

ONLY BY EMAIL

February 29, 2024

Mr. Indrajeet Ghorpade Email: jeetghorpade@gmail.com	Mr. MN Nasser Kabir Compliance Officer NBDSA TV Today Network Ltd. India Today Mediaplex, FC 8, Sector 16 A, Film City, Noida - 201301 Email: Nasser.Kabir@ajtak.com
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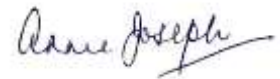
Dear Sirs,

Re: Order of NBDSA in Complaint (No. 123) dated 30.6.2023 from Mr. Indrajeet Ghorpade against India Today for airing a programme on 30.6.2023

Attached please find Order dated February 28, 2024, passed by the News Broadcasting & Digital Standards Authority (NBDSA).

Thanking you,

Yours faithfully,



Annie Joseph
For & on behalf of the
News Broadcasting & Digital Standards Authority

Encl: As above.

News Broadcasting & Digital Standards Authority

Order No. 182 (2024)

Complainant: Mr. Indrajeet Ghorpade

Programme: "Nudity sparks outrage at USA pride parades – How India's LGBTQ+ lead Responsibly"

Channel : India Today

Date of Broadcast: 30.06.2023

Since the complainant did not receive reply from the broadcaster within the time stipulated under the News Broadcasting & Digital Standards Regulations, the complaint was escalated on 09.07.2023 to the second level of redressal i.e. NBDSA.

Complaint dated 30.6.2023

The complainant filed a grievance against a programme aired by India Today titled "*Nudity sparks outrage at USA pride parades – How India's LGBTQ+ lead Responsibly*", which was full of factual inaccuracies, and intended to spread fear and demonise LGBTQ+ people. The reports of which are also available on YouTube, Instagram and Twitter.

The complainant stated that the first video shown in the report was not from a Pride Parade as was falsely claimed by the anchor, rather it was an event hosted by the President of United States of America (USA). In the video, the trans woman was celebrating trans joy with 2 trans men by showing their top surgery scars. This isn't indecency under Washington DC law, therefore no charges were filed against the three of them for the same reason. He urged the broadcaster to educate itself and its team, by reading what "top surgery scars", "trans joy" and "free the nipple" meant.

In the broadcast, an image from NYC Pride 2023 was shown, to falsely claim that it has "unnecessary nudity" even though no nudity was visible in the image.

The next image used, was of the Federation of Canadian Naturists, a nudist group; not an LGBTQ group. The name was written on their tent. The complainant stated that the image is very old image that is pulled up every Pride month by homophobic people to spread hate and fear, just like in the impugned report.

Another image used was almost a decade old, and likely from Folsom Street Fair, an annual BDSM fair that started in 1984 SF. It was not for minors, as mentioned on their website. The anchor falsely claimed that minors could be seen in the image when clearly it had no minors.

In the broadcast, images from NYC Pride 2023 were aired, which were falsely claimed to be from a school event and the anchor also called them "bizarre". The complainant reiterated that the images were actually from NYC Pride 2023, not a school event. The anchor claimed that these visuals shocked LGBTQ supporters

too. The complainant stated that the visuals did not shock any LGBTQ supporters, as such vibrant celebration is routine at Pride Parades across the world.

During the broadcast, a video was aired and the anchor labelled the people in this video as a "grooming group" without any evidence to support the claim. The complainant questioned the broadcaster whether it had any idea who they were? Which city this image was from? Were they convicted for grooming? He was certain that the broadcaster had no answers to substantiate its claim.

The anchor then showed a video falsely stating that there was a half-naked woman walking down the street. The video is from NYC Pride 2023, and no one in this video is violating any NYC law.

This image of children stomping on Pride flags was not from USA, as was falsely claimed by the anchor rather the image was from Canada.

The complainant stated that a simple reverse image search can help separate facts from fake news. However, it is clear that the broadcaster was either incapable of fact-finding or had malafide intent to sensationalise & spread fear against minority communities.

Reply dated 10.7.2023 from the broadcaster

1. The broadcaster acknowledged receipt of email dated 30.06.2023, bearing subject "*Fake news and Fear Mongering against LGBTQ+ people*" ("Complaint") in relation to the broadcast of India Today titled "*Nudity sparks outrage at USA pride parades – How India's LGBTQ+ lead Responsibly*" ("Impugned Broadcast").
2. The broadcaster stated that that news channels play an integral role in informing the citizens about civic issues – both national and international. It reiterated that — as confirmed by the Hon'ble Supreme Court in *LIC v. Manubhai Shah*, (1992) 3 SCC 637 — the Constitution guarantees the media has the freedom to inform, distil, and convey information, and any attempt to restrict the same should be frowned upon. The Hon'ble Supreme Court also held in *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India* (1985) 1 SCC 641, that the right to freedom of speech and expression is a constitutionally protected right enjoyed by the media and must be safeguarded. Incontrovertibly, the right of broadcasters extends to discussion of social issues since:

"32. In today's free world freedom of press is the heart of social and political intercourse. The press has now assumed the role of the public educator making formal and non-formal education possible in a large scale particularly in the developing world, where television and other kinds of modern communication are not still available for all sections of society. The purpose of the press is to advance the public interest by publishing facts and opinions without which a democratic electorate cannot make responsible judgments." (emphasis supplied)

3. The broadcaster raised a preliminary objection. It stated that the complainant had alleged that the impugned broadcast constituted "*reports which are full of factual inaccuracies and that the intent is to spread fear and demonize LGBTQ+ people*". However, the complainant failed to specify any provisions that had been allegedly violated by India Today, preventing it from replying comprehensively. In the absence of any specific averments in the complaint, the broadcaster stated that it was not possible for it to deal with any specific provision of the Code of Ethics & Broadcasting Standards. The contents of its reply may be treated without prejudice to this submission.

