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A STUDY OF THE SIGNIFICANCE OF CENTRAL VIGILANCE COMMISSION AND ITS PROBLEMS

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ABSTRACT:

In India, the Central Vigilance Commission (CVC) is the highest-ranking federal body tasked with battling corruption in public sector organizations.[1] The main responsibility of the 1964-established CVC is to supervise and direct the vigilance efforts of numerous government agencies and groups. It serves as a watchdog, encouraging accountability and openness while looking into allegations of wrongdoing and corruption. The Commission empowers citizens by encouraging them to file complaints and plays a critical role in developing regulations to improve moral behavior in public services. The CVC seeks to ensure efficient governance and increase public confidence in government institutions by promoting a culture of honesty and justice. The CVC keeps up its efforts and preventative measures.

INTRODUCTION:

The Central Vigilance Commission (CVC) was established by the Government of India in February 1964, following the recommendations of the Santhanam Committee, which was chaired by Shri K. Santhanam.[2] The CVC gained prominence after the Supreme Court's judgment in the Vineet Narain vs Union of India case. It was granted statutory status on August 25, 1998, through the Central Vigilance Commission Ordinance, 1998. This was followed by several amendments and ordinances in late 1998 and early 1999. The CVC Bill was under parliamentary consideration during this period and was eventually passed by both Houses of Parliament in 2003, receiving Presidential assent on September 11, 2003. As a result, the Central Vigilance Commission came into force from that date. The Vigilance in the Central Vigilance Commission means ensuring there is integrity or honesty of personnel in official or administrative transactions. The government created the Central Vigilance Commission to abolish the corruption that is affecting Indian policy and to ensure public

[1] PTIMIZE IAS, Central Vigilance Commission (CVC) - Optimize IAS (last visited Oct. 1, 2024).
[2] Drishtiias, Central Vigilance Commission (CVC) (last visited Oct. 1, 20204).

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confidence in the administration of government departments. According to the provisions stated in the Central Vigilance Commission Act, Sections 3 and 4 deal with the appointment of the chairman, also known as the Central Vigilance Commissioner and members. The Central Vigilance Commissioner and the Vigilance Commissioners are appointed by the President of India, under his warrant and seal, for a term of four years from the date they assume office or until they reach the age of sixty-five, whichever comes first. There can be no more than two Vigilance Commissioners at any given time. The secretary who is appointed by the central government will assist the commission. Any other authority does not govern the Central Vigilance Commission, and it is only responsible to the Parliament. In this article, we are going to see why the Central Vigilance Commission has not been given enough power to investigate the cases.

HISTORICAL CONTEXT:

The Special Police Establishment was established in 1941 to investigate cases of bribery and corruption within the Department of War and Supply of India during World War II. However, following the war's conclusion, there emerged a need for a central agency to handle such investigations on a broader scale.[3] The Delhi Special Police Establishment Act was brought into force in 1946 by the Government of India. After the Act was promulgated the Superintendence of the Act was transferred to the Home Department and also its functions were also extended to cover all other departments in India.

During the Year 1963, it was given the power to investigate offenses under 91 sections of IPC and 16 other Central acts except for the offenses under the Prevention of Corruption Act 1947. The growing need was felt for the Central Agency to cover all other offences not only the Cases of Bribery and Corruption such as

1) Passport frauds

2) Offences related to High seas

3) Offence related to Airlines

[3] BYJU'S Exam Prep, Indian in World Wars: Know the role of India in World Wars (last visited Oct. 1, 20204)

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4) Offences in Public Joint stock companies

5) The offenses that are committed by Professional and gang Criminals

Following the recommendations of the Santhanam Committee on Prevention of Corruption, the Central Bureau of Investigation (CBI) was established by the Ministry of Home Affairs on April 1, 1963, and later transferred to the Ministry of Personnel[4]. In 1964, again based on the Santhanam Committee's recommendations, the Central Vigilance Commission (CVC) was formed. The Supreme Court, in its judgment in the Vineet Narain vs Union of India case, elevated the role of the CVC. In 1998, the government issued an ordinance granting statutory status to the CVC, empowering it to oversee the functioning of the Delhi Special Police Establishment and to review the progress of investigations under the Prevention of Corruption Act, of 1988. The Central Vigilance Commission was accorded statutory status through the Central Vigilance Act, of 2003.

