

**Speed Post / Only by Email**

November 15, 2021

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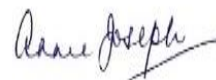
Dear Sirs,

**Re: Order of NBDSA (formerly known as NBSA) on Complaint dated 16.4.2020 from Citizens for Justice and Peace (CJP) against a programme “Daily News and Analysis, Jammu में ज़मीन के 'इस्लामीकरण' का DNA टेस्ट” aired on Zee News on 11.3.2020**

Attached please find Order dated November 13, 2021, passed by the News Broadcasting & Digital Standards Authority (NBDSA).

Thanking you,

Yours faithfully,



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

*Encl: As above*

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News Broadcasting & Digital Standards Authority  
Order No. 111 (2021)

Order of NBDSA (formerly known as NBSA) on Complaint dated 16.4.2020 from Citizens for Justice and Peace (CJP) against a programme “Daily News and Analysis, Jammu में ज़मीन के 'इस्लामीकरण' का DNA टेस्ट” aired on Zee News on 11.3.2020

Since the complainant did not receive a response to the complaint dated 24.3.2020, the complaint was escalated to the second level of redressal i.e., NBSA vide complaint dated 16.4.2020.

**Complaint dated 24.3.2020:**

The complainant stated that in the programme titled, “*DNA: Jammu में ज़मीन के 'इस्लामीकरण' का DNA टेस्ट*”, the anchor showed his viewers a Jihad diagram propagating various types of Jihad in the country categorizing them as soft Jihad and hard Jihad. The complainant alleged that in a country which is walking a tight rope when it comes to its communal issues, such a brazen display of cooked up concepts and types of Jihad is an attempt to create and propagate Islamophobia amongst the masses.

The complainant alleged that the anchor went on to explain how there were two types of Jihad – Hard Jihad and Soft Jihad further ‘educating’ the viewers by saying, “*Hard Jihad includes Population Jihad, Love Jihad, Land Jihad, Education Jihad, Victim Jihad and Direct Jihad, while Soft Jihad includes Economic Jihad, History Jihad, Media Jihad, Movies and Songs Jihad and Secular Jihad.*”

Apart from the extremely offensive and shockingly inflammatory content in the programme, what was especially disturbing was how the anchor was encouraging people to tweet using #ZameenJihad a deeply communal hash tag, a brazenly provocative move that can also incite hate.

It was alleged that the intent of the show, seemingly, was to put forth a point that land in Jammu is owned 90 % per cent by Muslims while Jammu is known to be a Hindu majority region. The anchor termed it as a conspiracy to turn Hindu populated Jammu into a Muslim dominated region. He even tried to justify his theory by twisting statements made by former political leadership of India during the time of partition and their views of Muslim settlement in India, further communalizing the programme.

While speaking of Zameen Jihad, the anchor stated, “*Some people are playing the trick of capturing the government’s land to change the population in terms of religion.*” He added that “*Islamists*” are even trying to “*change the religion of land, jungles and rivers*”.

The content of the show was not only inflammatory but replete with incitement and provocation against the Muslim community at large and this amounts to criminal offences under the Indian Penal Code besides violating the Code of Ethics and other guidelines set out by the NBSA. The show not only defied the fundamental principles of Code of Ethics but also other principles such as impartiality, objectivity, neutrality & fairness in reporting and also the guideline relating to Racial & Religious Harmony.

The complainant wanted Zee News to take down the video of the programme from all digital platforms and also issue an apology for publicizing such inflammatory content devoid of journalistic ethics and principles.

**Reply dated 17.4.2020 from the broadcaster:**

The broadcaster submitted that in the show DNA aired on 11.03.2020, they had after conducting a thorough research and after verifying the facts and official records, highlighted the biggest scam of Jammu and Kashmir, whereby, for the past 18 years, the then Government of Jammu and Kashmir and other stake holders have been trying to change the demography *i.e. population ratio of Jammu Region with a sole intention to make Jammu a Muslim majority area*. To carry out the aforesaid objective, the then Government of Jammu and Kashmir, in the year 2001, enacted Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) Act, 2001, popularly known as 'Roshni Scheme', whereby, it has been decided to grant ownership of thousands of kanals of the valuable State Land to the unauthorised occupants/encroachers in consideration of meagre amount. Although, the objective of the Act was to generate funds to finance the power projects in the State, however, the mode and manner of implementation of aforesaid Act by the State Government over the years unveil the hidden objective of the aforesaid Act, pursuant to which, a large chunk of forest and agricultural land in Jammu region have been transferred free of cost to people belonging to one particular religion with a sole intention to change the demography of Jammu Region.

