

## Removal of CBI Director

### Why in news?

The Central Vigilance Commission (CVC) recently passed orders divesting CBI Director Alok Verma of his “functions, power, duty and supervisory role” at the CBI.

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### What was CVC’s order?

- The CVC noted that the atmosphere within the agency become corrupted due to the feud and hence intervened.
- It has recommended the government to remove the CBI director on allegations of bribery and undue interference in corruption cases.
- It also charged Mr. Verma with not making available the records and files sought by the CVC and said he is “non co-operative” and had “created wilful obstruction” in the CVC’s functioning.
- Thus the government decided to send Verma on leave in the “interest of equality, fair play and principles of natural justice”.
- The government said that action was taken against Verma based on the CVC’s decision to conduct an inquiry against him.

### What was the basis on which the CVC made its decision?

- The CBI derives its legal powers from The Delhi Special Police Establishment (DSPE) Act, 1946.
- The CVC has pointed out that Section 4(1) of the Act vests the power of superintendence upon the DSPE with the CVC.
- Section 8(1)(a) and (b) of the CVC Act also empowers the Commission to exercise superintendence over the functioning of DSPE.

### How can the director be transferred?

- **Section 4B** of the DSPE Act lays down the following terms and conditions of service of the CBI Director.
- The Director can continue to hold office for a period of not less than 2 years from the date on which he assumes office.
- He/she shall not be transferred except with the previous consent of the

Committee consisting of the PM, Leader of Opposition in Lok Sabha, and CJI or a judge of the SC appointed by him.

- The same procedure was laid down by the SC in the landmark judgment of ***Vineet Narain & Others vs Union of India & Anr (1997)***, with legally bindings.
- Also, the Central government in 2013 said that the Director shall not be transferred without the consent of Selection Committee.
- It also says that only President would have the authority to remove or suspend the Director, on a reference by the CVC of “misbehaviour or incapacity”.
- **Section 4C** of the DSPE Act provision clearly says that the CVC has no role, whatsoever, in curtailing or extending the tenure of the CBI Director.
- However in the present case, the committee was not involved.
- Nor has the CVC established his misbehaviour or incapacity.

### **What is CVC's justification?**

- The CVC has invoked Section 8(1)(d) of CVC Act, which relates to inquiry or investigation of an official who has committed an offence under the Prevention of Corruption Act (PCA).
- But, Verma has as yet not been accused of or named in an offence under the PCA.
- It has also invoked Section 11 which says that the CVC has the power of a civil court to summon persons, documents and examination of witnesses related to the inquiry.
- But these sections do not say the CVC has the power to recommend to the government to divest the CBI Director of his powers.

### **What should be done?**

- The controversy has raised the important question of whether the statutory changes aimed at insulating the CBI Director's office from political and administrative interference are adequate.
- Mr. Verma has also challenged the legality of his dismissal.
- Thus, the Supreme Court will have to address the question if the interim measure of removal amounts to unlawfully curtailing the Director's tenure.
- It will also examine whether the CVC's power of superintendence has been rightly invoked in the present case.

**Source: The Hindu, The Indian Express**



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