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Maharashtra Denies Consent to CBI

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Why in News

Recently, the Maharashtra government **withdrew its general consent** to the **Central Bureau of Investigation (CBI)** to probe cases in the State.

Key Points

- The move comes a day after the CBI registered an FIR in the **TRP** scam after taking over the probe based on an FIR filed in Uttar Pradesh.
- The Maharashtra government had an **apprehension** that the CBI would take over the TRP scam case that the Mumbai Police is already investigating.
Earlier this year (2020), the CBI had also taken over the investigation into actor Sushant Singh Rajput's death, which was being probed by the Mumbai Police.
- The Maharashtra government **suspects the CBI of acting at the behest of the Centre.**
The Supreme Court in the past has called the CBI a “**caged parrot**” that sings the Centre's tune.
- Maharashtra is the **third State after West Bengal and Rajasthan to take such an action.** The current confrontation also strengthens the perception that states in opposition see the Centre as weaponizing the CBI to control on Opposition-led governments in states.

General Consent

- Unlike the **National Investigation Agency (NIA)**, which is governed by its own NIA Act, 2008 and has **jurisdiction across the country**, the **CBI is governed by the Delhi Special Police Establishment Act, 1946 (DSPE Act, 1946)** that **makes consent of a state government mandatory** for conducting investigation in that state.

- There are **two kinds of consent- case-specific and general**. Given that the CBI has jurisdiction only over central government departments and employees, it can investigate a case involving state government employees or a violent crime in a given state only after that state government gives its consent.

Section 6 of the DSPE Act, 1946 empowers the state government to give or deny consent to CBI officers to investigate the matter within the state.

- **“General consent”** is normally given to help the CBI seamlessly conduct its investigation into cases of corruption against central government employees in the concerned state. Almost all states have given such consent.

Impact of Withdrawal of General Consent

- It means the CBI will not be able to register any fresh case involving a central government official or a private person stationed in Maharashtra **without getting case-specific consent**.
- Withdrawal of consent **will only bar the CBI from registering a case** within the jurisdiction of concerned states. The CBI could still file cases in Delhi and continue to probe people inside Maharashtra.
- In simple terms withdrawal of consent means that **CBI officers will lose all powers of a police officer** as soon as they enter the state unless the state government has allowed them.
- It will have **no impact on investigation of cases already registered** with CBI as old cases were registered when general consent existed.
- However, the CBI has recently started taking recourse in a Calcutta High Court judgment.

The HC, in its order in the *Ramesh Chandra Singh and another vs CBI, 2020* observed that CBI’s power to investigate and prosecute its own officials cannot be in any way impeded or interfered by the state even if the offenses were committed within the territory of the state.

Central Bureau of Investigation

- The CBI is the premier **investigating police agency in India. It functions under Deptt. of Personnel, Ministry of Personnel, Pension & Public Grievances**, Government of India.
- The origins of CBI can be traced back to the **Special Police Establishment (SPE) set up in 1941** in order to investigate cases of bribery and corruption in the War & Supply Department of India during **World War II** (1939-45).
- The need for a Central Government agency to investigate cases of bribery and corruption was felt after the end of World War II. So, **DSPE (Delhi Special Police Establishment) Act, 1946** was brought that gave the legal power of investigating cases to CBI.

- It is also the **nodal police agency in India** which coordinates investigation on behalf of Interpol Member countries.

Cases Handled by the CBI

- **Anti-Corruption Crimes** - for investigation of cases under the **Prevention of Corruption Act**, 1988 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 financial crimes, bank frauds, money laundering, illegal money market operations, graft in PSUs and banks.
- **Special Crimes** - for investigation of serious cases of conventional nature such as offences relating to internal security, espionage, sabotage, narcotics and psychotropic substances, antiquities, murders, dacoities/robberies, and cheating among others.
- **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.

Way Forward

- To ensure due process, the courts, of course, can and should ignore the state government's reservation and order the agency to investigate a case. However, when the Centre and the state play tug-of-war with the investigation, it diminishes the credibility and authority of the CBI.
- The onus of ensuring the CBI's reputation is primarily on the CBI — helped by an independent judiciary — since there will be no incentive for the political executive to ensure that.

Source: IE