That the aforesaid scam first came to light in the year 2014, when the Comptroller and Auditor General of India (CAG), in its report, observed gross irregularities on the part of the State Government in implementation of the Act. The CAG, in its report, inter alia, noted that the rules framed by the Government of J&K under the Act were contrary to the objectives of the Act, inasmuch as, the rules provided for transfer of agricultural lands free of cost, which is beyond the scope, objectives and mandatory provisions of the Act. With the aforesaid observations, the CAG, in its findings, inter alia, recorded that *"all the transfer of agricultural lands under the provisions of the Act are illegal"*. The CAG has further given its findings that *out of actual transfer of 3,48,160 kanals in the State, a major portion of land i.e. 3,40,091 kanals were categorised as 'agricultural' and were transferred free of cost, which has resulted in loss of thousands of crores of Rupees to the State Ex-chequer*.

That based on the aforesaid report of CAG, a Public Interest Litigation being PIL No. 41/2014 was also filed by one Mr. Ankur Sharma, Advocate before the Hon'ble Jammu and Kashmir High Court, wherein, pursuant to the order dated 21.11.2019, the Revenue Department filed a compliance report dated 21.12.2019 before the Hon'ble High Court stating therein the region wise distribution of beneficiaries. As per the said report, 25,000 persons were granted ownership of the forest and agricultural land in the Jammu Region alone, whereas, the number of beneficiaries in Srinagar region were only 4500 and no land was transferred in Ladakh Region. After perusal of the aforesaid report, even the Hon'ble High Court of Jammu and Kashmir in its order dated 20.02.2020 has observed as under: *"This status report reveals shocking state of affairs which had prevailed and the manner in which the land encroachers in Jammu and Kashmir have become owners of large trenches of public land by the operation of the Roshni Scheme."*

In order to decode the hidden objective of the aforesaid Act, which is in larger public interest, the broadcaster stated that they got the list of beneficiaries who have been granted ownership of land in Jammu under the aforesaid Act. As per the said list, 90% of the beneficiaries of the agricultural and forest land of Jammu, which have been transferred in their favour free of cost, belongs to Muslim community. In order to know the truth, their reporters visited Jammu and came to know from the people of Jammu that for past 18 years, the Government of Jammu and Kashmir, in connivance with the extremist groups, have been trying to eliminate the Hindus from Jammu and wants to change its demography.

That in order to further verify the aforesaid allegations of the people of Jammu, they also spoke to Mr. Ankur Sharma, Advocate, *who stated that the beneficiaries who have been given state land in Jammu under the provisions of the Act, were not even the residents of Jammu and majority of them have migrated from Kashmir.* The Advocate also referred to some of the books written by Military Strategist of *Ghazwa-e-Hind*, wherein, it is written that to accomplish *Ghazwa-e-Hind* fall of northern India and particularly Jammu is very critical. The broadcaster further stated that they also spoke to Mr. Sushil Pandit, who is an expert on Kashmir issues. He said in his byte that *Roshni Act is a scam to disturb the population ratio in Jammu and by the said Act, the Government has compromised with the national security.* Thereafter, they also talked to Mr. M.M. Khajuria, Ex-DGP of Jammu and Kashmir on the issue, who said that *it has been a major policy of the Governments of Jammu and Kashmir to facilitate the migrated population in Jammu to permanently settle there.*

In order to expose the real intention and conspiracy behind enacting the aforesaid controversial legislation, they also referred to a report titled 'White Paper on Kashmir' written by the Head of Department of Political Science, University of Jammu and Kashmir. In the aforesaid Report, it has been clearly stated that Pakistan always intended to increase militancy in Muslim majority areas of Jammu and they wanted to accumulate the Muslim populations on the west of Chenab River and to prepare them to attack India. The aforesaid report further talked about the intention of Pakistan to completely eliminate the 7 minority Hindus in Kashmir. They also

spoke to Mr. Tariq Fatch, who is well known writer. *In his byte, he stated that the fact of transferring 90 percent of land situated in Hindu majority area to the people of Muslim community talks a lot about the intention of the Government and other stakeholders.*

In view of the aforesaid facts and situation, in their show DNA, they have conducted a fair analysis of the following questions:

- a. If the Roshni Act was enacted to give ownership of State Land to the unauthorized occupants, then how, in the Jammu region, where majority population is Hindu, 90 percent beneficiaries of the State Lands are Muslims?
- b. Whether enactment of the Roshni Act is part of the conspiracy to change the population ratio of Jammu?

While raising the aforesaid questions on the show, they have clarified that they are a secular channel and not against any religion. To further clarify to the viewers, they defined the concept of secularism, which means not to give importance to any one religion and all the religion must be treated equally. Since, in the present case, the Hindus of Jammu region were not given equal treatment, they have stated in their show that the Act of the Government of Jammu and Kashmir was anti-secular and against the interest of our nation.

The broadcaster stated that the aforesaid report was aired with true spirit of nationality and only to preserve the integrity and unity of the country without crossing the secular lines or hurting the religious feelings of any religious community. They stated that in the programme they had only exposed the proponents of those extremist groups who wanted India to be an Islamic State and, on whose behest, the then Government of Jammu and Kashmir, enacted the controversial Roshni Act with a hidden object to change the population ratio of Jammu Region in furtherance of Ghazwa-e-Hind.

