

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION (PIL) ST. NO. 922252 OF 2020

PETITION No. of 2020

IN The MATTER OF:-

Nilesh Navlakha & Ors. : Petitioners

Vs.

Union of India & others : Respondents

SHORT AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1

I, Prem Chand, working as Under Secretary in the office of Ministry of Information and Broadcasting, Government of India do hereby solemnly affirm and state as follows:

1. That I am fully conversant with the facts and circumstances of the case and am competent to swear this affidavit.
2. That I have gone through the PIL and have understood the contents thereof. After having gone through the same I file this short affidavit to the same, in my official capacity, based on the official records available in the office of the answering respondent, with the liberty to file a


(प्रेम चंद/PREM CHAND)
अवर सचिव/Under Secretary
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Govt. of India, New Delhi

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detailed counter affidavit as and when this Hon'ble Court so orders or as and when the necessity so arises.

3. I submit that except those which are matter of record and specifically admitted in this Affidavit, all the averments, statements and submissions made in the PIL are specifically and categorically denied by the answering respondent. The answering respondent crave leave of this Hon'ble Court to file a further affidavit or affidavits of the situations arise in the ongoing PIL.

4. PRELIMINARY SUBMISSIONS:

1. That the Government upholds the freedom of press . The Press Council of India (PCI), a statutory autonomous body has been set up under the Press Council Act, 1978 to maintain and improve the standards of newspapers and news agencies i.e. print media in India and also to inculcate principles of self-regulation among the press.
2. That in furtherance of its objectives, the Council, under Section 13(2)(b) of the Press Council Act, 1978, has framed 'Norms of Journalistic Conduct' which cover the principles and ethics regarding journalism viz: Accuracy and Fairness, Pre-publication verification, caution against defamatory writings, Trial by Media etc. and the print media is expected to adhere to the said Norms.



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3. That the Press Council has while referring to the alleged suicide by film actor issued an advisory dated 28.08.2020 to the media to adhere to Norms framed by Press Council of India, copy of which is placed at **Annexure I**.
4. That the Council takes cognizance, suo-motu or on complaints, of the contents in print media which are in violation of the 'Norms of Journalistic Conduct'. As per section 14 of the Act, the Council, after holding an inquiry, may warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be. Hence, for any grievance relating to contents published in the print media, the person aggrieved may approach the Council directly, in accordance with provisions of "Complaint Mechanism" given on the Council's website "www.presscouncil.nic.in"
5. That with regard to electronic media, it is stated that as per existing regulatory framework, programmes telecast on private satellite TV channels are regulated in terms of the Cable Television Networks (Regulation) Act, 1995 and Cable Television Network Rules, 1994 framed thereunder. All programmes telecast on such TV channels are required to adhere to the Programme Codes prescribed under the Rules.



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6. That as part of self-regulatory mechanism, News Broadcasters Association (NBA), a representative body of news and current affairs channels has formulated Code of Ethics and Broadcasting Standards covering a wide range of principles to self-regulate news broadcasting and News Broadcasting Standards Regulations. Code of Ethics and Broadcasting Standards has made provisions that channels should strive not to broadcast anything defamatory or libelous and must strive to ensure that allegations are not portrayed as fact and charges are not conveyed as an act of guilt.
7. That NBA has set up News Broadcasting Standards Authority (NBSA) to consider complaints against or in respect of broadcasters in so far as these relate to the content of any news and current affairs broadcast. Recently, NBSA has issued advisory dated 13.08.2020 (**Annexure –II**) wherein attention of News Channels is drawn to specific guidelines covering reportage dated 10.02.2020 which deals with the manner in which media should report on case of suicide.
8. That some complaints including petitioner's complaint dated 20.06.2020 have been received in the Ministry against the telecast of news report relating to unfortunate demise of Actor Sushant Singh Rajput by various TV news channels. Some of these TV channels are members of the self-regulatory body i.e. News


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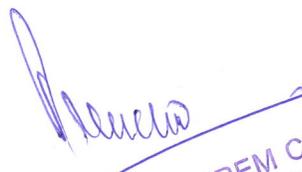
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Broadcasters Association (NBA), these complaints were forwarded to NBA for further necessary action in the matter on 10.08.2020. NBA has informed that the matter is being enquired into.

9. That the Ministry of Information and Broadcasting also has an institutional mechanism to deal with violation of Programme Codes. Towards this end, an Inter-Ministerial Committee (IMC) has been constituted under the Chairmanship of Additional Secretary(I&B) and comprising officers drawn from Ministries of Home Affairs, Defence, External Affairs, Law, Women & Child Development, Health & Family Welfare, Consumer Affairs, Information and Broadcasting and a representative from the industry in Advertising Standards Council of India (ASCI) which may review decision/recommendation of NBA. The IMC functions in a recommendatory capacity. The final decision regarding penalty and its quantum is taken by the Ministry.

