

After dragging on for more than three years, events in the A Raja telecom scam are now moving at a dramatic pace and have acquired a momentum of their own. A momentum that has ensured any decision not taken is already irrelevant. So the BJP's demand for a JPC on Raja became largely irrelevant the day Raja's successor Kapil Sibal announced he was moving on cancelling 85 of Raja's 157 licences, the day Sibal said all spectrum would be auctioned in future and that no more free spectrum would be given to Raja's licensees. Sibal's one-man committee headed by former judge, Shivraj Patil, has gone into procedural lapses since 2001 but its report has been rendered largely irrelevant with Raja's arrest.

Indeed, with the arrest of both Raja's former aide RK Chandolia and former telecom secretary S Behura, you can possibly expect a few more arrests in the weeks to come. And Sibal's comments that no loss was caused to the exchequer, largely a political response to diffuse the scam's impact, has little relevance now with Raja's arrest. Indeed, it just makes the government look foolish, and in denial over what has probably been the biggest scam independent India has seen. Whether the BJP caused the original problem, certain to figure in the Justice Patil report, is largely scoring political points and doesn't take away from the enormity of the Raja scam.

While most associate the CAG report on the Raja scam with the Rs 1.76 lakh crore loss figure, a figure Sibal has been at pains to debunk, even Sibal accepted the CAG's other finding, that of huge procedural lapses. These include, according to the CAG, giving licences to 85 firms that did not even qualify for getting a licence—it was based on this that Sibal issued his cancellation notices; giving 35 licences to 'dual technology' firms; favours to many firms; and so on.

Though the CBI FIR has only been about the 122 licences Raja issued to various new telecom firms, the Supreme Court had asked the CBI to look into all telecom procedures right from 2001—this includes the 'dual technology' licences. The CAG report also speaks of how, in 2003, the Trai chief (Pradip Baijal) had issued a side letter even though Trai had recommended that all licences issued in future would only take place through auctions and after the government had issued guidelines based on them—this, my colleague Rishi Raj reported in FE earlier, is what allowed the government to issue licences to firms at the 2001 rates even though by then the law was that this could be done only through auctions.

Indeed, the key date here is not February 2, the day Raja was arrested, but February 10, the day on which the CBI has to inform the Supreme Court of its progress. As part of this report, it has to tell the Court who are the unnamed officials of private telcos that Raja conspired with, it

has to deal with the issues raised in the Tata plaint and in the CAG report on dual-technology firm licences, it has to deal with how the 2003 policy of auctions was converted into a distorted first-come first-served policy that Raja used to perpetuate his scam. The fact that the Court is monitoring the investigations directly, given the scorn it has poured on the CVC who is supposed to supervise the CBI in ordinary circumstances, will make the CBI that much more anxious to play it straight.

Behura's arrest is also likely to have an impact on the CVC case, though it is difficult to tell how it will play out. So far, the government's view on PJ Thomas has been that the palmolein case is irrelevant—the Kerala government first wanted to prosecute him and then changed its mind, and then did another U-turn. The larger issue, though, was always whether, as a former telecom secretary, Thomas had helped Raja cover-up his scam—and how he could oversee an investigation which would go into his tenure as well. As secretary, Thomas processed a file to tell the CAG it had no locus standi in examining 'policy decisions'—no CAG report, as is obvious, would have ensured the Raja scam would never have blown up in the manner it has. As secretary, he also failed to recommend cancelling licences of telcos who, after getting the cheap spectrum, never even rolled out their networks. The government defended the CAG letter by saying Thomas was merely processing a request made by the minister. Well, that's Behura's argument as well, isn't it? That he was merely signing on the proposals to grant individual firms their licences based on a decision that had been taken by Raja's ministry before he joined as secretary—by then the decision had been taken to issue licences in 2008 at the 2001 prices and using a distorted version of the first-come first-served policy.

To make the government look even more flat-footed in the Raja matter is the affidavit filed by it in the Supreme Court. An affidavit that defends the no-loss-was-caused argument made by Sibal and Planning Commission deputy chairman Montek Singh Ahluwalia; an affidavit that contradicts itself in successive paragraphs (see Innocent of the law, November 20, for details, <http://www.financialexpress.com/news/column-innocent-of-the-law/713547>). Worst of all, the affidavit avers a principle to which the government still subscribes, that the CAG has no right to examine 'policy issues'—no CAG, no scam! The government's official view is that only Parliament can examine 'policy issues' and it is unimpressed with the argument that the CAG is actually Parliament's eyes and ears, its way of knowing about the government's acts of both commission and omission.

Keep your eyes glued to the Supreme Court. The fun has only just begun.