

Analysing the 2G Case

Why in news?

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While the special sessions court has not convicted anyone for their involvement in the alleged 2G scam, multiple questions on policy irregularities remain unanswered.

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Was FCFS policy regressive?

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- The controversial First-Come-First-Served (FCFS) policy is said to be the crux of the problem that facilitated malpractice.

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- While accused argue that it was the norm back then, some cellular licences were actually auctioned as early as 2001.

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- Significantly, the Telecom Regulator TRAI's chief Nripendra Misra argued for auctioning some bands of spectrum in 2007, to prevent undue profiteering.

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- He attempted to place some safeguards like sale restrictions on licences for at least 3 years after the allocation of the licences.

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- Considering that large number of applicants (575) were chasing limited spectrum bands, some voices within the cabinet too vouched against FCFS.

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- Mr. Raja seems to have ignored almost all these concerns and proceeded with FCFS to allocate 122 licences, without even revising the old rates.

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What were procedural flaws?

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- **Immoral Designs** - Even if FCFS was conceptually accepted, the repeated change in deadlines for licence applications in September 2007, spells clear malpractice.
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- Extremely short windows were given for submission of various documents, which was clearly intended to eliminate genuine applicants.
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- Notably, some applicants seemed to have been aware of the upcoming policy changes in advance, which is vindicated by their pre-dated bank drafts.
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- Also, even the FCFS wasn't followed genuinely, as late applicants like 'Swan telecom' were allocated favoured spectrums, whereas early ones like 'Spice' were pushed back in the queue.
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- **Fabricating Documents** - Strikingly, as many as 85 of the 122 licences did not qualify even by terms of the outlined FCFS policy.
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- Also, for some firms in the auction, their clause of incorporation was altered in the last minute to classify them as telecom companies to enable eligibility.
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- Many also fudged their minimum finances and tampered with their ownership data to become eligible.
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- Notably, these companies acquired spectrum bands not to operate telecom but to make a quick buck through an immediate resale after the auction.
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- The subsequent spectrum resale deals, like the "Etisalat and Swan" and "Telenor and Unitech" agreements only re-iterated this, which was exactly what the TRAI chief was trying to prevent.
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What is current scenario?

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- Currently, most companies that unfairly benefited from the auctions have been unable to run their businesses and have shut down.
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- Also, all the 122 licences issued in 2008 were cancelled by the Supreme Court in 2012 and that still holds, irrespective of the current acquittals.
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- Considering that the judge who pronounced the acquittal has criticised the

CBI for its flip-flops in the prosecution, appeals in the higher courts are likely.

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- Notably, the 2G fiasco forced the government to comprehensively embrace auctions in not just the subsequent '6 telecom auctions' that have taken place since 2010, but also in other sectors like coal.

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Source: Indian Express

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