Supreme Court Restrains ED from Accessing Seized Digital Devices

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Why in News?

- In a landmark decision, the SC has prohibited the Enforcement Directorate (ED) from accessing and copying data from electronic devices seized during a raid on Santiago Martin, known as the "lottery king," his

relatives, and employees.
- The decision emphasises the **protection of fundamental rights**, including the right to **privacy**, and could influence future guidelines on digital device seizures.

What is the Enforcement Directorate (ED)?

- **Background:**
    - The origin of the Directorate can be traced back to **1956**, when an ‘Enforcement Unit’ was formed, in the Department of Economic Affairs, for handling Exchange Control Laws violations under Foreign Exchange Regulation Act, 1947.
    - **In 1957,** this Unit was renamed as ‘Enforcement Directorate’ and the administrative control of the Directorate was transferred from Department of Economic Affairs to Department of Revenue in 1960.
- **About:**
    - Directorate of Enforcement (ED) is **a specialised financial investigation** agency under the Department of Revenue, Ministry of Finance, Government of India, which enforces the following laws: –
        - **Foreign Exchange Management Act,1999 (FEMA)** – A Civil Law.
        - **Prevention of Money Laundering Act, 2002 (PMLA)** – A Criminal Law.
    - The ED (Headquartered at New Delhi) is governed under the Central Vigilance Commission (CVC) Act, 2003.
- **Composition:**
    - **It is composed of officers** from the Indian Revenue Service, the Indian Police Service and the Indian Administrative Service, as well as officers promoted from its own cadre.
    - It is headed by the **Director of Enforcement**, who is appointed by the Central government and has been provided security of **two-year tenure** in office by the CVC Act, 2003.

What is the Case Background?

- **The ED’s operation:**
    - In November, ED conducted searches at 22 locations across six states based on a complaint by Meghalaya Police.
    - Allegations were made against Future Gaming and Hotel Services Pvt Ltd for **illegally monopolising the lottery business in Meghalaya.**
    - **The raids uncovered ₹12.41 crore in cash.**
- **Future Gaming’s political contributions:**
    - The company was the **largest purchaser of electoral bonds**, totaling ₹1,368 crore between 2019 and 2024.
    - Donations were made across party lines:
        - Trinamool Congress: ₹542 crore
        - DMK: ₹503 crore
        - YSR Congress: ₹154 crore
        - BJP: ₹100 crore

Supreme Court’s Order:

- **Content and directives:**
  - A two-page order by Justices Abhay S Oka and Pankaj Mithal directed ED not to access or copy data from seized devices belonging to Santiago Martin and his associates.
  - The order also stayed summons under the Prevention of Money Laundering Act (PMLA) requiring individuals to appear for data extraction purposes.
  - The Future Gaming case was ordered to be heard alongside other cases related to digital device seizures, including Amazon India and Newsclick petitions.
- **Petitioners’ argument:**
  - The plea emphasized the violation of privacy and constitutional rights due to unrestricted access to sensitive personal and business data.
  - It highlighted the absence of procedural safeguards against “fishing expeditions” by investigative agencies.

Implications for ED Investigations:

- **ED’s response:**
  - Senior officials described the SC’s restraint as “unprecedented” but maintained it would not hinder their investigations due to other evidence and property attachments worth ₹622 crore.
  - They cited adherence to CBI guidelines on digital evidence.
- **Legal implications:**
  - Lawyers, including former Attorney General Mukul Rohatgi, argued for interim relief, highlighting the infringement of privacy and the need for defined procedures in such cases.
  - The decision sets a potential precedent for limiting access to sensitive data and **protecting against self-incrimination.**

Broader Concerns:

- **Nature of seized devices:** The petition detailed the seizure of 17 mobile phones, hard disks, pen drives, and email backups containing sensitive financial, medical, and business information.
- **Tax compliance:** Future Gaming disclosed having paid ₹28,205 crore in GST for operating state lotteries, reinforcing its compliance record.
- **Call for guidelines:** The petition advocates for clear procedures to ensure privacy rights are respected during digital device seizures and investigations.

Conclusion:

- The Supreme Court’s order underscores the growing importance of safeguarding digital privacy in legal investigations.
- As the case progresses, it may establish new standards for **balancing law enforcement objectives with constitutional rights**, particularly in an era where personal and business data is increasingly digitised.

Q.1. What is ‘Right to Privacy’ in India?

In the Justice K.S. Puttaswamy case (2017), commonly known as the Right to Privacy verdict, the SC held that the right to privacy is protected as a fundamental right under Articles 14, 19 and 21 of the Constitution of India.

Q.2. What is the Prevention of Money Laundering Act, 2002 (PMLA)?

The PMLA is a law that prevents money laundering and confiscated property involved in money laundering. It came into effect on July 1, 2005.

Source: Santiago Martin case — SC red line for ED: Can’t copy, access content from laptop, mobile phones

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