Contents of the Impugned Broadcast

4. The impugned broadcast contained reportage and analysis of the instances of indecency, nudity and sexually explicit content that were a part of the Pride Parades in the USA, during pride month, viz. June, 2023. It also reported on the concerns raised by some conservative groups and parents in the U.S.A. in response to the LGBTQ+ movement, particularly trans activism, in schools ("*Some parents questioned why should sexually explicit material or push for gender change surgeries be allowed in schools*") and compared the situation with India.
5. The impugned broadcast reported on instances where concerns were raised of children being exposed to indecent, obscene, and sexually explicit material across various states in the U.S.A during Pride Month, thereby causing controversy around the country. It thus made three broad points – *first*, it raised valid questions of whether there should be an age group restriction on persons who attend Pride Parades, given that many children were being exposed to unnecessary nudity (including visuals of men wearing thongs twerking in front of children and bondage items being displayed).
6. *Second*, the impugned broadcast reported about an incident that took place in New York during Pride Month where revellers in the parade chanted "*We're here, we're queer, and we're coming for your children.*" Admittedly, even as per the complaint, this incident took place. Further, as reported widely, both in India and in the U.S.A., this incident generated controversy in the USA – a fact mentioned at 1:44 of the impugned broadcast.
7. *Third*, the impugned broadcast contrasted the visuals of the Pride Parades in the U.S. with similar parades in India, noting that the Pride Parades in India were a celebration of pride, where the participants acted with responsibility and decency, furthering the cause of "inclusivity and diversity". It, in fact, noted with concern that incidents in the U.S.A may result in a "*dangerous hijacking*" of an "*important, much needed movement of a once marginalised group*", but such concerns had not arisen in India.

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Support for the LGBTQ+ movement in the Impugned Broadcast

8. The impugned broadcast as a whole also educated its viewers about the LGBTQ+ community (including what the different acronyms stand for) and the advancement made in India in terms of the community's representation in the country as well as its legal recognition by the Supreme Court. The broadcast details, *inter alia*:
 - a. The Supreme Court judgment in 2018 in *Navtej Johar*, decriminalising Section 377 of the Indian Penal Code, which "expanded the constitutional rights" for LGBTQ+ persons.
 - b. The institution of protections given to "atypical families" and expanding our understanding of what a family could be.
 - c. Examples of priests solemnising same sex relation marriages in Mumbai, despite India not formally recognising marriage equality (unlike in the U.S.)
9. The complainant has wrongfully and unfairly branded the impugned broadcast as "*fake news and fear mongering against LGBTQ+ people*" where the "*intent is to spread fear and demonize LGBTQ+ people*". The broadcaster stated that it strongly denies each and every allegation pointed out in the complaint that the impugned broadcast, in any manner, is defamatory or is intended to demonise or spread fear against the marginalised LGBTQ+ community.
10. In fact, when the entire impugned broadcast is seen as a whole and in its full context, the video is a celebration of diversity in sexual orientation, and it promotes the Pride Movement, while lending unabashed support to the community. In the impugned broadcast the host can clearly be seen supporting the LGBTQ+ community, creating awareness among its viewers and drawing their attention towards the importance and seriousness of this movement, and highlighting the wholesome and inclusive nature of Pride Parades in India.
11. As far as the reportage of the events at the pride parades of the USA, it clarified that the incidents cited by the host in the impugned broadcast are well-substantiated and founded on legitimate and credible news reports from various news channels – which discuss the nudity and other sexually explicit content present at Pride Parades, (often with the children as spectators) that resulted in unnecessary criticism being levelled against the Pride Movement in the USA. It also pointed out that these incidents may have discouraged several genuine supporters of the LGBTQ+ movement from being a part of the same or allowing their children to get involved – due to fear of exposure to inappropriate and indecent activities.

Reception of the incidents amongst certain sections of society in the USA

12. The images and videos specifically disputed by the complainant must be viewed in the context in which they were shown. The entire purpose of the impugned broadcast was to highlight the inappropriate activities by some persons during Pride Month. In some cases, this resulted in hijacking the messaging behind the

important movement by associating it with nudity and sexually explicit conduct taking place in front of children, which may have resulted in actually increasing the hate and disgust felt by some (especially conservative religious groups) against persons of the LGBTQ+ community. Thus, the impugned broadcast made the broader case that such incidents resulted in criticism amongst various groups (including LGBTQ+ persons) and may have undermined the purpose of the Pride Month in the U.S., which is otherwise focused on promoting inclusivity of all genders and communities.

13. The allegations of factual inaccuracies made in the complaint were unfounded and the reportage of the USA pride parades in the impugned broadcast was based on public outrage amongst certain sections of U.S. society, which condemned these incidents and the parades themselves, especially considering the presence of children at such events. While it asserted that there were no factual inaccuracies in the impugned broadcast, any insignificant or inadvertent error, if at all, were completely unintentional, which did not in any way undermine the spirit and tenor of the report – which accurately portrayed both (i) the controversy caused by the Pride Parades in the U.S. and (ii) the inclusivity and importance of Pride Marches in India. Its response to some of the incidents mentioned in the complaint are detailed below.

