



Prior Approval for Investigation Against Government Officials

For Prelims: Prior Approval, [Supreme Court \(SC\)](#), [FIR \(First Investigation Report\)](#), Skill Development Scam case, [Crime Investigation Department \(CID\)](#).

For Mains: Prior Approval.

[Source: IE](#)

Why in the News?

Recently, the [Supreme Court \(SC\)](#) has delivered a split verdict in former Andhra Pradesh Chief Minister's plea to quash an [FIR \(First Investigation Report\)](#) in the alleged Skill Development Scam case.

- The disagreement between Judges revolves around whether the Andhra Pradesh [Crime Investigation Department \(CID\)](#) was required to seek '**Prior Approval**' from the state government before conducting an inquiry against public officials accused of corruption.

What Was the Verdict of the Supreme Court?

- The Supreme Court delivered a split verdict on the interpretation and applicability of **Section 17A of the [Prevention of Corruption Act, 1988](#)**.
- One Judge stated that prior approval for conducting a probe for alleged offenses under the PC Act against the former CM was necessary. However, he refused to quash the **remand order and granted liberty to the state** to seek such approval.
- Wherever another Judge held that **Section 17A would not apply retrospectively** and upheld the high court order refusing to quash the FIR.
 - The Justice also stated that the impugned order of remand and the high court judgment did **not suffer from any illegality**.
- Due to the divergent opinions, the matter has been **referred to the [Chief Justice of India \(CJI\)](#)** for appropriate directions.

What was Skill Development Scam In Andhra Pradesh?

- The skill development scam in Andhra Pradesh involves allegations against former Chief Minister Chandrababu Naidu and **the misappropriation of funds** earmarked for a skill development program.
- In 2021, the skill development project, worth Rs 3,356 crores, came under scrutiny
- An FIR was filed against Chandrababu Naidu in December 2021. The Crime Investigation Department (CID) alleged that around Rs 241 crores allocated for the project **were diverted to five shell companies**.

What is Prior Approval For Investigation Against Government Officials?

- **About:**
 - Prior Approval refers to the **requirement for investigators, particularly agencies like the Crime Investigation Department (CID) or the [Central Bureau of Investigation \(CBI\)](#)**, to obtain approval from the government or a competent authority before initiating an inquiry or investigation into allegations of corruption against public officials.
 - This approval is necessary **before any formal action**, such as lodging an FIR (First Information Report) or conducting a detailed investigation, can take place.
- **Legal Provisions:**
 - The need for '**Prior Approval**' is rooted in legal provisions introduced through amendments to the [Delhi Special Police Establishment Act, 1946](#), and later incorporated into the [Prevention of Corruption Act, 1988](#).
 - Originally, the requirement was introduced in 2003, stipulating that approval from the central government was necessary **before investigating offenses under the Prevention of Corruption Act** if the accused held a rank higher than joint secretary.
 - However, the SC struck down this requirement in 2014. Subsequently, in 2018, a similar provision (Section 17A) was reintroduced through an amendment to the Prevention of Corruption Act.
 - According to this provision, **approval from the central or state government or a competent authority is required** before initiating an inquiry or investigation if a public servant is accused of committing an offense under the Act while discharging their official duties.
- **Rationale:**
 - The rationale behind the 'prior approval' requirement is to balance the need for investigating corruption cases **involving public officials** with the protection of officials from **potentially baseless or politically motivated inquiries**.
 - It is seen as a **procedural safeguard to ensure that investigations** are conducted judiciously and with appropriate oversight, preventing misuse of investigative powers.

What are the Challenges to the Provision of Prior Approval?

- Requiring 'prior approval' makes it **extremely difficult to determine** if an offense was committed by a public official while they were discharging their duties.
- Without the ability to conduct an initial investigation, **it becomes challenging to gather evidence** and establish whether there is a valid case against the official.
- Placing the burden of obtaining 'prior approval' on police officers and investigating agencies may hinder their ability to promptly and effectively **address corruption allegations**.
- This burden could slow down the investigative process, **potentially allowing corrupt officials to evade scrutiny** or continue their activities.

Way Forward

- There is a need to conduct a comprehensive review of existing legislation related to 'Prior Approval' and consider amendments to address concerns raised by stakeholders.
- Seek a balance between the oversight provided by 'Prior Approval' and the need for expeditious investigations. Consider refining the criteria for seeking approval to ensure that it does not unduly delay the initiation of inquiries.
- Establish clear and transparent criteria for granting 'Prior Approval' to investigate public officials. This can include specifying the threshold for the seriousness of allegations or the rank of the official involved.

