

News Broadcasting Standards Authority
Order No. 53 (2018)

Order of NBSA on complaint dated 6.3.2018 from Mr. Gangadharan Kaleeswaram addressed jointly to Secretary, MoI&B & NBSA regarding programme title “Vakradrishti” on Mathrubhumi News channel on 7.2.2018 at 9.30 pm received from Under Secretary, MoI&B,

Complaint:

1. The broadcaster runs a political satire programme known as “Vakradrishti”. In its Vakradrishti programme aired on 7.2.2018, the anchor criticized the speech of Mr. Vinay Katiyar, BJP MP.
2. The complainant alleged that during the said programme, the anchor repeatedly ran a clipping of Malayalam Comedy Actor Mr. Salim Kumar, uttering arrogantly ‘*PODA*’ (meaning ‘Get Lost’/‘Get Out’ in Malayalam) and that at the end of the programme, a clipping of Sri. Rahul Gandhi was shown with an audio backup in Malayalam saying that Mr. Vinay Katiyar should be forcefully made to bend before the public on M.G. Road and burnt alive by pouring kerosene on him and by putting cotton in his mouth. The complainant stated that such content was highly objectionable.

Response from Broadcaster:

3. The broadcaster, in its response, stated that the programme should be viewed in entirety to be appreciated; that allegations cannot be levelled against the channel by focussing attention on a portion of the programme in isolation; and that the allegations mentioned in the complaint were false and baseless. The broadcaster further contended that the subjective opinion of an individual cannot be the standard for judging the programme. It was pointed out that the complainant has admitted in his complaint that Mr. Vinay Katiyar has made controversial speeches and had stated:

“Muslims should not live in this country. They divided the country in the name of religion, what is the need of living in this country? Muslims have been given their share. They should go to Bangladesh or Pakistan, what work do they have here?” (translated text given by the broadcaster).

4. The broadcaster contended that in view of it, the broadcaster, in its Vakradrishti programme, resorted to satirical criticism of the hate speech of Mr. Vinay Katiyar. It was submitted that the object of the programme was to uphold the principles of secularism, harmony among religious beliefs and promoting fraternity, unity and integrity of the nation, which are the *sentinel qui vive* of India’s rich cultural

heritage and constitutional ethos. It was submitted that viewed in that light, there was nothing objectionable in the programme.

5. NBSA, at its meeting held on 24.5.2018, on considering the complaint and response of the broadcaster, and on viewing the CD of the broadcast, was of the *prima facie* view that though the programme was a political satire, the comment that Mr. Katiyar should be burnt alive by stuffing cotton in his mouth, that too while showing the visual of Mr. Rahul Gandhi, was neither in good taste, nor warranted; and that under the guise of editorial freedom, liberty should not be taken to provoke and fan violence and the programme crossed the line of morality and decency. NBSA therefore decided to call both parties for a hearing.

6. At the hearing held on 11.7.2018, the complainant was not present. Mr. Anil Prathap D.K., Manager – Legal and Mr. B.G. Bhaskar, Advocate, were present on behalf of Mathrubhumi Printing & Publishing Co Ltd. [Channel: Mathrubhumi News]. NBSA decided to proceed with the hearing based on the facts given in the complaint.

Contentions of Broadcaster:

7. The learned counsel for the broadcaster submitted that the words considered to be objectionable by NBSA in its *prima facie* view (that is audio back-up in Malayalam stating that Mr. Vinay Katiyar should be forcefully made to bend before the public on M.G. Road and burnt alive by pouring kerosene on him and by putting cotton in his mouth), was not an original phraseology used by the anchor of the programme; that those words were bodily lifted from a famous scene in a popular Malayalam movie called "***Oru Parakkum Thalika***", wherein identical words were spoken by actor Dileep, the hero of the film, in a live TV interview, regarding a police inspector who had harassed him. The counsel tendered the clip from the said movie to demonstrate that the objected lines in the programme Vakradrishti, were a mere verbatim repetition of the words uttered in a scene in the said movie. He contended that the Malayalam audience were fully familiar with and aware of the said film dialogue in the script of that movie and in the context in which the said words were shown, the Malayalam viewers (for whom it was intended) would understand the satirical sense in which the said words were uttered and by no stretch of imagination consider them as provocative or fanning violence.