Video of 3 trans activists outside the White House

14. *First*, the impugned broadcast clearly mentioned that the said trans activists in the video were involved in the act of posing topless outside the White House at a “family event”. It is thus clear that the event was hosted by the President of the U.S.A. *Second*, the broadcast in no manner suggested that any charges were framed against the said trans-activists for their indecent exposure or that their conduct was illegal. It was limited to reporting that this act of the trans-activists created outrage amongst various sections of society, following which it was also condemned by the White House in their official statement and resultantly, the activists were banned from any future events in the White House. *Third*, as can be evidenced from the detailed report by NBC, the incident was criticised heavily amongst certain sections of the media, resulting the White House to clarify the incident as “indecent, disrespectful and unfair to the hundreds of the attendees who were there to celebrate their families”.

Video from the NYC Pride Parade, 2023 depicting a tableau of LGBTQ+ women resorting to “unnecessary” nudity as part of pride parades while the crowd is cheering.

15. *First*, a bare perusal as a whole makes it clear that the reporter was commenting on the “unnecessary nudity” and “twerking” that was happening at various marches. *Second*, the use of the term “nudity” has to be understood in the context of its colloquial language and is not restricted to complete nudity. Nudity includes partial nudity and the videos in the relevant portion of the broadcast clearly depicts the women exhibiting nudity as part of the pride parade. The comments

have to be viewed in its full context, detailed above, about how nudity at Pride Parades was subject to serious criticism – which was to highlight the wrongful resort to nudity by some individuals which diminished the relevance of the pride movement. *Third*, it was nowhere averred by the host that to dress half-naked is any form of crime in New York, as has been falsely alleged in the complaint.

An image of a man twerking in front of children.

16. This excerpt is factually verified where it is indisputably reported that a man who was wearing nothing but an underwear was twerking in front of a crowd which had many children as a part of it. Thus, while the image posted may not have been from the same event, it does not undermine the point being made of adult white men “twerking in front of children”.

An image of adults seeming to engage in BDSM activities while minors were also seen at the event

17. This excerpt that “*bondage items were flaunted by adults, where minors were seen at these events*” was also factually correct and the entire video of some men demonstrating BDSM activities during a pride parade with children in attendance can be found as reported by Fox News in a report titled “*Family-friendly' Pride parade in West Hollywood had men depicting graphic BDSM sexual act*”, published on 05.06.2023.

'Grooming groups' comment:

18. Similarly, labelling the persons as “grooming groups” is misquoted and misinterpreted. The host was referring to concerns raised by parents in the US that “*In USA because this turned worse, some parents questioned why should sexually explicit material or push for gender change surgeries be allowed in schools because these look like they are grooming groups.*” This is also reflected in many popular media reportages in the U.S.

“School event” reportage:

19. The anchor made it clear that some conservative parents sought a complete prohibition of LGBTQ+ talk in schools. The visuals used at this instance may be from another incident, however, the underlying reporting was factually correct. In fact, the host implicitly even critiqued this behaviour by calling them “radical religious views”.

20. Therefore, by placing reliance on the said reportage, the host posed extremely relevant and crucial questions – “*how is nudity a celebration of pride and awareness campaign?*”, “*should there not be a restriction for an age group if the parade is going to be like this*”. It reiterated that such incidents as part of Pride Parades have culminated in an entire social media movement wherein people are expressing extreme hate and disgust towards the people of the LGBTQ+ community, further dividing the USA. Therefore, it stated that the reportage was neither factually incorrect nor misrepresented in a manner which promotes homophobia. In fact, it only intended to support the LGBTQ+ community, as has been detailed above.

The broadcaster relied on various news reports and tweets in support of the aforesaid assertions.

21. The images and videos used must be seen in consonance with the complete facts and commentary by the host and the surrounding outrage in the U.S.A detailed above.
22. The broadcaster stated that it would like to draw the complainant's attention to the subject of the Impugned broadcast "Nudity sparks outrage at USA pride parades: How India's LGBTQ+ lead responsibly", which incontrovertibly points towards the intention of the impugned broadcast – to say that the Pride Parades in India were organized in a responsible, dignified and inclusive manner. In fact, the host proudly discussed the pride events organized in India – which were extremely civil, awe-inspiring and a ceremonious celebration of inclusivity and diversity.
23. The channel has been an active participant of the pride month in June, 2023 and has contributed significantly to raise awareness towards the cause and work for the betterment of the community. It has held interviews with the people of the community such as intersex activist Gopi Madurai, reported the interviews of multiple people of the community who broke barriers and chose to live with pride by accepting their sexuality and inspiring more members of the community and also broadcast reports of the celebrities who came out of the closet, thus encouraging more people of the community .
24. Therefore, it is clear that the had not caused any prejudice to any person or community and the impugned broadcast was in accordance with NBDA's Guidelines. Hence, this complaint should be withdrawn without any further action.

Counter reply dated 13.7.2023 from the complainant:

Since the response received was unsatisfactory, the complainant requested for a hearing before the NBDSA. He stated that the channel had utilized images sourced from the USA, while making false assertions about those images and the LGBTQIA+ community. The objective behind this manipulative approach was to instil fear among the audience against LGBTQIA+ individuals, as elucidated in the initial grievance.

