

**GOVERNMENT OF INDIA
COMMUNICATIONS
LOK SABHA**

UNSTARRED QUESTION NO:6232
ANSWERED ON:12.04.2017
Irregularities in 2G Spectrum Allocation
Chavan Shri Harishchandra Deoram;Jadhav Shri Prataprao Ganpatrao

Will the Minister of COMMUNICATIONS be pleased to state:

- (a) whether allegations have been levelled against several companies with regard to irregularities in 2G spectrum allocation;
- (b) if so, the details thereof;
- (c) the outcomes of the inquiry conducted against the said companies and the punishment awarded on the basis of the said outcomes, company-wise; and
- (d) the extant status of the cases registered against them company-wise?

Answer

THE MINISTER OF STATE (IC) OF THE MINISTRY OF COMMUNICATIONS &
MINISTER OF STATE IN THE MINISTRY OF RAILWAYS
(SHRI MANOJ SINHA)

(a) & (b) As per the Central Vigilance Commission, Investigation into 2G spectrum scam is being directly monitored by Hon'ble Supreme Court . The investigating agencies such as CBI, ED & Income Tax directly furnish the status reports to the Hon'ble Supreme Court.

With regard to 2G spectrum allocation, CBI registered three regular cases as mentioned below:-

(1) RC.DAI.2009.A.0045

In this case charge sheet dated 02.04.2011 was filed in the Court of Special Judge for 2G spectrum cases against 17 accused persons including following three companies:-

- (i) M/s. Swan Telecom Pvt. Ltd.,
- (ii) M/s. Unitech Wireless (Tamilnadu) Ltd., and
- (iii) M/s. Reliance Telecom Ltd.

A supplementary charge sheet was filed in the case on 12.12.2011 against eight accused persons including following three companies:-

- (i) M/s. Loop Telecom Ltd.
- (ii) M/s. Loop Mobile (India) Ltd. and
- (iii) M/s. Essar Teleholdings Ltd.

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(2) RC.DAI.2011.A.0024

In this case charge sheet dated 21.12.2012 was filed in the Court of Special Judge for 2G spectrum cases against four accused persons including following three companies:-

- (i) M/s. Bharti Cellular Ltd., New Delhi (presently known as M/s. Bharti Airtel Ltd.)
- (ii) M/s. Hutchison Max Pvt. Ltd., Mumbai (Presently known as M/s. Vodafone India Ltd.) and
- (iii) M/s. Sterling Cellular Ltd., New Delhi (Presently known as M/s. Vodafone Mobile Service Ltd.)

(3) RC.DAI.2011.A.0022

In this case charge sheet dated 29.08.2014 was filed in the Court of Special Judge for 2G spectrum cases against eight accused persons including following four companies:-

- (i) M/s Sun Direct TV (P) Limited;
- (ii) M/s South Asia Entertainment Holdings Limited, Mauritius;
- (iii) M/s Astro All Asia Networks Plc, UK and also at Malaysia
- (iv) M/s Maxis Communications Berhad, Malaysia.

Based on registration of criminal case with regard to irregularities in 2G Spectrum allocation by CBI, the Directorate of Enforcement took up investigation under the provisions of Prevention of Money Laundering Act (PMLA), 2002 and Foreign Exchange Management Act (FEMA), 1999. The action taken by the Directorate so far has resulted into filing of two prosecution complaints and two attachments of the proceeds of crime. Further investigation is being carried out by the Directorate in and outside India. Hon'ble Supreme Court in its order has cancelled all the licenses issued by the Ministry of Communication & IT pertaining to this case.

As per the Central Board of Direct Taxes, relevant cases are at different stages of proceedings of assessment, penalty, appeals etc.

(c) & (d) As per the Central Bureau of Investigation, the details are as under:

- i. RC.DAI.2009.A.0045: The case is pending trial at the stage of final arguments.
- ii. RC.DAI.2011.A.0024: The 2G trial court vide order dated 15.10.2015 discharged all the accused persons / companies.
- iii. RC.DAI.2011.A.0022: The 2G trial court vide order dated 02.02.2012 discharged four accused persons including M/s Sun Direct TV (P) Limited and M/s. South Asia Entertainment Holdings Limited, Mauritius.

The case against four Malaysia based accused persons including M/s Astro All Asia Networks Plc and M/s. Maxis Communications Berhad, Malaysia, who did not appear before the court is still pending.

The status report giving details of above mentioned three CBI cases is at Annexure-I.

The status of the investigation by the Directorate of Enforcement is enclosed as Annexure-II.

