

Did Coalgate Ever Happen?

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It is alleged that the Coal Ministry has been allotting coal blocks for exploration and mining in an arbitrary manner and the Supreme Court is seisant of the matter and has directed the Delhi Special Police Establishment (CBI) to enquire into it and take suitable action against those at fault. It is with an increasing sense of horror that I have seen events unfolding in the case relating to coal block allocations. The latest victim is a first class officer with an impeccable reputation, P.C. Parakh, former Coal Secretary and one of the most dynamic young industrialists, Kumarmangalam Birla. I had written in the past about the so called 2 G scam in which I had submitted that it is possible that in the actual allocation of 2 G spectrum the then minister had taken decisions which favoured certain individuals and companies, but as a policy the course followed by government over the years was absolutely correct because in a country where the telephone system was in shambles and mobile telephony was almost stillborn, the liberal allocation regime for 2G spectrum is what propelled India to being the number one mobile telephony country in the world. In such a scenario it is completely wrong to assess hypothetical losses and to impute wrong motives to government or to individual officials. If the policy has been misused let the miscreants be punished, but I see no reason why government should go around looking furtive and guilty whereas it should have been proclaiming its achievement to the whole world. The so called 2G scam was imaginary, but the situation has been aggravated by the meek, defeatist and apologetic attitude and behaviour of government.

Now let us come to coal allocation. Coal acquires value only after it is mined, for which purpose there has to be capital investment of a very large order. Coal is the raw material from which the prime mover, electricity, is generated through thermal generation. The minute a power station is sanctioned it must receive guaranteed coal supply, preferably from captive mines. Even if there is no charge for the coal I would still consider it a positive factor because the electricity generated with that coal would bring government revenue in the form of electricity duty, lift irrigation would be facilitated and the electric power used for expanding industry, business, transportation systems, etc. Ultimately the economy moves on energy and what source better can there be than electricity itself? The coal policy is being called into question and once again I find government being either evasive or timid in meeting the challenge.

Why is government not categorically stating that India is sitting on the largest coal reserves in the world and, therefore, now that thermal power generation has been sanctioned both in the public and private sector, it is absolutely essential to mine coal so that these power stations can be given the necessary fuel from which electricity can be generated. Therefore, coal blocks have to be allotted to power stations. Because Coal India by itself does not have the capacity to exploit all our coal deposits government decided to bring the private sector into the picture and it is in this context that the allocation of coal blocks to private industry began.

Let us logically look at the issue. The Ambani Group has been allocated a four thousand mega watt thermal power station at Sasan in Madhya Pradesh. Is it not logical that captive mines be allotted to this power station? I was Collector, Betul from 1962 to 1965 when the Satpura Thermal Power Station of Madhya Pradesh Electricity Board was

constructed at Sarni in the district. A whole complex of coal mines was developed at nearby Ranipur exclusively to provide coal to the Satpura Power Station and that is why it is still functioning. The entire NTPC and Chhattisgarh Electricity Board power generation at Korba is dependent upon the coal mines operated by South Eastern Coal Fields specifically for these thermal power stations. The Kumarmangalam Birla Group has been sanctioned a 900 mega watt power station, a 1.5 million tons aluminium refinery and 3.5 lakh tons smelter in which Rs. 17,000 crores has been invested. To provide coal for this a joint venture, MNH Sakthi Limited was formed with Mahanadi Coal Fields holding seventy percent equity and Neyveli Lignite and Hindalco (Birla Group) holding fifteen percent each. Everything is now on hold because CBI has filed a FIR against P.C. Parakh and Kumarmangalam Birla for giving part of Talabira 2 and 3 coal blocks to the Birla group and the work on the power station and the industries concerned may be set by another four to six years. Who gains? In private conversation Kumarmangalam Birla is said to have said that he is seriously considering pulling out all his business from India because it is impossible to work here. Can we imagine a business world in India without the participation of the Birlas?

The Supreme Court in exercise of writ jurisdiction can look at the vires of executive decisions, but it cannot replace the executive's authority to function within its own sphere by substituting judgements of the court for executive orders. After all there is a separation of powers in India. The Executive is required to act judiciously, not judicially and executive decisions will always be taken according to circumstances at a given moment of time. The Executive cannot stop functioning out of fear that some time in the future in hindsight the decision may not appear to be the best. If that were to happen the government would be paralysed and that paralysis would swallow up both the Legislature and the Judiciary. The courts and a police authority like CBI acquires jurisdiction only if there is criminality in an executive decision. Otherwise, for executive decisions the Prime Minister and the Council of Ministers are accountable only to the Legislature and to the electorate at the time of elections and to no one else.

This is a fit case for the Prime Minister to assert that certain policy decisions have been taken regarding coal allocation, government stands by them and will answer for them only to Parliament. The case must be fully defended before the Supreme Court so that it can pass a suitable order taking into account executive necessities. The CBI must be told to stay within its police role and not venture into the area of executive decision making which it is not authorised to do. If CBI is recalcitrant government would be justified in abolishing it by executive order. Perhaps that is what the country needs because at the present moment what is happening in the coal allocation case is virtually bringing government to a halt with possible disastrous implications for the economy as industry grinds to a halt.