To justify their violations, the channel had cherry-picked isolated incidents from Pride Parades in the United States, which were not even part of the original broadcast, and employed homophobic conservative perspectives to substantiate their stereotyping of the LGBTQIA+ community in the USA as a dangerous, indecent, and obscene group. Notably, the channel itself acknowledged in its response that some of the images used and the claims made about those images were

unrelated. For instance, as highlighted in the initial grievance, the channel maliciously attempted to associate LGBTQIA+ individuals with illegal grooming activities by utilizing images of private individuals participating in a Pride Parade who were not engaged in such activities. Similarly, the channel falsely referred to the New York Pride Parade as a school event. Furthermore, the channel employed decade-old photographs from an adult-only event to falsely allege the presence of minors in those images. Numerous such instances have been detailed in the original grievance, highlighting the channel's wrongful use of unrelated images to construct an anti-LGBTQIA+ narrative.

The channel had failed to provide a satisfactory justification for their malicious utilization of these unrelated images to construct an unfounded and detrimental anti-LGBTQIA+ narrative.

The US context:

In the year 2023, USA hosted an extensive number of LGBTQIA+ Pride Parades, with more than 20 events documented throughout the country and numerous additional parades scheduled for the remainder of the year. The LGBTQIA+ community in the USA has emerged as a vanguard within the global human rights movement, playing a pivotal role in advancing the cause across various countries, including India. This support has been facilitated through mechanisms such as financial contributions, knowledge sharing, advocacy efforts, solidarity initiatives, and other forms of assistance. Notably, LGBTQIA+ employees from American corporations have actively contributed to empowering their LGBTQIA+ counterparts working in Indian offices by formulating policies aimed at safeguarding them against discrimination and other forms of mistreatment. These endeavors predate the 2018 Navtej Singh Johar vs Union of India judgment and underscore the unwavering support extended by LGBTQIA+ Americans to LGBTQIA+ individuals in India. Additionally, the US Embassy and US-based non-governmental organizations (NGOs), particularly those led by LGBTQIA+ Americans, have undertaken several initiatives to support endeavours in India focused on the protection and empowerment of LGBTQIA+ individuals.

However, recent years have witnessed a surge in targeted attacks against LGBTQIA+ individuals in the USA, particularly transgender persons, orchestrated by conservative political parties and their adherents. These attacks have taken the form of unconstitutional legislation and public statements, deliberately designed to undermine their rights and welfare. In an alarming trend, transphobic social media influencers have been emboldened by the prevailing political climate to engage in coordinated campaigns against LGBTQIA+ individuals. The proliferation of hate speech targeting the LGBTQIA+ community, notably on platforms such as Twitter, has become a matter of concern, exacerbated by the deteriorating political discourse in the USA and the influence wielded by transphobic billionaires who control major social media companies. However, federal judges have taken positive steps to halt the implementation of discriminatory laws, providing relief to transgender

individuals. Several state laws that pose a detriment to transgender people have been blocked by these judges.

Conservative individuals and politicians in the USA have been instrumental in perpetuating a false and hazardous anti-LGBTQIA+ narrative, utilizing tactics aimed at sowing fear among parents and misleading them into believing that LGBTQIA+ individuals pose a threat to children. This fear-mongering has resulted in the enactment of unconstitutional laws across multiple states, specifically targeting the presence of LGBTQIA+ drag artists in proximity to minors.

However, such bans are being deemed unconstitutional by U.S. courts. Furthermore, certain states have implemented prohibitions on education in schools regarding gender and sexual orientation. It is worth noting that these unconstitutional laws, rapidly enacted considering upcoming U.S. elections with the intention of polarizing voters by targeting LGBTQIA+ individuals, are likely to be struck down by the courts in the near future.

Protests and Nudity:

It is imperative to acknowledge that there exists a notable disparity in the public perception and legal frameworks pertaining to partial nudity, full nudity, obscenity, and indecency between USA and India. Consequently, drawing comparisons between the social landscapes of these two nations and asserting the superiority of LGBTQIA+ individuals in India over their counterparts in USA based solely on Indian sensitivities reflects a fundamental lack of comprehension regarding the inherent dissimilarities in cultural and societal contexts.

Furthermore, it is crucial to recognize that Pride Parades have traditionally served as platforms for protest, advocating for liberation and freedom. In numerous countries across USA and Europe, nudity as a form of expression during these protests is a common practice and is not legally proscribed in several jurisdictions. Therefore, passing judgment on participants of LGBTQIA+ Pride Marches in USA based on their attire and subsequently vilifying them constitutes an act of slut-shaming, warranting unequivocal condemnation.

LGBTQIA+ individuals have long been at the vanguard of challenging societal norms, thereby precipitating significant milestones in the advancement of human rights on a global scale. The moral policing of LGBTQIA+ Pride Parades thus represents a deliberate endeavour to foster anti-LGBTQIA+ sentiment, an undertaking that must be resolutely discouraged.

What has India Today Group done:

In recent past, AajTak, owned by the India Today Group, aired a program featuring an anchor, who has a history of repeated violations. During the broadcast, the anchor propagated fear, misinformation, and disgust towards LGBTQIA+ individuals by displaying an illustration depicting a person dressed in men's clothing

on one side and women's clothing on the other. With a malevolent smirk, the anchor directly addressed parents, by stating, *"Imagine how uncomfortable you would feel if your son says he wants to marry another man and wants to bring a boy into your home as a bride."* This deliberate act was undertaken with the sole intention of instilling fear among parents and promoting negative sentiments towards LGBTQIA+ individuals.

