

Points for Hon'ble Chairman's Consideration

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The freedom of speech and express is a sine quo non of democracy, for it is the foundation of all civil and political rights of the citizens. It may be exercised through all available means. The media, whether print or electronic, is one of the means available to exercise it.

Although the freedom of the media is an important limb of the larger right of freedom of speech and expression, there is a crucial difference between the two. The right to free speech and expression when it is exercised by individuals through private means and for a private audience, may not carry with it a sense of social responsibility. It may carry only private obligations to the individuals and institutions who are addressed. When however the same right is exercised to communicate publicly and to an unlimited audience, as through the media – whether traditional or modern, it carries with it social responsibility. The responsibility consists of reporting facts fairly, objectively and adequately, presenting all views on the issues involved, and keeping one's comments upon them separate from the facts. The presenter of the news and views for public consumption has constantly to bear in mind that he is doing so to enable the public to form their own views in the matter. He is not in private communication with some individuals, conveying his own views to them. When he facts as a media person, he discharges his duty to the public as a provider of information to them, to enable them to form not only by law which binds the private communicator but also by ethics which he has to observe as a public communicator and which are nothing but public obligations. Every one who discharges public functions incurs such obligations and it cannot be gainsaid that the media operator does discharge public functions. That is why it is now

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universally acknowledged that the freedom of the media is essentially the freedom of the public to receive and accurate information on all matters of public importance.

Once the role of the media as a public informer and educator is accepted, its privileges, duties and obligations get automatically defined as that of a public utility service. Its privileges includes the right to receive and collect from primary authentic sources all relevant information of public importance and the right to have access to all facilities for collecting it and disseminating it as speedily and widely as it can. Any direct or indirect interference with or restriction on the twin functions is an encroachment on its freedom to discharge its duties towards the society. The privileges go with the duties and responsibilities as their necessary aids and it is the society, which provides them either by law, convention or practice. The media does make use of them to discharge its role. The aids provided by the society are for its own benefit and not for the benefit of the media owners or the media persons, and the society provides them to get all the necessary information on all matters of public interest. But with regard to the manner in which the aids may be utilised by the media, the society may lay down certain ethical guidelines which it expects the media to follow, such as that the media will not collect information by false representation or by illegal or clandestine means or by encroaching upon the privacy of the persons concerned and so on.

The media all over the world has therefore voluntarily accepted that the code of ethics should cover at least the following areas of conduct –

- i. Honesty and fairness; duty to seek the views of the subject of any critical reportage in advance of publication; duty to correct factual errors; duty not to falsify pictures or to use them in a misleading fashion;

- ii. duty to provide an opportunity to reply to critical opinions as well to critical factual reportage;
- iii. appearance as well as reality of objectivity; some codes prohibit members of the press from receiving gifts;
- iv. respect for privacy;
- v. duty to distinguish between facts and opinion;
- vi. duty to discriminate or to inflame hatred on such grounds as race, nationality, religion, or gender; some codes call on the press to refrain from mentioning the race, religion or nationality of the subjects of views stories unless relevant to the story; some call for coverage which promotes tolerance;
- vii. duty not to use dishonest means to obtain information;
- viii. duty not to endanger people;
- ix. general standards of decency and taste;
- x. duty not to prejudge the guilt of an accused and to publish the dismissal of charges against or acquittal of anyone about whom the paper previously had reported that charges had been filed or that a trial and commenced.

The Press Council established in our country being a statutory body it derives its powers from an Act of Parliament. It has 28 members and a Chairman. It is a completely independent organisation and the manner in which the members are nominated as also the Chairman is such that no executive or outside interference is possible. The Council not only preserves and guards the freedom of the press but it has also to look into all such complaints or matters which may pertain to the violation of journalistic ethics or lapses from high professional standards. Thus the Press Council can not only ensure, reprimand, and warn the erring newspapers but it can also make observations in the performance of its functions in any of its decisions or reports in respect of the conduct of any authority including the Government. This invests it with a unique

character in as much as there are not many Press Councils in other countries which have all these powers and which can also exercise the powers of a civil court in the matter of summoning and enforcing the attendance of persons and examining them on oath; requiring the discovery and inspection of documents; receiving evidence on affidavits; requisitioning any public record etc. Thus every effort is being made to carry out and uphold the guarantee embodied in Article 19 (1) (a) of our Constitution regarding freedom of speech and expression, which included the freedom of the press.

There can, however, be a number of pressures on the press to which it can be subjected and which may affect its freedom. For instance, physical attack on the editors or the offices of the newspapers or its employees by unruly mob or persons aggrieved by the publication of a particular news item; obstruction to the expression of political views which are not approved or are not to the liking of trade unions of newspaper employees; interference by advertisers; interference in the editorial autonomy of the proprietors for promoting their own business interest; interference by government officials through exercise of such powers under the law or through extra legal action by showing partiality, particularly, in the matter of advertisements released to newspapers by governmental agencies. The Indian Press Council has either on the complaints filed by aggrieved parties or suo motu, taken appropriate action and firmly expressed its views where it was found that press freedom was being inhibited or interfered with owing to the above mentioned pressures. It is significant, therefore, that apart from having a constitutional guarantee, the Press also has the benefit of having an institution set up under an Act of Parliament which functions without any interference from the executive and which is entrusted with the task of safeguarding the freedom of the press.

As a part of this statutory obligation, the Press Council has adopted a pro-active approach by taking suo motu cognizance of any threat to media persons, conducting on the spot inquiry and recommending to the State machinery corrective measures. The Council has also advised insurance cover to journalist on difficult beats.

Thus Press Council has been promoting not only self-regulation in the media but also guarding over its freedom and will continue to stand by the journalist in the interest of the fundamental right of the society to information.
