

**GOVERNMENT OF INDIA
LAW AND JUSTICE
LOK SABHA**

UNSTARRED QUESTION NO:6818
ANSWERED ON:17.05.2012
SUPREME COURT JUDGEMENT ON NATURAL RESOURCES
Bhagora Shri Tarachand

Will the Minister of LAW AND JUSTICE be pleased to state:

- (a) whether the Government has taken note of Supreme Courts` recent observation with regard to allocation of Natural resources being national assets and concept of public trust doctrine;
- (b) if so, the reaction of the Government thereto;
- (c) the present status thereof; and
- (d) other measures being taken to ensure adequate revenue to the Government taking into consideration better services to consumers and end of monopolisation of services?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI SALMAN KHURSHID)

(a) Yes Madam,

The Hon`ble Supreme Court vide its judgment dated 2.2.2012 in WP(C) No.423/2010 and WP(C) No.10/2011 has, inter alia, observed about Natural Resources as under:-

`72. In conclusion, we hold that the State is the legal owner of the natural resources as a trustee of the people and although it is empowered to distribute the same, the process of distribution must be guided by the constitutional principles including the doctrine of equality and larger public good.

76.In other words, while transferring or alienating the natural resources, the State is duty bound to adopt the method of auction by giving wide publicity so that all eligible persons can participate in the process.`

The Supreme Court has, further, ordered that:

(i) the licenses granted to the private respondents on or after 10.1.2008 pursuant to two press releases issued on 10.1.2008 and subsequent allocation of spectrum to the licensees are declared illegal and are quashed.

(ii) The above direction shall become operative after four months.

(iii) Keeping in view the decision taken by the Central Government in 2011, TRAI shall make fresh recommendations for grant of license and allocation of spectrum in 2 G band in 22 Service Areas by auction, as was done for allocation of spectrum in 3G band.

(b) The Central Government filed a review petition in the Hon`ble Supreme Couu on 2.3.2012, bringing out the issues, among others, relating to separation of functions between different organs of the State, specially highlighting the function of policy making. However, the Review Petition has been withdrawn on 10.5.2012.

(c) & (d) The Government has filed a Special Reference No.I of 2012 by Her Excellency the President of India in the Supreme Court on certain questions of law and facts arising out of the Supreme Court judgement dated 2.2.2012 and the reference is listed for hearing on 10 July, 2012. The question relating to natural resources in the Presidential are reproduced as under:-

`Q.1 Whether the only permissible method for disposal of all natural resources across all sectors and in all circumstances is by the conduct of auctions?

Q.2 Whether a broad proposition of law that only the route of auctions can be resorted to for disposal of natural resources does not run contrary to several judgments of the Supreme Court including those of Larger Benches?

Q.4 What is the permissible scope for interference by courts with policy making by the Government including methods for disposal of natural resources?`

In IA No.2 to 7 in WP(C) No.423/2010 and WP(C) No.10/2011 Hon`ble Supreme Court vide order dated 24.4.2012 had directed that

`the time specified in judgment dated 2.2.2012 in Writ Petition No.423 of2010 and Writ Petition No. 10 of 2011 for conducting the auction for grant of fresh licenses and allocation of spectrum is extended upto 31.8.2012. This would necessarily mean that the applicant shall have to finalise the auction on or before 31.8.2012. The existing licenses shall be entitled to continue to operate till 7.9.2012.`