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SC dismisses Centre's objections over Rafale

Court allows use of leaked papers in review plea

Ashish Tripathi

NEW DELHI: The Supreme Court on Wednesday decided to examine leaked secret documents to reconsider its December 14, 2018, judgement that dismissed a plea for a probe into the 2016 Rafale fighter jet deal with France.

It rejected the Union government's objections over the admissibility of fresh materials, saying those were already in public domain.

Coming a day before the first phase of Lok Sabha polls, the top court's judgement offered sufficient ammunition to the Opposition parties to attack the Union government, which had maintained that the documents — cited to seek a review of the judgement — were illegally obtained in violation of the Official Secrets Act, Right to Information Act and the Indian Evidence Act.

The top court had in 2018 upheld the Narendra Modi government's refusal to reveal the price of the deal related to 36 Rafale jets. It had also rejected charges of irregularities in the decision-making process and favouritism in selecting Anil Ambani's company as the offset partner.

On Wednesday, the same bench of Chief Justice Ran-

D.H. 11/4/19
'Documents were used selectively'

The Ministry of Defence said the confidential documents on Rafale deal were "selectively" used to present an "incomplete picture on the internal and secret deliberations".

Jolt to Modi, ammo for Oppn

The Supreme Court's judgement came as a shot in the arm for the Opposition which sharpened its 'chowkidar chor hai' campaign against Prime Minister Narendra Modi. "The Supreme Court has made it clear that the 'chowkidar' has committed a theft," Rahul told reporters in Amethi.

The big deal

- Apex court dismisses govt's preliminary objections
- Says leaked Rafale documents admissible in court
- Documents are already in public domain and within the reach and knowledge of entire citizenry
- SC had in 2018 upheld Modi govt's refusal to reveal price details of the deal related to 36 Rafale jets

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jan Gogoi and justices Sanjay Kishan Kaul and K M Joseph, by a unanimous view, decided to consider the leaked documents related to the deal and dismissed preliminary objections and also questions on the maintainability of review petitions raised by Attorney General K K Venugopal on behalf of the Centre.

Petitioners led by former Union ministers Yashwant Sinha and Arun Shourie, and advocate Prashant Bhushan

relied upon news reports related to a note of the Indian Negotiating Team for the Rafale deal, a secret note from the Ministry of Defence (MoD) and another note by S K Sharma, deputy secretary of MoD, for seeking a review of the judgement. They alleged that the documents indicated direct interference from the Prime Minister's Office.

"As the document(s) being in public domain and within the reach and knowledge of

the entire citizenry, a practical and common sense approach would lead to the obvious conclusion that it would be a meaningless and an exercise in utter futility for the court to refrain from reading and considering the said document or from shutting out its evidentiary worth and value," a judgement authored by the CJI on behalf of himself and Justice Kaul, stated.

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SC dismisses...

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In his separate and concurring judgement, Justice Joseph noted that the contents and the correctness of the documents have not been questioned. Citing overriding public interest, he pointed out there was a complaint on "grave wrongdoing in the highest echelons of power" and action has been sought under the Prevention

of Corruption Act.

The court said that a contention by the Attorney General that the documents were privileged and can't be disclosed or discussed, was "plainly not tenable".

The court said the review petitions would now be adjudicated on their own merit by taking into account the relevance of the contents of the three documents.