

2. Meghalaya withdraws General Consent from CBI

Prelims Syllabus: Constitutional Bodies, Regulatory Bodies.

Mains Syllabus: GS-II Statutory, Regulatory and Various Quasi-Judicial Bodies.

Why in News?

- Meghalaya has withdrawn consent to the CBI to investigate cases in the state, becoming the ninth state to have taken this step.

About the News:

- Eight other states which had withdrawn consent to the CBI: Maharashtra, Punjab, Rajasthan, West Bengal, Jharkhand, Chhattisgarh, Kerala, and Mizoram.
- In November last year, the Supreme Court had expressed concern over a submission by the CBI that since 2018, around 150 requests for sanction to investigate had been pending with the eight state governments who had withdrawn general consent until then.
- The CBI is governed by the Delhi Special Police Establishment Act that makes consent of a state government mandatory for conducting investigation in that state.

Types of Consent Given by State Government:

- There are two types of consent for a probe by the CBI. These are: general and specific.
- When a state gives a general consent (Section 6 of the Delhi Special Police Establishment Act) to the CBI for probing a case, the agency is not required to seek fresh permission every time it enters that state in connection with investigation or for every case.
- When a general consent is withdrawn, CBI needs to seek case-wise consent for investigation from the concerned state government. If specific consent is not granted, the CBI officials will not have the power of police personnel when they enter that state.
- This hurdle impedes seamless investigation by the CBI. A general consent is given to facilitate that seamless investigation in a case of corruption or violence.

Issue of Withdrawal of General Consent by States:

- Recently it has been seen that various states like Andhra Pradesh and West Bengal Governments have withdrawn their general consent as a result of Tussle between Centre and States.

Impact of withdrawal:

- It means the CBI will not be able to register any fresh case involving a central government official or a private person stationed in the states who withdrew their general consent, without getting case-specific consent.

- In simple terms withdrawal of general consent simply means that CBI officers will lose all powers of a police officer as soon as they enter the state unless the state government has allowed them.
- It will have no impact on investigation of cases already registered with CBI as old cases were registered when General Consent Existed.

What was the Calcutta High Court verdict?

- Calcutta High Court recently ruled in a case of illegal coal mining and cattle smuggling being investigated by the CBI, that the central agency cannot be stopped from probing an employee of the Central Government in another state. The order has been challenged in the Supreme Court.
- In Vinay Mishra vs the CBI, Calcutta HC ruled in July this year that corruption cases must be treated equally across the country, and a central government employee could not be “distinguished” just because his office was located in a state that had withdrawn general consent.
- The HC also said that withdrawal of consent would apply in cases where only employees of the State Government were Involved.

Issues with CBI Autonomy:

- After the 2018 amendments to the Prevention of Corruption Act, 1988, the Centre has come to exercise power over the CBI not just administratively, but also legally.
- In 2018, the government pushed through Parliament amendments to Section 17A of the Act making it mandatory for the CBI to seek the Centre’s permission before registering a case of corruption against any Government servant.

About Delhi Special Police Establishment Act:

- The Central Bureau of Investigation traces its origin to the 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 Deptt. Of India during World War II.
- 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 was therefore brought into force in 1946. The CBI's power to investigate cases is derived from this Act.