Polity & Governance · GS - II

The jurisdiction of the Central Bureau of Investigation (CBI) regarding lodging an FIR and conducting probe within a particular state is being questioned by various States. However, the power of States to withhold consent to the CBI is not absolute. Explain with special reference to the federal character of India.

EXAM YEAR	PAPER	SUBJECT
2021	GS - II	Polity & Governance

MARKS	WORD LIMIT
15	~250 words

Answer Hint

CBI jurisdiction, Delhi Special Police Establishment Act 1946, Section 6 consent, state police powers, federalism, general and specific consent, constitutional courts, Supreme Court and High Courts, Union Territories, judicial oversight, cooperative federalism.

Model Answer

Introduction

The CBI is India's premier investigating agency, but its police powers within states are governed by the Delhi Special Police Establishment (DSPE) Act, 1946. The issue reflects the balance between state autonomy and national investigative needs.

Legal Framework

- **Section 2:** Establishes the DSPE's authority to investigate specified offences within its statutory jurisdiction.
- **Section 5:** Empowers the Central Government to extend the DSPE's jurisdiction to other areas, subject to the Act.

- **Section 6:** Requires state consent for the DSPE to exercise jurisdiction in a state, except where statutory exceptions apply.
- **General and specific consent:** General consent permits investigations across cases; specific consent may be required when general consent is withdrawn or absent.

Why State Consent Is Not Absolute

- **Constitutional courts:** The Supreme Court and High Courts can order CBI investigations under Articles 32 and 226, respectively, without state consent, as recognised in *State of West Bengal v. Committee for Protection of Democratic Rights* (2010).
- **Union Territories:** The DSPE's jurisdiction operates under a distinct statutory framework in Union Territories.
- **Existing cases:** Withdrawal of general consent does not automatically invalidate every investigation already lawfully initiated.

Federal Concerns

Police and public order fall primarily within the State List. Unilateral central intervention may undermine state autonomy, while arbitrary obstruction can impede impartial investigation.

Conclusion

A balanced approach requires respect for statutory consent, judicial independence and cooperative federalism. Clear procedures and reasoned coordination can protect both state autonomy and effective criminal investigation.

BECOME IAS
AI POWERED UPSC PREP