Similarly, in this instance, the channel has constructed a dangerous and unfounded narrative aimed at cultivating fear, hatred, and repugnance against the LGBTQIA+ community. While the second half of the report may present positive aspects regarding the LGBTQIA+ community in India, it does not negate the harmful impact caused by the malicious and one-sided nature of the first half. The comments accompanying these reports on various platforms where they are uploaded serve as evidence of the detrimental influence and irrational fear generated among the viewers.

The complainant firmly asserted that the program contravenes the principles of accuracy, neutrality, objectivity, good taste, decency, and others.

Decision of NBDSA at its meeting held on 6.11.2023

NBDSA considered the complaint, response of the broadcaster and after viewing the footage of the broadcast, decided to call the parties for a hearing.

On being served with Notices, the following persons were present at the hearing on 6.10.2023:

Complainant:

1. Mr. Indrajeet Ghorpade

Broadcaster:

1. Ms. Vrinda Bhandari, Advocate
2. Mr. Shiv Aroor, Senior Executive Editor
3. Ms. Dipali Rai, Legal Counsel

Mr. Vishal Pant, Editor Member representing the broadcaster in NBDSA (Aaj Tak), being an interested party, recused himself from the proceedings.

Submission of the Complainant

The complainant submitted that broadly speaking what the impugned broadcast was to trying to convey to the audience was how pride parades in India were more cultured and traditional as compared to the pride parades in United States, where people dance around streets naked and act in an indecent and obscene manner around children. From how the subject was portrayed, this was the general tone of the programme which any viewer would perceive.

He submitted that in its defence, the broadcaster had stated that the impugned broadcast was balanced and nowhere in the broadcast had it criticised the pride

parade in India, which defence was not acceptable. The impugned broadcast had violated the principles of neutrality, objectivity, accuracy, impartiality. The complainant submitted that the NBDSA Guidelines very clearly state that the tone of the anchor or participants cannot be a defence in the event that the language, words, terms promote hate speech against a particular community. In view of the same, merely because the anchor at the end of the broadcast praised the pride parades organized in India the same cannot mitigate the impact of the first half of the broadcast, wherein the anchor essentially went on a rant and gave unsubstantiated and baseless examples to defame an entire community.

The complainant invited NBDSA's attention to what Pride meant, which in general parlance is often reduced to being considered as being a carnival where people walk on the streets in colourful clothes. He submitted that Pride is a form of 'Janakrosh' wherein a community that has been historically ostracized and deprived from social and economic benefits advocates for their rights. Therefore, Pride at the very core is a protest and should not be confused with a carnival. He submitted that while Pride started as a violent riot in USA, Pride Parades are no longer violent however they remain a protest at their core. There are various means of protesting, namely through slogans, attires, formation, skit plays etc. The complainant submitted that at the time the impugned broadcast was aired over 30 cities in United States had hosted Pride Parades. At the Pride Parades, once the pride walk ends several resource centres, vaccination camps and stalls are set up by NGO's, legal and medical aid providers to help members of the community so that they can empower themselves.

The complainant submitted that organizers of Pride Parade in India have a lot to learn from the Pride Parades in United States, as the organizers in India have to face several problems while organizing Pride Parades. He cited that while Pride Parades have been permitted in Mumbai this year however raising political slogans has been prohibited which defeats the entire purpose of the Pride Parade. He narrated a similar incident that had occurred while organizing the Pride Parade in Bangalore.

NBDSA asked the complainant to make his specific submissions in respect of the broadcast impugned in the complaint.

The complainant submitted that the broadcaster had relied on several historically used negative stereotypes. He submitted that the anchor while talking about Pride rallies in United States, aired a video which was not from the Pride rally but was from a function hosted by the White House and was therefore inaccurate. In the video, three trans activist, one trans woman with two trans men were showing their top surgery scars i.e., the scars that are left behind after transgender people undergo breast surgery either removal or implants. In order to get the surgery, trans people have to face a lot of struggles financially, socially or otherwise and therefore display their surgery scars with great pride much similarly to how war veterans display their wounds. It is the display of these scars which appears to be very offensive to the broadcaster who believes that they should not be displayed. In any event, the

complainant submitted that in Washington DC, topless nudity was not a violation of any local laws. In the recent past, USA has witnessed a huge wave of conservative voices who are anti-trans, anti- LGBTQIA+ rights, so when this video came to light, it gave the transphobic media channels and politicians a golden opportunity to raise this issue, as a result of which the White House had to publish a statement condemning the incident and prohibiting the individuals featured in the video from attending any events in the White House in future. The complainant reiterated that no charges were levied against the individuals who were topless in the video as nudity was not a violation of any local laws.

Further, in the impugned broadcast, the anchor while referring to the video of New York Pride Parade 2023 inaccurately mentioned there being unnecessary nudity when it is evident from the video that there was no nudity. The complainant submitted that by being judgmental the channel had violated the Guidelines for Prevention of Hate Speech and the Guidelines on Broadcast of Potentially Defamatory Content. He submitted that by saying that there were naked people during the NYC Pride Parade, the channel had acted in a manner akin to slut shaming which is often used as a tool for moral policing. He reiterated that there were no naked people during the NYC Pride Parade and in any event, nudity is not a violation of any local laws in USA.