Annexure-I

STATUS REPORT IN 2G SPECTRUM CASES BY CBI

A) RC-DAI-2009-A-0045

On receipt of the CVC report, and on the basis of source information, CBI registered a case on 21.10.2009 for criminal conspiracy and criminal misconduct against unknown officials of Department of Telecommunications, Govt. of India, unknown private persons/companies and others u/s 120-B IPC, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

Investigation into the main offence has been concluded and has revealed commission of offences, during 2007-09, punishable u/s 120-B, 420, 468, 471 of IPC and also punishable u/s 13 (2) r/w 13 (1) (d) of Prevention of Corruption Act 1988 against accused persons, viz. S/Sh A Raja, then MOC&IT; Siddhartha Behura, then Secretary (Telecom); R. K. Chandolia, then PS to MOC&IT; Shahid Usman Balwa, Director, M/s Swan Telecom Pvt. Ltd., Vinod Goenka, Director, M/s Swan Telecom Pvt. Ltd.; M/s Swan Telecom Pvt. Ltd. (now Etisalat DB Telecom Pvt Ltd) through its Director; Sanjay Chandra, Managing Director of M/s Unitech Ltd.; M/s Unitech Wireless (Tamil Nadu) Private Ltd through its Director; Sh. Gautam Doshi, Group Managing Director, Reliance ADA Group; Sh. Hari Nair, Senior Vice President of Reliance ADA Group; Sh. Surendra Pipara, Senior Vice President of Reliance ADA Group & M/s Reliance Telecom Ltd. through its Director.

Accordingly, a charge sheet against the aforesaid persons / companies was filed before the court of Special Judge, New Delhi on 02.04.2011.

FIRST SUPPLEMENTARY CHARGE-SHEET

Subsequently the allegations regarding quid pro quo / suspected illegal gratification of around Rs. 200 Crores paid by M/s Dynamix Realty (a DB Group company which also promotes / owns M/s Swan Telecom Pvt. Ltd.) to Sh A Raja, then MOC&IT through M/s Kalaingar TV Pvt. Ltd., following a circuitous route through M/s Kusegaon Fruits & Vegetables Pvt. Ltd. and M/s Cineyug Films Pvt. Ltd., was also further investigated.

The investigation disclosed that the amount of Rs. 200 Crores paid by M/s Dynamix Realty to M/s Kalaingar TV Pvt. Ltd, through M/s Kusegaon Fruits & Vegetables Pvt. Ltd. and M/s Cineyug Films Pvt. Ltd., was not a genuine business transaction but in the nature of illegal gratification paid in lieu of the UAS Licences, valuable spectrum and other undue benefits shown by accused public servants to M/s Swan Telecom Pvt. Ltd. Accordingly, in addition to the offences charged by CBI against the accused persons in the main charge-sheet dated 02.04.2011, accused persons viz. A Raja, Ms. Kanimozhi Karunanithi, Sharad Kumar, Shahid Balwa, Vinod Goenka, Asif Balwa, Rajiv Agarwal and Karim Morani have been charge-sheeted vide a supplementary charge sheet dated 25.04.2011, for offences punishable under section 120-B IPC read with section 7 (alternatively section 11) & 12 of PC Act, 1988.

The Ld. Special Judge, New Delhi took cognizance of the aforesaid charge-sheet and clubbed the same with main charge sheet. The trial of the case was proceeded further and prosecution evidence has been concluded on 27.11.2013. The case is now pending trial at the stage of final arguments.

LOOP TELECOM - ESSAR MATTER

As regards the investigation into the offence relating to alleged cheating by suppression of the violation of Clause No.8 i.e. Substantial Equity Clause of Unified Access Service License (UASL) Guidelines dated 14.12.2005 issued by the Department of Telecommunications (DoT), by suspected persons / companies belonging to M/s Loop Telecom / Essar group has been concluded. Investigation regarding the role of public servants in the matter of not issuing Show Cause Notice to M/s Loop Telecom Pvt. Ltd. even after having prima facie allegation of violation of said Clause 8 of UASL guidelines, has also been concluded.

After completion of investigation in RC-DAI-2009-A-0045 regarding Loop Essar matter, second supplementary charge sheet was filed in the court of Special Judge (2G Spectrum Cases) on 12.12.2011 for the offences punishable u/s 120-B IPC r/w 420 of IPC against accused Ravi N. Ruia, Anshuman Ruia, Vikash Saraf, I.P. Khaitan, Ms. Kiran Khaitan, M/s Loop Telecom Ltd. (erstwhile M/s Shippingstop Dot Com India Pvt. Ltd.), M/s Loop Mobile India Ltd. (erstwhile M/s BPL Mobile Communications Limited) and M/s Essar Teleholdings Ltd.

Final arguments in the case have been concluded both by the prosecution and the defense. Rebuttal of final arguments by Prosecution has also been completed. Now the case is fixed for clarifications on final arguments, if any.

B) RC-DAI-20011-A-0022:, The case was registered by CBI on 9.10.2011 u/s 120-B of IPC r/w Section 13(2) r/w 13(1)(d) of PC Act,

1988 and Sections 7 & 12 of PC Act, 1988 against Sh. Dayanidhi Maran, the then Minister of communications and Information Technology, Govt. of India and others. After completion of investigation of this case, a charge sheet was filed on 29.08.2014 u/s. 120-B IPC r/w 7, 12 and 13(2) r/w 13(1)(d) of PC Act, 1988, in the court of Ld. Special Judge 2G Spectrum Cases, against Sh. Dayanidhi Maran, the then MoC&IT and others. The further investigation on some issues is continuing in this case. The trial court vide its order dated 02.02.2017 has discharged three Indian and one Mauritian accused persons/companies which appeared before the court. Now the case is fixed in the court for appearance of the remaining 4 Malaysian accused persons/companies.

