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THE ROLE AND CHALLENGES OF THE CENTRAL BUREAU OF INVESTIGATION (CBI) IN INDIA'S LEGAL SYSTEM

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Abstract:

Here is an abstract for an article on the Central Bureau of Investigation (CBI) and its functioning in India. The CBI is the premier investigative agency in India, established in 1963, and plays a vital role in upholding the rule of law and combating corruption. The article delves into the CBI's organizational structure, jurisdiction, and the various divisions responsible for handling different types of cases. It also discusses the CBI's powers and limitations, emphasizing its autonomy and accountability. Additionally, the article highlights some notable cases and controversies that have shaped the CBI's reputation over the years. The aim of this article is to offer readers a nuanced understanding of the CBI's role in India's legal and investigative landscape, shedding light on its successes and challenges¹²³⁴.

Introduction:

During the early 20th century

In the advent of world war II, a special police establishment was formed in India. it investigated the allegation of bribery and corruption in the war pertinent acquisition. The government of India formally introduced the special police establishment to investigate the allegation of corruptions in its departments by implementing the special police establishment act, 1946. The special police establishment act was renamed as CBI in 1963 by government of India The CBI, which is the Central Bureau of Investigation, is a special police enforcement. It was given statutory status in 1946. It is specifically to work on the Investigation at central government level based in Delhi. Police investigate the state matters when the central government wants to investigate it.

Over the years with the escalation in the scope of CBI the issues relating to it also increased considerably. The gradual increase of political interference in the functioning of CBI led to lack of accountability. With the ever growing cases in the country the necessity of recruiting personnel also increased. This seeks for some exclusive powers in the hands of CBI where the statute is vague and the circumstances deem an immediate action. This article exclusively deals about challenges faced by in contemporary India.

CENTRAL BUREAU OF INVESTIGATION:

The central bureau of investigation functioning under department of personnel, ministry of personnel, pension and public grievances, government of India is the premier investigating police agency in India. It is an elite force playing a major role in preservation of values in public life and ensuring the health of the national economy. It is also so nodal police agency in India, which coordinates investigation on behalf of Interpol member countries¹. It assists the central vigilance commission and lokpal. Under its superintendence vests with the central vigilance commission for investigation of offences under the prevention of corruption Act. CBI derives its power from the Delhi special police establishment Act as it is not a statutory body.

Types of cases CBI handles:

Anti-corruption division: this division deals with investigation of corruption allegations against the public officials, the employees of central government, public sector undertakings corporations.

Economic offences division:

This division investigates major financial scams and economic frauds, including crimes relating to bank frauds, cyber crime, Import Export and foreign exchange violations, large scale smuggling of narcotics, antiques, cultural property frauds and smuggling of other contraband items etc.

Special crimes division:

At the order of Supreme Court and high court or on the request of state government will investigate serious crimes under Indian penal code and other Law such as terrorism, bomb blasts, kidnapping for ransom and crimes of underworld.

¹ <https://cbi.gov.in>

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.

The Supreme Court and high court, however, can order the CBI to investigate a crime anywhere in the country without the consent of the state.²

Appointment of CBI:

The CBI director is appointed by a 3 member committee. They are the prime minister, the leader of the opposition in Lok Sabha and the Chief Justice of India.

Composition of the CBI:

The composition of CBI IS:

- 1) The CBI is led by a director whom a special director or an additional director assists.
- 2) The CBI has a team of joint directors, deputy inspector general, superintendents of police, and other police personnel.
- 3) The CBI has 5,000 staff members 125 forensic scientists, and 250 law officers.
- 4) The CBI director is also the inspector general of police, Delhi special police establishment.
- 5) The director has two year tenure in office as per the CVC Act, 2003.
- 6) The central government appoints the CBI director based on the recommendation of a three member committee. The committee consists of the following members:

Prime minister

The leader of the opposition in the lok sabha, and

The chief justice of India or a nominated supreme court judge.

- 7) The Lokpal and Lokayuktas Act, 2013 established a directorate of prosecution within the CBI

A director heads the director of prosecution. He must be at least a joint secretary to the government of India.

- 8) A committee appoints officers with the rank of SP in CBI. The committee comprises:

² <https://m.sakshipost.com/news/national/what-type-cases-cbi-investigates-170029> (last accessed: 13/10/2023)

The central vigilance commissioner,

The vigilance commissioner,

The Secretary of the home ministry, and

The secretary of the department of personnel.

The Delhi special police establishment (Amendment) Act, 2014 states that:

In case there is no leader for the opposition party, the leader of the largest single opposition party from lok sabha becomes a member of the committee.³

Mission of CBI:

The mission of CBI is to uphold the constitution and other law which the land holds and to give leadership and direction to police forces and it acts as the nodal agency of police it enhances the international corporation in law enforcement.

Challenges in the functioning of CBI:

There are some limitations which hold the CBI from performing its duties effectively. The Central Bureau of Investigation (CBI) in India, which is responsible for maintaining law and order and investigating high-profile cases, faces several challenges in its functioning. One of the major issues is political interference¹²³. This often leads to a lack of autonomy and impartiality in its investigations. Another challenge is the heavy workload²⁴, as the agency is burdened with a vast number of cases, leading to delays in justice. Additionally, the shortage of qualified and trained personnel²⁴ within the organization impacts its efficiency. The lack of modern technology and resources further hampers its investigative capabilities². Lastly, maintaining transparency and public trust²³ remains an ongoing challenge, as the agency must demonstrate its commitment to upholding the law while addressing these issues to function effectively.

