

## **CENTRAL BUREAU OF INVESTIGATION (CBI)—SHANKAR SIR**

What is CBI?

- Central Bureau of Investigation (CBI) is the premier investigating police agency in India.
- It functions under the superintendence of the Deptt. of Personnel, Ministry of Personnel, Pension & Public Grievances, Government of India - which falls under the prime minister's office.
- However for investigations of offences under the Prevention of Corruption Act, its superintendence vests with the Central Vigilance Commission.
- It is also the nodal police agency in India which coordinates investigation on behalf of Interpol Member countries.
- Its conviction rate is as high as 65 to 70% and it is comparable to the best investigation agencies in the world.

Historical Background

- During the period of World War II, a Special Police Establishment (SPE) was constituted in 1941 in the Department of War of the British India to enquire into allegations of bribery and corruption in the war related procurements.
- Later on it was formalized as an agency of the Government of India to investigate into allegations of corruption in various wings of the Government of India by enacting the Delhi Special Police Establishment (DSPE) Act, 1946.
- **CBI derives power to investigate from the Delhi Special Police Establishment Act, 1946.**
- In 1963, the CBI was established by the Government of India with a view to investigate serious crimes related to defence of India, corruption in high places, serious fraud, cheating and embezzlement and social crime, particularly of hoarding, black-marketing and profiteering in essential commodities, having all-India and inter-state ramifications.
- With the passage of time, CBI started investigations in conventional crimes like assassinations, kidnappings, hijackings, crimes committed by extremists, etc.

Cases Handled by the CBI

- **Anti-Corruption Crimes** - for investigation of cases under the Prevention of Corruption Act against Public officials and the employees of Central Government, Public Sector Undertakings, Corporations or Bodies owned or controlled by the Government of India.
- **Economic Crimes** - for investigation of major financial scams and serious economic frauds, including crimes relating to Fake Indian Currency Notes, Bank Frauds and Cyber Crime, bank frauds, Import Export & Foreign Exchange violations, large-scale smuggling of narcotics, antiques, cultural property and smuggling of other contraband items etc.
- **Special Crimes** - for investigation of serious and organized crime under the Indian Penal Code and other laws on the requests of State Governments or on the orders of the Supreme Court and High Courts - such as cases of terrorism, bomb blasts, kidnapping for ransom and crimes committed by the mafia/the underworld.
- **Suo Moto Cases** - CBI can suo-moto take up investigation of offences only in the Union Territories.
  - The Central Government can authorize CBI to investigate a crime in a State but only with the consent of the concerned State Government.
  - The Supreme Court and High Courts, however, can order CBI to investigate a crime anywhere in the country without the consent of the State.

Director of CBI

- Director, CBI as Inspector General of Police, Delhi Special Police Establishment, is responsible for the administration of the organisation.
- Till 2014, the CBI Director was appointed on the basis of the DSPE Act, 1946.

- In 2003, DSPE Act was revised on Supreme Court's recommendation in the Vineet Narain case. A committee that had members from Central Vigilance Commission, Secretaries from Home Ministry, Ministry of Personnel and Public Grievances would send recommendations to Central Government for the appointment of CBI Director.
- In 2014, the Lokpal Act provided a committee for appointment of CBI Director:
  - Headed by Prime Minister
  - Other members - Leader of Opposition/ Leader of the single largest opposition party, Chief Justice of India/ a Supreme Court Judge.
  - Home Ministry sends a list of eligible candidates to DoPT. Then, the DoPT prepares the final list on basis of seniority, integrity, and experience in the investigation of anti-corruption cases, and sends it to the committee.
- Director of CBI has been provided **security of two year tenure**, by the CVC Act, 2003.

#### Challenges

- The Supreme Court of India has criticised the CBI by calling it a "caged parrot speaking in its master's voice", due to **excessive political interference** in its functioning.
- It has often been used by the government of the day to cover up wrongdoing, keep coalition allies in line and political opponents at bay.
- It has been accused of **enormous delays in concluding investigations** - For example, the inertia in its probe against the high dignitaries in Jain hawala diaries case [of the 1990s].
- **Loss of Credibility:** Improving the image of the agency is one of the biggest challenges till now as the agency has been criticised for its mismanagement of several cases involving prominent politicians and mishandling of several sensitive cases like Bofors scandal; Hawala scandal, Sant Singh Chatwal case, Bhopal gas tragedy, 2008 Noida double murder case(Aarushi Talwar).
- **Lack of Accountability:** CBI is exempted from the provisions of the Right to Information Act, thus, lacking public accountability.
- **Acute shortage of personnel:** A major cause of the shortfall is the government's sheer mismanagement of CBI's workforce, through a system of inefficient, and inexplicably biased, recruitment policies - used to bring in favoured officers, possibly to the detriment of the organisation.
- **Limited Powers:** The powers and jurisdiction of members of the CBI for investigation are subject to the consent of the State Govt., thus limiting the extent of investigation by CBI.
- **Restricted Access:** Prior approval of Central Government to conduct inquiry or investigation on the employees of the Central Government, of the level of Joint Secretary and above is a big obstacle in combating corruption at higher levels of bureaucracy.

