



2G verdicts: Supreme Court cancels all 2G licenses, trial court to decide on CBI inquiry against Chidambaram

[NDTV Correspondent](#), Updated: February 02, 2012 13:23 IST

New Delhi: The Supreme Court has cancelled 122 licenses for mobile networks issued during A Raja's tenure as Telecom Minister and has asked the telecom regulator TRAI to make fresh recommendations on allotment of the licenses through auction within four months. In a second crucial verdict, the court refused to order an investigation into the role of Home Minister P Chidambaram in the telecom scam, asking a CBI trial court to decide on this instead within two weeks.

The verdicts will have huge impact on both business and politics.

The BJP says today's verdict calls into question the "decision-making credibility" of the Manmohan Singh government and has asked the Prime Minister to take responsibility. The party wants both the PM and UPA chairperson Sonia Gandhi to "break their silence." The government has so far merely said that it will examine today's orders. Right now it is in a deep huddle. Telecom Minister Kapil Sibal has met the Prime Minister and is expected to make a detailed statement on today's verdict. He will also be part of a Group of Ministers meeting this afternoon. Mr Chidambaram heads that group.

In today's order of great impact, the Supreme Court said while cancelling all the 2G licenses issued by Mr Raja in 2008, that they had been allotted in "an unconstitutional and arbitrary manner." It has also fined six telecom firms. Three of them, Etisalat, Uninor and TATA, have been penalized Rs. five crore each. Loop and Essar have been fined Rs. 50 lakhs each. Uninor has protested saying it has been "unfairly treated" and is "being penalized for faults the court has found in the government process."

The markets reacted swiftly. Stocks of telecom companies whose licenses have been scrapped, like DB Realty, whose promoters are invested in Etisalat DB, Unitech and Videocon, tanked instantly. Stocks of Bharti Airtel were trading up - older players like Airtel have no exposure to these licenses.

The first question being asked as the big order came: will the user pay more in telephony tariffs? Analysts say because spectrum will be now be auctioned, and likely at a higher price, prices could go up for all consumers.

In the verdict on a petition by Janata Party president Subramanian Swamy seeking that the CBI investigate Mr Chidambaram's role, the Supreme Court said the decision would be taken by Judge OP Saini, who is handling the trial of the telecom scam, within two weeks. Judge Saini is also expected on Saturday to rule on another petition on whether Mr Chidambaram should be made a co-accused in the scam.

In a third important judgement this morning, the court refused to sanction a Special Investigation Team to over-see the CBI's inquiry on the telecom scam. It said the Central Vigilance Commission (CVC) would monitor the investigation instead - the court asked the CBI to submit its status reports to the CVC in sealed envelopes.

The BJP says today's court order is but a "two-day reprieve" for Mr Chidambaram, who it says should resign. "He has no moral right to stay in the Cabinet with such a sword hanging over his head," the BJP's Ravi Shankar Prasad said. He also said, "The PM had even given his certificate of approval to A Raja...Mr Prime Minister, will you accept some accountability today?" Mr Prasad said after the court's verdict, even the UPA's "tallest leader Sonia Gandhi" must speak.

The verdicts today are based on three petitions by Janata Party President Subramanian Swamy and lawyer-activist Prashant Bhushan. Mr Swamy, like opposition parties, says that Mr Chidambaram was aware of Mr Raja's elaborate ruse, and sanctioned the decisions that led to the swindle.

In 2008, Mr Raja ignored advice to hold an auction for licenses and spectrum. Instead, he followed a first-come-first-serve policy. But he twisted the guidelines so that companies who he allegedly colluded with jumped to the head of the queue and won licenses out of turn. They paid a pittance- the rates used in 2008 were based on the prices of 2001, even though India had many more mobile phone users by then. 122 licenses were issued. Mr Bhushan's petition had asked for these to be cancelled.

In recent months, the Attorney General and the government's auditor have said the same. Some of the companies that won licenses have foreign partners. In fact, Unitech Wireless and Swan Telecom entered collaborations with Norway-based Telenor and Dubai-based Etisalat, earning huge investments. Technically, they diluted equity and did not sell their stake - laws at the time forbade those who bought licenses from selling them straight away to others. But the transactions, though legal, unveiled the ways in which the government had been shortchanged. If foreign partners were willing to pay such vast amounts for their share, clearly the telecom licenses had been undervalued. And private firms had been allowed to earn huge profits at the government's expense.

In the Supreme Court, Mr Swamy contended that Mr Chidambaram deserves to be questioned by the CBI for failing to resign in Mr Raja. The basis of Mr Swamy's petition lies in a note from the Finance Ministry that finds that Mr Chidambaram, as Finance Minister in 2008 when the scam unfolded, did not act rigorously enough to ensure that the spectrum was sold at fair prices.

The CBI has, in the past, objected to this, stating that there is nothing to suggest that Mr Chidambaram could have acted differently, and that it is incorrect to single out a minister as culpable for Mr Raja's actions. The government's stand in court is that a lower court is already hearing a petition by Mr Swamy seeking to make Mr Chidambaram a co-accused in the case and therefore that court should decide whether the Union Minister should be investigated or not.

The government has so far backed Mr Chidambaram vociferously, with the Prime Minister stating that the Home Minister enjoys his "complete confidence."