

CHAPTER VIII

FREEDOM OF THE PRESS (MISCELLANEOUS) : PRINCIPLES

From the Press Council's rulings in the cases relating to freedom of the press (miscellaneous) the following principles emerge :

1. The Press Council is not a judicial authority adjudicating on matters involving legal rights of the parties. It is a body set up by Parliament, *inter alia*, to safeguard freedom of the press. Where a complaint is made regarding some person or authority having invaded or threatened to invade the freedom of the press, the Council considers it to be its duty to look into the matter. In making the enquiry it is not bound by any legal formalities except observing the rules of natural justice.¹

2. The preamble, section 13(1), 13(2) (a) and 15, Press Council Act, 1978 (section 12(1), 12(2)(a) and 14 of the 1965 Act) confer jurisdiction on the Council to enquire into any matter alleging violation of freedom of the press, including pressures on it.²

3. Provisions of the Press Council Act, 1978 (former 1965 Act) do not confer jurisdiction on the Council to determine a dispute between a news agency and its employees regarding service conditions, *etc.*³

4. Personal or pecuniary interest in the complaint can be held to debar a member of the Council from taking part in the proceedings.⁴

5. It is not necessary for the complainant to address the state government before approaching the Council. This is so, because regulation 3 does not apply to a complaint under section 13, Press Council Act, 1978 (section 12 of the 1965 Act). Further, the state government is not denied an opportunity to put up its case.⁵

6. The objection that the Council lacks the jurisdiction to censure, warn or admonish the government has no substance and is based on the assumption that it is proceeding under section 14, Press Council Act, 1978 (section 13 of the 1965 Act). When it deals with matters under section 13, (section 12 of the 1965 Act) the Council merely records its findings on the facts in dispute, and expresses its opinion on the conduct of the party.⁶

7. Complaints regarding non-publication of news fall within the Council's jurisdiction, under section 13(2) (e), Press Council Act, 1978.

1. Case of *Ex-member of Parliament*, 1972 Ann. Rep. 7.

2. Case of *Searchlight*, 1974 Ann. Rep. 55.

3. Case of *Employee, Press Prust of India*, 1969 Ann. Rep. 71.

4. Case of *Tribune*, 1970 Ann. Rep. 11. See *supra*, ch. V, case no. 38.

5. *Supra* note 1.

6. *Ibid.*

However, the conduct of the news agencies will not be attracted by this clause unless, (a) the news-item is of public interest and importance; and (b) its omission is the result of deliberate suppression for ulterior ends.⁷

8. Allegations of foreign money pumped into newspapers can be dealt with by the Press Council under section 13(2) (f), Press Council Act, 1978. This section allows the Council to "keep under review cases of assistance received by any newspaper or agency in India from any foreign source."⁸

9. Criticism of the administration for its acts of omission, etc., is part of the duty of the press and government should not be so thin-skinned as to consider that any criticism of it which displeases it is ground for vindictive action. No reasonable objection can be taken to the publication of a news-item which is true although there may be two opinions whether a particular incident is "minor" or not.⁹

10. To the question whether an assignment to journalists causes any conflict between their interest in the assignment and their duty to the profession it can be said that (i) in the event of such conflict it would amount to journalistic impropriety to accept such assignment, so long as they retained their posts in a newspaper; and (ii) if there is no conflict or the assignment is not intended to toe the line it would not be an act of impropriety.¹⁰

11. It is improper to offer an inducement to a journalist to adopt a particular line of comment, and for the journalist to accept such an inducement. In the event of the improper inducement being offered by the government, the situation would be worse, since then the media would become an arm of law enforcement.¹¹

12. It is an accepted canon of journalistic propriety that it is improper for a journalist to accept an assignment which would be incompatible with the integrity and dignity of his profession or the exploitation of his status as a journalist.¹²

13. Journalists being citizens and members of public have the same rights as citizens. At the same time they owe a duty to the public. As part of the organisation, a certain duty is cast on the journalist. However, he would be at liberty to put an end to that by resignation.¹³

14. The editor of a newspaper cannot be asked by an unauthorised person to divulge the source of information of a letter published in his paper.¹⁴

15. As regards addressing of inquiries to the journalists pertaining to

7. Case of *An Advocate*, 1969 Ann. Rep. 64.

8. Case of *Daily Pratap*, 1980 Ann. Rep. 79.

9. Case of *Searchlight and Pradeep*, 1974 Ann. Rep. 11. See *supra*, ch. V. case no. 28.

10. Case of *Searchlight*, *supra* note 2.

11. *Ibid.*

12. *Ibid.*

13. *Ibid.*

14. Case of *Arjun Baan*, July 1933 P.C.I. Rev. 53.

their source of information and authenticity by a person or authority the following principles apply :

(i) Where a letter containing such enquiry is sent to an editor or a correspondent, the addressee must be given a reasonable time (not less than a week) for an answer.

