be one sided, however the broadcaster have not reached any conclusion.

NBDSA questioned the broadcaster that since it was their repeated assertion that the impugned programme is a Daily News Analysis, then how did the anchor come to the conclusion that CCG is a “*gang*”. The broadcaster submitted that the word “*gang*” had been used only once in the impugned programme and admittedly could have been substituted for a better expression. However, the term was intended to refer to a group of person only.

NBDSA also questioned the use of the expression “*cunning*” while describing CCG. The broadcaster denied using the term “*cunning*”, however they clarified that the term “*chhalak?*” was used in context of CCG which was using the term “Constitution” in its name and “*chhalak?*” did not refer to the members of the Group.

The broadcaster asserted that all the instances mentioned in the letter i.e., communalisation of the spread of Covid-19, alleged infiltration of Muslims in higher civil services and sensitive advertisements about communal harmony being dubbed as ‘Love Jihad’ are communal in nature. The broadcaster had mentioned in its analysis in the impugned programme, all instances stated in the letter which were communal in nature and it was CCG that was trying to give a communal color to the issue. Further, in the programme, the broadcaster had on several occasions questioned whether reporting on extremism can be construed as spreading hatred or not.

That if the complainant or authors of the letter had any objection to any specific reporting they had remedies to call out that these telecasts as being objectionable. However, they have not done so rather they had written this letter based on their conclusion or internal understanding of what reporting is. The broadcaster submitted that the authors are not in a position to give a finding on the nature of reporting.

With regard to the allegation of defamation, the broadcaster submitted that the offence of defamation requires lowering one’s image in the eyes of another. In this instance, it stated that there is no such example that because of the reporting, members of CCG have been defamed. Further, it stated that an entire community cannot be defamed together.

NBDSA stated that the allegation of defamation is not being raised in the legal sense, rather objection is being raised with regard to the use of language while referring to the members of CCG. NBDSA questioned the broadcaster as to what right did the anchor have to question the credibility of the members of the Group? Whether the channel had while presenting its analysis, also attempted to seek comments from the members of the Group?

The broadcaster stated that since the analysis was only on the content of the letter which was self explanatory, it did not feel the need to seek comments from the members of the Group.

NBDSA questioned the broadcaster as to how it came to the analysis that the members of the Group were communal. The broadcaster submitted that it was not an analysis rather it was a question raised during the programme. NBDSA stated that it appears that leading questions were made during the impugned programme.

The broadcaster submitted that all the instances cited in the letter were related to one particular religion, whereas the CCG were silent and never raised their voice over other national and constitutional issues, for example during the riots that happened in Delhi in February 2020 etc. Further, it stated that the broadcast was neither intended to be defamatory nor can it be construed as such in legal parlance.

Decision

NBDSA looked into the complaint, response from the broadcaster and also gave due consideration to the arguments of both the complainant and the broadcaster and reviewed the footage.

NBDSA was of the view that the channel had certainly crossed boundaries by questioning the credibility of the members of Constitutional Conduct Group (CCG) by calling them “*cunning*” and “*gang*”. NBDSA noted that the programme lacked impartiality, and the name-calling and mudslinging by the anchor also offended the standards of good taste and decency. Further, the Authority observed that while the broadcaster was within its right to criticise the open letter written by CCG however, the pre-determined judgment of the anchor cannot be construed to be an analysis.

In view of the above violations, NBDSA decided to censure the broadcaster for violating the Code of Ethics and Broadcasting Standards.

In view of the above, NBDSA, therefore, directed that the video of the said broadcast, if still available on the website of the channel, or YouTube, or any other links, should be removed immediately, and the same should be confirmed to NBDSA in writing within 7 days.

NBDSA decided to close the complaint with the above observations and inform the complainant and the broadcaster accordingly.

NBDSA directs NBDA to send:

- (a) A copy of this Order to the complainant and the broadcaster;
- (b) Circulate this Order to all Members, Editors & Legal Heads of NBDA;
- (c) Host this Order on its website and include it in its next Annual Report and

(d) Release the Order to media.

It is clarified that any statement made by the parties in the proceedings before NBDSA while responding to the complaint and putting forth their view points, and any finding or observation by NBDSA in regard to the broadcasts, in its proceedings or in this Order, are only in the context of an examination as to whether there are any violations of any broadcasting standards and guidelines. They are not intended to be 'admissions' by the broadcaster, nor intended to be 'findings' by NBDSA in regard to any civil/criminal liability.

Sd/-

Justice A.K Sikri (Retd.)
Chairperson

Place: New Delhi

Date : 19.11.2021