10. That in regard to prayers, it is submitted that:-

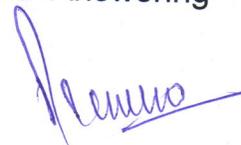
With regard to the content violation in the print and electronic media, the petitioner may approach the appropriate forum as per details given in the preceding paras. These forums take necessary action on the representation in accordance with the existing Guidelines/Rules/Regulations.


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PRAYER:

In view of the position stated in foregoing paras it is humbly submitted that no case is made out qua the Answering Respondent. Hence, the present petition may be dismissed against the Answering Respondent.


DEPONENT

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VERIFICATION:

I, the above named deponent, do hereby verify that the facts stated in paras of this affidavit are true to best of my knowledge and belief and as derived from the concerned Act and nothing material is concealed therefrom.

Verified at New Delhi on this ____ day of September, 2020


DEPONENT

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Media Advisory

PR/ 41/2020 -PCI

August 28, 2020

Press Council of India advises the media to adhere to the Norms of Journalistic conduct in covering cases under Investigation

The Council has noted with distress that coverage of the alleged suicide by a Film actor by many media outlets is in violation of the Norms of Journalistic Conduct and, therefore, advises the Media to adhere to the Norms framed by the Press Council of India.

The Media should not narrate the story in a manner so as to induce the general public to believe in the complicity of the person indicted. Publishing information based on gossip about the line of investigation by the official agencies on the crime committed is not desirable. It is not advisable to vigorously report crime related issues on a day to day basis and comment on the evidence without ascertaining the factual matrix. Such reporting brings undue pressure in the course of fair investigation and trial.

The Media is advised to refrain from giving excessive publicity to the victim, witnesses, suspects and accused as it will amount to invasion of their privacy rights. Identification of witnesses by the Media needs to be avoided as it endangers them to come under pressure from the accused or his associates as well as investigating agencies.

The Media is advised not to conduct its own parallel trial or foretell the decision to avoid pressure during investigation and trial.

Further, the reporting of the alleged suicide by the actor by some of the newspapers is also in violation of the norms formulated by the Council for reporting on suicide. The norm prohibits publishing stories about suicide prominently and advises the media not to unduly repeat such stories. The media is expected not to use language which sensationalise or normalises suicides or presents it as a constructive solution to the problems. The Media is advised not to use sensational headlines or use photographs, video-footage or social media links while reporting on suicide cases.

The media shall be well advised to visit the website of the Press Council of India (<http://presscouncil.nic.in/>) to see the Norms in detail and adhere to those scrupulously.

August 13, 2020

Editors of NBA

Re: Advisory Regarding Coverage of the Suicide of Actor Sushant Singh Rajput by member broadcasters

There has been extensive coverage by our member news channels of the suicide of actor Sushant Singh Rajput.

In this regard, NBSA has received complaints from viewers, which are under consideration by NBSA.

Regarding reporting of matters relating to suicide, attention of Editors is drawn to the following guidelines:

“Specific Guidelines Covering Reportage” dated 10.2.2020 deals with the manner in which the media should report on cases of suicide.

- 3. Law & Order, Crime & Violence**
- 3.1 Content should not glamorize or sensationalize crime or condone criminal actions, including suicide.**

Further, it may also be noted that intrusive broadcasts in relation to the death of a person, even if a celebrity, are a violation of the guidelines relating to privacy, apart from being in breach of the dignity of an individual.

- 5. Privacy**
- 5.1 Broadcasters should exercise discretion and sensitivity when reporting on distressing situations, on grief and bereavement.**
- 5.3 Content that would cause unwarranted distress to surviving family members, including by showing archival footage, should be avoided.**
- 5.4 No information relating to the location of a person's home or family should be disclosed without permission from the concerned person.**
- 5.6 Interviews of the injured, victims or grieving persons should be conducted only with prior consent of the persons or where applicable their guardian.**

Similarly, the "Guidelines for Telecast of News Affecting Public Order" dated 18.12.2008 deals with the manner in which a deceased person's body should be shown by the media:

6. *The dead should be treated with dignity and their visuals should not be shown. Special care should be taken in the broadcast of any distressing visuals and graphics showing grief and emotional scenes of victims and relatives which could cause distress to children and families.*

Editors are accordingly advised to bring the aforementioned Guidelines to the specific attention of all editorial personnel, anchors, journalists, producers and any other persons who are involved with news reportage.

Editors are cautioned that any violation of the above principles/Guidelines will be viewed seriously by NBSA and appropriate action may be initiated, including suo motu action.

Editors are also advised to preserve the footage and scripts of all news/programmes broadcast in relation to the suicide of actor Sushant Singh Rajput for consideration of NBSA, should it become necessary.

Kindly circulate to all concerned for compliance.



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

CC: Members & Legal Heads of NBA