

News Broadcasting Standards Authority
Order No. 73 (2020)

Freedom of speech and expression is treated as the most basic human right. It is recognised as a fundamental right under Article 19(1)(a) of the Constitution of India. The Preamble of the Constitution of India, *inter alia*, speaks of liberty of thought, expression, belief, faith and worship. It also says that India is a sovereign socialist secular democratic republic. In a democracy, liberty of thought and expression assumes cardinal value. It facilitates as a truth bearer and make it possible for the world at large to the privy with the opinion and truths veiled in the instrumentalities of the organisation – both private and public.

Freedom of speech, thus, is of paramount importance under a democratic Constitution and can be stated to be the foundation of all democratic organisations. Public criticism is essential to the working of democratic institutions which requires free flow of opinions and ideas.

Though freedom of press (or for that matter freedom of media) has not been specifically mentioned in Article 19(1)(a) of the Constitution, this is so recognised by the Supreme Court in various judgments describing it as the “ark of the covenant of democracy”. Whether it is print media or electronic media, both exercise their right of freedom of speech. Broadcasting is a means of communication, and is, therefore, a facet of freedom of speech. It is not only necessary to recognise this right in media, it is also to be appreciated that it is a valuable right which has come to be accepted as the most desirable form of governance of quality inasmuch as it contributes to the healthy development of democracy. The success of democracy depends on well-informed citizens who can articulate their opinions on the affairs of the State.

With the vast reach of the media, there is no doubt that it plays a vital role in shaping an opinion at large. With the seminal role which the media has played in this direction, it has achieved the status of the fourth pillar of any democracy. Making the people informed is the significant mission that media has to undertake. It, therefore, goes without saying that media needs to be given adequate freedom in the discharge of its salutary function.

At the same time, freedom of speech is not absolute. Whereas Article 19(1)(a) confers this right, Clause (2) of Article 19 also recognises that “reasonable restrictions” on the said right can be imposed. As per the said Clause, the State is entitled to make any law imposing reasonable restrictions on the exercise of this right in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence. In *Shreya Singhal v. Union of India* (2015) 5 SCC 1, the Supreme Court has explained that there



broadcasters who are members of NBA. There may be certain broadcasters who are non-members, and therefore, complaints against them could not be considered by the NBSA. It is also clarified that jurisdiction of NBSA is limited to examine as to whether the act complained of constitutes violation of the guidelines/Code of Ethics. Therefore, the complaints are examined on these parameters.

Complaints received by NBSA in respect of telecasts by member broadcasters of NBA relating to actor late Sushant Singh Rajput.

1. Orders on complaints dated 14/15/16/20.6.2020 by Mr. Saurav Das, Ms. Rutuja Patil, Mr Varun Singala, Mr. Pulkit Rathi, Mr. Nilesh Navalakha and Mr. Indrajeet Ghorpade regarding media coverage of the suicide case of Sushant Singh Rajput by TV channels Aaj Tak, Zee News and News 24 relating to Taglines/Tickers used by the channels aforementioned

NBSA at its meeting held on 24.9.2020 considered the above complaints with respect to the news channels aforementioned. The complainants and the broadcasters who attended the hearing are annexed at Annexure -1.

In the complaints, the complainants stated that the media coverage of Sushant Singh Rajput suicide case was abhorrent, shameful, insensitive, anti-human rights, unprofessional and sensational. The press has been sensationalizing his suicide. This is not new and happens to every high-profile case. This is a clear violation of the fundamental right of "Death with Dignity". All this proves that the vultures of the media fraternity can go up to any extent just for their mere TRP gains. Furthermore, the complainants submitted that the broadcasters seem to have forgotten all humanity just to get TRPs. The complainants also stated that the broadcasters need to think about all the coverage of Sushant Singh Rajput's suicide case and if that was the level of journalism that the broadcasters wanted to engage in. The complainants also alleged that the channels are not only displaying such mean and derogatory headlines for the person who has already left, but also did not take into consideration how his father would have felt if he ever read those headlines which were clearly violative of Sushant's right to die with dignity.

The complainants stated that the broadcasters should follow the recommendations put forth by the WHO and the International Association for Suicide Prevention. The recommendations specify that the media should educate the people about the suicide. Media professionals must avoid the language which sensationalizes suicides; prominent placement and unnecessary stories about suicide; explicit description of the method and the suicide note used; and detailed information about the site of an attempted or complete suicide. Media houses should cautiously report such cases with appropriate language, graphics and photographs.

The channels purportedly in the attempt to garner TRPs in complete defiance of the journalistic ethics, demonstrated lack of empathy while covering/telecasting the celebrated actor late Mr. Sushant Singh Rajput's death by suicide and had reported insensitively contrary to good taste and the telecast was indecent in

1.3 Allegations should be reported accurately as made.

1.5 Errors of fact should be corrected at the earliest, giving sufficient prominence to the broadcast of the correct version of fact(s).

Decision of NBSA

In view of the above, NBSA decided that the broadcaster Aaj Tak be directed to air an Apology in view of the fact that it did not conduct the due diligence required prior to telecasting the tweets and attributing them to late Sushant Singh Rajput. The text, date and time of the apology will be given to the broadcaster. Proof of compliance of telecast of the apology to be submitted on compact disc within 7 days of telecast.

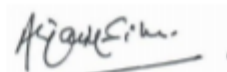
NBSA also decided that a fine of Rs. 1,00,000/- (Rupees One Lakh only) be imposed on the broadcaster payable to NBA (News Broadcasters Association) within 7 (seven) days of receipt of the Order.

It is clarified that any statement made by the parties in the proceedings before NBSA while responding to the complaint and putting forth their view points, and any finding or observation by NBSA 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 NBSA in regard to any civil/criminal liability.

Removal of videos by all broadcasters

NBSA decided that the videos of the said programmes if hosted, on the website of the broadcasters, YouTube or other links should be removed immediately and confirmed to NBSA within seven days.

NBSA directs the NBA to send: (i) A copy of this Order to the broadcasters and the complainants; (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 the media.



Justice A. K. Sikri (Retd.)
Chairperson

Place: New Delhi

Date: October 6, 2020