

CBI: WHY THIS IS PREFERRED FOR INVESTIGATION?

CBI-Central Bureau of Investigation traces its origin to Special Police Establishment (SPE) which was set up in 1941 by the Government of India. The functions of the SPE then were to investigate cases of bribery and corruption in transactions with the War & Supply Department of India during World War II. Superintendence of the S.P.E. was vested with the War Department. Even after the end of the War, the need for a Central Government agency to investigate cases of bribery and corruption by Central Government employees was felt. The Delhi Special Police Establishment Act (DSPE Act) was, therefore, brought into force in 1946. This Act transferred the superintendence of the SPE to the Home Department and its functions were enlarged to cover all departments of the Govt. of India.

The Delhi Special Police Establishment acquired its popular current name, Central Bureau of Investigation (CBI), through a Home Ministry resolution dated 01.04.1963. Initially, the offences that were notified by the Central Government related only to corruption by Central Govt. servants. In due course, with the setting up of a large number of public sector undertakings, the employees of these undertakings were also brought under CBI purview. Similarly, with the nationalisation of the banks in 1969, the Public Sector Banks and their employees also came within the ambit of the CBI.

Though CBI is basically an anti corruption agency empowered with jurisdiction over the Public Servants of Central Government and Central Public Sector Undertakings, it has set up separate wings like Special Crimes Wing, Economic Offences Wing, Banks Securities & Frauds Cell, to investigate conventional offences.

As per Delhi Special Police Establishment Act, 1946, the jurisdiction of CBI stretches over the Union Territories. However, as per Sec. 5 of DSPE Act, the Central Government may extend the jurisdiction of CBI to any State. The powers vested with the Central Government shall have to be exercised with the consent of the respective State Governments (Sec.6 of DSPE Act).

To understand the jurisdiction of CBI, the following points are to be considered.

- A) Any crime can be investigated by the State Police organizations which have the original jurisdiction. CBI merely gets operative jurisdiction by way of "General Consent" notifications issued by various State Governments and subsequently further notified by DoP&T, Government of India under section 6 and 5 of DSPE Act respectively.
- B) Apart from this, CBI can also take up the investigations when State Governments transfer specific cases in view of their political sensitivity, those attracting large media attention, etc. by issuing specific case wise notification to transfer the already registered case from State Police Organization to CBI with the consent of Government of India.
- C) The Constitutional Courts like Hon'ble High Courts and Hon'ble Supreme Court can also direct CBI to take up investigation afresh or by way of transferring cases from the State Police organizations.

With reference to (A) above, the general consent is given by the States to CBI only for investigation of offences related to loss of revenue to Government of India and corrupt acts committed by public servants of Government of India or Central Government PSUs. State Government public servants in general do not come under the jurisdiction of CBI.

Thus, CBI is a Specialized Investigating Agency that can exercise powers and jurisdiction in the union territories and the States, of course, with their consent.

Every State in the Union of India has its own police force and specialized investigating agencies like Crime Investigation Department (CID), Central Crime Station (CCS), Special Investigation Team (SIT) etc.

Then what makes investigation of CBI different from other agencies. Why CBI is a preferred investigating agency over other State Government agencies? Why do people of India repose confidence on CBI? Why do all political parties seek CBI investigation over the alleged frauds by the ruling parties? Here are some of the answers.

- 1. The professional manner in which CBI conducts investigation:** CBI has set of Standard Operating Procedures (SoPs) in every aspect of investigation. Formulators of the SoPs are open to the radical changes that take place in criminal law and judiciary system in addition to the rapid changes in science and technology. The SoPs enable the investigators to conduct a free and fair investigation. Investigation in all the cases is reviewed by the supervisory officers at least once a month in the form of progress reports. If the investigation is found lacking in any aspect, the Supervisory Officers will issue pointers. Further, investigation of each case is monitored by at least one Law Officer to ascertain as to whether the evidence collected by the investigator is sufficient to prove the case in a court of law and also the process of investigation is in conformity with the law of the land.
- 2. The multi-layered supervision over the investigation of cases:** Unlike in State Government and other agencies, CBI has

multi-layered supervision. The number of layers depend on the level of the public servant. Minimum layers of supervision is 2, whereas the maximum layers of supervision is 9. All the important cases like High Court/Supreme Court referred cases, cases against politicians, organized scams come under the maximum layers of supervision. Petty cases involving NGOs come under the minimum layers of supervision. Since all the major cases are scrutinized at multiple levels, the quality of supervision as well as free and fair investigation is possible, as the discretion is drastically reduced due to multiple layers of supervision at different locations. Whereas in State Police Organizations, owing to the work load and multiple nature of duties like law and order, security, bandobust, elections, festivals, etc., the focus on supervision of crime gets reduced.