(ii) The journalist concerned has the option to "answer it or decline to do so in his discretion". However, he is expected to keep in mind the professional aspect of the matter, namely, that the personal and confidential source of information should not ordinarily be disclosed as it would erode a very vital privilege which journalists enjoy in reporting events of public interest.

(iii) Accordingly, asking a journalist to divulge his personal and confidential source of information amounts to violation of his obligation to report on events of public interest and constitutes a threat to press freedom.¹⁵

16. The non-publication or interruption or any change at the instance of some persons is a matter of great concern. It is unacceptable in a free society that protests should be allowed to take the form of a direct attack on the freedom of press and the newspapers' right to publish what it lawfully may.¹⁶

17. To establish press censorship it is necessary for the Council to have before it material from which it can be concluded that orders of the government had been issued having that effect.¹⁷

18. The editors have a discretion in sorting out the news worthiness and public interest in the news to be published.¹⁸

19. The news regarding a labour dispute between the employer and employees can be withheld with the object of maintaining good relationship.¹⁹

20. The management should intervene effectively and bring about a settlement between the concerned workers and the journalist to restore freedom of the press.²⁰

21. As regards complaints against a correspondent made to the editor, a citizen has the right to protest against news regarded by him as unjust. The fact of its being conveyed to the employer does not render it a threat to the freedom of the press. However, it is the duty of the person concerned, to ascertain facts, examine them, to be satisfied that

15. Case of *Press Correspondent, Pradeep, Hind Samachar*, 1973 Ann. Rep. 27.

16. Case of *Jugantar*, 1981 Ann. Rep. 73; the Council referred to the British Press Council rulings on the subject.

17. *Suo motu* action by Press Council against Government of Punjab, 1980 Ann. Rep. 73.

18. Case of *Punjab Working Journalists' Union*, 1974 Ann. Rep. 90.

19. *Ibid.*

20. *Supra* note 16.

they are correct, before making the complaint.²¹

22. The editor of a newspaper cannot be directed by the Superintendent of Police, *etc.*, to alert his correspondent against the publication of a news-item relating to the acts of police, *etc.*, as it would be against the fundamental right of the press.²²

23. A complaint by a correspondent that though his name was on the mailing list of the Ministry of Information and Broadcasting, "he had been deliberately dropped from certain official functions" does not involve any freedom of the press.²³

24. The motivated stoppage of subscription of its teleprinter services, due to the feeling that reportage about certain agitation was an exaggeration and to pressurize a news agency like the P.T.I. would amount to a threat to the freedom of the press.²⁴

25. While the Indian Telegraph Act, 1885 does confer a discretion on the District Magistrate to direct withholding of telegrams, the interception of press telegrams impinges on the freedom of the press. As such, the Press Council equally has the right and duty to examine whether the discretion has been properly exercised.²⁵

26. Singling out news despatches to a newspaper and arrest of editors for activities in discharge of their professional duties and issue of warning letter from the government to newspapers to desist from publishing anything relating to certain activities of some groups, could legitimately give rise to an apprehension of threat to the freedom of the press.²⁶

27. When a news-item contains allegations of injury to a large number of the general public, the Magistrate has the jurisdiction to conduct an inquiry. A communication asking the complainant (the editor of the newspaper) to prove the contents of the news-item, is more in the nature of a request to assist in such inquiry.²⁷

28. A complaint of non-release of a loan by the state government does not raise the question of freedom of the press. For this the remedy lies in the law courts or redress can be sought in other quarters.²⁸

21. Case of *U.P. Working Journalists' Union*, 1973 Ann. Rep. 24.

22. Case of *Vishwa Manav*, Oct. 1983 P.C.I. Rev. 52.

23. Case of *Cine Advance*, 1970 Ann. Rep. 94.

24. Case of *Ex-Member of Parliament*, *supra* note 1.

25. Case of *Utkal Working Journalists' Association*, 1969 Ann. Rep. 62.

26. *Suo motu* action by Press Council, April 1982 P.C.I. Rev. 52.

27. Case of *Nayee Mashal*, Jan. 1983 P.C.I. Rev. 65.

28. Case of *Dainik Sambal*, 1971 Ann. Rep. 63. See *supra*, ch. V, case no. 37.