Additionally, the broadcaster stated that the flow chart of Jihad, which was presented to the viewers during the show, merely explained the modus operandi of the people of extremist groups, who in the garb of Jihad, have been trying to convert India into a complete Islamic country. That so far as the display of flow chart of Jihad was concerned, the same was related to only those people who want our country to be divided into pieces irrespective of their religion and therefore, while displaying the aforesaid chart, the anchor, as a disclaimer, stated that they are not targeting any particular religion and the aforesaid news report only relates to those who want to destroy the country. In the show, they have never tried to promote and incite communal hatred as falsely alleged.

That immediately after displaying the aforesaid chart, the broadcaster stated that they had clarified that the chart of Jihad does not relate to those people who want India to remain unified and integrated. That immediately after airing the aforesaid news report, they have received accolades and appreciations from various sections of the society and it is a great shock and dismay that despite bringing into light the biggest

monetary and religious scam of the country without disturbing the communal harmony, various pseudo secular and pseudo intellectual citizens of this Country, who never had any problem with the word 'Hindu Atankwad', have started criticizing their sincere efforts in exposing those extremists and terrorists group who, in the garb of Jihad and Ghazwa-e-Hind, are trying to destroy our country.

Furthermore, the broadcaster stated that they responded to the aforesaid criticism in the same prime time show aired on the next day i.e. on 12.03.2020, wherein, they have stated that majority of Indian Muslims are peace loving citizens and have nothing to do either with Jihad or with Ghazwa-e-Hind and in the impugned news report they have only exposed those few people who wants to divide the country. It is relevant to mention here that in response to the aforesaid news report, the Ex-Deputy Chief Minister of Jammu and Kashmir posted a tweet appreciating the broadcaster for raising the important issue of change of population ratio in Jammu. They have also received appreciation from various political leaders and citizens of the country. The aforesaid show analyzing the concept of Zameen Jihad in Jammu and Kashmir is completely uncolored from any motive, prejudice or notions. It was based on verified, accurate and established facts and did not tend to promote disharmony or enmity between the different religions. They have imposed self-restraint while conducting the analysis in their aforesaid show.

The broadcaster stated that they have neither breached any of the guidelines of NBSA nor committed any offence, much less offences under Section 153A, 295A, 298 and 505 of India Penal Code. They have strictly adhered to the laid down principles of neutrality, impartiality and fairness in the telecast of the aforesaid news report.

#### **Rejoinder dated 8.5.2020 to Zee News from CJP**

The complainant in the rejoinder stated that the broadcaster's response is replete with factual assertions. They alleged that the broadcaster had presented these facts with the malicious intention of creating a communal divide by pitching one religion against the other. There seems to be a misrepresentation of facts by the broadcaster in the impugned programme which shows not only its abject disregard towards presentation of truth but its thrust and focus being on airing a divisive, partisan and communal narrative to appease a certain ideology. A simple viewing and re-viewing of the programme reveals the intent of the broadcaster which was to showcase both the religion of Islam and 'jehad' as having negative and predatory qualities.

They pointed out many problematic statements made by the anchor of the programme "Daily News and Analysis" aired on March 11, 2020. The topic of that day was "DNA: Jammu में ज़मीन के 'इस्लामीकरण' का DNA टेस्ट".

Firstly, the anchor of the programme in the beginning itself puts forth the concept of "Zameen Jihad" or 'Land Jihad' by comparing it to 'Love Jihad', This term, 'Love Jihad' is a cleverly crafted term increasingly used to detrimentally describe inter-community marriages, which, incidentally the Indian Constitutional mandate is

completely and utterly in tune with, given India's commitment to the right to life, the right to liberty and freedom and the right to equality before the law. That the term selectively vilifies only one faith and religion is clear from the suffix of 'Jihad' to the term 'Love' given especially the misuse of the very term by rabid, outfits who have carried out acts of terror and violence justifying these in the name of 'Jihad' and 'Islam.' Never is 'Love' coupled with say a term like 'Yuddh' or 'Mahayuddh' which would give it a completely different connotation.

This term, 'Love Jihad', which is increasingly used in sections of the news media is one replete with a track of an anti-minority mindset. Besides, many rightwing supremacist outfits, be it of the majority or minority community position themselves against free association and intermingling of communities, even though friendship, business, marriage and association are a part of the secularization of the Indian polity (Articles 14,15, 16, 19, 21 and 25 of the Indian Constitution).

Many cases of 'Love Jihad' have been disposed of by the courts of law, as being legitimate relationships of love that culminated into marriage and had been termed as 'Love Jihad' to intentionally demonize a particular religion.

In the exact words of the anchor, "*Hamaredesh me love jihad kitarah ab zameen jihad bhi ho rahihai*" (Translation- *Just like love jihad, land jihad is also taking place in our country*). Through this statement, the anchor, impliedly expressed his acceptance of the abhorrent term 'love jihad' as being a real phenomenon and on the same basis he validated the term "zameen jihad" as well.

