

OUT TODAY

ITEM NO.59

COURT NO.10

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).10660/2010

CENTER FOR PUBLIC INTEREST LITIGATION & ORS.

Appellant(s)

VERSUS

UNION OF INDIA DEPARTMENT OF TELECOMMUNICATIONS & ORS.Respondent(s)

(IA No.112786/2017-DIRECTION/MODIFICATION and IA No.113252/2017-
CLARIFICATION/DIRECTION and IA No.132429/2017-APPROPRIATE
ORDERS/DIRECTIONS and IA No.28660/2018)

Date : 12-03-2018 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE NAVIN SINHA

For Appellant(s) Mr. Abhinav Mukerji, AOR
Mr. S. K. Verma, AOR
Mr. Santosh Kumar Tripathi, AOR
Mr. Prashant Bhushan, AOR

Ms. Varnika Chawla, Adv.

Mr. Vishwajit Singh, AOR
Ms. Ridhima Singh, Adv.

In-person

For Respondent(s) Ms. Pinky Anand, ASG.
Mr. P.K. Mallick, Adv.
Mr. B.K. Prasad, AOR
Mrs. Anil Katiyar, AOR
Mr. Mukesh Kumar Maroria, AOR
Mr. Rajeev Nanda, Adv.
Mr. Rajesh Ranjan, Adv.
Mr. Sanjay Kumar Pathak, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Gurmeet Singh Makker, AOR
Ms. Snidha Mehra, Adv.
Ms. Swati Ghildiyal, Adv.

Mr. Arijit Prasad, Adv.
Mr. T.A. Khan, Adv.

Mrs. Anil Katiyar, AOR

Mr. A. Radhakrishnan, AOR
Dr. Ritu Bhardwaj, Adv.

Ms. Manali Singhal, Adv.
Mr. Santosh Sachin, Adv.
Mr. Abhijat P. Medh, AOR

Mr. Madhumita Tripathi, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Ms. Sandya Mishra, Adv.
Mr. S.K.Tripathi, AOR

Mrs. Niranjana Singh, AOR
Mr. Anupam Lal Das, AOR
Mr. Dharmendra Kumar Sinha, AOR
Mr. Gaurav Kejriwal, AOR
Ms. S. Ramamani, AOR
Mr. E. C. Agrawala, AOR
M/S. Karanjawala & Co., AOR
Mr. Siddharth Singla, AOR
Mr. Devvrat, AOR
Mr. Kaushik Poddar, AOR
Mr. Arvind Kumar Sharma, AOR
M/S. Cyril Amarchand Mangaldas, AOR
Ms. Liz Mathew, AOR
Ms. Amita Singh Kalkal, AOR
Mr. Karan Bharihoke, AOR

UPON hearing the counsel the Court made the following
O R D E R

This is an important case pertaining to 2G Spectrum. The petition was filed in 2010. Various orders had been passed by this Court number of times. Thereafter, for the last several years, we find that nothing substantial happened in the matter.

Ultimately, this Court has passed an order on 4.1.2018 to investigate the case further and to submit the status report and the case was ordered to be listed on 23.1.2018. Thereafter, it is coming up today.

This case has significance for the people of this country as the 2G scam has attracted the attention of this Court and citizenry since long. It is an unfortunate state of affairs that so far an investigation in all 2G and other allied cases has not been completed in all the issues and allied aspects. We direct all the concerned agencies, CBI, Enforcement Directorate etc. in the circumstances, as assured by Shri K.K. Venugopal, A.C. and Attorney General for India, that investigations shall be completed within six months in all the cases and on all the aspects of the matter and no stone shall be left unturned in this regard and all guilty shall be booked but at the same time, certain difficulties/ resistance in the process were pointed by Shri K.K. Venugopal, Attorney General for India. Let those difficulties be placed on record and status report of the various cases be also placed on record in a sealed cover, within a period of two weeks.

Considering the importance of this matter, earlier, this Court had appointed Shri U.U.Lalit as Special Prosecutor. Since Shri Lalit has been elevated as Judge of this Court, this Court vide order dated 02.09.2014 nominated Shri Anand Grover as counsel for the C.B.I. and the Enforcement Directorate in the proceedings before the "Trial Court".

Thereafter, the Government of India had issued notification on 26.11.2014 and 27.11.2014 appointing Shri Anand Grover as Special Public Prosecutor for conducting prosecution, appeals/revisions or other proceedings arising out of the cases related to 2G Spectrum investigated by the Delhi Special Police Establishment (CBI) in the Court of Special Judge (2G Spectrum cases), Central Bureau of Investigation, New Delhi and appellate/revisonal courts and vide notification dated 27.11.2014 Shri Anand Grover was appointed as Special Public Prosecutor for conducting prosecution, appeals/revisions or other proceedings out of the cases under the Prevention of Money Laundering Act, 2002 etc. arising out of 2G Spectrum cases on behalf of the Directorate of Enforcement before the Special Court of PMLA and appellate/revisonal and higher Courts. Thereafter, Shri Anand Grover had conducted the matters. However, it is stated by Shri Grover that the cases which were pending before the trial court at the time when he was appointed are over.

Now, the Government has issued a notification appointing Shri Tushar Mehta, Sr.Adv, in exercise of the power conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974). The Central Government has appointed him as per modified notification for the purpose of "Appeals/revisions or other proceedings

arising out of the cases related to 2G Spectrum investigated by the Delhi Special Police Establishment (CBI) is the Court of Special Judge (2G spectrum cases, Central Bureau of Investigations, New Delhi appellate/ revisional Courts", arising out of the cases related to 2G Spectrum investigated by the Delhi Special Police Establishment (CBI) in the Court of Special Judge "2G spectrum cases, Central Bureau of Investigation, New Delhi".

Contempt application has been filed on behalf of the petitioner CPIL i.e. in Contempt Petition (C) No.793 of 2018 questioning appointment of Mr. Tushar Mehta. An application No.28660 of 2018 has been filed by Shri Anand Grover to discharge him from the cases.

After hearing the learned counsel for the parties, are of the opinion that Shri Grover was appointed as Special Prosecutor by this Court. We appreciate the services rendered by him. At the same time, since his appointment was confined to the trial court and Government had issued a notification for other courts, appeals, revisional proceedings etc. it was open to the Government to issue fresh notification and in the facts, we allow the application filed by Shri Anand Grover for his discharge from the case.

In the aforesaid circumstances, we find that no contempt is made out since the cases are over before the trial court for which purpose, this Court had appointed Shri Anand Grover as special Public Prosecutor. It cannot be said to be a case of contempt committed by the Government while appointing Shri Tushar Mehta as Public Prosecutor vide aforesaid modified notifications. No case is made out to proceed with the contempt petition and the same is hereby dismissed.

The application filed by Shri Anand Grover is allowed. He is discharged from the cases.

We request Mr. K.K. Venugopal, learned senior counsel to continue as Amicus curiae and in official capacity. Since Shri Anand Grover has been discharged, it would be open to the Government to appoint a Prosecutor for trial court purposes. In case, Additional Investigating Officers are required, it is open to the Government to appoint them under information to this Court. All pending applications to be listed on the next date.

Let the case be listed on 3.4.2018.

(B. PARVATHI)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER