

News Broadcasting Standards Authority
Order No. 65 (2019)

Order of NBSA on complaint dated 19.9.2018 of Mr. Sharad Shah against Republic TV for telecasting a news report on 18.9.2018 at 9 pm

Complaint:

The complainant stated that during the Newshour debate at 9 PM on August 18, 2018, the anchor stated that Mr. Navjot Sidhu, the Minister of Local Government, Tourism, Cultural Affairs of the State of Punjab is a member of ISI and has received money from it; and that the said allegations were without any evidentiary basis, defamatory and violated the Code of Conduct of NBA.

Reply from broadcaster:

Broadcaster in its response dated 19.9.2018 stated that Mr. Navjot Singh Sidhu had been to Pakistan on the invitation of the Pakistan Prime Minister Mr. Imran Khan and was seen hugging the Pakistani Army Chief during that visit, which has been widely reported; that thereafter, Mr. Sidhu has been holding forth on bilateral issues, which has raised concerns on his real motives; that it is common knowledge that the diplomatic links between India and Pakistan have been under severe strain on account of the various unprovoked attacks on the army and civilians in Jammu & Kashmir by the Pakistani army and by terrorist groups aided and abetted by Pakistan and their so-called non-state actors; that even in recent times, several Indian soldiers have lost their lives either when their camps were attacked or across the Line of Control with Pakistan; and that in this backdrop, the entire visit of Mr. Sidhu and his obvious camaraderie with the Pakistan Army chief and other politicians have come under severe criticism. According to the broadcaster, the debate aired by them was discussing the various aspects of Mr. Sidhu's visit and why the Pakistan government was choosing to have a dialogue through Mr. Sidhu, rather than with the Indian government; and that it was in the context of the discussions and debate on the programme relating to the intent, motive and reason for his visit, and his attempts to open diplomatic dialogue not authorized by the Government of India, various panelists expressed their opinions and concerns and the anchor used the words "**Pakistani stooge**" referring to Mr. Sidhu to place the conduct of Mr. Sidhu in context. The broadcaster denied the allegations made in the complaint.

Since the complainant was not satisfied with the response received from the broadcaster, the complaint was escalated to the second level of redressal i.e. NBSA.

NBSA at its meeting held on 30.10.2018 considered the complaint, response from the broadcaster and also viewed the CD of the alleged broadcast. NBSA was of the *prima facie* view that the use of the words “**Pakistani stooge**” to describe Mr. Sidhu, a Minister in the Punjab Government, by the anchor, was in violation of the Code of Ethics of NBA relating to the principles of impartiality and objectivity in reporting and the Guidelines on Broadcast of Potentially Defamatory Content. NBSA therefore decided to issue a notice to the broadcaster to submit in writing as to why the NBSA should not proceed under its regulations and also directing it to appear before the NBSA at its next meeting.

On being served with notice, the following persons appeared at the hearing on 25.2.2018:

Complainant: Not present (Mr. Sharad Shah vide email dated 8.2.2019, expressed his inability to attend the hearing)

On behalf of ARG Outlier Media Asianet News Pvt. Ltd. [Channel - Republic TV]:

Mr. Prantar Basu Choudhary, Counsel

Ms. Srijata Majumdar, Co-Counsel

Ms. Sheena Iype, Head Legal

The broadcaster submitted that Mr. Sharad Shah represents some vested interests and has been singularly targeting the channel; and that though the subject matter of the programme was covered by other channels, the complainant had chosen to single out Republic TV for making a complaint. The broadcaster also pointed out that having made the complaint, Mr. Shah was obliged to attend the hearing; and that as he failed to do so, the complaint required to be rejected.

In regard to the merits of the complaint, the broadcaster submitted that the programme did not allege that Mr. Sidhu is a member of a terrorist organisation or ISI, nor allege that he received any money from such organisations. The broadcaster submitted that the use of the words “**Pakistani Stooge**” by the anchor was in the context of Mr. Sidhu as a Minister making statements which were pro-Pakistan and contrary to the stand of the Government of India. It was pointed out that as Mr. Sidhu was acting irresponsibly as a Minister and public figure, his actions and conduct were open to criticism. The broadcaster submitted that the programme has to be seen in its entirety in the context of the actions of Mr. Sidhu.