Further, the anchor posed facts related to the Roshni Act in Jammu and Kashmir region, where in the Jammu district, which is a Hindu majority district the lands have been handed over mostly to Muslims. To be precise, he stated that 25,000 persons, who were illegally occupying government lands had bought these lands from the government as per the provisions of the Roshni Act and 90% of these buyers belonged to the Muslim community. Based on these statements, the show questioned the intention of the law, and imputed whether it was enacted to change the demography of the Jammu district by converting it from a Hindu dominated region to a Muslim majority region. To prove his point, the anchor relied on population data (without citing a source) of the Jammu district, this data then becomes the basis of the 'claims' and 'assertions' made on the show that the Roshni Act was a conspiracy to change the demography of Jammu district. Thus, calling it 'Zameen Jihad' which is loosely defined as an act of usurping land in order to increase Muslim population in Jammu.

Since the channel had not cited the source for this data, the complainant stated that they found some official figures from the Indian Census office. The population figures claimed by the show for the year 2001 matched with our search. The population of Hindus was 65.23% and Muslim population was 30.69% for the total population of Jammu District. (source: <https://jk.gov.in/jammukashmir/?q=demographics>)

However, there was a stark difference in the actual population figures of census 2011 and the ones presented on the show (in 2020). They found that as per 2011 census, the Hindu population in Jammu district was 84.27% (12,89,240 persons) and Muslim population had dropped considerably to 7.03% (1,07,489 persons). This data is readily available on the official census website: <http://censusindia.gov.in/>.

The complainant stated that at the bare minimum a thorough fact check should have been done before propagating such blatantly divisive propaganda and rhetoric through its show.

Thus, by relying on and making an entire programme based on a wrong set of facts and figures and erroneously conceived 'information', the broadcaster has shown utter disregard towards the very basics of the ethics of journalism that NBSA endeavours to safeguard. Further the broadcaster was also liable for violating the principle of "Accuracy", Errors of fact should be corrected at the earliest and facts should be clearly distinguishable from, and not be mixed-up with, opinion, analysis and comment.

### **Manipulation of Term 'Jehad/Jihad'**

The entire broadcast, attempted to play, twist and manipulate 'Jehad,' a term of Islamic/Arab usage that has a certain etymology, historicity and connotation. The overall impact of the broadcast was nothing short of a brazen attempt to ride on the popular distaste and fear of the term Jihad/Jehad' and in fact turn that, very dangerously, into an overall dislike and antipathy against all that is either Islamic or Muslim.

However, what makes the broadcast even more sinister is that the objective of the broadcast in its entirety and in toto, whether speaking of 'Hard Jehad' or 'Soft Jehad', was to paint the very concept –and the religion of Islam–as dangerous, sinister and worthy of distancing, alienation and hate.

"The bias and bent of the entire broadcast was evident from the explanation tendered by the anchor about the two types of Jihad and what '*Hard Jihad*' and '*Soft Jihad*' includes. The complainant stated that each Jihad alluded to in this broadcast has negative connotations and were therefore aimed to further hatred of and alienation of all that is Islamic and Muslim.

Further, while explaining, each kind of Jihad, the programme labeled regular and usual occurrences as "*Jihad*" thus leaving no stone unturned in terming almost everything that is identified with Islam or the Muslim community as 'Jihad' thus further inciting hatred towards the community in general.

The anchor termed things like the mere mention of Mughals (termed as glorification) in history or education as 'History Jihad' or 'Education Jihad'. He even termed propagation of Islamic culture like songs of the Sufis, Mystics or anyone who emerged from Islamic cultures, stories and narratives reflecting in movies, as 'Film



and Music Jihad'. In this context, the complainant questioned what could be the intent of such a single-minded negative portrayal other than to further divide and actually test the principles of objectivity in broadcasting?

The complainant stated that in the programme, the anchor also defined '*Zameen Jihad*' as the acts of usurping land and building mosques, madrasas and kabristans (Muslim burial grounds), thus implying that all such buildings are on usurped land and amount to some kind of '*Jihad*' or 'holy war' waged by '*kattar*' (hard line, fanatical) Muslims. The anchor termed '*Secularism Jihad*' as one that is supported categorically by leftists, communists and liberals in the country, thus showing utter disregard to a gamut of ideologies and way of thinking; also clearly violating the principle of neutrality in journalism. He also terms '*Victim Jihad*' (*'idit Jihad*') as one where Muslims demand separate personal laws, reservations for themselves and so on.

The complainant therefore stated that these "definitions" created by the broadcaster not only contradict their claims of being secular but also displays their blatantly partisan approach towards news and broadcasting. In the overall context the broadcast was no doubt inflammatory, inciteful and maliciously aimed towards creating a divide and promoting enmity between religions.

