



# 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

[Source: TH](#)

## 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)**