8. It was pointed out that the said dialogue, appearing in the movie, has been certified by the Censor Board for public exhibition; that the Censor Board is an expert body regarding the ethical, moral, and social values of contemporary society and entrusted with the responsibility of censoring/editing objectionable material; that as the Censor Board has not deleted the said dialogue in the movie and has permitted the same to be exhibited, it is to be implied that objected words did not cross the line of morality and decency. The learned counsel argued that that NBSA

should not take objection to use of the said words from the movie as the Supreme Court, as also several High Courts, have uniformly held that the approval by the Censor Board insulates movies against any allegation of being in violation of ethical standards and morals.

9. In support of his contention, the learned counsel for the broadcaster first relied upon the decision of the Supreme Court in *Raj Kapoor Vs. Laxman* – AIR 1980 SC 605, where, while dealing with a prosecution alleging obscenity, indecency, etc. regarding the movie - Satyam Shivam Sundaram – and quashing the prosecution, it was observed:

“..... a special legislation viz, the Act of 1952, sets up a Board of Censors of high calibre and expertise, provides hearings, appeals and ultimate judicial review, pre-censorship and conditional exhibition and wealth of other policing strategies..... After having enacted such a legislation, can it be said that a certificate granted under it by expert authority can be stultified by a simple prosecution or a shower of prosecutions for an offence under Sec. 292 IPC driving the producer to satisfy a lay magistrate that the Certificate of the Board of Censor notwithstanding, the film was offensive?”

He next relied upon the decision of the Supreme Court in *Union of India Vs. K.M. Shankarappa* – AIR 2000 SC 3678, wherein it was observed:

“We fail to understand the apprehension expressed by the learned counsel that there may be a law and order situation. Once an expert body has considered the impact of the film on the public and has cleared the film, it is no excuse to say that there may be a law and order situation. It is for the concerned State Government to see that the law and order is maintained. In any democratic society, there are bound to be divergent views....”

Consideration and decision of NBSA

10. NBSA considered the submissions made by the broadcaster. NBSA was satisfied that the programme was a political satire. But the editorial freedom of a broadcaster does not extend to depictions in a programme specifically suggesting that a named public figure should be killed in a violent manner. NBSA was of the view that the principles relied upon by the broadcaster regarding certification by Censor Board and its effect, which were laid down in the context of cinematograph films dealing with fictional and imaginary characters, cannot be extended or applied to programmes on news channels (even if they were political satires) while naming real persons and commenting on real events or incidents. The use of the violent words in a movie could be justified by the fact that movie is a work of fiction and the reference was to imaginary characters. Quoting of such words in a TV programme by disclosing that the dialogue was from a movie, may also be justified as it would be clear to the viewers that it was a movie dialogue. But the difficulty

arises where, as in this case, the objected portion though using words from a movie (without referring to the movie), names a living public figure (Mr. Vinay Katiyar, a real person, as contrasted from a character in a movie) and states that he should be burnt alive by pouring kerosene on him, and that too, while showing the visual of Mr. Rahul Gandhi, a well-known political leader. NBSA was therefore of the view, that though the programme is a recognised political satire, the objected wording (that Mr. Katiyar should be burnt alive by stuffing a cotton in his mouth) and the manner in which they were shown with the visual of Mr. Rahul Gandhi, was neither in good taste, nor was permissible as an exercise of freedom of expression. Fringe/extremist elements, unaware of the movie or that the dialogue was from the movie, may be incited by such provocative and unwarranted language, resulting in violence and disturbance of public order and peace.

11. In view of the above, NBSA holds that the statement in the programme that Mr. Vinay Katiyar should be made to bend by force before the public on MG Road and burnt alive by pouring kerosene on him and by putting cotton in his mouth, was improper and not in good taste.

Decision/Directions of NBSA:

(i) NBSA warns the channel/broadcaster to be more careful in future and not to suggest in any programme aired by it (including any satirical programme) that any named person/s or any unnamed but identifiable person/s or group of persons be harmed or killed.

(ii) The video of the said broadcast, if still available the website of the TV channel, or YouTube, or any other links, should be removed immediately and confirmed to NBSA in writing within 7 days.

NBA shall (i) send a copy of this Order to the Ministry of Information & Broadcasting, complainant and the broadcaster; (ii) circulate this Order to all Members, Editors & Legal Heads of NBA; (c) host this Order on its website and to include it in its next Annual Report; and (d) release the Order to media.

Sd/-

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

Date: 30 August, 2018