Apart from the extremely offensive and shockingly inflammatory content of the programme, what was especially disturbing was how the anchor encouraged people to tweet using #ZameenJihad a deeply communal hash tag, a brazenly provocative move that can also incite hate. They stated that this action took the offensive broadcast steps further as it used the micro blogging site (Twitter) and social media platforms for developing a mass and mob hate mentality against Muslims, Islam through single minded, negative and adversarial usage of the term '*Jihad*.'

The constant prompts to tweet using this hashtag made users post inflammatory tweets. which prove that the incitement sown by the show has had a long-lasting effect and that the term has caught on and was being used to abuse and humiliate the Muslim Community

Moreover, these discriminatory statements and unverified claims amount to generating an atmosphere that can lead to mass violence and targeting of the Muslim community. In this regard, the complainant stated that 'Journalism as genocide' is a context that is being documented worldwide especially after Rwanda. The hatred perpetrated by the media has destroyed and damaged the lives of ordinary people. Miscreants taking law into their hands and forcing the general public not to buy fruits/vegetables from Muslim Street vendors; Resident Welfare associations boycotting Muslims in their apartments and colonies; stopping Muslims from entering specific areas; preventing volunteers who are providing relief measures to the poor, because they are Muslims. The community subjected to this form of vicious hatred has been transformed from being persons to objects. This dehumanization has resulted in calls for elimination of the community and the same is nothing short of a call for genocide. The call to genocide is a violation of the right

to life and personal liberty of an entire community under Article 21 of the Constitution, and needs to be dealt with strictly. The calls for social and economic boycott being made are the precursors to genocide. Hate speech which repeatedly dehumanizes an entire community, makes them targets of vigilante violence.

**Decision of NBSA at its meeting held on 10.7.2020**

NBSA considered the complaint, response and the further rejoinder by the complainant and also viewed the broadcast.

NBSA was of the prima facie view that the programme was not in consonance with the *Fundamental Principles of the Code of Ethics No 6* which states that “Broadcasters shall ensure a full and fair presentation of news as the same is the fundamental responsibility of each news channel. Realizing the importance of presenting all points of view in a democracy, the broadcasters should, therefore, take responsibility in ensuring that controversial subjects are fairly presented, with time being allotted fairly to each point of view. Besides, the selection of items of news shall also be governed by public interest and importance based on the significance of these items of news in a democracy” .Also the *Guidelines on Broadcast of Potentially Defamatory Content No 5* which states that “ a news anchor/journalist/presenter should not make any derogatory, derisive or judgmental statements as part of reporting or commentating” and also the Specific Guideline Covering Reportage relating to Racial & Religious Harmony, at Clause 9 states that “Racial and religious stereotyping should be avoided” and “ Caution should be exercised in reporting content which denigrates or is likely to offend the sensitivities of any racial or religious group or that may create religious intolerance or disharmony.” The broadcast had also violated the fundamental principles of Code of Ethics such as impartiality, objectivity, neutrality & fairness in reporting.

NBSA was also of the prima facie view that the tone and tenor of the programme was divisive and that the broadcast was targeting a particular community.

NBSA decided to call the broadcaster and the complainants for a hearing at the next meeting of the NBSA.

**On being served with notices, the following persons were present at the hearing on 26.11.2020**

**Complainant:** Ms. Aparna Bhat, Advocate  
**Broadcaster:** Mr. Vijay Aggarwal, Advocate  
Mr. Mudit Jain, Advocate  
Mr. Piyush Choudhary, Manager, Legal

**Submissions of the Broadcaster:**

The counsel for the broadcaster submitted that there was a preliminary issue in the complaint filed against it. He submitted that the complaint was hopelessly barred by

limitation. He stated that while he was fully prepared to argue on merits, the complainant was first required to overcome the statutory bar of limitation.

The counsel submitted that Regulation 8.1.6 states that *“complaint shall be made to a broadcaster by a person aggrieved within a reasonable time not exceeding 7 (seven) days from the date of first broadcast”*. In the present case, the date of broadcast was 11.3.2020 and the complaint was filed with the broadcaster on 24.3.2020. The second limitation is under Regulation 8.2 which states if the broadcaster does not respond within 7 days, the complainant is given further 14 days after the expiry of the relevant period to file a complaint with the Authority. He submitted that under NBSA Regulations, a total period of 21 days is given to the complainant to file its complaint with the Authority. In the present case, he stated that the complaint was filed on 16.4.2020 after the expiry of the stipulated period on 14.4.2020 i.e., after a delay of 2 days. The third limitation he stated was under Regulation 8.7 which states that *“not later than 14 (fourteen) days from the date of receipt of a complaint complete in all respects, under the directions of the Chairperson, a copy thereof shall be sent to the broadcaster against which the complaint has been made, along with a notice requiring the broadcaster to show cause why action should not be taken against it under these Regulations”*. In the present complaint, the Counsel for the broadcaster submitted that the show cause notice was issued in October, 2020.

He stated that before proceeding with the complaint on merits, the complainant was required to overcome these statutory limitation which are contemplated under the Regulations.

### **Submissions of the Complainant**

The Counsel for the complainant submitted that while the broadcast was first aired on the news channel it was also subsequently made available by the broadcaster on its website and its YouTube page and that the complainant became aware of the programme as a results of the Tweets. The counsel stated that the Regulations require the complaint to be made within 7 days from the date of the first broadcast, therefore she would seek condonation for the delay in filing the complaint . The counsel further submitted that Proviso 1 to Regulation 8.2, gave this Hon’ble Authority the powers to condone the delay in filing a complaint at the broadcaster level and at the second level of redressal, as the Regulations are to be read as a whole. Therefore, the Hon’ble Authority could condone the delay in filing the present complaint.

### **Decision of NBSA at its meeting held on 26.11.2020**

NBSA noted that the counsel for the broadcaster has raised the issue of limitation and the counsel for Citizens of Justice and Peace stated that it would file an application for condonation of delay before NBSA.

**Decision of NBSA at its meeting held on 14.1.2021**

NBSA considered the application for condonation of delay filed by Citizens for Justice and Peace and directed the broadcaster to submit its reply to the application for condonation of delay if it so desired.

**On being served with notices, the following persons were present for a hearing on 18.2.2021:**

**Complainant :** Ms. Aparna Bhat, Advocate  
Ms. Karishma Maria, Advocate

**Broadcaster :** Mr. Vijay Aggarwal, Advocate

**Submissions of the Complainant:**

The counsel for the complainant submitted that at the last date of hearing, an objection was raised regarding the delays in filing the complaint for which the complainant has submitted an application for condonation of delay explaining the reasons for the delays. At the outset she stated that the complaint had been filed in the interest of public good. She submitted at the first level there was a delay of 6 days, as the programme was broadcast on 11.3.2020 and as per the Regulations, the complainant was required to file the complaint within 7 days. The counsel for the complainant stated that they had a reasonable explanation for the delay. While it was true that the programme was first broadcast on 11.3.2020, the full impact of brazenly communal hashtag #ZameenJihad which was encouraged by the anchor during the program became widely used on Twitter in the following days, leading their small team to formulate a detailed and reasoned complaint which admittedly was a few days late. The counsel submitted that the complainant is a Trust and on the date of broadcast i.e., 11.3.2020 while some of the staff members had viewed the broadcast however all its Trustees had not viewed the entire programme. Therefore, the complainant took few days to consult the Board before filing the present complaint. Further, the counsel stated that Maharashtra had started cautioning on reducing office attendance due to the impact of the Covid-19 pandemic and several of their team members were working from home as serious reports of the pandemic had started coming in. She stated that the delay in filing the complaint was not a deliberate delay but a genuine administrative delay beyond the control of the complainant.

With respect to the second delay, she submitted that as per regulation the broadcaster had to respond within 7 days and in the event the broadcaster did not respond a further period of 14 days was given to the complainant to file its complaint with the Authority. That a total period of 21 days was given to the complainant to file its complaint. However, the counsel submitted that they took two days more and the complaint was filed within 23 days. The reason behind the delay was that at this time nationwide lockdown had been imposed and most of its staff was working from

home, therefore, to coordinate and file the complaint extra time was taken by the complainant.

The counsel for the complainant submitted that the delay of two days was a small delay and the Authority could condone such a delay considering the seriousness of the allegations levelled in the complaint. Therefore, she requested that the delay of two days be condoned.

The complainant reiterated that in first instance there was a delay of 6 days and at the second instance there was a delay of 2 days, the reasons of which had been sufficiently explained and therefore, the delay should not stand as bar to ensuring that the ends of justice are met, especially since the delay was not intentional and was beyond the complainant's control.

Further, the counsel for the complainant submitted that Regulation 8.2 allows the Authority to condone any delay in case it is satisfied: 1) that the complainant has acted diligently and 2) that the delay in filing the complaint within the prescribed period has been caused for reasons not of the complainant's making and/or for other sufficient cause.

Therefore, the counsel submitted that the broadcaster's stance that the proviso to Regulation 8.2 only allows the Authority to condone the delay at the second level of redressal i.e. NBSA and not at the first level of redressal i.e. broadcaster level is incorrect. The counsel submitted that the two stages of the complaint process cannot be looked at in a disjointed manner. The initial complaint to the broadcaster is made in order to determine if a solution may be worked out between the complainant and the broadcaster. In case the complainant is not satisfied with the broadcaster's response/approach, the Regulations allow the complainant to bring their grievance to the Authority herein.

The complainant submitted that it is only when the matter is before the Authority that any power for condonation of delay may be exercised. She asserted that the Authority is required to look at the proceedings in its entirety. Therefore, the complainant submitted that once the complaint is before this Authority, it has complete power under the proviso 1 to Regulation 8.2 to look into any and all circumstances presented by the complainant in order to explain the delay(s).

