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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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