In the broadcast, the complainant submitted that a very old image of Federation of Canadian Naturists, a nudist group and not an LGBTQIA+ community was aired. He submitted that the channel had used a completely unrelated image to spread fear and disgust against the entire LGBTQIA+ community. That even if the same were a crime, the Guidelines to prevent communal colour in reporting crime, riots, rumours and related incidents clearly state that such isolated incidents when they are reported should not be used to generalize or paint an entire community as being similar violators. However, in violation of the aforesaid Guidelines, solitary instances have been used by the broadcaster in a completely different light.

Another such instance of unrelated imagery being used was from the Folsom Street Fair in San Francisco. The anchor while showing the image falsely claimed that this was being done in front of children even though no children were visible in the image broadcast on the channel. Further, Folsom Street Fair has very clear guidelines regarding the event not being suitable for children or minors.

Subsequently, in the broadcast the anchor falsely claimed the pictures from NYC Pride as being pictures from a school event. It is evident that the broadcaster has made no attempts to identify the pictures that were aired by it during the broadcast. The complainant reiterated that the images used were not from a school event but were from NYC Pride in 2023 where people could be seen dressed in skimpy clothes. The complainant submitted that it appears that the channel has no problem with the kind of nudity, which is witnessed in India. He cited public pools, kumbh mela, kushti akhada and lingerie shops in the malls as example of places in India where

people can be seen wearing skimpy and short clothes. In the broadcast, it is evident that the broadcaster wanted to show how India as the ultimate “sanskari” destination while defaming the LGBTQIA+ community in US based on the clothes that they wear. The way the channel perceives nudity when it comes to the LGBTQIA+ community versus other communities is clearly biased and judgemental. Furthermore, subsequently in the broadcast the LGBTQIA+ community was called a “grooming group”.

The complainant submitted that while the broadcaster in its defence had submitted that in the impugned broadcast it was merely expressing the concerns raised by parents in USA, however at no point in the broadcast, was it stated that treating members of LGBTQIA+ community as being part of grooming groups and as being paedophiles are historical stereotypes used against the community.

Submissions of the Broadcaster

The broadcaster refuted the allegations levelled by the complainant that it was transphobic and homophobic. It submitted that as part of the Pride month in June 2023 it had conducted several interviews with the members of the community such as intersex activist Gopi Madurai and other members of the community who broke barriers and chose to live with pride by accepting their sexuality and inspiring more members of the community. It had also broadcast reports of celebrities who had come out of the closet thus encouraging more people of the community. In view of the same, the broadcaster submitted that it had as part of its reporting brought awareness regarding the movement in India. The broadcaster invited the attention of NBDSA to comments made by its anchor at time stamps 2:40 to 3:26 in the broadcast.

The broadcaster submitted that the impugned broadcast was not a documentary but reporting as part of a news programme; it had praised the movement to a vast extent and also educated the viewers about the LGBTQIA+ community and the advancements made in India in terms of the community’s representation in the country; it had also referred to the famous Supreme Court judgment in Navtej Johar which had expanded the constitutional rights of the LGBTQIA+ persons; the institution of protections given to atypical families and had also given examples of priests solemnising same sex relation marriages in Mumbai despite marriage equality not being formally recognized in India. Therefore, the broadcaster submitted that when the entire broadcast is seen as whole and in full context, it is evident that the video was a celebration of diversity in sexual orientation and it promotes the Pride Movement, while lending unabashed support to the community.

The broadcaster submitted that the impugned broadcast was part of reporting during the Pride Month. The concerns raised by some conservative groups and parents in the U.S. in response to the LGBTQIA+ movement, particularly trans activism, in schools who questioned why children should be exposed to sexually explicit material or the push for gender change surgeries to be allowed in schools and advocated for

an age restriction to be imposed for attending the pride parade were also reported during the broadcast. The broadcaster invited the attention of NBDSA to an incident that took place in New York during Pride Month which was also reported during the broadcast, where revellers in the parade chanted "*we are here, we are queer and we are coming for your children*". The broadcaster submitted that this incident was subject of immense controversy and in fact a complaint had also been filed against this incident, which was widely reported. In the impugned broadcast, it had talked about positive pride parades in India, which furthered the cause of inclusivity and diversity.

The images and videos specifically disputed by the complainant must be viewed in the context in which they were shown. The purpose was to highlight the inappropriate activities by some persons during Pride Month, which had resulted in hijacking the message behind the important movement by associating it with nudity and sexually explicit conduct taking place in front of children, which may have resulted in backlash against members of the LGBTQIA+ community especially from conservative religious groups. The broadcaster relied on news reports published in Newsweek and Washington Post, which had also addressed the issue of nudity during the pride parades. These articles it stated also mentioned that the presence of children at these parades was being an issue of concern.

NBDSA questioned the broadcaster regarding its usage of unrelated images in the impugned broadcast. In response, the broadcaster submitted that when you search for such reports, these images of USA appear in the result. It invited the attention of NBDSA to a tweet posted by a verified user which shows the video of a man twerking in just his underwear in front of children, which according to the said user was a "total stain on the LGBTQIA+ community".

In response to the allegation raised by the complainant regarding the trans activist, the broadcaster submitted that it had in the impugned broadcast clearly mentioned that the said incident had taken place during a family event outside the White House and not during the pride parade. Further, nowhere during the broadcast it is alleged that this was illegal or that any charges were framed against the said trans activist for their conduct. Its reportage of this incident was limited to reporting the official statement of the White House, who clarified the incident as being "*indecent, disrespectful and unfair to the hundreds of the attendees who were there to celebrate their families*". No judgment was passed by it, it had merely referred to the said incident to show how the Indian pride movement was completely different.