**Submissions of the broadcaster:**

The counsel for the broadcaster submitted that on the last date of hearing it was pointed out to the Authority that there has been a delay in making/filing of the complaint by the complainant, which was not disclosed by the complainant. That it is mandatory on the part of the complainant to disclose the delay while making the complaint before the Authority. The counsel submitted that the Authority ought not to condone the delay as the same is inordinate and willful on the part of the complainant.

The counsel submitted that the Authority had no power to condone the delay at the first level as Regulation 8.1.6 did not permit the Authority to do so.

The delay in filing the complaint could only be condoned with respect to a complaint filed at the second level of redressal in accordance with the Proviso 1 to Regulation 8.2. This proviso did not give the Authority the powers to condone any delay under Regulation 8.1.6, if the Authority had the powers to condone the delay at the first level of redressal, the Regulation would have specifically stated so which it did not. Regulation 8.2 states that the delay may be condoned if the Authority is satisfied that the complainant has acted diligently and that the delay in filing the complaint within the prescribed period has been caused for reasons not of the complainant's making and/or for other sufficient cause, but in Regulation 8.1.6 of the Regulation there is no such proviso to the regulation to condone the delay.

The counsel also stated that the Authority was to issue notice to the broadcaster with regard to a complaint within 14 days from the receipt of the complaint as per Regulation 8.7. However, in the present case, the Hon'ble Authority had issued the show cause notice in 196 days from the date of receipt of the complaint.

In view of the arguments made, the counsel requested the Hon'ble Authority to dismiss the application for condonation and thereby dismiss the complaint.

Without prejudice to the submissions made above, the counsel for the broadcaster submitted that whether at the first or second level of redressal, the reasons stated by the complainant for the delay in filing the complaint cannot be considered to be a "sufficient cause", and at best can only be described as gross negligence on part of the complainant. That the complaint made by the complainant to the broadcaster with delay of 6 days cannot be condoned by merely stating that the delay had been caused as the trustees were busy as this would not amount to "sufficient cause" to condone the delay since negligence on the part of the party can be no ground for condoning the delay.

He stated that the present request seeking condonation of delay was devoid of bona fide in as much as the delay is the result negligence of the complainant, and to diligently pursue the present matter. The complainant has failed to prove beyond reasonable doubt any such sufficient cause which led to the inordinate delay in filing/making the present complaint to the broadcaster and the Authority. In view of the aforesaid facts and circumstances the counsel for the broadcaster submitted that the complainants request for condonation of delay ought to be rejected, complaint be dismissed.

#### **Decision of NBSA at its meeting held on 18.2.2021**

NBSA considered the submissions made by the complainant and the broadcaster in relation to limitation at the first level of grievance redressal. NBSA decided that the

complainant may be given time of seven day to submit additional submissions in this regard, which would be considered at the next meeting of NBSA Therefore, the decision on the complaint was deferred to the next meeting of NBSA.

**Additional Written Submissions dated 25.2.2021 of the Complainant:**

The complainant submitted that in the present case the broadcaster i.e. Zee News has raised objection to three specific instances of delay:

1. Delay of 6 days by CJP in making initial complaint to the Broadcaster.
2. Delay of 2 days by CJP in making complaint to News Broadcasting Standards Authority (“NBSA”).
3. Delay of 196 days on the part of NBSA in issuing show cause notice to the broadcaster.

The complainant stated that the News Broadcasters & Digital Association (formerly known as News Broadcasters Association) was set up with the following main objectives:

- (a). To promote, aid, help, encourage, develop, protect and secure the interests of the News Broadcasters in the Indian television Industry and other related entities.
- (b). To promote awareness about the latest developments in the television industry relating to News Broadcasting and to disseminate knowledge amongst its members and the general public regarding such developments.
- (c). To provide for the members a place of meeting so as to enable them to work in consensus to achieve common goals for the overall betterment of their industry and to have a common platform/forum at which they may air their grievances and arrive at solutions.
- (d). To promote the growth of friendly relations amongst the members and amongst persons engaged in the production and broadcasting of the television software and especially to encourage co-operation among the members so as to maximize mutual benefits.
- (e). To protect all its members from persons or entities who carry on unfair and/or unethical practices or who discredit the television industry.

The proceedings in the present case are taking place in order to safeguard the abovementioned objectives and ensure that the power of news media is not utilised in a manner that targets and vilifies any community. CJP or its members stand to gain nothing financially or in any other capacity from the present proceedings. The complaint in question has been filed in the interest of public good. The complainant stated that the content of the show was based on incitement and provocation against the Muslim community in India and amounts to hate speech under the Indian Penal Code, 1860 while also being in violation of the Code of Ethics and other guidelines set out by the Authority.

In such circumstances, the complainant stated that their preliminary submission is that a cumulative delay of 8 days on its part has been sufficiently explained should not stand as bar to ensuring that the ends of justice are met, especially since this delay was not intentional and was beyond its control.

