

60 Central Bureau of Investigation

ESTABLISHMENT OF CBI

The Central Bureau of Investigation (CBI) was set up in 1963 by a resolution of the Ministry of Home Affairs. Later, it was transferred to the Ministry of Personnel and now it enjoys the status of an attached office¹. The Special Police Establishment (which looked into vigilance cases) setup in 1941 was also merged with the CBI.

The establishment of the CBI was recommended by the Santhanam Committee on Prevention of Corruption (1962–1964). The CBI is not a statutory body. It derives its powers from the Delhi Special Police Establishment Act, 1946.

The CBI is the main investigating agency of the Central Government. It plays an important role in the prevention of corruption and maintaining integrity in administration. It also provides assistance to the Central Vigilance Commission and Lokpal.

There is a difference between the nature of cases investigated by the National Investigation Agency (NIA) and the CBI. The NIA has been constituted after the Mumbai terror attack in 2008 mainly for investigation of incidents of terrorist attacks, funding of terrorism and other terror related crime, whereas the CBI investigates crime of corruption, economic offences and serious and organized crime other than terrorism.

MOTTO, MISSION AND VISION OF CBI

Motto: Industry, Impartiality and Integrity **Mission:** To uphold the Constitution of India and law of the land through in-depth investigation and successful prosecution of offences; to provide leadership and direction to police forces and to act as the nodal agency for enhancing inter-state and international cooperation in law enforcement

Vision: *Based on its motto, mission and the need to develop professionalism, transparency, adaptability to change and use of science and technology in its working, the CBI will focus on*

1. Combating corruption in public life, curbing economic and violent crimes through meticulous investigation and prosecution
2. Evolving effective systems and procedures for successful investigation and prosecution of cases in various law courts
3. Helping fight cyber and high technology crime
4. Creating a healthy work environment that encourages team-building, free communication and mutual trust
5. Supporting state police organisations and law enforcement agencies in national and international cooperation, particularly relating to enquiries and investigation of cases
6. Playing a lead role in the war against national and transnational organised crime
7. Upholding human rights, protecting the environment, arts, antiques and heritage of our civilisation
8. Developing a scientific temper, humanism and the spirit of inquiry and reform
9. Striving for excellence and professionalism in all spheres of functioning so that the organisation rises to high levels of endeavor and achievement.

ORGANISATION OF CBI

Originally (1963), the CBI was set up with the following six divisions:

- (i) Investigation and Anti-Corruption Division (Delhi Special Police Establishment)
- (ii) Technical Division
- (iii) Crime Records and Statistics Division
- (iv) Research Division
- (v) Legal and General Division
- (vi) Administration Division

At present (2019), the CBI has the following seven divisions:

1. Anti-Corruption Division
2. Economic Offences Division
3. Special Crimes Division
4. Policy and Coordination Division
5. Administration Division
6. Directorate of Prosecution
7. Central Forensic Science Laboratory

COMPOSITION OF CBI

The CBI is headed by a Director. He is assisted by a special director or an additional director. Additionally, it has a number of joint directors, deputy inspector generals, superintendents of police and all other usual ranks of police personnel. In total, it has about 5000 staff members, about 125 forensic scientists and about 250 law officers.

The Director of CBI as Inspector-General of Police, Delhi Special Police Establishment, is responsible for the administration of the organisation. With the enactment of CVC Act, 2003, the superintendence of Delhi Special Police Establishment vests with the Central Government save investigations of offences under the Prevention of Corruption Act, 1988, in which, the superintendence vests with the Central Vigilance Commission. The Director of CBI has been provided security of two-year tenure in office by the CVC Act, 2003.

The Lokpal and Lokayuktas Act (2013) amended the Delhi Special Police Establishment Act (1946) and made the following changes with respect to the composition of the CBI:

1. The Central Government shall appoint the Director of CBI on the recommendation of a three-member committee consisting of the Prime Minister as Chairperson, the Leader of Opposition in the Lok Sabha and the Chief Justice of India or Judge of the Supreme Court nominated by him.
2. There shall be a Directorate of prosecution headed by a Director for conducting the prosecution of cases under the Lokpal and Lokayuktas Act, 2013. The Director of Prosecution shall be an officer not below the rank of Joint Secretary to the Government of India. He shall function under the overall supervision and control of the Director of CBI. He shall be appointed by the Central Government on the recommendation of the Central Vigilance Commission. He shall hold office for a period of two years.
3. The Central Government shall appoint officers of the rank of SP and above in the CBI on the recommendation of a committee consisting of the Central Vigilance Commissioner

as Chairperson, the Vigilance Commissioners, the Secretary of the Home Ministry and the Secretary of the Department of Personnel.

Later, the Delhi Special Police Establishment (Amendment) Act, 2014 made a change in the composition of the committee related to the appointment of the Director of C.B.I. It states that where there is no recognized leader of opposition in the Lok Sabha, then the leader of the single largest opposition party in the Lok Sabha would be a member of that committee.

FUNCTIONS OF CBI

The functions of CBI are:

- (i) Investigating cases of corruption, bribery and misconduct of Central government employees.
- (ii) Investigating cases relating to infringement of fiscal and economic laws, that is, breach of laws concerning export and import control, customs and central excise, income tax, foreign exchange regulations and so on. However, such cases are taken up either in consultation with or at the request of the department concerned.
- (iii) Investigating serious crimes, having national and international ramifications, committed by organised gangs of professional criminals.
- (iv) Coordinating the activities of the anticorruption agencies and the various state police forces
- (v) Taking up, on the request of a state government, any case of public importance for investigation.
- (vi) Maintaining crime statistics and disseminating criminal information.

