

News Broadcasting Standards Authority
Order No. 50 (2018)

Order of NBSA on complaint dated 7.2.2018 received from Mr. M. Mohamed Ali Jinnah, General Secretary, Popular Front of India, against Republic TV for telecasting news on 10.1.2018.

Complaint:

1. The complainant has escalated the complaint to NBSA since he did not receive any response to his complaint dated 14/15.1.2018. Complainant alleged that on 10.1.2018, in a debate anchored by Mr. Arnab Goswami, the channel showed a hash tag as ***"#BanPFIDemand"***. Simultaneously, channel also conducted a voting on Twitter on live under the topic as ***"#BanPFI: Should terror linked PFI be banned now?"*** The anchor said ***"The terror link is exposed tonight"***. The telecast also scrolled the following: ***"Terror proof emerges against PFI". "PFI-SDPI-SIMI link comes under lens"***.

2. Complainant stated that the telecast amounted to a media trial with the object of misleading the viewers and bring disrepute to Popular Front of India ("PFI" for short) of which he was the General Secretary, by making false allegations; that the channel portrayed allegations as facts and conveyed the impression that the charges against PFI were findings of guilt, which was unfair and violative of the Code of Ethics and Guidelines and also against the principle of natural justice. The complainant stated that the channel was misusing the public space and misleading the viewers by using such hash tags and conducting a voting; that the channel violated the fundamental principles relating to impartiality and objectivity in reporting, ensuring neutrality and fairness and issuing corrigendum. The complainant requested the broadcaster to (i) acknowledge their mistake in the course of the broadcasts, (ii) withdraw the false allegations and (iii) air an apology, with due prominence on their channel as well as on their online portal, and thus render appropriate redressal to his complaint.

Response from the broadcaster:

3. The broadcaster stated that the claims and contentions in the complaint were false, baseless, vague and unsubstantiated. The broadcaster contended that the news debate was aired based on material relating to four cases shared by the National Investigation Agency ("NIA") with the Ministry of Home Affairs ("MHA") wherein members of PFI and its affiliated political organization namely, Social Democratic Party of India ("SDPI"), had been charge-sheeted under the Unlawful Activities (Prevention) Act, 1967; that one of the four cases, the details of which had been

shared by NIA with the MHA, pertained to the charge-sheet filed in relation to the murder of a Rashtriya Swayam Sevak Sangh worker, Rudresh ("RSS Worker") in Bengaluru. The broadcaster further contended that, as widely reported in print and electronic media, NIA in its charge-sheet had named five members of PFI and SDPI as accused individuals responsible for the murder of the RSS Worker; and that the charge-sheet filed in court accessed by Republic TV contains the following statement:

"...None of the accused had personal enmity with the deceased Rudresh. He was killed solely because of his leadership/ membership to a particular organization. The PFI has been targeting RSS and likeminded organizations as part of their larger plan to achieve their objective to strike terror among the members of that organization. The killing was a clear act of terror with the intention to strike terror among a section of the people. This was achieved by the broad daylight murder of RSS member in uniform using a lethal weapon on 16 October 2017."

4. The broadcaster contended that the broadcast aimed to report the contents of the charge-sheet and to facilitate a meaningful debate on an issue of national importance; that the President of PFI, Mr Mohammad Shaquib, was also a part of the discussion panel which had participated in the broadcast; that accordingly, in terms of the relevant NBSA guidelines, PFI was given full opportunity to put forth its views in relation to the issue. The broadcaster further contended that the debate was aired in public interest as people have the right to know about the activities of organizations like PFI; and that it is a matter of common knowledge in public domain that PFI is faced with the prospects of being banned by the Central Government due to the involvement of its members in unlawful activities; that the broadcast, when seen in its entirety, in the light of cogent and credible documentary evidence cannot be said to be a media trial intended to prejudice PFI or its members. The broadcaster contended that it did not violate the NBA/NBSA Regulations and Guidelines and therefore, no action was warranted against it.

5. NBSA considered the complaint and the response by the broadcaster and decided to call both the parties to appear before NBSA today. Accordingly, the following persons appeared for the hearing on 16.3.2018:

On behalf of Popular Front of India [Complainant]

Mr. A. Mohamed Yusuff, Advocate

Mr. Saifan Shaikh, Advocate

Mr. Aitmad, Advocate

Mr. Ameeruddin, Assistant

ARG Outlier Media Asianet News Pvt. Ltd. [Channel: Republic TV]

Mr. Abhishek Kapoor, Executive Editor

Mr. Rajat Pradhan, Advocate

[NOTE: Ms. Navika Kumar, Member-NBSA (representing “Times Now”) did not participate either in the hearing or the deliberations, in view of the request by Republic TV that she should recuse herself in any matter relating to Republic TV.]

