



SC Rejects Centre's Plea for Administrative Spectrum Allocation

For Prelims: [Supreme Court of India](#), [Spectrum](#), [Telecommunications Act, 2023](#), Presidential Reference, Article 143, [Central Bureau of Investigation](#)

For Mains: Telecommunications Act, 2023, Government Policies & Interventions, IT and Computers

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Why in News?

In a significant decision, the [Supreme Court of India](#) has refused to entertain the Centre's plea to allow the **administrative allocation of spectrum**, reaffirming the principle of open and transparent auction for allocating this scarce natural resource.

- The **electromagnetic spectrum** encompasses a range of radio frequencies, which are utilised by wireless devices for communication, including making calls and accessing social media.

Why Did the Supreme Court Reject the Centre's Application?

- The Registrar found the **application for clarification to be misconceived**, the Registrar invoked Order XV Rule 5 of the Supreme Court Rules, 2013, **which allows refusal to receive a petition if it lacks reasonable cause, is frivolous, or contains scandalous matter**.
 - SC asserted that spectrum allocation to private players **must be through open and transparent auction**, as established by the landmark 2G spectrum case, often referred to as the **"2G spectrum scam,"** judgement 12 years ago.
- Spectrum allocation is a crucial process, and allowing "administrative allocation" would have placed the **government solely in charge of selecting operators** to distribute airwaves, a move deemed contrary to principles of fairness and transparency.

What is the Legal Framework Regarding the Allocation of Spectrum?

- **Telecommunications Act, 2023:**
 - It empowers the **government to assign spectrum for telecommunication through administrative processes** other than auction for entities listed in its First Schedule of the act.
 - These entities include those engaged in national security, defence, and law enforcement, as well as Global Mobile Personal Communication by Satellites such as SpaceX, and Bharti Airtel-backed OneWeb.
 - The government can also assign part of a spectrum that has already been assigned to one or more additional entities, **known as secondary assignees**, and even terminate assignments where a spectrum or a part of it has remained underutilised for insufficient reasons.

What is the 2G Spectrum Scam?

- **2G Spectrum Scam:**
 - The [2G spectrum allocation](#) scam dates back to 2008, the government then allegedly sold 122 licences on a **first-come-first-serve basis (FCFS)** to specific private telecom operators.
 - In 2009, the **Central Vigilance Commission** directed the [Central Bureau of Investigation \(CBI\)](#) to investigate claims that there were illegalities in the allocation of licences, following which the CBI filed a **first information report** against unknown officers of the **Department of Telecommunications (DoT)**, private persons and companies.
 - In 2011, the **CBI** alleged that there was a loss of Rs 30,984 crore to the exchequer as a result of discrepancies in the allocation process.
- **Supreme Court's Verdict:**
 - In February 2012, the Supreme Court cancelled the 122 telecom licences that were allocated on a FCFS basis, stating that **this method was prone to misuse**.
 - The Court emphasised that the **"non-discriminatory method" of auction should be adopted** for the allocation of natural resources like spectrum to ensure fairness and transparency.
- **Centre's Current Plea:**
 - More than a decade after the Supreme Court's landmark 2G spectrum scam judgement, the Union government has moved an **application for a "certain class" of spectrum to be allocated through administrative processes** instead of competitive auctions.
 - The Centre has pointed out that the assignment of spectrum is required not only for commercial telecom services but also to **discharge sovereign and public interest functions such as security, safety, and disaster preparedness**.
 - The government has argued that administrative allocation is required when **demand is lower than supply or for space communication**, where it would be more optimal and efficient for spectrum to be shared by multiple players.

What is Spectrum?

- Spectrum is the radio frequencies that wireless signals use to travel, allowing users to make calls and use social media.
- Spectrum is part of the [electromagnetic spectrum](#), which also includes other frequencies that people interact with daily.
 - Spectrum can be divided into three bands: **low (used for mobile communication, including 2G, 3G, and 4G services)**, **mid (utilised for 4G LTE services and some 5G deployments)**, and **high-band (primarily used for 5G and beyond)**, each with different characteristics and essential for different types of communication.

What was the 2012 Presidential Reference Regarding Natural Resource Allocation?

- The Union government cites observations from a [Constitution Bench](#) regarding a **Presidential reference** made concerning the 2012 verdict.
- The Bench clarifies that the **auction method prescribed in the verdict is not a "constitutional mandate"** for the alienation of natural resources excluding spectrum.
- It stated that the word "perhaps" in the verdict suggested that auction was not intended as a blanket principle for all natural resources, and other methods could be considered.
- However, it cautioned that spectrum **must be allocated only through auction as per the law declared in the 2G case**.

Presidential Reference

- It is a procedure in the **Constitution of India** that allows the **President to request the**

Supreme Court of India to provide advice on matters of law or fact that the President deems to be of public importance.

- **Article 143 of the Indian Constitution** empowers the President to refer any matter of law or fact to the Supreme Court for its opinion.
 - This can be done in relation to issues that have arisen or are likely to arise, and must be of public importance.
 - The Supreme Court may refuse to answer any queries raised in the reference, and the issue should not have already been decided by the Court.

What are the Spectrum Allocation Methods Across the Globe?

- **New Zealand:** Initiated the **use of auctions for spectrum** allocation in 1989, a method that has since been adopted by many other countries, including those in emerging markets.
- **United States:** In the 1980s, the United States experimented with allocating cellular licences through lotteries, which attracted speculative applicants and resulted in notional losses for the government.
 - The **lottery method**, initially seen as faster and cheaper than the administrative process, has drawbacks.
 - It is susceptible to speculation and cannot reliably assess the technical competence of licensees.
 - In 1993, the US transitioned to **auctions for granting new mobile communication licences**.
 - This transition had a global impact, leading to over USD 100 billion in radio spectrum sales worldwide.
- **Canada and European Union:** These regions often use an administrative process, also known as a **“beauty contest,”** where criteria are set by the government and proposals are evaluated by an expert committee.
 - This method provides flexibility and government control, aligning decisions with government plans and objectives. **However, it is time-consuming, but ensures adherence to government priorities.**

Drishti Mains Question:

Q. Discuss the significance of the recent Supreme Court decision regarding the administrative allocation of spectrum. How does this decision uphold the principles of fairness and transparency in resource allocation?

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims

Q. With reference to Visible Light Communication (VLC) technology, which of the following statements are correct? (2020)

1. VLC uses electromagnetic spectrum wavelengths 375 to 780 nm.
2. VLC is known as long-range optical wireless communication.
3. VLC can transmit large amounts of data faster than Bluetooth.
4. VLC has no electromagnetic interference.

Select the correct answer using the code given below:

- (a)** 1, 2 and 3 only
- (b)** 1, 2 and 4 only
- (c)** 1, 3 and 4 only
- (d)** 2, 3 and 4 only

Ans: (c)

Q. A layer in the Earth's atmosphere called Ionosphere facilitates radio communication. Why? (2011)

1. The presence of ozone cause the reflection of radio waves to Earth.
2. Radio waves have a very long wavelength.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (d)

Q. Consider the following statements: (2010)

The Supreme Court of India tenders advice to the President of India on matters of law or fact

1. on its own initiative (on any matter of larger public interest).
2. if he seeks such an advice.
3. only if the matters relate to the Fundamental Rights of the citizens.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) 3 only
- (d) 1 and 2

Ans: (b)