#### USA and FBI

In the United States of America (USA), the federal States have their own Constitution and yet they have subjected themselves to the jurisdiction of the Federal Bureau of Investigation (FBI) which is a Central agency. Like India, police and public order is a State subject in the USA too and that in all cases involving a federal offence in the USA, the FBI and the local police have concurrent jurisdictions; but the moment the FBI steps in, the local police stops investigation.

#### Suggestions

- Delink the CBI from the administrative control of the government - As long as the government of the day has the power to transfer and post officials of its choice in the CBI, the investigating agency will not enjoy autonomy and will be unable to investigate cases freely.
- Providing statutory status through legislation equivalent to that provided to the Comptroller & Auditor General and the Election Commission wil help maintain the independence of the institution.
- Twenty fourth report of Department related parliamentary standing committee on personnel, public grievances, law and justice on working of CBI recommended the following:

- Strengthening human resources by increasing strength of CBI;
- Better investments in infrastructural facilities;
- Increased financial resource and administrative empowerment with accountability;
- Give more Powers (related to Union, State and Concurrent list of the 7<sup>th</sup> schedule of Indian constitution), to the CBI;
- Separate enactment under – "Central Bureau of Intelligence and Investigation Act" and replace DSPE Act.
  - In 1978, the L P Singh committee recommended enactment of a “comprehensive central legislation to remove the deficiency of not having a central investigative agency with a self-sufficient statutory charter of duties and functions”.
  - The Second Administrative Reforms Commission (2007) also suggested that “a new law should be enacted to govern the working of the CBI”.

## **PRELIMS:**

### Central Bureau Of Investigation (CBI)

#### **Topic: Ministries and Departments of the Government**

CBI – Formation and establishment, functioning, issues related to its autonomy and need for consent in investigations. And recent internal feud.

#### **About CBI:**

- The CBI was established as the Special Police Establishment in 1941, to enquire into cases of corruption in the procurement during the Second World War.
- Later, the Santhanam Committee on Prevention of Corruption recommended the establishment of the CBI. The CBI was then formed by a resolution of the Home Affairs Ministry. The Ministry of Personnel later on, took over the responsibility of the CBI and now it plays the role of an attached office.

#### **Functions of CBI:**

- The CBI is the main investigating agency of the GOI. It is not a statutory body; it derives its powers from the Delhi Special Police Establishment Act, 1946.
- Its important role is to prevent corruption and maintain integrity in administration. It works under the supervision of the CVC (Central Vigilance Commission) in matters pertaining to the Prevention of Corruption Act, 1988.
- Investigate cases connected to infringement of economic and fiscal laws, i.e., breach of laws concerning customs and central excise, export and import control, income tax, foreign exchange regulations, etc. But cases of this nature are taken up by the CBI either at the request of the department concerned or in consultation with the concerned department.
- Investigate crimes of a serious nature, that have national and international ramifications, and committed by professional criminals or organised gangs.
- To coordinate the activities of the various state police forces and anti-corruption agencies.
- At the behest of a state govt., the CBI can also take up any case of public importance and investigate it.
- Maintaining crime statistics and disseminating criminal information.
- The CBI is India’s representative for correspondence with the INTERPOL.

#### **Problems associated with CBI:**

- The agency is dependent on the home ministry for staffing, since many of its investigators come from the Indian Police Service. The CBI also relies on the ministry of law for lawyers and also doesn't have functional autonomy to some extent.
- The CBI, run by IPS officers on deputation, is also vulnerable to the government's ability to manipulate the senior officers, because they are dependent on the Central government for future postings.
- Since police is a State subject under the Constitution, and the CBI acts as per the procedure prescribed by the Code of Criminal Procedure (CrPC), which makes it a police agency, the CBI needs the consent of the State government in question before it can make its presence in that State. This can lead to certain cases not being investigated and seeing a silent deadlock. Recently, states like Andhra Pradesh (consent again given after change of government in state) and West Bengal withdrawn consent.
- CBI which investigates cases of national importance has been censured for its mishandling of several scams owing to political pressure. It has also been denounced for interfering in the investigation of prominent politicians, such as Jayalalithaa, P. V. Narasimha Rao, Lalu Prasad Yadav, Mulayam Singh Yadav and Mayawati; this tactic leads to their acquittal or non-prosecution. Some of the examples in which CBI was misused are the Hawala scandal, Bofors scandal, 2G spectrum scam, coal scam and so on.