3. Further, all the instructions as per **the CBI Manual** are in writing and well documented. As a result, informal and oral instructions do not have any place in the functioning of the organization in general. This aspect gives an additional responsibility on the officers to be free and fair as their views and comments are reduced into writing which becomes a permanent case record and can be subject to scrutiny even after years.
4. Another advantage in CBI is that the **investigation wing and prosecution wing work in tandem** right from the stage of registration of the FIR till the conclusion of the trial, the Investigating officer and Law Officer work as a team and Investigating officer has a luxury of interacting with the Law officer at every stage to clarify his doubts and to strengthen the evidence. This luxury may not be available with the State Police Organizations as the public prosecutor interacts with the

investigating officer only during the trial, that too at the IO evidence stage.

5. CBI is manned by IPS officers who come on **deputation** for tenure of 5 to 7 years from the rank of SP to Director. Even the investigating officers are taken on deputation from various police and other specialized agencies on a 50:50 basis. As such majority of the investigating/supervisory officers are drawn from various other Units for a period of 5 to 7 years and they return to their respective parent organizations at the end of their tenure. This gives a feeling of security and independence as officers will not be continuously engaged in the investigation activity and will go back to their parent organizations and hence will not have the fear of facing the consequences of taking tough decisions as individual is not in focus.
6. Since the IPS officers posted in CBI are on deputation and normally away from their parent cadre, influence of the politicians on the decision making is almost zero, unlike in State Government agencies, where the officers belong to the same State/cadre and will have to serve in the same state for the rest of their career.
7. The officers who come on deputation will not be serving under the local political bosses/Executives and as a result can work without fear and favour. Even after the deputation, the said officer may not be directly serving under the local political bosses. This gives them a feeling of security, independence and helps them to work in free and fair manner.
8. The officer of the State Police organizations will be working throughout his tenure under the same State Government and will be interacting with the officers of other Departments. These

lateral interactions between the Departments in the State and interactions with political executive may hinder their independence to an extent, as they are likely to serve in different positions after completing the investigator's role and there is always a chance of serving with or under the senior officers against whom they have launched criminal investigation. This problem is generally not faced by officers of CBI as they may not be working under the State Government or the accused public servants at any point of time during their career.

9. The officers coming on deputation are drawn from different regions of the country and hence, they may not be having any local vested interests or acquaintances in their areas of work.
10. The record of conducting very complicated and sensitive cases in a very effective way. CBI has conducted investigation of hundreds very complicated and sensitive cases like Bombay Blast cases, Fodder Scam, rape case against Gurmeet Ram Rahim (Dera Baba), Satyam Scam, Illegal Mining cases, case against Shri YS Jagan Mohan Reddy, Vyapam scam etc.
11. Since CBI is a Central Government Agency having jurisdiction throughout India, coordination with other organizations like Interpol, Enforcement Directorate, Income Tax, SFIO, SEBI etc for conducting investigation, is easier when compared to other State Government agencies.
12. CBI lays great emphasis on usage of science and technology, during investigation. The agency is well equipped with Technical and Forensic Support Units (TAFSU), which have the latest technical gadgets.

13. CBI has set up its training Academy at Ghaziabad, Uttar Pradesh. This academy is well equipped with the state-of-art facilities. Training on various topics like trap cases, DA cases, cases of criminal misconduct, Cyber Crimes, Special Crimes, economic offences, bank frauds etc are held on continuous basis through experts. These training courses are held in collaboration with FBI/RCMP/Research & Academic institutions. Every Officer, who joins CBI on deputation requires to undergo basic training of minimum 6 weeks. During the training, they will be imparted the requisite skills required for an Investigator of CBI. Unless and until an officer undergoes basic training, he will not be entrusted with any investigation.
14. The scrutiny and exposure of the investigating/ supervisory officers to the media in CBI is relatively less compared to the local police. As a result, the CBI officers generally have the luxury of investigating the cases at their own pace without directly coming under the media scrutiny in majority of the cases. Whereas the local police may be under constant pressure of media surveillance to produce results and in the anxiety to produce quick results they may be forced to commit unforced errors.
15. CBI spends a **major portion of its budget on investigation**. Investigators in CBI are entitled for 20% of their Basic Pay as Special Allowance. Further, they are provided with laptops and mobile phones. They are provided with the vehicles for conducting investigation. If the vehicles are not available, expenditure incurred by them will be reimbursed. For outstation journeys, all the investigators are allowed to travel by air/2nd AC train in addition to reimbursement towards hotel accommodation. Sizeable amount is being spent on their

