



Central Bureau of Investigation

For Prelims: [Delhi Special Police Establishment \(DSPE\) Act](#), Santhanam Committee on Prevention of Corruption, [Prevention of Corruption Act](#)

For Mains: Issues Related to CBI and Recommendations

Why in News?

Recently, the Tamil Nadu government has announced that it has withdrawn the general consent given to the [Central Bureau of Investigation \(CBI\)](#), under Section 6 of the [Delhi Special Police Establishment \(DSPE\) Act, 1946](#).

- Mizoram, West Bengal, Chhattisgarh, Rajasthan, Maharashtra, Kerala, Jharkhand, Punjab and Meghalaya had withdrawn their general consent given to CBI as of March. 2023.

What is the Central Bureau of Investigation?

- The CBI was **established by a resolution of the Ministry of Home Affairs and later transferred to the Ministry of Personnel, Public Grievances and Pensions**, currently functioning as an **attached office**.
- Its establishment was **recommended by the Santhanam Committee** on Prevention of Corruption.
- The CBI operates **under the DSPE Act, 1946**. It is **neither a constitutional nor a statutory body**.
- It investigates **cases related to bribery, governmental corruption, breaches of central laws, multi-state organized crime, and multi-agency** or international cases.

How does the CBI function in India?

- **Provision of Prior Permission:**
 - The CBI is **required to obtain the prior approval of the Central Government before conducting any inquiry** or investigation into an offence committed by officers of the rank of joint secretary and above in the Central Government and its authorities.
 - However, **in 2014, the Supreme Court held it invalid and held that Section 6A of the Delhi Special Police Establishment Act**, which granted protection to joint secretary and above officers from facing even a preliminary inquiry by the CBI in corruption cases, was **violative of Article 14**.
- **General Consent Principle for CBI:**
 - The consent of the **state government to CBI can be either case-specific or “general”**.
 - General consent is **normally given by states to help the CBI in the seamless investigation of cases of corruption** against central government employees in their states.
 - This is **essentially consent by default, which means CBI** may begin investigations taking consent as having been already given.

- In the **absence of general consent, CBI would have to apply to the state government** for its consent in every individual case, and before taking even small actions.

What are the Challenges Before CBI?

- **Lack of Autonomy:**
 - One of the **major challenges is political interference** in its functioning.
- **Resource Constraint:**
 - The CBI also faces **a lack of infrastructure, sufficient manpower, and modern equipment.**
 - There have also been concerns about questionable methods of procuring evidence and officers failing to abide by the rule book.
- **Legal Limitations:**
 - The agency currently **operates under outdated legislation that does not adequately address contemporary challenges.**
 - It has resulted in **several issues, including ambiguity in its jurisdiction, lack of transparency, and inadequate accountability** mechanisms.
- **Procedural Delays:**
 - Legal procedures and lengthy court processes can pose challenges for the CBI.
 - Obtaining search **warrants, recording statements, and presenting evidence in court can be time-consuming,** leading to delays in completing investigations and securing convictions.

Why is There Need for Institutional Reforms in the CBI?

- **Independence and Autonomy:**
 - Establishing the **CBI as an independent investigative agency separate** from the administrative control of the Central Government.
 - Ensuring functional autonomy to carry out investigations without undue interference from political or bureaucratic influences.
 - **Strengthening legal provisions** to safeguard the autonomy and impartiality of the CBI.
- **Jurisdiction and Coordination:**
 - **Clarifying its jurisdictional boundaries to avoid conflicts** with state police forces and ensuring smooth coordination and strengthening collaboration and information sharing with state agencies to streamline investigations.
- **Legal Framework:**
 - **Reviewing and updating existing laws** to enhance its **investigative powers, providing statutory backing** to investigative techniques, and streamlining legal procedures to expedite investigations and trials.
- **Technological Upgradation:**
 - Investing in **advanced technology and infrastructure** to equip the CBI with modern tools for digital forensics, data analysis, and crime mapping.

What are Some Supreme Court Observations on CBI?

- **Coalgate Case:**
 - In 2013, a Bench headed by Justice R M Lodha described the CBI as “**a caged parrot speaking in its master’s voice**”
- **CBI VS CBI Case:**
 - The SC in CBI VS CBI case held that the power to remove/send on leave the director of CBI, **vested in the selection committee, not with the central govt.**
 - SC says this verdict **when CBI Director challenge the decision of central govt to send him on leave without his will.**

Way Forward

- **Statutory Backing:**
 - Several committees have proposed conferring statutory status to the CBI to ensure its

smooth functioning and operational autonomy. The suggested measures include granting the authority to initiate investigations, file chargesheets, and prosecute cases without any undue external influence.

▪ **Whistleblower Protection:**

- Provisions should be included in the law to protect whistleblowers within the CBI, ensuring transparency, exposing corruption, and safeguarding individuals who report misconduct from retaliation through confidential reporting mechanism.

▪ **Capacity Building:**

- The new law should promote regular training and professional development programs for CBI personnel to enhance their skills, knowledge, and understanding, enabling them to effectively handle complex cases.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Q. The jurisdiction of the Central Bureau of Investigation (CBI) regarding lodging an FIR and conducting a probe within a particular state is being questioned by various States. However, the power of the States to withhold consent to the CBI is not absolute. Explain with special reference to the federal character of India. **(2021)**

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