



SC and Plea over Probe Agencies

For Prelims: [SC](#), [CBI](#), [ED](#), [Custodial violence](#), [Human rights](#).

For Mains: Issues of political or Government interference on the Working of Probe Agencies and Associated Implications.

Why in News?

Recently, the [Supreme Court \(SC\)](#) has refused to entertain a plea by some political parties alleging "**selective and targeted**" use of **Central probe agencies** such as the **CBI (Central Bureau of Investigation)** and [ED \(Directorate of Enforcement\)](#) by the Central government against their leaders.

- The Enforcement Directorate (ED) frequently summons politicians, celebrities, and NGOs, leading to accusations that **it is being used as a tool by the central government to control political opponents**.

What is the SC's Observation?

- The plea sought laying down guidelines for arrest, remand and bail for politicians.
- However, the SC, stated that politicians stand on the same footing as the citizens of the country and cannot have a different set of procedures. The court can intervene only in individual cases when the facts are before it, but it cannot lay down separate general guidelines only for politicians.
- The petitioners alleged a **skewed application of the law leading to an "uneven playing field"** and shrinking space for dialogue.
- Petitioner argued that there has been a huge increase in CBI and ED cases between 2014 and 2021, but there have been only 23 convictions. Of the 121 political leaders probed by ED and 124 probed by CBI, he said 95 % were from the opposition.
- However, the bench pointed out that the conviction rate in the country was dismal, and a politician **is basically a citizen and, as citizens, all are amenable to the same law**.

What makes Probe Agencies Vulnerable to Political Interferences?

- The ED and CBI in India are **not statutory bodies and are instead governed by executive orders**. This makes them **more susceptible to political interference** by the government of the day.
- As a result, these agencies have **often been accused of carrying out politically motivated investigations or turning a blind eye** to certain crimes based on political considerations.
- These agencies **lack the necessary autonomy and independence** to carry out their mandate of investigation and prosecution of crimes in a fair and transparent manner. Additionally, they are also **susceptible to budgetary cuts or other forms of pressure** that could impact their ability to function effectively.

What are the Concerns Related to Misuse of Central agencies?

- **Political Influence:** The agencies may be used by the **ruling political party to target political opponents** and dissenters, leading to the misuse of these agencies for political gains.
 - In 2017 when the CBI had registered a case against Karti Chidambaram and a few others for allegedly receiving kickbacks in exchange for facilitating **Foreign Investment Promotion Board (FIPB)** which was said to be political motive.
- **Lack of Transparency and Accountability:** The agencies often work behind closed doors, and there is a **lack of transparency in their functioning**. This opacity can lead to suspicion and mistrust in their actions.
 - There is a lack of accountability and oversight in the functioning of these agencies, which can lead to misuse and abuse of power.
- **Abuse of Power:** There have been instances where the agencies have been accused of overstepping their authority and misusing their power to intimidate or harass individuals.
- **Violation of Human Rights:** The agencies may use coercive tactics, such as illegal detentions, torture, and **custodial violence, which violate human rights**.
 - In 2020, a father and son in Tamil Nadu were allegedly tortured to death in police custody. The incident sparked widespread outrage and calls for justice.
- **Delayed Justice:** The cases investigated by these agencies often take years to resolve, leading to a delay in justice and causing harm to the reputation and livelihood of individuals who may be innocent.

Way Forward

- There needs to be **greater transparency and accountability** in the functioning of these agencies. The agencies should operate independently of political influence and their actions should be **guided solely by law and evidence**.
- It is also important to ensure that the **agencies are adequately staffed and resourced to carry out their duties** effectively. This includes providing training and support to the staff, as well as ensuring that they have the necessary tools and equipment to carry out their work.
- There is a need to strengthen the **legal and institutional frameworks that govern the functioning** of these agencies. This will help to build public trust and confidence in the agencies and ensure that they are able to carry out their duties effectively and impartially.
- Giving probe agencies greater autonomy and a constitutional position could go a long way in **addressing the issues of political influence and human rights violations** in India.
 - This would require political will and consensus-building among various stakeholders, but it is a necessary **step to ensure that probe agencies are able to carry out their mandate of investigation** and prosecution of crimes in a fair and transparent manner.

Source: IE

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