In respect of the complainant's allegation concerning its reporting of the NYC Pride Parade, the broadcaster submitted that its anchor was merely commenting on the "*unnecessary nudity*" and "*twerking*" that was happening at various marches and nowhere had it alleged that to dress half-naked is any form of crime in New York.

In response to the complainant's allegation in respect of image of a man twerking in front of children, the broadcaster submitted that while the image aired may not have

been from the pride parade, however the same does not undermines the point being made in the impugned broadcast of adult men twerking in front of children.

Further, the broadcaster submitted that the image of adults seemingly engaging in BDSM in front of minors was factually correct and the videos of the incident were also circulated on Twitter.

The broadcaster denied that it had labelled the LGBTQIA+ community as grooming groups rather it had expressed the concerns raised by certain conservative groups in USA, which was also reflected in many media reportage in the U.S. In fact, it had implicitly critiqued the views expressed by conservative groups/parents by calling them as radical religious views. In the broadcast, the anchor had posed extremely relevant and crucial questions – *“how is nudity a celebration of pride and awareness campaign?”*, *“should there not be a restriction for an age group if the parade is going to be like this”*. The anchor had only taken a certain view that the Indian pride parades were the way to go forward. The broadcaster reiterated the submissions made by it in its reply.

In rejoinder the complainant submitted that while the broadcaster has claimed that it is not transphobic or homophobic and referred to the videos aired by it during the pride month, however there were several complaints impugning the broadcasts related to the LGBTQIA+ community which were filed by the complaint. In response, the broadcaster submitted that those complaints could not be conflated with the impugned broadcast.

In respect of broadcaster’s submissions regarding the revellers chanting *“we are here we are queer and we are coming for your children”*, the complainant in rejoinder submitted that he had intentionally not raised any grievance in respect of the same, as he too believed that the statement was problematic. However, he submitted that it was relevant to mention the context behind the aforesaid quote was the assumption against the queer community of kidnapping and molesting children, therefore this slogan was used by people protesting against such stereotypes in USA. In the last few years, the usage of this slogan had diminished with the stereotype losing its value, however in states like Florida, since laws are again being designed to draw boundaries between minors and queer people these slogans have again gained currency. In the broadcast, no visuals from Seattle of naked men on cycles were aired and there was no mention of Seattle pride in the broadcast, it appears that the broadcaster had retroactively searched for these isolated incidents to justify the broadcast. The complainant reiterated that the broadcaster had cherry picked incidents from the pride parades to demonize the LGBTQIA+ community. He submitted that according to the Guidelines laid down by NBDSA, archival footages are required to be labelled as such. However, in the instant case the broadcaster has attempted to justify its usage of such images by pointing out to the context of the broadcast, which is not acceptable as the images used in the broadcast such as visuals of BDSM create an impression that such events are happening at present. The broadcaster in its

submission had also referred to tweets made from a verified account. The complainant in response to the said submission submitted that verification on Twitter by no means is a testament of credibility as verified accounts can be obtained by paying ten dollars. Further, he submitted that the broadcaster in its response and during the submissions had failed to provide any justification for calling NYC Pride a school event. In respect of twerking, the complainant submitted that the same was part of the Black culture. He stated that children are taught twerking in school. Therefore, if a grown-up man was twerking in short pants or underwear in a pride parade, the same is not considered to be offensive or inappropriate. However, in the broadcast twerking is portrayed in an absurd manner as being very offensive.

In response to the broadcaster's submission that it had not labelled queer people as grooming groups rather it had only raised the concerns of conservative parents, the complainant submitted that by failing to refute the allegation of queer people being part of grooming groups the channel had amplified the negative stereotypes of conservative parents. That the tonality of the programme violated the principles of neutrality and objectivity enshrined in the Code of Ethics.

In rebuttal, the broadcaster reiterated that the impugned broadcast was a news show and not a documentary. In the broadcast, objectivity was maintained as it had presented both point of views. The broadcast must be seen in the context it was aired. Further, it submitted that preventing news channels from airing any broadcast on any controversial issue will have a detrimental impact on the freedom of speech and expression of the broadcaster.

Mr. Shiv Aroor, Senior Executive Editor on behalf of the broadcaster submitted that the impugned broadcast was a "Newsmo" video which was aired on its digital platform and not broadcast on the channel. He submitted that some of the submissions made by the complainant were factually incorrect, he cited the example of the White House event which was part of the Pride week. Further, he submitted that a large range of issues concerning LGBTQ+ community are raised regularly on its channel. The impugned broadcast was only making a case about how there were dangers lurking within this community as it looks for its identity and greater expression. There may be certain factual inaccuracies in the complainant's submissions which reflect the complainant's own confirmation biases on the matter. Further, as far as the complainant's grievance regarding the usage of unrelated imagery was concerned, the broadcaster had in its description stated that it had used picture from Canada, which were not representative. There was no mala fide intent behind the impugned broadcast.

