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1. Introduction

India has many constitutional, statutory and other type of organizations that work within the framework of constitution towards the aim of vigilance, intelligence gathering, investigation, oversight and monitoring of the various arms of the government at all the levels. For example, Central Bureau of Investigation (CBI), Central Vigilance Commission (CVC), Central Information Commission (CIC), National Investigation Agency (NIA), Intelligence Bureau (IB), Police etc.

However, CBI, CVC and CIC have been involved in controversy in recent times regarding their autonomy, appointments and functioning.

2. Central Bureau of Investigation (CBI)

2.1. Description

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, provides assistance to the Central Vigilance Commission, is involved in major criminal probes, and is the Interpol agency in India.

The Central Bureau of Investigation traces its origins to the Special Police Establishment (SPE) established in 1941 by the government. The functions of the SPE were to investigate bribery and corruption in the War and Supply Department of India during 2nd world war.

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 office. SPE was also merged with the CBI. Hence it is neither a constitutional nor statutory body. The establishment of the CBI was recommended by the Santhanam Committee on Prevention of Corruption (1962 -1964).

2.2. Autonomy Provisions

- CBI is under the jurisdiction of following ministries and agencies:
  1. Ministry of Home Affairs: Cadre clearance
  2. Department of Personnel and Training: Administration, budget and induction of non IPS officers
  3. Union Public Service Commission: Officers above the rank of Deputy SP
  4. Law and Justice Ministry: Public prosecutors
  5. Central Vigilance Commission: Anti-corruption cases

- CBI is headed by a Director with a fixed two-year term.
  - Under The Lokpal and Lokayuktas Act, 2013 a selection committee consisting of Prime Minister as chairperson, Leader of Opposition and Chief Justice of India or a Supreme Court Judge recommended by the Chief Justice as members will select the director of CBI. When making recommendations, the committee has to consider the views of the outgoing director. Prior to this, under CVC Act, a selection committee headed by Central Vigilance Commissioner, had the power to appoint the director of CBI.

- The legal powers of investigation of the CBI are derived from the DSPE Act 1946. Under the act, the CBI can investigate only with notification by the central government.

- 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.

- As per Section 6A of DSPE Act, CBI could not conduct preliminary inquiry against Joint Secretary or higher rank officers without central government’s approval. But governments did not give approval or delayed the approval resulting in weak prosecution. Supreme Court in 2014 ruled that Section 6A hampers the action against high-level corruption and is used to shield corrupt officers and violates Article 14 of equality before law as public servant’s high position doesn’t give him immunity from equal treatment. Besides, under Prevention of Corruption Act (POCA), the investigating agency has to take sanction from concerned authority before starting prosecution. So, no need to carve out additional and special protection to senior civil servants.
Government recently decided to give more financial autonomy to CBI to control its own expenditure. CBI Director will be given the rank of a Government Secretary who can now approve projects worth Rs. 15 crore in a year. The Director will be free to appoint consultants and employ people on contract in the investigating agency.

2.3. Actual Status

Autonomy for the CBI or for that matter any investigating agency means the freedom to investigate crime, while it remains under the administrative control of the government of the day.

In spite, of the aforementioned provisions and recent judgment of the SC, there are innumerable examples of political interference in the functioning of CBI and they continue to occur unabated. It continues to act as the caged parrot having many masters (term used by SC) by the successive governments to haunt political opponents and coerce state governments to fall in line. Political parties when in opposition accuse the government of misusing CBI but the same parties when in power do what had been done by predecessors. Hence, no reforms regarding the autonomy of CBI have come forth.

Section 4(2) of the Delhi Special Police Establishment Act vests superintendence of the establishment in the Central government. This Act provides legal power to the CBI and under the Act Special Police Establishment (SPE) division conducts investigative work. In its work, it needs the cooperation of other agencies of the government, such as the Income Tax department and the Enforcement Directorate. For investigation abroad, it needs the cooperation of foreign governments, for which it needs support of the Ministry of External Affairs here. Thus, the agency cannot function in isolation. It should be part of governance machinery. Though, the line between superintendence and interference is thin, yet not vague. Under our legal system, the political executive cannot cross that line. Be it the CBI or the police, they do investigation under the Criminal Procedure Code, and for this work, they are accountable to law.