The broadcaster submitted that the complaint should be dismissed as it did not have any objectionable content and in that behalf, relied upon the following observations of the Supreme Court in **Ajay Goswami vs Union of India** (AIR 2007 SC493): “it

is necessary that publication must be judged as a whole and the impugned should also separately be examined so as to judge whether the impugned passages are so grossly obscene and are likely to deprave and corrupt” and “we are also of the view that a culture of ‘responsible reading’ should be inculcated among the readers of any news article. No news item should be viewed or read in isolation. It is necessary that publication must be judged as a whole and news items, advertisements or passages should not be read without the accompanying message that is purported to be conveyed to the public. Also, the members of the public and readers should not look for meanings in a picture or written article, which is not conceived to be conveyed through the picture or the news item”.

The broadcaster next relied upon the following observations of the Delhi High Court in **Dr. Shashi Tharoor vs Arnab Goswami and Anr** – 246 (2018) DLT 279: “...in the context of public figures like the plaintiff, the Supreme Court observed in *Kartar Singh & Ors. Vs. State of Punjab, 1956 SCR 476* that “those who fill a public position must not be too thin skinned in reference to comments made upon them. It would often happen that observations would be made upon public men which they know from the bottom of their hearts were undeserved and unjust; yet they must bear with them and submit to be misunderstood for a time” (Per Cockburn, C.J. in *Seymour v. Battenworth* and see the dicta of the Judges in *R. v. Sir R. Carden*, “whoever fills a public position renders himself open thereto. He must accept an attack as a necessary, though unpleasant, appendage to his office” (Per Bramwell, B., in *Kelly v. Sherlock*). Public men in such positions may as well think it worth their while to ignore such vulgar criticisms and abuses hurled against them rather than give importance to the same by prosecuting the persons responsible for the same”.

The broadcaster also contended that NBSA had gone beyond the original complaint dated 18.9.2018 filed by Mr. Shard Shah. He submitted that the original complaint of Mr. Sharad Shah had alleged that the channel had stated that “*Sidhu was a member of ISI, a terrorist organization and that he had received money from the said organization*”, but the notice dated 19.12.2018 issued to the broadcaster by NBSA did not refer to the said allegation in the original complaint, but objected to the use of the words “**Pakistani Stooge**” in the broadcast by the anchor.

Decision and Directions of NBSA:

NBSA found no merit in the contention of the broadcaster that the notice issued by NBSA was beyond the scope of the original complaint. The anchor in the opening remarks of the programme stated that “*This man is not doing this without knowing the consequences. He is doing this because he knows that there are benefits to being the linchpin of the Pakistani ISI.... I want to know from you, Sidhu, what they are giving you.... Has Sidhu now become a tool for the Pak Army & ISI.... I can bet you the ISI has a deal with Sidhu*”. During the programme, the hashtag “*#ProPak.Sidhu Sidhu used as linchpin by ISI ?*” was flashed at the bottom of the screen during most of the programme. NBSA was of the view that the statement made by the anchor “*I can bet you the ISI has a deal with Sidhu*” implied unwarrantedly and without basis, that Mr. Sidhu, a public figure, was guilty

of some misdeeds. NBSA noted that the broadcaster in its response dated 19.9.2018 while denying the allegations made by the complainant submitted that the anchor had only used the words a ***“Pakistani Stooge”*** to place in context the conduct of Mr. Sidhu. The notice issued to the broadcaster referred to what it alleged to be the content of the broadcast. The broadcast was considered in totality and ‘in context’ by the NBSA. The original complaint and the reference to ***“Pakistani stooge”*** in the broadcaster’s response to the complaint were considered together by NBSA and the notice issued accordingly.

NBSA is of the view that the broadcaster has not made out any basis or justification for describing Mr. Sidhu, a Minister of a State Government and a public figure, as ‘the linchpin of Pakistani ISI’ or in stating *“I can bet you the ISI has a deal with Sidhu”* or in describing him as a ***‘Pakistani stooge’***. NBSA therefore holds that the broadcaster (Channel Republic TV) had violated the NBA Regulations and Code of Ethics relating to the need for the channel to maintain objectivity, neutrality and fairness in regard to reporting and news programmes.

(i) NBSA therefore decided to censure and warn the broadcaster that any future violations by the channel would be viewed seriously and action would be taken against the broadcaster.

(ii) The video of the said programme, if hosted on the website of Republic TV or any other links, should be removed immediately and confirmed to NBSA in writing within seven days.

NBSA directs the NBA to send: (i) A copy of this Order to the broadcaster and the complainant; (ii) circulate this Order to all Members, Editors & Legal Heads of NBA; (iii) host this Order on its website and include it in its next Annual Report. And (iv) release the Order to media.

Sd/-
Justice R.V. Raveendran (Retd)
Chairperson

Place: New Delhi
Date: April 2, 2019