The CBI is a multidisciplinary investigation agency of the Government of India and undertakes investigation of corruption-related cases, economic offences and cases of conventional crime. It normally confines its activities in the anti-corruption field to offences committed by the employees of the Central Government and Union Territories and their public sector undertakings. It takes up investigation of conventional crimes like murder, kidnapping, rape etc., on reference from the state governments or when directed by the Supreme Court/High Courts.

The CBI acts as the “National Central Bureau” of Interpol in India. The Interpol Wing of the CBI coordinates requests for investigation-related activities originating from Indian law enforcement agencies and the member countries of the Interpol.

PROVISION OF PRIOR PERMISSION

The CBI is required to obtain the prior approval of the Central Government before conducting any inquiry or investigation into an offence committed by officers of the rank of joint secretary and above in the Central Government and its authorities.

However, on May 6, 2014, the Supreme Court held as invalid the legal provision that makes prior sanction mandatory for the Central Bureau of Investigation to conduct a probe against senior bureaucrats in corruption cases under the Prevention of Corruption Act.²

A Constitution Bench held that Section 6A of the Delhi Special Police Establishment Act, which granted protection to joint secretary and above officers from facing even a preliminary inquiry by the CBI in corruption cases, was violative of Article 14.

Welcoming the court order, CBI Director said: “It is a landmark judgment that will empower the agency in the investigations into several cases pending due to the provision that has now been struck down by the Constitution Bench. We had for long been of the view that inquiry against senior officials need not require any prior permission.”

Writing the judgment, the CJI said, “Corruption is an enemy of [the] nation and tracking down a corrupt public servant, howsoever high he may be, and punishing such person is a necessary mandate under the PC Act, 1988. The status or position of a public servant does not qualify the person from exemption from equal treatment. The decision-making power does not segregate corrupt officers into two classes as they are common crime doers and have to be tracked down by the same process of inquiry and investigation.”

The Bench said, “Section 6A of the DSPE Act [granting protection to one set of officers] is directly destructive and runs counter to the object and reason of the PC Act, 1988. It also undermines the object of detecting and punishing high-level corruption. How can two public servants against whom there are allegations of corruption or graft or bribe taking or criminal misconduct under the PC Act, 1988, be made to be treated

differently because one happens to be a junior officer and the other a senior decision maker?”

“The provision in Section 6A impedes tracking down the corrupt senior bureaucrats as without previous approval of the Central Government, the CBI cannot even hold preliminary inquiry much less an investigation into the allegations. The protection under Section 6A has propensity of shielding the corrupt,” the Bench added.

Observing that there could not be any protection to corrupt public servants, the Bench said, “The aim and object of investigation is ultimately to search for truth and any law that impedes that object may not stand the test of Article 14. Breach of rule of law, in our opinion, amounts to negation of equality under Article 14. Section 6-A fails in the context of these facets of Article 14.”

CBI VS. STATE POLICE

The role of the Special Police Establishment (a division of CBI) is supplementary to that of the state police forces. Along with state police forces, the Special Police Establishment (SPE) enjoys the concurrent powers of investigation and prosecution for offences under the Delhi Police Establishment Act, 1946. However, to avoid duplication and overlapping of cases between these two agencies, the following administrative arrangements have been made:

- (i) The SPE shall take up such cases which are essentially and substantially concerned with the Central Government's affairs or employees, even if they also involve certain state government employees.
- (ii) The state police force shall take up such cases which are substantially concerned with the state government's affairs or employees, even if they also involve certain Central Government employees.
- (iii) The SPE shall also take up cases against employees of public undertakings or statutory bodies established and financed by the Central Government.

CBI ACADEMY

The CBI Academy is located at Ghaziabad, Uttar Pradesh and started functioning in 1996. Earlier, training programmes were being conducted at the CBI Training Centre, New Delhi.

The vision of the CBI Academy is “Excellence in Training in the Fields of Crime Investigation, Prosecution and Vigilance Functioning” and its mission is to train the human resources of CBI, state police and the vigilance organisations to become professional, industrious, impartial, upright and dedicated to the service of the nation.

The academy is the focal point of training activities within the organisation and is responsible for identification of suitable training programmes, regulation of nominations of trainees and preparation of the annual training calendar.

Beside the CBI Academy at Ghaziabad, there are three regional training centres imparting training at regional levels at Kolkata, Mumbai and Chennai.

There are two kinds of training courses which are being conducted in the CBI Academy:

- (i) **Short Term In-service Courses:** For officers of the CBI, state police, central para-military forces and central government undertakings
- (ii) **Long Term Basic Courses:** For directly recruited deputy superintendents of police, sub-inspectors and constables of CBI.³

NOTES AND REFERENCES

1. The CBI comes under the administrative control of the Department of Personnel and Training (DoPT) of the Ministry of Personnel.
2. *The Hindu*, “No sanction needed for CBI to probe bureaucrats: SC,” May 7, 2014.
3. Annual Report 2012, Central Bureau of Investigation, Government of India, pp. 92–93.