Political interference:

The CBI has seemed to have excessive political interference. The Prime Minister is mainly involved in the appointment of a CBI director, so the one who is in the favor of the ruling party will have the benefits. On election days, the CBI will have the pressure of conducting raids mainly on the opposition party. CBI has been used a political instrument. In the case of bofors, the ruling party has transferred the officers dealing with the case and this case made people to believe that

³ <https://testbook.com/ias-preparation/central-bureau-of-investigation-cbi-upsc-notes> (last visited on:13/10/2003)

CBI cannot take actions against the ruling party. The supreme court has said that CBI is a caged parrot speaking in its masters voice.

Delays in concluding Investigation:

CBI has been accused of many delays in concluding investigations due to political inertia. If there is change in the ruling party the cases against ruling party are been slowed down. For example there were lots of allegations on the ruling party in 2014 but these cases were slowed down gradually. There are totally 6,841 cases are pending in trail over two decades, this was stated in the annual report given by the central vigilance commission on December, 2022.

Loss of credibility:

Due to the excessive political interference in CBI and the delayed investigation in the trials of CBI it lost its credibility among the public over the years and the public thinks that CBI is in the side of the ruling party and it is a political instrument. Not only public the highest court of India, Supreme court has issued statement like it lost his credibility in the CBI. Chief Justice N.V. Ramana's warning recently that the central bureau of investigation(CBI) – often referred to as one of the country's premier investigation agencies- faces the risk of losing its credibility should not come as a surprise to anyone, least of all the agency's bosses.

Lack of accountability:

As the Right to information act is not applicable in CBI, the CBI do not have to answer the questions of public, it is not answerable and accountable for the decisions taken and the duties performed, thus it lacks public accountability.

Acute shortage of personnel:

There is a shortage of personnel in CBI. Due to it lots of cases were pending. The CBI director Anil Sinha has demanded more personnel to the agency or else the agency will collapse and fail. He said the cases handled by CBI has been increased but there is no enough personnel to handle it. The shortage of skilled and trained investigators and support staff not only increases the workload on existing employees but also leads to delays in investigations, resulting in crucial cases being delayed, affecting the delivery of justice. To address this issue, the government should focus on recruiting and training qualified personnel, providing the CBI with the necessary

resources to fulfill its role in maintaining law and order and investigating high-profile cases effectively.

Limited powers:

The powers of CBI is given by the general consent of the state. If state did not give consent they cannot handle the cases in the state. The state has withdrawn its general consent due to the misuse of authority by the CBI. The states which withdrawn general consent are Maharashtra, Punjab, Rajasthan, West Bengal, Jharkhand, Chhattisgarh, Kerala and Mizoram. Delhi Special Police Establishment as its source of authority, the CBI is only can handle limited cases due to its restrictions.

The Issues might relates to:

- 1) Cases involving workers of the central government
- 2) Cases concerning monetary interests of the central government
- 3) When the state government requests CBI assistance from the central government
- 4) When the CBI is mandated by the supreme court to participate in investigations
- 5) Cases involving multiple government entities and having national and international repercussions
- 6) When the central government publishes a notification under section 5 of the DSPE Act .⁴

Lack of Autonomy:

The CBI depends on the Home Ministry for staffing, as many of its investigators come from the Indian Police Service. It also depends on the Law Ministry for lawyers and the Finance Ministry for funds. The CBI also needs prior permission from the state government to investigate cases in their jurisdiction, which may affect its efficiency and impartiality.⁵

⁴ <https://www.lawyersclubindia.com/articles/powers-of-cbi-15628.asp> (last visited on:13/10/2003)

⁵ <https://dics.co/current-affairs/central-bureau-of-investigation-upsc#:~:text=What%20are%20challenges%20faced%20by%20CBI%20in%20India%3F,-%E2%80%A2&text=Political%20interference%20%2D%20The%20CBI%20has,political%20interference%20in%20its%20functioning> (last visited on:13/10/2003)

Restricted area:

If the CBI wants to inquiry or investigate a central government employee at the level of joint secretary or above they need to get prior permission from the central government. The CBI Cannot investigate in the states which withdrawn its general consent.

Conclusion:

The Central Bureau of Investigation (CBI) in India is responsible for maintaining law and order and investigating high-profile cases. However, the agency faces several challenges, including political interference¹²³, heavy workload²⁴, shortage of qualified and trained personnel²⁴, and lack of modern technology and resources². Maintaining transparency and public trust²³ remains an ongoing challenge, as the agency must demonstrate its commitment to upholding the law while addressing these issues to function effectively. The shortage of skilled and trained investigators and support staff not only increases the workload on existing employees but also leads to delays in investigations, resulting in crucial cases being delayed, affecting the delivery of justice. To address this issue, the government should focus on recruiting and training qualified personnel, providing the CBI with the necessary resources to fulfill its role in maintaining law and order and investigating high-profile cases effectively.