

F. No. 41012/ 16/2020 -BC-III
GOVERNMENT OF INDIA
MINISTRY OF INFORMATION AND BROADCASTING
SHASTRI BHAWAN, NEW DELHI

Date: 09th September, 2020

ORDER

Subject: Complaint against violation of Programme Code under the Cable Television Rules, 1994 by Sudarshan TV channels Ltd.

The Ministry of Information & Broadcasting vide its letter of 28th August, 2020 had given a Notice to SUDARSHAN NEWS as under: -

“This Ministry has received several complaints regarding a programme which is proposed to be broadcast on Sudarshan News TV from 28.08.2020 at 8 PM. In the promo of the proposed programme which is viral on Social Media Platforms, Shri Chavhanke for Sudarshan TV News Channel is raising concerns how people of a particular community have suddenly increased in IAS and IPS cadre, etc.

You are, therefore, requested to clarify on the above in context of the Programme Code enshrined under Cable Television Network Rules, 1994 by return mail”.

2. The Hon’ble High Court of Delhi in *WP(C) No. 5792/2020 and CMs 20930-20934/2020* in the case of *Syed Mujtaba Athar & Others Versus Union of India and Others* vide its Order of 28.08.2020 restrained the channel from telecasting the programme titled “BINDASS BOL” which was scheduled to be telecast at 8 PM on 28.8.2020.

3. Vide further Order of 29.08.2020 in the aforementioned case, wherein SUDARSHAN NEWS channel had requested for vacation of the Stay Order dated 28.08.2020 of Hon’ble High Court of Delhi. The Hon’ble Court disposed off the petition with the following directions: -

- a) *The respondent nos. 3 and 4 shall file their reply to the Notice with the Central Government. The learned counsel for the respondent nos. 3 and 4 submits that the reply will be filed by 01.09.2020;*
- b) *The Central Government shall decide on its Notice within 48 hours of the receipt of the reply from the respondent nos. 3 and 4, after giving them an opportunity of hearing in this regard;*

- c) *The Central Government shall decide on the Notice remaining uninfluenced by any observations made by this Court in the present order.*
- d) *Either party shall be entitled to challenge the order passed by the Central Government, if aggrieved thereby, in accordance with law.*
- e) *Till such decision by the Central Government, the respondent nos.3 and 4 shall not telecast/transmit the programme 'Bindas Bol' that was scheduled to be transmitted/telecasted on 28.08.2020 at 8.00 p.m.*

4. In response to the aforementioned notice issued by this Ministry on 28.8.2020, Shri Suresh Chavhanke, Chief Editor, SUDARSHAN NEWS furnished its reply vide Email dated 31.08.2020 in which various submissions have been made which are summarised as under: -

- (a) The notice of the Ministry refers to promos of the proposed programme on Social Media platform which is not a subject matter of the Ministry of Information & Broadcasting.
- (b) The Ministry has sought clarification about the programme which is planned to be run at a later time. The channel has requested for being informed as to whether there is any practice in the Ministry for seeking explanation prior to the running of a programme. It is further submitted that according to the channel it is its right to telecast a programme and if the said programme is found to be violative of law then action may be taken; however, prior to the running of the programme the script may not be asked for.
- (c) The channel undertakes that the said programme is not violative of the law.
- (d) The Notice is an attempt to do pre-censorship of a TV programme which is unprecedented and violative of the constitutional rights of the TV channel.

5. The first point raised by SUDARSHAN NEWS, that the Ministry's Notice is based on content in Social Media platforms (which is not a subject matter of the Ministry), does not hold ground as the promo was telecast on the Sudarshan TV channel. The second submission/contention is that the Ministry cannot do pre-censorship of a programme, and a programme cannot be stopped or prohibited from being telecast. If only when the programme is telecast and any violation of law is found, action can be taken.

7. As per norm, there is no pre-censorship of a programme telecast on TV channels (other than films, film song or film promo or film trailer, which have to be pre-certified by CBFC). Reference is invited to section 20 of the Cable Television


Networks (Regulation) Act, 1995. Sub-section (3) provides that where the Central Government is of the opinion that any programme of any channel is not in conformity with the prescribed programme code referred to in section 5 (of the Act) it may by order, regulate or prohibit the transmission or re-transmission of such programme. Further section 5 of the Act provides that *"No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code"*. Accordingly, it is the responsibility of the channel owner to ensure that a programme telecast on TV does not violate the programme code. The programme codes have been prescribed under rule 6 of the Cable Television Network Rules, 1994.

8. This is a peculiar situation where while the programme has not yet been telecast, the promo of the programme has been telecast on the channel, which formed the basis of the complaints received in the Ministry; accordingly the Ministry issued the notice to the channel to give its say regarding adherence by the channel to the Programme Code in respect of the proposed programme.

9. The channel has mentioned in the written submission that the proposed programme "BINDASS BOL" is not violative of the law and further that if at all the programme is found to be violative, action as per law may be taken.

10. Having regard to the aforementioned facts and circumstances of the case, Sudarshan TV channel is hereby directed to ensure that the programme proposed to be telecast does not violate any of the programme codes. If any violation of the programme code is found, action as per law will be taken.

This issues with the approval of Competent Authority.


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