Complainant’s Submissions:

6. The complainant reiterated the averments made in the complaint and stated that the broadcast by Republic TV violated the Code of Ethics of the NBSA, particularly, the Guidelines relating to Impartiality, Neutrality and Accuracy, especially in respect of the hash tags. The complainant stated that its version had not been taken or aired.

Broadcaster’s Submissions:

7. The broadcaster reiterated the averments made in its response and stated that the telecast had been based on the details of four cases shared by the National Investigation Agency ("NIA") with the Ministry of Home Affairs ("MHA") wherein members of PFI and its affiliated political organization, that is, Social Democratic Party of India ("SDPI") had been charge-sheeted under the Unlawful Activities (Prevention) Act, 1967 and that the telecast was also based on the dossier of the NIA on PFI. The broadcaster clarified that the PFI’s version was telecast during the panel discussion and debate as the President of PFI, Mr Mohammad Shaquib, was also a part of the discussion panel and therefore full opportunity had been given to PFI to express its views. The broadcaster stated that it had not responded to the complaint as it was not in the correct format and didn’t satisfy the necessary requirements of a complaint as provided in the website.

8. After hearing both sides, NBSA was of the view that the broadcaster should be required to submit to NBSA the material on which it had based its news reports, including the NIA report. NBSA also noted on viewing the program that the broadcaster had telecast PFI’s version also during the debate. NBSA decided to consider the matter after receiving the said material.

9. As directed at the meeting held on 16.3.2018, the broadcaster had submitted the following documents:

1. NIA charge sheet filed against FIR No. 124/2016 dated 16.10.2016 Police Station Commercial Street PS, Bengaluru City.
2. Ministry of Home Affairs document.
3. NIA cases where role of PFI/SDPI Activists have emerged.

Deliberations and decision of NBSA:

10. NBSA at its meeting held on 24.5.2018 considered the submissions and contentions of the complainant and in particular, the **Hashtags** aired, that is “**#Ban PFI Demand**”, simultaneous voting on Twitter under the topic “**#Ban PFI: Should terror linked PFI be banned now?**”, the observation of anchor “**The terror link is exposed tonight**” and the telecast scroll “**Terror proof emerges against PFI**”.

11. NBSA noted that there is only a charge sheet and no finding by any court of tribunal that PFI is a terror linked organisation, nor had the government declared PFI as a terror organisation or an organisation indulging in unlawful activities. The use of the hash tags and conducting a voting under the topic “**#Ban PFI: Should terror linked PFI be banned now**”, the statement “**The terror link is exposed tonight**” and the telecast scroll “**Terror proof emerges against PFI**” would amount to a trial and judgment by media on unverified hearsay material. NBSA was therefore of the view that the broadcaster had violated the Regulations and Guidelines of NBA/NBSA relating to the need to maintain neutrality, impartiality and fairness and reporting of matters which are *sub-judice* or under investigation. The said Regulations are extracted below:

“Code of Ethics & Broadcasting Standards:

Section 1 – Fundamental Principles: 4. Broadcasters shall, in particular, ensure that they do not select news for the purpose of either promoting or hindering either side of any controversial public issue. News shall not be selected or designed to promote any particular belief, opinion or desires of any interest group.

Section 2 – Principles of Self-Regulation:

2. Ensuring neutrality: TV News channels must provide for neutrality by offering equality for all affected parties, players and actors in any dispute or conflict to present their point of view. Though neutrality does not always come down to giving equal space to all sides (news channels shall strive to give main view points of the main parties) news channels must strive to ensure that allegations are not portrayed as fact and charges are not conveyed as an act of guilt.

3. Reporting on crime and safeguards to ensure crime and violence are not glorified: Television news has greater reach, and more immediate impact than other forms of media, and this makes it all the more necessary that channels exercise restraint to ensure that any report or visuals broadcast do not induce, glorify, incite, or positively depict violence and its perpetrators, regardless of ideology or context. *Specific care must be taken not to broadcast visuals that can be prejudicial or inflammatory.....* News channels will ensure that such reconstructions will not cross boundaries of good taste and sensibility.....