However, this superintendence often tends to become interference and hence botched up and motivated investigation.

2.4. Way Forward

CBI Director has presented a list of demands which are in sync with the changing nature of crimes and cases and which need to be considered to give financial, functional and administrative autonomy to CBI.

- Giving Director the powers of ex-officio Secretary as it would allow Director to directly report to the Minister of Personnel and hence reduce the hassles faced by CBI in going through DoPT for even basic administrative issues.
- Role for CBI director in appointing the Director of Prosecution in CBI.
- CBI Director to appoint public prosecutor to handle its cases which are currently appointed by the Law Ministry. It will give it greater autonomy in investigations especially political and high profile cases.
- Instead of the two year tenure the director should be provided a three year tenure.

Finally, a new CBI Act must substitute the archaic DSPE Act. The role, jurisdiction and legal powers of the CBI need to be clearly laid down. It will give it goal clarity, role clarity, autonomy in all spheres and an image makeover as an independent autonomous statutory body.

3. Central Vigilance Commission (CVC)

3.1. Description

The Central Vigilance Commission (CVC) is the main agency for preventing corruption in the Central government. It was established in 1964 by an executive resolution of the Central Government on the recommendation of Santhanam Committee. It was granted statutory status through the CVC Act, 2003. The CVC is conceived to be
the apex vigilance institution, free of control from any executive authority, monitoring all vigilance activity under the Central Government and advising various authorities in Central Government organizations in planning, executing, reviewing and reforming their vigilance work. It is not an investigating agency but can inquire or cause an inquiry on a reference made by centre. Also, it supervises the functioning of CBI in cases of corruption under the POCA, 1988.


- Its members are appointed by President on the recommendation by a selection panel consisting of PM, Leader of Opposition in LS and Minister of Home Affairs.
- President can remove chief Vigilance commissioner and other commissioners as per the provisions made in the CVC Act only.
- Salaries, allowances and pensions of its members are charged on the consolidated fund of India and are not subject to vote of Parliament.
- The CVC has its own secretariat and departments.
- It is vested with the power to regulate its own procedure. It has all the powers of a civil court and it may call for information or report from the Central government or its authorities.
- Whenever, the Central government or any of its authorities does not agree with the advice of the CVC, it shall communicate the reasons (to be recorded in writing) to the CVC.
- The CVC has to present annually to the President a report on its performance. The President places this report before each House of Parliament.

3.3. Actual Status

- The Selection panel has to make appointments from amongst the list of candidates presented to it by the search panel constituted by government. This reduces its effectiveness and has led to controversial appointments in recent times.
- The search panel constituted by government to shortlist the names of candidates to be presented present before the selection panel is itself provided a list of candidates by the government. This again narrows down the scope of appointment of an honest and impartial person. However, this provision has been relaxed in the light of refusal of few eminent persons last year, to be a part of the search panel if the list is to be provided by the government.
- In 2011, the SC quashed the appointment of a CVC doubting his integrity and laid that the persons appointed to such post should have impeccable integrity without doubt. However, things haven’t changed much as the integrity of latest appointee to the post of CVC has been doubted and his appointment challenged in court.
- CVC is severely understaffed and financially under-resourced reducing its effectiveness as autonomous body.
- CBI is under administrative control of Department of Personnel and Training (DoPT), meaning that, the powers to appoint, transfer, suspend CBI officers lie with DoPT. This, reduces the control of CVC over CBI
- CVC is only an advisory body.
- As per a study conducted by CVC recently it takes more than eight years at the Centre to finalize a major vigilance case against any government servant.