In rejoinder, the complainant submitted that the impugned broadcast was available on the official Instagram, YouTube and Twitter handle of India Today. The complainant denied that there being any disclaimer available on the video which clarified that the visuals were unrelated. As far as the broadcaster's objection regarding the incident which happened in front of the White House was concerned,

the complainant submitted that while the incident may have taken place during Pride week it was not part of the Pride Parade. Furthermore, the broadcaster's positive coverage concerning the LGBTQ+ community cannot be used as a defence against defamatory or communal speech which the channel may use.

Decision

NBDSA went through the complaint, response of the broadcaster and gave due consideration to the arguments of the complainant and the broadcaster and reviewed the footage of the broadcast.

NBDSA noted that the complainant had submitted that the broadcaster had utilized images sourced from USA and made false assertions about those images and the LGBTQIA+ community. The objective behind this manipulative approach was to instil fear among the audience against LGBTQIA+ individuals. It was the submission of the broadcaster that the impugned broadcast contained reportage and analysis of the instances of indecency, nudity and sexually explicit content that were a part of the Pride Parades in USA during Pride month, viz. June, 2023. According to the broadcaster, it had in the broadcast raised the concerns of some conservative groups and parents in U.S.A. in response to the LGBTQIA+ movement, particularly trans activism, in schools and compared the situation with India.

NBDSA observed that there would have been no problem with the broadcast if the broadcaster had merely reported the concerns of some conservative groups and parents. However, the broadcast was not limited to that aspect alone. While doing so, the broadcaster used visuals and images totally out of context, which were not part of the incident covered.

As far as the complainant's grievance regarding the LGBTQIA+ community being labelled as "grooming groups" was concerned, NBDSA noted that it was not the broadcaster who had called the members of the LGBTQIA+ community as "grooming groups" rather, it had only expressed the concerns of conservative parents who believed so. However, NBDSA is of the opinion that since news channels have a potent influence on public opinion, it would have been better for the broadcaster to have informed the viewers that "grooming groups" was a negative stereotype which was part of the anti LGBTQIA+ rhetoric.

In view of the above, NBDSA held that using visuals and images totally out of context, which were not part of the incident covered was a violation of the principle of accuracy as enshrined under the Code of Ethics & Broadcasting Standards.

NBDSA decided to advise the broadcaster to use factually correct images and ensure strict adherence to the Code of Ethics & Broadcasting Standards in future broadcasts.

NBDSA further also directed the broadcaster to edit the video of the said broadcast by expunging the objectionable parts or if that is not possible, to remove the video, if still available on the website of the channel, or YouTube, and remove all hyperlinks including access which should be confirmed to NBDSA in writing within 7 days of the Order.

NBDSA further noted that since several complaints concerning reporting on the LGBTQIA+ community have been received and in order to take care of the sensitivity of the issue and bring objectivity while broadcasting such issues, it deems appropriate to issue the following Guidelines to the Members of NBDA:

Apart from following the Code of Ethics & Broadcasting Standards and Guidelines, Members while broadcasting on issues concerning the LGBTQIA+ community, must adhere to the following guidelines: -

1. That the Specific Guidelines Covering Reportage, state that "*Reporting should not sensationalise or create panic, distress or undue fear among viewers.*" Therefore, in view of the aforementioned Guidelines, Broadcasters must avoid broadcasting any news which sensationalizes the issues related to LGBTQIA+ community, perpetuates stereotypes or creates undue fear in respect of the community.
2. That the Guidelines for Prevention of Hate Speech, require Editors, Editorial Personnel, Anchors, Journalists and Presenters to refrain from "*Using any and all forms of expression which, when judged contextually, targets, vilifies, ridicules, dehumanizes, reinforces prejudices or stereotypes and/or advocates violence or engenders hatred against any individual and/or communities based on their religion, gender, race, national or ethnic origin and/or sexual orientation.*" In view of the aforementioned Guidelines, Broadcasters must refrain from using any expression or slurs which may be construed as Hate Speech against the LGBTQIA+ community. While reporting any issue concerning the LGBTQIA+ community, broadcasters must ensure that reporting does not promote homophobia or transphobia or negative stereotypes about the LGBTQIA+ community.
3. That the Code of Ethics & Broadcasting Standards requires as a rule that "*channels must not intrude on private lives, or personal affairs of individuals, unless there is a clearly established larger and identifiable public interest for such a broadcast.*" That apart, *privacy is also treated as a Fundamental Right of every citizen by the Hon'ble Supreme Court and therefore needs to be honored.* In view of the above, broadcasters must respect the privacy of LGBTQIA+ individuals and not disclose the personal information, including gender identity or sexual orientation of a person without their consent.
4. That since news media has the most potent influence on public opinion, broadcasters while reporting on any member of the LGBTQIA+ community must endeavor to use inclusive and gender-neutral language, respect the

individuals' preferred pronouns and names.

5. That as far as possible, broadcasters while reporting on any issue concerning the LGBTQIA+ community must strive for diverse representation and ensure that voices from different segments of the LGBTQIA+ community are provided a platform to express their views.

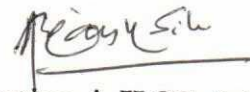
NBDSA decided that the aforementioned Guidelines should be circulated amongst the Members and Editors of NBDA for strict compliance.

NBDSA decided to close the complaint with the aforesaid observations and inform the complainant and broadcaster accordingly.

NBDSA directs NBDA 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 NBDA;
- (c) Host this Order on its website and include it in its next Annual Report and
- (d) Release the Order to media.

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



Justice A.K Sikri (Retd.)
Chairperson

Place: New Delhi

Date : 28.02.2024