

12.57 hrs.

STATEMENTS BY THE MINISTERS*

(i) Affidavit filed in Supreme Court on CAG

Report relating to procurement made for operation Vijay (Kargil)

MR. SPEAKER: Shri Pranab Mukherjee, do you want to lay the statement on the Table of the House?

... (*Interruptions*)

THE MINISTER OF DEFENCE (SHRI PRANAB MUKHERJEE): Yes, Sir. I am laying the statement on the Table of the House. ... (*Interruptions*)

Sir, in the last few days, various statements have been carried in the media in respect of the affidavits filed on behalf of the Union of India (UOI) in the Writ petition (C) 270 of 2004 filed by K.G. Dhananjay Chauhan versus Union of India and others. I would like to place the facts on records.

The Writ petition had been filed in the Supreme Court on 15th June, 2004 as a Public Interest Litigation. The Writ Petition is primarily based on the report of the Comptroller and Auditor General (CAG) No. 7A of 2001 which deals with the special Audit of cases of procurement done for 'Operation Vijay' (Kargil). The CAG examined 123 cases of procurement of defence equipment and has pointed out deficiencies in 35 cases. It has concluded that 'the excuse of Kargil was cited to push through procurements that would otherwise have been scrutinized more closely.

The Petitioner has, inter-alia, prayed that an appropriate writ may be issued to conduct an inquiry and fix responsibility for procurements made for 'Operation Vijay'.

When the case came up for hearing in the Supreme Court on 25th October, 2004 the H'ble Court directed the Union of India (UOI) 'to file an affidavit by way of response showing the details of the action, if any, taken on the report of the CAG, Public Accounts Committee (PAC) 54th Report and report of Central

* Also placed in Library, See No. LT 1919/2005.

Vigilance Commission (CVC), referred to in Paragraph 5.11 of the 54th Report of the PAC.'

Pursuant to the directions of the H'ble supreme court dated 25th October, 04, the Ministry of Defence (MoD) had forwarded a brief to the Learned Attorney General on 26th November, 04 explaining the action taken by the Government on the CAG & CVC reports. A draft affidavit was received from the Learned attorney General on 2nd December, 04. On 28th December, 04 a modified draft, consistent with the orders of the Supreme court dated 25th October, 04 and highlighting the details of the action taken was forwarded to the Learned Attorney General for taking further necessary action. On 21st February, 05 the Learned Attorney General discussed this modified draft with officers of the MOD and suggested amendments which were incorporated and sent back on 9th March, 05.

This affidavit was filed on behalf of the UOI on 10th March, 2005 in the H'ble Supreme Court. The affidavit is in two parts.

The first part deals with procedures. The affidavit clarified that the modified procedure dated 21st June, 1999 was meant to shorten the time frame particularly for imports of items specifically required for 'Op Vijay'. This modified procedure was issued without relaxing the requirement of the Defence Procurement Procedure, 1992. This is also reflected in the comments of the CAG. However, this part of the affidavit did not comment on whether this procedure was correctly followed while affecting procurement.

The second part of the affidavit deals with the action taken by the Government on the CAG and CVC report and the status of the PAC report. The affidavit points out:

The Government has continued to make efforts to address issues raised in the CAG report. Eleven out of 35 paras contained in the CAG report have been vetted by CAG and the remaining are at various stages of examination.

After expiry of the term of the Tehelka Commission, the transactions, two of which

(Hand held Thermal Imager and Terminally Guided Munition (Krasnopol) formed part of the CAG report also, stand referred to the Central Bureau of Investigation (CBI).

The observations made by the CVC regarding involvement of the middle-men and the need for making procurement procedures more transparent are being addressed by the Government.

In so far as the individual cases examined by the CVC are concerned, in three cases, administrative action has been taken against the guilty officials, 12 cases have been closed by the CVC and 21 cases are still under examination in the Ministry or under correspondence with the CVC.

Three cases referred in the CVC report which also find mention in the Tehelka tapes (T-90S tanks, Armored Recovery Vehicle and Up-gunning of 130 mm M-46 Field Gun to 155 mm caliber) now stand referred to the CBI.

During the hearing of the Writ Petition on 14th March, 2005 the H'ble Supreme Court ordered 'the Learned Amicus Curiae points out that the counter affidavit filed seems to be evasive and not complete in all respects. The Ld. Attorney General assures to look into the matter and file an additional affidavit, if required.'

On 5th April, 05 a press conference was held by a Political leader claiming that a 'clean chit' had been given to him in the affidavit filed on behalf of the UOI in the Supreme Court. On 5th April, 05 the Learned Attorney General communicated the order of the H'ble Supreme Court dated 14th March, 05 along with a copy of the same. On 6th April, 05 the Learned Attorney General sent another letter enclosing a copy of the draft additional affidavit to be filed in the H'ble Supreme Court. Both these letters were received on 6th April, 05 in the MoD.

In compliance of the Supreme Court order dated 14th March, 05 the additional affidavit was filed on behalf of the UOI on 13th April, 2005. This stressed on the future course of action to be taken on the CAG report. The affidavit points out that five cases of procurement were again scrutinized in detail with a view to fix responsibility.

The affidavit also states that since the CAG report has brought out that the 'excuse of Kargil was cited to push through procurements that would otherwise have been scrutinized more closely', thereby, suggesting serious misconduct on the part of officials \ authorities in the government, including the then Defence Minister, the Government has decided to refer 23 cases included in the CAG report to the CBI for investigation.

On 13th April, 05 the Department of Personnel and Training has been informed of the decision of the Government to hand over the aforesaid cases to the CBI.

An impression has been sought to be created that some kind of a 'clean chit' has been given to certain individuals and that there is a 'U' turn between the first and the second affidavits. A reading of the affidavits makes it amply clear that no 'clean chit' was given to anyone in the first affidavit filed by the UOI on 10th March, 05 nor has there been any 'U' turn between the first and the second affidavits. While the first affidavit explains the procedure of procurement and details the action taken by the Government, the second affidavit charts out the future course of action contemplated by the Government.

I would like to assure the H'ble Members that the Government is committed to take strict action against officers \ authorities, including the former Defence Minister, if it is found that the excuse of Kargil was taken to make purchases with the motive of personal benefit in violation of rules and regulations.
