

**GOVERNMENT OF INDIA
COMMUNICATIONS AND INFORMATION TECHNOLOGY
LOK SABHA**

UNSTARRED QUESTION NO:1149

ANSWERED ON:15.11.2010

VIOLATION OF DOT GUIDELINES

Acharia Shri Basudeb;Adityanath Shri Yogi;Adsul Shri Anandrao Vithoba;Nahata Smt. P. Jaya Prada;Owaisi Shri Asaduddin;Panda Shri Prabodh;Pandey Shri Ravindra Kumar;Ray Shri Rudramadhab ;Satpathy Shri Tathagata;Shekhar Shri Neeraj;Sugumar Shri K.

Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to state:

- (a) whether a number of mobile telecom companies out of which were granted licences for 2G spectrum in 2008 were ineligible;
- (b) if so, the details thereof;
- (c) whether these companies did not fulfill the eligibility criteria norms;
- (d) if so, the details thereof; and
- (e) the action taken/being taken by the Government against those companies?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI SACHIN PILOT)

(a) to (e) Unified Access Service (UAS) licences are granted in terms of the UAS guidelines dated 14.12.2005 and based on the information / documents / certificates submitted by the applicant companies duly certified by their Company Secretary as mentioned in the Guidelines/Application Form.

As a matter of abundant precautions, Department of Telecom (DoT) also takes an undertaking from the applicant company that 'if at any time, any averments made or information furnished for obtaining the licence was found incorrect then their application and the licence if granted thereto on the basis of the such application, shall be cancelled'. If any misrepresentation of facts is brought to notice at later date necessary action can be taken as per due procedure under the provisions of the UAS Guidelines/agreement.

122 Unified Access Services (UAS) licences were granted in 2008 as per the extant UAS licence guidelines dated 14.12.2005. However, recently, the Director General of Audit, Post & Telecommunications (DG Audit P&T) in its Draft Audit Report (DAR) stated that some of the companies who were granted UAS licences in 2008 failed to meet DoT's pre-condition for grant of licences due to non-existence of 'telecom business/activities' in their main object clause as well as insufficient Authorized and Paid up capital in the MOA and AOA of the Company. The above observation of Audit is based on the view that the amendment of Memorandum and Article of Association (M&AA) of a company becomes effective from the date of registration by the Registrar of Companies (ROC) and not from the date of requisite resolution passed by the company as per the Companies Act, The Audit has stated that the respective date of registration of the requisite amendment of M&AA of these companies by the ROCs were after the respective date of applications(s) for grant of UAS licence(s) submitted by these companies to DoT and therefore alleged that these companies were ineligible as on the date of applications for grant of UAS licence(s) while as per the Inspection Memos (which were issued by the Audit itself), the respective date of requisite resolution passed by these companies as per the Companies Act were prior to the respective date of their application(s) for grant of UAS licence(s) to DoT.

DoT sought legal opinion on issues arising from the above observations of Audit including the effective dates of amendment of object clause in MOA, enhancement of authorized share capital of a company, change of name of a company etc.

Individual cases are being further examined taking into account the observations of Audit and the legal opinion.