

Ref:

23.09.2013

Dear

**Re: Joint Parliamentary Committee to Examine Matters Relating to Allocation and Pricing of Telecom Licenses and Spectrum**

I am disappointed with your letter dated 23.09.2013. You have stated that you have gone through all the documents referred to in my letter dated 13.09.2013 and have concluded that the documents do not reveal any new material fact.

I am surprised by your statement that you have "gone through" all the documents referred to in my letter. This is because you never asked me for copies of the documents. The original files containing these documents were never before the JPC – in fact they are in the custody of the CBI Special Court. May I request you to kindly disclose the source from which you were able to obtain copies of the documents? It is somewhat disturbing that the Chairman of the JPC is getting documents – from undisclosed sources – that are not being shared with the other members of the Committee.

Your statement that the documents do not reveal any new material facts is incorrect. Listed below are just a few examples of conclusions in the Draft Report of the JPC, which are specifically contradicted by the documents:

- (i) Para 10.40 (page 287) of the Draft Report states, "... the [Minister] decided that LOIs may be issued to the applicants received up to 25 September 2007".

The note prepared in the PMO on 25.10.2007 – that is, well before the decision was taken in the DoT – states, "The MCIT was of the opinion that all applications for new licenses should be issued Letters of Intent and thereafter all those who deposit the license fee should be issued licenses. They shall also be eligible for spectrum". I understand that

Sh. D.S. Mathur, the then Secretary (T), has also admitted this fact in the CBI Special Court that the original intention of Sh. Raja was to issue LOIs to all applications received up to the cut-off date of 01.10.2007. This clearly shows that it was the officers of the Department who proposed that applications received up to 25.09.2007 should be taken up in the first instance, which was agreed to and approved by Sh. Raja.

- (ii) Para 10.45 (page 296) of the Draft Report states, "... the Committee are inclined to conclude that the Prime Minister was misled about the procedure decided to be followed by the Department of Telecommunications in respect of issuance of UAS licenses".

The Affidavit filed by the DoT in the Supreme Court in SLP (C) No. 24873 of 2010 states (para 94), "It has further been contended that the advice of the Hon'ble Prime Minister has been disregarded. This is again wholly incorrect... [Thus] not only was there no difference of opinion with the Hon'ble Prime Minister, his office was also fully kept informed of all decisions."

- (iii) Para 10.47 (page 298) of the Draft Report states, "... the Committee takes note of the fact that the FCFS criteria as adopted and announced through the press release was a clear departure from the policy followed by the Department till then".

Para 30 (XXIII) of the Affidavit filed by the DoT in the Delhi High Court in W.P. (C) No. 7815 of 2008 states, "... The Press Release dated 10.01.2008 was only to clarify the continuous stand of DoT regarding the award of UAS Licenses and no new policy of first come first served basis was formed which was actually already continuing since November 2003". A similar averment has been made in para 30 (XXVII) of the same Affidavit.

- (iv) The Draft Report has also criticised the second Press Release issued on 10.01.2008 and the process of distribution of LOIs.

The DoT in its Affidavit filed in W.P. (C) No. 9654 of 2007 (para 10) has averred, "Though all the applicants were present in DoT in the afternoon of 10-1-2008 to receive the LOIs, but for a formal announcement and convenience of the applicant and the petitioners and other interested

parties, respondent again issued a press release stating the venue and time in the afternoon. However, there was no need for such announcement through press release as per the past practice. After ensuring that all the applicants who were to receive the LOIs have assembled at the designated venue, the government issued the LOIs to the recipients. To make the process smooth, government took appropriate action well in time including security arrangement through in-house CISF".

The above are just some examples of how the conclusions in the Draft Report are at stark variance with the Departmental records and oral testimony of the officers. Similar statements have also been repeatedly made in the correspondence with the CAG. Therefore, your contention that these documents do not reveal any new material fact is clearly and patently untrue.

It is also relevant here to remind you that members of the Committee had at several times expressed their view that Sh. Raja should be permitted to give evidence before the Committee. Sh. Raja also, vide his letters dated 22.02.2013, 13.03.2013, 18.03.2013, 09.04.2013 and 22.04.2013 requested that he be permitted to depose before the Committee. Your response each time was that in view of paucity of time, his request could not be acceded to. However thereafter, the term of the JPC has been extended from time to time, for reasons well known to you. It appears that whenever it suits you, the term of the JPC gets extended, but whenever a request is made for examination of records or witnesses, paucity of time becomes an issue.

In light of the above, I must regretfully say that the manner in which the JPC is rushing ahead does not inspire confidence. I once again request you to obtain the records that I had mentioned in my earlier letter of 13.09.2013 and let them be examined by the Committee.

Regards,

(T.R. BAALU)