Specific Guidelines covering Reportage:

1. Accuracy: 1.6. Facts should be clearly distinguishable from, and not be mixed-up with, opinion, analysis and comment.

2. Impartiality, Neutrality & Fairness: 2.1. For balanced reportage, broadcasters should remain neutral and ensure that diverse views are covered in their reporting, especially on a controversial subject, without giving undue prominence to any particular view.

3. Law & Order, Crime & Violence: 3.3. Reports on crime should not amount to prejudging or pre-deciding a matter that is, or is likely to be, *sub judice*.

Specific Guidelines for Reporting Court Proceedings:

2. In reporting any Court proceedings, whether in a civil or criminal matter, a news channel shall not identify itself with, or project or promote, the stand of any one contesting party to the dispute.

3. Conjectures and speculation shall be avoided in news reports relating to proceedings pending in a Court, Tribunal or other judicial forum.

4.... no news channel shall broadcast anything:

(ii) Which purports to report a journalist's or the news channel's own opinion, conjectures, reflections, comments or findings on issues that are *sub judice* or which tend to be judgmental in relation to the subject matter that is pending in a Court, Tribunal or other judicial forum;

(iii) Which is a comment on the personal character, culpability or guilt of the accused or the victim; or

(iv) Which otherwise interferes or tends to interfere with, or obstructs or tends to obstruct, the course of justice in connection with any civil or criminal proceeding pending in a Court, Tribunal or other judicial forum;

6. After registration of a First Information Report (FIR) in respect of any crime, a news channel shall not broadcast any report that may evaluate, assess

or otherwise give their own conclusions upon, or in relation to, ongoing investigation or evidence collected or produced before a Court, Tribunal or other judicial forum.”

12. NBSA was of the view that while investigative journalism and media activism may be a catalyst for ensuring proper investigation by investigating agencies, a very thin line separates it from reportage bordering on media pressure/media trial, interfering with due process of investigation. The tendency of the media to hold parallel investigation or to telecast unverified views, opinions, rumours & allegations, as factual findings, apart from putting tremendous pressure on investigating agencies in high profile or sensitive cases, may adversely mould public opinion about the guilt or otherwise of persons/ institutions, thereby destroying their reputations and credibility and interfering/prejudicing pending trials in courts of law.

13. While investigative journalism to uncover wrongdoings and crimes is a meaningful crusade for the media, there is a corresponding responsibility upon the media to act within the well-defined and well-recognised limits. Media, howsoever *bona fide* its intentions are, cannot act as the Judge, Jury, Prosecutor and Investigator, in regard to any matter pending before a court or under investigation. In the minds of the public, the impact of the media accusation and media trial findings against any person or institution is strong and long lasting and any ingrained prejudice caused by the earlier media trial may have an adverse impact on the court trial. While the media should expose crime and wrongdoing, it can neither act nor be seen as acting as a *vigilante*.

14. In view of the above, NBSA finds that the telecast violated Sections (1) (2) and (3) of the Code of Ethics & Broadcasting Standards and Guidelines (1), (2) and (3) of Specific Guidelines Governing Reportage and Guidelines (4) and (6) of Specific Guidelines for Reporting Court Proceedings.

15. NBSA therefore decided to impose the following sanctions upon the broadcaster and close the complaint:

(a) broadcaster is hereby warned to exercise more care and caution while reporting about matters pending trial/investigation or in using objectionable hashtags in regard to such reports which may give an impression that the broadcaster is indulging in a media trial / prejudice against the person/ institution being reported upon.

(b) NBSA also directed the broadcaster that the video of the said programme, if hosted, on Republic TV website, YouTube or any website or any other links should be removed immediately and confirmed to NBSA.

16. It is clarified that the findings of NBSA are not findings about the guilt or innocence of PFI or its officer bearers/members. The decision of NBSA is solely in the context of an examination as to whether the broadcast violated any broadcasting standards and guidelines. The order shall not be construed as any finding against the broadcaster of any wrong-doing giving rise to a civil or criminal liability upon the broadcaster.

17. NBSA further directs the NBA:

- a) To send a copy of this Order to the broadcaster and the complainant.
- b) To circulate this Order to all Members, Editors & Legal Heads of NBA.
- c) To host this order on its website and to include it in its next Annual Report.
- d) To release the Order to media.

Sd/-

**Justice R.V. Raveendran (Retd.)
Chairperson**

Date: 30th May, 2018