C) RC-DAI-2011-A-0024: The case was registered by CBI on 17.11.2011 u/s 120-B of Indian Penal Code r/w Section 13(2) r/w 13(1)(d) of PC Act, 1988 against Sh. Shyamal Ghosh, the then Chairman (TC) & Secretary (Telecom), Department of Telecommunications and others. After completion of the investigation a charge sheet was filed in this case on 21.12.2012 in the Court of Ld. Special Judge for 2G Spectrum Cases, u/s 120-B of IPC r/w Sec 13(2) r/w 13(1)(d) of PC Act, 1988 and substantive offences thereof against Sh. Shyamal Ghosh and others. The Hon'ble Trial Court took cognizance of the case on 19.03.2013 and later discharged all the accused persons vide its order dated 15.10.2015. The CBI has filed a criminal revision in the Hon'ble High Court of Delhi against the impugned order for expunging adverse remarks against CBI officials.

Annexure-II

Status of the Investigations by the Directorate of Enforcement(ED)

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No. Name of the party to whom UAS Licences were issued Action taken by Directorate of Enforcement under PMLA, 2002 Action taken by Directorate of Enforcement under FEMA, 1999

1 Swan Telecom Pvt. Ltd., Mumbai â€¢ Proceeds of crime which were licenses have been cancelled by the Hon'ble Supreme Court. â€¢ ED has attached properties worth Rs. 223.55 Crore from DB Group companies in the matter of illegal gratification of Rs. 200 Crore to Sh. A. Raja. The attachment order has been confirmed by the Adjudicating Authority and the matter is pending with Appellate Tribunal for PMLA.

â€¢ ED has filed prosecution complaint against 19 persons (including Swan Telecom Pvt. Ltd. also) before the Special Court. Case is at final argument stage. Show Cause Notices have been issued for Rs. 10567.14 Crore approx. in the case of Swan Telecom Pvt. Ltd.

2 Loop Telecom Pvt. Ltd., Mumbai â€¢ No bribe money and disproportionate assets traced in the CBI charge sheet.

â€¢ No PC Act invoked.

â€¢ No quid-pro-quo in CBI charge sheet.

â€¢ No dilution of shareholding.

â€¢ Proceeds of crime which were licenses have been cancelled by the Hon'ble Supreme Court. Show Cause Notices have been issued for Rs. 959.73 Crore approx.

3 Unitech Wireless (Tamilnadu) Pvt. Ltd., New Delhi

â€¢ Offences are not in the schedule under PMLA at that point of time.

â€¢ No quid-pro-quo in CBI charge sheet.

Proceeds of crime which were licenses have been cancelled by the Hon'ble Supreme Court. Show Cause Notices have been issued for Rs. 64.56 Crore approx. in the case of Unitech Wireless (Tamilnadu) Pvt. Ltd.

4 S. Tel Ltd., Chennai

No action under PMLA in absence of charge sheet by CBI. Show Cause Notices have been issued for Rs. 6.89 Crore approx.

5 Datacom Solutions Pvt. Ltd. (Videocon Group company), Mumbai No action under PMLA in absence of charge sheet by CBI. No FEMA contravention is noticed.

6 Idea Cellular, H.O., Noida, Registered office Gandhinagar, Gujrat. No action under PMLA in absence of charge sheet by CBI. Show Cause Notice has been issued for Rs. 474.79 Crore approx.

7 Tata Teleservices Ltd., Mumbai No action under PMLA in absence of charge sheet by CBI. Show Cause Notices have been issued for Rs. 134.04 Crore approx.

8 Sistema Shyam Teleservices Ltd., Gurgaon, Haryana. No action under PMLA in absence of charge sheet by CBI. No FEMA contravention is noticed.

9 Allianz Infratech Pvt. Ltd., Mumbai No action under PMLA in absence of charge sheet by CBI. No FEMA contravention is noticed.

10 Spice Communication Ltd., New Delhi No action under PMLA in absence of charge sheet by CBI. No FEMA contravention is noticed.

11 M/s Aircel Limited

M/s Dishnet Wireless Limited

M/s Dishnet DSL Limited

(Aircel Maxis Deal Case) â€¢ ED has attached properties worth Rs. 742.58 Crore from Shri Dayanidhi Maran & Ors. The attachment order has been stayed by the Hon'ble Supreme Court.

â€¢ ED has filed prosecution complaint against 06 persons / entities before the Special Court. The Special Court vide its order on charge dated 02.02.2017 has discharged all the accused. ED is in process of filing revision against the said order on charge. Show Cause Notices have been issued for Rs. 1767.19 Crore approx. in the case of Aircel Maxis Deal. (Rs. 114.71 crore from M/s South Asia FM Ltd & Ors. and Rs. 1652.48 crore from M/s South Asia Communications Pvt. Ltd. and M/s Deccan Digital Networks Pvt. Ltd.)

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