The proviso to Regulation 8.2 allows the Authority to condone any delay in case it is satisfied: 1) that the complainant has acted diligently and 2) that the delay in filing the complaint within the prescribed period has been caused for reasons not of the complainant's making and/or for other sufficient cause.

The complainant submitted that the broadcaster's stance that the proviso to Regulation 8.2 only allows the Authority to condone the delay in respect of the complaint filed at the second level of redressal and not at the first level of redressal is incorrect. It is submitted that the two stages of the complaint process cannot be looked at in a disjointed manner. The initial complaint to the broadcaster is made in order to determine if a solution may be worked out between the complainant and the broadcaster. In case the complainant is not satisfied with the broadcaster's response/approach, the Regulations allow the complainant to bring their grievance to the Authority herein. It is only when the matter is before the Authority that any power for condonation of delay may be exercised. The Authority is required to look at the proceedings in its entirety. Therefore, in the complainant's submission once the complaint is before this Authority, it has complete power under the proviso to Regulation 8.2 to look into any and all circumstances presented by the complainant in order to consider the reasons for the delay(s).

Further, it was pertinent to note that the harm being caused by the Zee News programme in question is continuing since the full show is available for public viewing on their YouTube channel till the present date. Therefore, the harm caused by the show's content is continuing regardless of any delay and the focus of the present proceedings must be to determine CJP's complaint on merits instead of getting side-stepped by technical issues.

The complainant prayed that the Authority may condone the delay of 6 days in filing the initial complaint dated 24.03.2020 with Zee News and the delay of 2 days in filing the complaint dated 16.04.2020 with NBDSA. It is further prayed that the objection raised by Zee News that this Authority does not have the power to condone the delay as far as Regulation 8.1.6 but has power only under Regulation 8.2 may be rejected.

### **Decision of NBDSA**

NBDSA noted that in the meetings held on 26.11.2020 and 18.2.2021, the issue of limitation was raised by the broadcaster with regard to complaint dated 16.4.2020



filed by Citizens for Justice and Peace (CJP) relating to a programme titled “*Daily News and Analysis, Jammu में जमीन के 'इस्लामीकरण' का DNA टेस्ट*” aired on Zee News on 11.3.2020.

After hearing the submissions of both the broadcaster and the complainant on the issue of limitation, NBDSA noted that under the News Broadcasting Standards Authority Regulations (Regulations), it had to consider whether it had the power to condone the delay in filing the complaints at three levels of redressal of grievances. First, at the broadcaster level, i.e., under Proviso 1 to Regulation 8.1.6 when the complaint is to be made to the broadcaster within 7 days from the date of the first broadcast. Secondly, at the second level of redressal, under Regulation 8.2 within 14 days from the date of receipt of a response from the broadcaster or in the alternative if the broadcaster fails to respond, within 14 days from the date when the period of 7 working days provided to the broadcaster to respond expires. And third, at the time of issuance of show cause notice by NBDSA to the broadcaster under Regulation 8.7.

In this regard, NBDSA noted that Proviso 1 & 2 to Regulation 8.1.6, prescribes the procedure for redressing the complaint at the first level of grievance redressal which reads as follows: “*Provided that a complaint shall be made to a broadcaster by a person aggrieved within a reasonable time not exceeding 7 (seven) days from the date of first broadcast*”.

*Provided that it shall be incumbent upon the broadcaster to respond to the complaint within 7 (seven) working days from the date of receipt thereof, failing which the Authority shall not entertain any complaint.”*

NBDSA observed that on a perusal of the above provisions, it is clear that there is no power vested with it to condone the delay of a complaint filed with the broadcaster, which is beyond the period of 7 days from the date of broadcast, as the said provisions do not specifically give the Authority any power to condone the delays in filing complaints.

However, NBDSA observed Proviso 1 to Regulation 8.2 specifically vests powers with the Authority to condone the delay in filing of a complaint at the second level of redressal for reasons prescribed in the proviso.

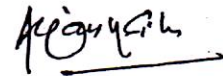
Similarly, NBDSA noted that Regulation 8.7 gives the discretion to the Chairperson in appropriate cases to extend the time for the issuance of the notice to the broadcaster.

In view of the fact that NBDSA has no powers under the Regulations to condone any delay in filing of a complaint at the first level of redressal, NBDSA could not entertain the same on merits. NBDSA therefore, decided to dismiss the above complaint on the ground that it was filed beyond the period of limitation permitted under the Regulations. NBDSA decided to inform the complainant and the broadcaster accordingly.

In view of the above decision, NBDSA did not find it necessary to consider the question of whether the delay in filing of complaint at the second level of redressal should be condoned or not on the grounds of "sufficient cause".

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 in its next Annual Report and
- (d) Release the Order to media.



Justice A.K Sikri (Retd.)  
Chairperson

Place: New Delhi

Date: 13.11.2021

*Certified True Copy*  
*Anne Joseph*