

News Broadcasting Standards Authority

Order No. 59 (2019)

Order of NBSA on Complaint dated 5.4.2018 from Dr. Raj Kumar Lalwani regarding a sting conducted by NDTV 24x7 in August 2014

Ms. Manika Raikwar Ahirwal, Editor member representing the broadcaster in NBSA (NDTV 24x7), being an interested party, recused herself from the proceedings.

Complaint:

The complaint relates to a sting operation aired by NDTV in August 2014 highlighting the nexus between pharma companies and doctors. The complainant, a doctor who was one of the subjects of the sting operation, alleges that the news report was distorted as the clips were edited to suit the channel and the report is even today posted in public domain (NDTV website) showing him as engaging in an 'unethical practice' thereby continuously defaming him and being a source of misinformation against him. Though the complaint was made after three years, relating to a 2014 news report, NBSA decided to entertain the complaint as the complainant had provided the video clips and report is still on NDTV website.

Earlier, NBSA after considering the complaint, response from the broadcaster and also viewing the video clips furnished by the complainant, had decided to call both the parties for a hearing in the next meeting.

On being served with notice, the following persons were present at the hearing on 17.1.2019.

Complainant:

Dr. Raj Kumar Lalwani (**Complainant**)

Dr. Rekha Lalwani

On behalf of New Delhi Television Ltd. [Channel: NDTV 24x7]

Ms. Nidhi Razdan, Executive Editor

Ms. Sonal Mehrotra, Associate Editor

Ms. Anasuya Mathur, Executive Producer

Mr. Ranbir Singh, Head - Legal

Submissions by the complainant

Dr. Raj Kumar Lalwani submitted that in August 2014 a report about a sting operation was aired by NDTV highlighting the nexus between pharma companies and doctors. The complainant, who is a medical practitioner is one of the subjects

of the sting operation. The complainant contended that the news report was distorted and edited to suit the channel's view point, showing him as engaged in 'unethical practice' of demanding gifts from a pharma company as consideration for prescribing its products. The report is still posted in public domain and continues to be a cause of defamation and a source of misinformation against him, as a person and as a professional. He stated to sensationalise the issue and for their glorification, both the reporter and the channel created/manufactured a fake news item, which not only hurt him, but resulted in loss of his credibility and affected his image and future employability. The complainant alleged that the anchor with malicious intent and with full knowledge that she is reporting falsely and wrongly, continued with her report in which she edited portions of the video recording to suit her own storyline. He stated that since the report is still in public domain, he is still being harassed and defamed. He stated that his statements in recorded videos, ignoring their enticement and suggestions, were intentionally edited out by the channel. He alleged that his statements as to how he ignored offers and how he cannot put his patients to any risk and how he was conscious about quality and credibility of a drug were all deleted or suppressed and partial statements were picked up and aired in a distorted manner to show him in bad light. He submitted that the anchor had neither met him in person nor visited his clinic. He never demanded anything. The mention of "*no dearth of companies wanting prescriptions*" etc.: were wrongly used and distorted. According to the complainant, his intentions can be seen and heard if the unedited video clips are viewed as they show the facts are just the reverse and contrary to what NDTV reported. He stated that in view of the maligning report on NDTV website he lost a prestigious job assignment with HCL Avitas. The issues according to him relate to the direct (false) charges leveled and aired against him: -(1) Whether he demanded any camera or whether the persons who met him offered different kinds of gifts; and (2) Whether he expressed any willingness to write prescriptions for consideration offered to him.

The complainant submitted that there is neither a demand nor an agreement, let alone acceptance and receipt of any form of unwarranted gifts; that he has been harmed on the basis of clips edited to suit NDTV's convenience to create a 'news story' and to prove the existence of a certain 'nexus' between pharma companies and doctors; the complete unedited recordings would have shown that there was nothing to question his ethics. He informed NBSA that he has filed a complaint before the Ethics Committee of the Delhi Medical Council. He stated that he never demanded any bribe or any reward for prescribing any medicine; that he regularly got remuneration as a speaker for CME programmes for pharmas and many other organisations and therefore in the said footage he was talking about the remuneration that he would possibly get for speaking at an event that may be held by the Pharma company which the sting operators were posing to be the representatives.