training. CBI incurs huge expenditure for procuring latest modern gadgets like Cyber Forensic Kits, Mobile Forensic Kits, Trap Kits, Forensic Tools etc. Further, several hard disks are purchased and supplied to the Central Forensic Science Laboratory to get their expert opinion.

16. CBI weighs the **performance of the officers impartially**. While the officers are duly recognized for their good work in laying traps, conducting commendable investigation, apprehension of absconders/Proclaimed offenders etc by granting cash rewards and commendation certificates, they will be dealt with for their perfunctory investigation. This policy of CBI enables the investigators to work in a more accountable manner.
17. CBI has a total strength of 7224 comprising executive, legal, technical and ministerial officers. The strength of the IOs (Inspector to ASP) is 1416.
18. CBI is a **specialized agency** which focuses **only on investigation** of crime and is not burdened with other responsibilities like law and order, bandobust, VIP security, election duty, etc.
19. CBI also has the luxury of investigating less number of cases. On an average 1200 cases per annum as against a thousand cases investigated by a single major Police Station in the country. Therefore, the quality automatically goes up in view of the reduced quantity.

20. The average number of cases investigated by a CBI investigating officer is three cases per annum as against the dozens of cases investigated by an IO of local police.
21. CBI has its own fleet of Court staff consisting of Public Prosecutors and Pairvi Officers supported by Court Naibs, unlike State Police. These officers are acquainted with the investigators from the stage of registration of FIR. Hence, pairvi and prosecution of CBI is very effective.
22. CBI has its own Special Courts presided over by well experienced judges of the rank of District Judge. The court proceedings are submitted by the Prosecutors in the form of Court Diaries to the Supervisory Officers on daily basis and necessary guidance is given by the Supervisory Officers to the Public Prosecutors. If any lacuna is found in the prosecution cases, the supervisory officers intervene by suggesting remedial measures.
23. Unlike State Police, CBI has an exclusive Pairvi Section, which is responsible for service of summons and execution of warrants.
24. The **internal vigilance** in CBI is very strong. The activities of the officers are monitored continuously to ascertain as to whether any corrupt deeds/misdeeds are being committed by them. Thus, internal corruption within CBI is almost NIL, as a result of which the confidence of public on CBI is very high.
25. Success rate of CBI (conviction rate) is around 65%, which is very high compared to other State Government Agencies.

26. Though the rate of conviction of CBI is reasonably high, the acquittal rate of 35% is still major concern for CBI. CBI has a mechanism to scrutinize the judgments of courts to ascertain as to whether the evidence has been properly weighed by the Presiding Officers. If the evidence is not properly appreciated, appeals are filed against the judgments of acquittal. Though every case is unique and has its own reason for acquittal, the general grounds of acquittals in CBI are:

- i. Hostility of crucial witnesses. Though CBI has an effective mechanism to brief the witnesses before they depose before the Presiding Officers, on several occasions, the crucial witnesses including the complainants turn hostile, due to various vested reasons.
- ii. Non availability of documents in old cases. On several occasions, CBI is constrained to take up very old cases, in which original documents could not be collected. Since original documents are required for proving the cases, several cases end in acquittal.
- iii. Settlement of dues by the borrowers to the financial institutes. After taking up investigation by CBI, several borrowers pay the dues to the financial institutes (Banks) on the fear of criminal prosecution. Though charge sheets are filed by CBI, courts acquit the accused on the ground that once both the parties (banks and the accused borrowers) reach settlement, there will not be any case, whatsoever.
- iv. Disproportionate Assets cases in which the accused could bring additional sources during trial and convince the courts that the assets possessed by them are acquired through legal sources.
- v. The mistakes committed by the Sanctioning authorities while according sanction for prosecution.