

Bengal can't bar CBI from probing crimes in State, Centre tells SC

Centre to SC

- West Bengal has no absolute power to stop CBI from investigating inside the State.
- The Union Government, through the DoPT, was responding to a suit filed by the West Bengal Government against the Union of India under Art 131 of the Constitution.

Issue:

- West Bengal has challenged the CBI's jurisdiction to register FIRs and conduct investigations in the State.
- West Bengal said it had withdrawn "general consent" to the CBI way back in 2018.

Union Government's Argument:

- The withdrawal of general consent would not stand in the way of constitutional

courts entrusting the CBI with the cases "where it is found that the State police would not effectively conduct a fair and impartial investigation".

- Besides, it argues that the CBI is empowered to probe cases concerning any of the Central subjects enumerated in the Union List in the 7th Schedule.

- It also argues that the alleged crimes under investigation were offences under parliamentary laws.

What is General Consent?

- In order to conduct an investigation in a state, the CBI must mandatorily have the consent of that state government.

- The general consent is routinely given by State govts for periods ranging from six months to a year to the CBI and all

agencies under the Delhi Special Police Establishment (DSPE) Act, 1946.

- The consent is necessary as the jurisdiction of these agencies is confined to Delhi and UTs under this Act.

- There are two kinds of consent: case-specific and general. Given that the CBI has jurisdiction only over central government departments and employees, it can investigate a case involving state government employees or a violent crime in a given state only after that state government gives its consent.

- "General consent" is normally given to help the CBI seamlessly conduct its investigation into cases of corruption against central government employees in the concerned state. Almost all states have

given such consent. Otherwise, the CBI would require consent in every case.

- Other states such as WB, AP, Rajasthan and Maharashtra have also withdrawn consent to the CBI to operate freely in their respective jurisdictions.

Does withdrawal of General Consent mean that the CBI can no longer probe any case in the state?

- Withdrawal of consent will only bar the CBI from registering a case within the jurisdiction of such states.

- The CBI would still have the power to investigate old cases registered when general consent existed.

- Also, cases registered anywhere else in the country, but involving people stationed in a state that has withdrawn general consent,

would allow CBI's jurisdiction to extend to these states.

- There is ambiguity on whether the agency can carry out a search in either of the two states in connection with an old case without the consent of the state government.

• However, there are legal remedies to that as well. The CBI can always get a search warrant from a local court in the state and conduct searches.

* Jharkhand withdraws consent to CBI

- Total 8 states withdrew till now
 - ↳ W. Bengal, Chattisgarh, Tripura, Mizoram
 - ↳ Maharashtra, Rajasthan
 - ↳ Kerala, Jharkhand
- Withdrawing general consent to CBI means that now it is necessary for CBI to get state govt's permission to conduct investigations in the state.
 - ↳ Section 6 of Delhi Spl. Police Establishment Act, 1946 gives powers to states to do so

* Punjab revokes general consent to CBI

- 9th state to do so