Submissions by the Broadcaster

Broadcaster stated that the complaint by Dr. Raj Kumar Lalwani was regarding a “Sting Operation” conducted by Ms. Sonal Mehrotra in August 2014 to exposing the nexus between doctors and pharmaceutical companies; that a Legal Notice on behalf of Dr. Lalwani was served on NDTV on 13th August, 2014, alleging that the sting operation conducted by NDTV was baseless and was done with the deliberate intention of causing harm to his reputation ; and that they responded to the legal notice on 25th August, 2014, denying the statements made by Dr. Lalwani against them (broadcaster) . Broadcaster explained the facts and circumstances about the meeting held on 7th August, 2014 at the clinic of Dr. Lalwani. They submitted that in the first meeting in the sting operation, Dr. Lalwani categorically stated that he wants a high end digital camera and wanted to meet a Senior Manager to make sure that the deal was honored; that in the subsequent meeting held at his residence, Dr. Lalwani specifically enquired about a particular high end camera while going through the digital SLR camera brochure placed before him; and that during that meeting he also openly stated that there was no dearth of companies who wanted him to prescribe their medicines. Broadcaster submitted that the said Sting Operation was conducted only in conformity with the relevant guidelines. They stated that the broadcasting segment exposing the nexus between doctors and pharmaceutical companies, was done by Ms. Sonal Mehrotra on the basis of sting operation and availability of evidence (Audio-Visual evidence on conversation between Doctors and Pharmaceutical Company), and it was not a fake. The broadcaster stated that the intention behind sting operation, was to protect the people and not to defame any person.

Broadcaster submitted that the programme was aired in public interest to show the nexus between pharma companies and doctor; that based on the said broadcast Dr. Harsh Wardhan, the then Health Minister informed Parliament that cognizance would be taken on the issue of nexus between the doctors and pharma companies; and that taking cognizance of the said sting operation additions/ modifications/ deletions / substitutions were made in the “Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002 by the Medical Council of India vide notification dated 28.1.2016 on the “Code of Conduct for doctors in their relationship with pharmaceutical and allied health sector industry.” In view of the above the broadcaster stated that it was not willing to remove the video available on their website.

NBSA heard parties, the complainant and the broadcaster and reviewed the footage relating to the sting operation and considered the rival contentions.

Decision of NBSA:

NBSA noted that while the complainant stated that the footage of the sting operation had been edited/manipulated, the broadcaster stated that it had not manipulated the raw footage to the detriment of the complainant and it was willing to put the raw/unedited version of the sting operation on its website so that the viewers could form their own opinion.

It was also noted that the complainant had met the sting operators twice and had permitted the persons, posing as medical representatives (conducting the sting operation) to visit his house and did not prevent the said persons from coming into his house and discussing a 'high end camera'. On a comparative viewing of the broadcasted footage and raw footage, NBSA also found that there was no deliberate editing, or alteration of the visuals of the raw footage by the broadcaster to mislead the viewers.

After considering the contentions put forth by the parties, NBSA was of the view that the sting operation had been conducted in public interest and did not violate the NBSA Guidelines for Conducting Sting Operations dated 27.2.2012. As a result, complaint is rejected.

This decision is only on the question whether there was any violation of Broadcasting Standards and Guidelines, by NDTV. This decision is not intended to be a finding on the issue whether Dr. Lalwani was guilty of making any 'demand' for gifts or consideration for prescribing medicines.

NBSA directs the NBA 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 NBA; (c) host this Order on its website and include it in its next Annual Report. and (d) release the Order to media.

Sd/-

Justice R.V. Raveendran (Retd)
Chairperson

Place: New Delhi

Date: 25th February, 2019