Thus, on paper CVC is relatively an independent and autonomous body, but in actuality, it has neither resources nor powers to function like the same. Its appointments have been mired in political bias and controversy time and again.

3.4. Way Forward

There has been demand from all quarters that following changes be made with regards to various provisions of CVC:

- The selection panel be allowed to consider any candidate outside the list provided by the government.
- Only persons with impeccable integrity and track record should be appointed to the office.
- The role and powers of CVC vis-à-vis CBI should be clearly laid down with disciplinary powers to CVC in case CBI is to be kept under CVC in matters of corruption.
- CVC be made autonomous and independent to the degree provided to CAG, a demand raised by two former CAGs themselves.
• Strengthening of the Whistle Blower Protection Act by doing away the provision of mandatory disclosure of identity.

It should be also mentioned, that even now CVC is not a weak body. However, it has not lived up to the expectations and its effectiveness in fighting corruption in government has been doubted time and again. Thus, not only the above mentioned structural and procedural reforms but a behavioral reform is also needed among the CVC officials to realize and fulfill the immense responsibilities they have been endowed with.

4. Central Information Commission (CIC)

4.1. Description

The Central Information Commission was established under the provisions of the Right to Information Act (2005). The Central Information Commission is a high-powered independent body which inter alia looks into the complaints made to it and decides the appeals regarding the information sought by the public. It entertains complaints and appeals pertaining to offices, financial institutions, public sector undertakings, etc., under the Central Government and the Union Territories. The Commission consists of a Chief Information Commissioner and not more than ten Information Commissioners. It is not only an advisory but an action body as well.


• The members are appointed by the President on the recommendation of a committee consisting of the PM, Leader of Opposition, LS and a Cabinet Minister nominated by the PM.
• The Chief Information Commissioner and an Information Commissioner have a fixed tenure and are not eligible for reappointment.
• The President can remove them under the circumstances mentioned in the Act only.
• The salary, allowances and other service conditions of the members cannot be varied to their disadvantage during service.
• Commission has suo-moto power to order an inquiry for violation of RTI Act.
• While inquiring the Commission has the power of a civil court.
• The Commission has the power to secure compliance from the public authority and power to impose penalty.
• The Commission submits an annual report to the Central Government on the implementation of the provisions of this Act which is placed before Parliament.

4.3. Actual Status

• The appointment of Chief Information Commissioner and three other commissioners has been made after a gap of ten months. This inexplicable delay has been perceived as an attempt by the executive to weaken the Act.
• More than 37,788 cases are pending before the commission due to the above delay.
• The process of appointment of members lacks transparency and hence fails to instill confidence in public.
• The decree of the commission that six political parties also come under the ambit of RTI has been out rightly rejected by the political class hampering the efforts to bring in financial and operational transparency in the bodies operating in public domain and using taxpayers’ money.
• Public authorities have not complied with the orders of the Commission on putting travel expenses of the Ministers in public domain.
• There has been a decline in the number of cases disposed by the commissioners. The specific number of cases, 6000 annually, that should be disposed of by each commissioner is not being adhered to.
• State Information Commissions are suffering form even poorer implementation of Act both in letter and spirit.
4.4. Way Forward

RTI is a strong legislation securing sufficient autonomy and independence to commission. However, as Marx had said, that bureaucracy’s instrument of power is holding information, the political class and bureaucracy is not much amenable to idea of transparency and openness. It sees RTI as a challenge to its immense power. This attitude needs to change.

Chief Information Commissioner recently said that there is no need to amend the Right to Information Act as the law is perfect. He appealed to public authorities to set their internal machineries right so that more information is in public domain and there is no need for RTI pleas. The spirit of the RTI Act of pro-active disclosure should be followed by the public authorities.

CIC presides over the Right to Information, crucial to a participatory democracy in making its institutions accountable. In a country seething with corruption, accountability and transparency gain utmost importance and hence, an independent and efficient CIC is in the interest of nation at large.