



## SC Warns Against Routine CBI Probe

**For Prelims:** [High Court \(HC\)](#), [Supreme Court](#), [Central Bureau of Investigation \(CBI\)](#), [Delhi Special Police Establishment \(DSPE\) Act](#), Santhanam Committee on Prevention of Corruption, [Prevention of Corruption Act](#)

**For Mains:** Issues Related to CBI and Recommendations, Issues Related to Division of Power between Union and States and Use of Central Agencies in States

[Source: HT](#)

### Why in News?

Recently, the [Supreme Court](#) has criticised the [Calcutta High Court \(HC\)](#) for not providing sufficient reasoning for transferring the investigation from the state police to the [Central Bureau of Investigation \(CBI\)](#) underlining that such decisions **should not be routine** but reserved for specific, compelling reasons.

### What are the Regulations Regarding Use of CBI in the State?

- **Background:** Recently, Calcutta HC ordered a [CBI](#) investigation into alleged irregularities in recruitment within the **Gorkhaland Territorial Administration (GTA)** area which was challenged by the West Bengal government.
- **Supreme Court Orders:** SC sets aside the Calcutta HC's order for a CBI investigation into the case based on a few reasons.
  - **Exceptional Circumstances:** CBI investigations should **only be ordered in exceptional circumstances** where there is **clear evidence** indicating that the state police cannot conduct a fair investigation.
  - **Judicial Restraint:** The court underscored the importance of judicial restraint, stating that **high courts must provide explicit reasons** for transferring investigations to the CBI.
- **Related Judgments Regarding Use of CBI:**
  - **CBI vs Rajesh Gandhi Case, 1997:** Supreme court stated that cases should only be entrusted to the CBI when **local police investigations are deemed unsatisfactory**.
    - Also, the **accused cannot decide for the** agency to investigate the matter.
  - **Vineet Narain vs. Union of India Case, 1997:** SC ruled on **corruption** and the **CBI's accountability**. It is also called the Jain Hawala scandal case.
    - SC **invalidated the 1969 "Single Directive" issued by the Union Government**, which outlined procedures for the CBI to initiate and register cases.
    - The Court's ruling **strengthened the independence of investigative agencies by** ensuring they operate without political interference and established guidelines for accountability and transparency in handling high-profile corruption cases.
  - **CBI v. Dr. R.R. Kishore Case, 2023:** SC declared that **Section 6A of the DSPE Act is unconstitutional and void** from the date it was added in 2003.
    - This ruling addresses the **retrospective implications of declaring a law**

**unconstitutional.**

- **CPIO CBI vs. Sanjiv Chaturvedi Case, 2024:** Delhi HC ruled that the **CBI** is not fully exempt from the Section 24 of [Right to Information \(RTI\) Act](#).
  - The court stated that the **CBI must disclose information regarding corruption and human rights violations**, except for "sensitive investigations."

## How does the Central Bureau of Investigation (CBI) Functions in India?

### ▪ About:

- The CBI was established through a resolution from the **Ministry of Home Affairs** and was subsequently transferred to the **Ministry of Personnel, Public Grievances, and Pensions**, where it currently operates as an attached office.
- Its establishment was recommended by the [Santhanam Committee on Prevention of Corruption](#).
- It derives its power under the [Delhi Special Police Establishment \(DSPE\) 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 organised crime, and multi-agency or international cases**.
- The Director of the CBI is appointed by the Central Government on recommendations from a three-member committee consisting of the [Prime Minister \(Chairperson\)](#), the **Leader of the Opposition** in the Lok Sabha and the [Chief Justice of India \(CJI\)](#) or a Supreme Court Judge nominated by the CJI.

### ▪ Functioning of CBI:

- **Provision of Prior Permission:** The **CBI needs prior approval from the Central Government** before investigating offences by officials at the joint secretary level and above.
  - However, a **2014 Supreme Court** ruling declared this requirement **invalid**, stating that **Section 6A of the DSPE Act**, which protected these officials from preliminary inquiries in corruption cases, violated [Article 14](#).
- **Consent Principle:** The CBI operates under **general and specific type of consent** for conducting investigations.
  - When a state grants **general consent** under **Section 6 of the Act**, the **CBI does not need to seek fresh approval each time** it enters the state for an investigation.
  - However, **if the general consent is revoked**, the **CBI must obtain specific consent** from the concerned state government for each investigation.
    - Without specific consent, CBI officials **lack the powers of police personnel** while operating in that state.

Read More: [Central Bureau of Investigation](#)

### **Drishti Mains Questions:**

Why has the Central Bureau of Investigation (CBI) been facing a crisis of credibility and confidence in recent times? Analyse the causes and consequences of this crisis and suggest measures to restore the public trust and reputation of the CBI.

## UPSC Civil Services Examination Previous Year Question (PYQ)

### **Prelims**

**Q. With reference to the Indian judiciary, consider the following statements: (2021)**

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

**Which of the statements given above is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (c)**

**Q. Consider the following statements: (2019)**

1. The 44th Amendment to the Constitution of India introduced an Article placing the election of the Prime Minister beyond judicial review.
2. The Supreme Court of India struck down the 99th Amendment to the Constitution of India as being violative of the independence of judiciary.

**Which of the statements given above is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (b)**

**Q. With reference to the Constitution of India, consider the following statements: (2019)**

1. No High Court shall have the jurisdiction to declare any central law to be constitutionally invalid.
2. An amendment to the Constitution of India cannot be called into question by the Supreme Court of India.

**Which of the statements given above is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (d)**

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### **Mains**

**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)**

