

## **Is the Citadel of the CBI in India Crumbling?**

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### **Summary**

*The Central Bureau of Investigation is a vital institution of accountability in India. Its ability to conduct investigation in an independent manner has been under a cloud for a while. However, the recent events of officers within the organisation hurling accusations at each other portray their lack of professional integrity and transparency of their selection procedure. It is imperative that the government displays its political will by reinvigorating the autonomy and competence of the agency.*

The Central Bureau of Investigation (CBI) is the premier investigation agency of the Indian government. It derives its investigative powers from the Delhi Special Police Establishment Act 1946. The CBI first came up for adverse attention for its lax investigative skills when the Supreme Court was deliberating the Jain Hawala case in 1997. The court ruled that, while the government would be answerable for the functioning of the CBI, to introduce objectivity, the central vigilance commissioner (CVC) was entrusted with the superintendence of the CBI's functioning. In the same judgement, the Supreme Court decreed a statutory status for the CVC, thereby ensuring its independence. The manner in which two of the CBI's past directors were embroiled in alleged questionable dealings with businessmen, who were being investigated for serious infringements in that case, brought the agency into disrepute.

### **What brought about the present nadir in the reputation of the CBI?**

In October 2017, Rakesh Asthana, a Gujarat cadre police officer, was appointed to the number two rank in the organisation. During the selection process itself, Alok Verma, the present Director, raised doubts about Asthana's integrity as he was being probed for his role in a case against a Gujarat-based company. He was, however, prevailed upon to appoint Asthana. Verma remained unconvinced of Asthana's fitness for the assignment and, hence, did not repose trust as ordinarily would be the case for the number two of any organisation. This was not taken kindly by Asthana, who cast aspersions on Verma for thwarting investigations in important cases. He reported this to the CVC. This led to multiple allegations by these functionaries against each other. Soon, both officials approached courts to safeguard themselves from coercive steps against them. It was then that the government intervened, and sent both officers on leave and divested them of their powers.

The appointment of a CBI director is for a fixed tenure of two years, as mandated by the Supreme Court since the Jain Hawala case, and can only be removed by the committee that appoints him. The action of the government sending him on leave and divesting him of his powers was contested by Verma in the Supreme Court. Acting on his petition, the Supreme Court asked the CVC to investigate the corruption allegation against Verma. The investigation was supervised by a retired Supreme Court judge.

## How did the present scenario come about?

First, the seeds of discord were sown when, despite there being a full-time director, Asthana was appointed as Special Director, when there is no such provision. The problem was compounded by the Director raising a red flag on the incoming person's integrity. That aspect should have been investigated and ascertained, and only then, a decision to accept or reject Asthana made.

Second, even if one were to believe that Asthana was appointed with the best of intentions, at the first sign of disquiet, the Prime Minister's Office should have stepped in and ensured that Asthana either moves out or is provided a sinecure where he could mark his time till the superannuation of the incumbent director and then tries his luck to be selected for the top job.

Third, let us not believe that the CBI is new to political intervention or its actual lack of autonomy. These factors have co-existed for decades and successive generations of directors have perfected the art of managing it. Probably, increasingly, there is a decline in the professional capability of officers being selected to the agency in preference to 'loyal' officers being inducted. This has become a dangerous trend. It is visible in the fact that, increasingly, prosecutions are proving to be faulty with the result that acquittals are the order of the day.

Fourth, it is a sad reflection of the competence and independence of an agency when the Supreme Court orders that an investigation by an incumbent CVC will be supervised by a retired judge. It somehow smacks of a lack of trust in the agency.

In conclusion, it is evident that an accountability institution that forms the foundation of a democracy seems to be losing its structural strength because an otherwise decisive government did not see or act on the early warning signals. There could even be a possibility of misdemeanours being ignored. The institution seems to be becoming a 'handmaiden' to investigate if not, intimidate. On 19 November 2018, the Supreme Court deliberated the report of the CVC and stated that the latter made some "very uncomplimentary" findings in its probe but needed further investigations into some of the charges which needed more time. The onus should be squarely on the government to cut its losses, and through wielding the hammer, set about ensuring that it is not guilty of allowing the credibility of the institution to hit rock bottom during its tenure.

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