



DAKSHINPANTHI PATRAKARITA PVT. LTD.

30<sup>th</sup> April 2022

Instructions for the Chief Executive Officer (CEO) & Counsel

*for*

Confidential Settlement Conference

*in*

*Vidyutanu Vigyan Anuprayog Nigam Pvt. Ltd. v. Dakshinpanthi Patrakarita Pvt. Ltd. & Ors.,  
et cetera*

**Legal Opinion**

The legal advisors have opined that the law is on VVAN's side. On conducting an in-depth analysis of the broadcasts made over a period of five months starting from the inaugural broadcast on 1<sup>st</sup> July 2018, a retired High Court Judge came to the following conclusions:

- (a) That the statements made by Adheer Swami were *per se* false on the face of it, and that any reasonable person (and certainly, a journalist) ought to have known that they were false.
- (b) That they were broadcast by Adheer Swami and Gantantra TV recklessly, without necessary due diligence. Both could be acted against.
- (c) That the nature and content of the statements was highly likely to be adjudicated as defamatory under civil and criminal defamation standards.
- (d) That the shield of freedom of the press and the defence of fair reporting of newsworthy facts would likely fail.
- (e) That its three founders could succeed in a civil suit as well as criminal complaint.
- (f) That VVAN would likely succeed in their civil suit, and secure compensatory as well as punitive damages.

(g) That VVAN had the avenue to pursue criminal defamation charges under Section 500 of the Indian Penal Code, wherein it would likely succeed.

[Both sides are privy to these conclusions of the retired High Court Judge.]

### **Legal Considerations**

You should adopt and refer to the relevant constitutional and legal arguments to advance your interests during the negotiation. You should take the support of any relevant judicial decisions to make your case during the negotiation. You should emphasize that your side stands for the fundamental constitutional principles of the freedom of the press and the freedom of speech and expression—use it as far as you can.

VVAN had already filed a civil suit for Rs. 1,000 crore in the Delhi High Court. The witness testimony of the Producer of Gantantra TV two days ago further cemented their case. She stated, in response to various questions by their lawyers:

“Yes, Adheer Swami was aware we had not and could not prove the allegations we were making. ...

Yes, there were discussions on whether to bring on a skeptical voice during the show, but Adheer said that it would infuriate our viewers, and cost us subscribers. ...

No, Adheer Swami did not really believe the conspiracy theory. But he said those that believed it were not bad people, they were honest citizens and patriots who wanted what would be best for the country. ...”

This testimony has significantly weakened our case, and there is a chance that the testimony of other employees and producers will be on the same lines. This could be used to establish a financial and malicious motive. You are advised that, if taken to its conclusion, VVAN would have a strong likelihood of prevailing in its Rs. 1,000 crore suit.

There are further legal concerns inimical to our interests:

(a) VVAN can still file a criminal complaint, and likely succeed.

(b) The three founders of VVAN can still file a separate civil suit as well as a criminal complaint, and likely succeed.

It is vital that we settle the existing claim in Delhi High Court as well as the possible cases (a) and (b) above, subject to legal restrictions.

It has been estimated that pursuing all of these cases to their end (including appeals) would cost upwards of Rs. 50 crore in legal costs and many years of productive time.

While not directly applicable, the recent blockbuster settlement recently received by Dominion Election Systems Inc. from Fox News in a similar case in the United States has given even more cause for worry.

While you may strenuously maintain that it was within your rights to air the news as well as your views, the writing on the wall is clear: Dakshinpanthi Patrakarita Pvt. Ltd. would likely be held liable for a Rs. 1,000 crore or more, with further possible criminal and civil consequences. Though the quantum of damages decided by a court could be considerably less, it would be inadvisable to take that chance.

### **Other Considerations & Interests**

The interest of the public and the buzz surrounding the Q-India conspiracy theory has dried up over the last few years, as have the broadcasts by Gantantra TV against VVAN and its founders and employees. The successful conduct of successive elections over the last four years has played a key role in this.

While there are still a number of people who are adherents of the conspiracy theory, it has lost its place in public imagination and consciousness. While Gantantra TV was been able to retain its loyal base of viewers, it took a long time to rebuild some credibility with the rest of the public. Renewed public scrutiny would therefore be extremely detrimental. Our guess is that a similar consideration probably operates on the other side as well.

More importantly, liability of Rs. 1,000 crore or more would render it impossible to continue the broadcast of Gantantra TV.

It would lead to the withdrawal of the largest investor (other than Adheer Swami) and render the company bankrupt.

The threat of criminal defamation cases which could conceivably result in imprisonment for Adheer Swami is also extremely serious.

Further, we have been informally advised by the governing party that it is essential that this controversy is put to rest before the 2024 General Election.

For these and other reasons, it is essential to settle all claims at this conference.

## Quantum of Damages

When VVAN had filed a defamation suit for Rs. 1,000 crore, its enumerated components included (in order of magnitude):

decreased enterprise value / goodwill / brand image	Rs. 500 crore,
lost revenue from contracts missed	Rs. 280 crore,
punitive damages	Rs. 200 crore,
security expenses to protect the founders and employees	Rs. 20 crore.

Your task, of course, is to minimize the settlement amount as much as possible. The maximum payout possible is Rs. 750 crore. Dakshinpanthi Patrakarita Pvt Ltd. has liability insurance of Rs. 500 crore. The insurers have advised that they would be able to make the payout on or after 1<sup>st</sup> December 2023. Dakshinpanthi Patrakarita Pvt. Ltd. has a further Rs. 250 crore in reserves which can be utilized for the settlement, without jeopardizing Gantantra TV's viability. You ought to work out a suitable timetable.

## Remedial Measures

You expect that VVAN will seek a clear apology or clarification from Adheer Swami on Gantantra TV's 'Knowing What's Right' as part of the settlement. However, you are not in a position to agree to that—the vast majority of your viewer base is still ideologically comprised of people who would balk at an apology from you personally. You cannot agree to the same as condition of the settlement—you should push back on it. However, you may agree to the issuance of a written public statement acknowledging the lack of concrete proof to substantiate the allegations in the name of Dakshinpanthi Patrakarita Pvt. Ltd. which does not mention you and does not acknowledge intentionality on your part.

You must agree on the language and content of the statement at the meeting.

Note: This is likely to be the only settlement conference, and it would be advisable to reach a settlement within the provided timeframe.

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On behalf of the Board of Directors of the  
*Dakshinpanthi Patrakarita Pvt. Ltd.*