



## **Give sanction in 4 months to prosecute corrupt ministers, public servants: SC tells govt**

Krishnadas Rajagopal , Agencies : Tue Jan 31 2012, 11:06 hrs

In a ruling that has come as a setback for the government while effectively removing a major roadblock in the war against corruption, the Supreme Court on Tuesday ruled that the government will have to give the nod to prosecute a corrupt minister or a public servant within four months of the request.

This would mean the government cannot indefinitely delay sanction to try a public official if there is a whiff of scandal against him.

The apex court ruled the government can take one month for legal opinion, and three months thereafter for deciding on sanction. A bench of Justices G S Singhvi and A K Ganguly ruled that sanction would be deemed to have been granted if the competent authority fails to take a decision within four months.

The Supreme Court asked the Parliament to amend Section 19 of the Prevention of Corruption Act to make provision for this ruling.

Janata Party leader Subramanian Swamy had approached the Prime Minister's office to seek sanction against former Telecom minister A Raja for his alleged role in the 2G spectrum scam. Swamy waited 16 months before he heard from the Prime Minister's office. He then took the case to the Supreme Court which on Tuesday said he had every right to seek sanction from the Prime Minister to prosecute Raja.

Setting aside the Delhi High Court judgement on the sanction for prosecution in the 2G case, the Supreme Court held that filing a complaint under the Prevention of Corruption Act is a constitutional right of a citizen and the competent authority should take a decision on giving the sanction within a timeframe.

It said sanction should be granted within a timeframe and the competent authority shall take action in accordance with the guidelines laid down by the apex court in the Vineet Narain case of 1996.

Justice Ganguly, who wrote a separate judgement, agreed with Justice Singhvi and said sanction would be deemed to be granted if the competent authority fails to take a decision within a period of four months.

The bench said that right to file a complaint against a public servant under the Prevention of Corruption Act is a constitutional right.

The bench said it would not accept a submission made by the Attorney General in defending the stand of the Prime Minister's Office.

The apex court had reserved its judgement on November 24, 2010 on the petition filed by Swamy alleging that there was delay in taking action on his plea seeking sanction to prosecute Raja.

Swamy, who had made the Prime Minister a party in the case, had initially sought a direction to the Prime Minister to take decision on sanction to prosecute Raja but later he sought framing of guidelines on the issue as his plea became infructuous with the resignation of the DMK leader as Telecom minister on November 14, 2010.

He had alleged there was an "inordinate delay" on the part of the Prime Minister in taking a decision on his plea for grant of sanction to prosecute Raja in the scam and his plea was neither allowed not rejected for over 16 months.

The PMO had, however, refuted all allegations and filed an affidavit before the apex court maintaining that the request for sanction for prosecution was considered by the Prime Minister and that he was advised evidence collected by the CBI was necessary before taking a decision.

The government said it was necessary to wait for the CBI to wrap up probe in the 2G case before granting sanction.

Swamy had approached the apex court challenging the Delhi High Court judgement that had refused to pass any direction to the Prime Minister for taking decision on sanction.

Happy with this obvious victory, Swamy later took a few jibes at Union Law Minister Salman Khurshid who had questioned his decision to go directly to the Prime minister. "He needs to learn some law," Swamy said.