



drishti

Sanction of Probes for Central Government Employees

 drishtiias.com/printpdf/sanction-of-probes-for-central-government-employees

According to new Government order, Department of Personnel and Training (DoPT), will now be the final authority in case any central government department, ministry or the Central Vigilance Commission (CVC) refuses to allow the prosecution of government servants by the Central Bureau of Investigation (CBI).

Key points

- **As DoPT reports to the Prime Minister, the order means that the PM will be the ultimate authority in case of conflict or delay over sanction of prosecution.**
- The new rule will **apply to all officials of all-India services** such as the Indian Administrative Service, the Indian Police Service, defence, income tax, railways, central public sector units (PSUs), public sector banks (PSBs), and state-owned FIs (financial institutions).
- In case of **state government officials, the state government is the competent authority** to grant prosecution sanction so the new order doesn't apply to them.
- The DoPT order also states that government departments should not deny sanction for prosecution in cases unless there is a "valid reason".
- The current order supersedes an October 1986 policy on sanctions for prosecution for offences, which effectively decentralised the process and made the concerned ministries and departments the final arbiters. Prior to that, DoPT was the final authority.
- Experts say the **new order could improve CBI's chances of being allowed to investigate and prosecute corrupt public servants**, although political opponents fear that it could be used to settle political scores.
- According to prescribed government guidelines and the Supreme Court's judgement in the **Vineet Narain case in 1997**, government departments are supposed to **accord sanction for prosecution within the three months of CBI's request** (additional time of one month may be allowed in certain cases).

However, it has been noticed that several requests remain pending for years.

NOTE:

- For all offences committed by government officials under the relevant sections of **Prevention of Corruption Act, 1988** and other laws, sanction of the competent authority is required for launching prosecution.
- Such sanction, however, is not required if at the time of launching the prosecution, the concerned public servant has either retired or resigned from the service of the organisation.
- This protection is also not available to the employees of Public Sector Enterprise (PSEs), as such persons cannot be brought within the ambit of **Section 197 of Cr. P.C.** even though PSEs constitute "State" within the meaning of the Article 12 of the Constitution (**Mohd. Hadi Raja vs State Of Bihar And Anr, 1998**).