

Supreme Court Upholds West Bengal's Suit Against CBI

- Key Details and Implication

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Why in News?

The Supreme Court upheld the maintainability of a lawsuit filed by the State of West Bengal against the Union Government.

The suit accuses the Centre of “constitutional overreach” and violating federal principles by deploying the **Central Bureau of Investigation (CBI)** in the state without obtaining prior consent from the state government.

The Centre had argued that the Union government had no superintendence or control over the CBI.

What is the Central Bureau of Investigation (CBI)?

- The CBI is the **premier investigating agency** of India operating under the jurisdiction of the **Ministry of Personnel, Public Grievances and Pensions**, Government of India.
- It traces its origin from **the Delhi Special Police Establishment (DPSE) Act, 1946**, which regulates the CBI.
- As the DPSE Act is not passed by Parliament of India, CBI is created by an **executive order** of the government, hence **not a statutory body** yet and is exempted from the purview of the **Right to Information (RTI) Act**.
- Originally set up to **probe cases of corruption** in the government departments, **CBI's jurisdiction expanded** to include several economic crimes, special crimes, cases of corruption and other cases.
- **Investigating powers of CBI are divided into:**
 - **Anti-Corruption Division:** It investigates cases against central government employees, public servants working under state governments (entrusted to the CBI by the state).
 - **The Economic Offences Division:** It investigates financial crimes, bank frauds, money laundering, illegal money market operations, graft in PSUs and banks.
 - **The Special Crimes Division:** It handles cases of conventional nature such as offences relating to internal security, espionage, narcotics and psychotropic substances, etc.

Consent Required by the CBI for Conducting Investigation in a State:

- **Legal basis:** Section 6 of the **DPSE Act** authorises the central government to direct CBI to probe a case within the jurisdiction of any state **but only with the consent** of the concerned state government.
 - However, **the SC and HCs** can order CBI to investigate such a crime anywhere in the country **without the consent of the state**.
- **Types of consent:**
 - **General consent:** When a state gives a general consent to the CBI for probing a case, the agency is not required to seek fresh permission every time it enters that state in connection with investigation or for every case.
- **It is normally given by states to help the CBI in the seamless investigation of corruption cases against central government employees in their states.**
- **Specific consent:** When a general consent is withdrawn, CBI needs to seek case-wise (**specific**) consent for investigation from the concerned state government.
 - If specific consent is not granted, the CBI officials **will not have the power of police personnel when they enter that state**, preventing the CBI from conducting a thorough inquiry.

Withdrawal of General Consent and its Impact:

- The withdrawal of general consent **does not stop** CBI probes in all cases.
- The CBI **continues to probe in old cases** until specifically taken back by the state government.

- Further, it continues to investigate cases that were given to it by a **court order**.
- The CBI can also **challenge the decision** (of withdrawal of general consent) in a court showcasing its progress of investigation in the case.
- When the CBI does not have a general consent, **it can approach a local court** (as per a provision in the CrPC) for a search warrant and conduct investigation.

SC holds Bengal's suit maintainable

- The Supreme Court dismissed the Centre's initial objections against a lawsuit filed by West Bengal.
 - The state challenged the CBI's authority to register and investigate cases in West Bengal after the state withdrew its general consent on November 16, 2018.
 - **Key takeaways of the judgement**
 - The Supreme Court noted that the Union government is deeply involved with the CBI, as the agency can only investigate offences notified by the Centre under the Delhi Special Police Establishment (DSPE) Act.
 - According to **Section 4 of the DSPE Act**, the Central Vigilance Commission oversees offences under the Prevention of Corruption Act, while the Central government supervises all other matters.
 - The court reminded the Centre that the DSPE Act requires the state's prior consent for CBI investigations within its jurisdiction.
 - **The agency (CBI) not being the 'Government of India'**
 - The Centre had earlier contended that the CBI too could not be made a defendant in the suit as the agency was not the 'Government of India'.
 - Original suits filed directly in the Supreme Court under Article 131 of the Constitution exclusively deal with disputes involving the Union and the States.
 - And CBI is an agency not the GoI.
 - However, the SC Bench said the suit raised serious questions concerning the wider ramifications of federalism.
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Q.1. What is Central Vigilance Commission (CVC)?

The Central Vigilance Commission (CVC) is an apex Indian governmental body that addresses corruption in public administration. It oversees vigilance and integrity in public sector activities, promoting transparency and accountability across government organizations.

Q.2. What is Right to Information (RTI) Act?

The Right to Information (RTI) Act grants Indian citizens the right to access information held by public authorities, promoting transparency and accountability in governance. It empowers individuals to seek and receive information from government bodies.

Source: [West Bengal suit against CBI probes maintainable: Supreme Court](#) | [News on Air](#) | [Indian Express](#)

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