The Central Vigilance Commission is composed of the Central Vigilance Commissioner, who serves as the Chairperson, and up to two Vigilance Commissioners, all appointed by the President of India. Following the death of whistle-blower Shri Satyendra Dubey in 2003, the Supreme Court, in a writ petition, mandated the establishment of a mechanism to receive complaints from whistle-blowers until a formal law was enacted. In response, the Government of India issued the Public Interest Disclosure and Protection of Informers Resolution in 2004, commonly known as the "Whistle Blowers Resolution." This resolution designated the Central Vigilance Commission to receive complaints from whistle-blowers and granted it the authority to protect the identity of the complainants to safeguard whistle-blowers.[5]

In the year 2013 The Parliament enacted the Lokpal and Lokayuktas Act, 2013 this Act amended the CVC Act, 2003 to give power to further investigate Complaints that are referred by the Lokpal and to Conduct Preliminary Investigation.

[4] Forum IAS, Consider the following statements: 1. The Central Bureau of Investigation (CBI) was set up in 1963 by a resolution of the Ministry of Home Affairs. 2. The establishment of the CBI was recommended by the Santhanam Committee on Prevention of Corruption. Which of the statements given above is/are correct? |ForumIAS (last visited Oct. 2, 2024).

[5] Drishti IAS, Supra note 2, at 1784.

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GOVERNANCE OF CVC:

The Central Vigilance Commission is a multi-member body comprising the Chief Vigilance Commissioner and up to two Vigilance Commissioners. These members are appointed by the President of India based on the recommendations of a committee that includes the Prime Minister (Chairperson), the Minister of Home Affairs, and the Leader of the Opposition in the Lok Sabha. The term of office for the Chairperson and members is four years from the date they assume office or until they reach the age of 65, whichever comes first.[6] The Secretariat of the Commission includes a Secretary, four Additional Secretaries, thirty Directors/Deputy Secretaries, and additional office staff.

CHIEF TECHNICAL EXAMINERS' ORGANISATION:

The Chief Technical Examiner's Organization (CTEO) serves as the technical wing of the Central Vigilance Commission. It includes two Chief Engineers and other engineering staff.[7] Their functions include investigating specific complaints related to construction works from a vigilance perspective, auditing construction projects of government organizations, and providing technical assistance and advisory support to the CBI and CVC in relevant cases.

COMMISSIONERS FOR DEPARTMENTAL INQUIRIES (CDIs):

The Department of Inquiry has a total of fourteen Commissioner Posts, with eleven at the rank of Director and the remaining three at the rank of Deputy Secretary. Their primary function is to conduct departmental inquiries against public servants.

INTEGRITY INDEX DEVELOPMENT:

It ensures transparency, accountability, and efficient governance of public organizations. Additionally, the CVC appointed the Indian Institute of Management Ahmedabad to develop an integrity index, which these organizations will use to measure their performance and adapt over time.

CENTRAL VIGILANCE COMMISSION JURISDICTION:

The Central Vigilance Commission oversees members of the All India Services, Group A

[6] INSIGHTSIAS, Appointment of Election Commissioners - INSIGHTS IAS - Simplifying UPSC IAS Exam Preparation (last visited Oct. 2, 2024).
[7] Wikipedia, Central Vigilance Commission - Wikipedia (last visited Oct. 2, 2024).

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officers of the Central Government, and officers of Scale V and above in Public Sector Banks. It also covers officers of Grade D and above in the RBI, NABARD, and SIDBI.[8] Chief Executives and Executives of Board and Officers in E -7 and E -8 above in Schedule A, B, C, D Public Sector Undertakings and Managers and Senior divisional Managers in General Insurance Companies and LIC. The Officers who are drawing the salary of RS 8700 per month as Dearness allowances by the Central government.

The Lokpal and Lokayuktas Act, 2013 has amended some of the provisions of the CVC Act, 2003 whereby they are given the power to conduct a Preliminary investigation into Complaints that are referred by the Lokpal of Officers belonging to Group B, C, and D whereas For Group A alone Directorate of Enquiry has to be appointed for Preliminary inquiry. The reports have to be sent to Lokpal and the Commission has to further investigate the Complaints of Groups C and D officers referred by Lokpal.

POWERS AND FUNCTIONS OF CVC:

- To Supervise the Central Bureau of Investigation whether they are investigating the Offences properly or not under the Prevention of Corruption Act, 1988, and the Offences in the CRPC.
- To review the investigations conducted by the CBI in Offences that come under the Prevention of Corruption Act, 1988.
- To ensure that they conduct departmental inquiries against Public Servants when they fail to discharge their duties the inquiry should be in an efficient, Transparent, and unbiased manner.
- To keep a check on the Vigilance and supervision over the ministry of the department to ensure there is no corruption and other organizations in which the power of the Executive extends.
- To Undertake and conduct a proper inquiry into the Complaints that are received under the Interest Disclosure and Protection of Informer and take proper necessary action.
- Power to summon and enforce any person from any part of India and examine him on oath.
- Power to receive Evidence on Affidavits.

[8] Mukul, Central Vigilance Commission: Functions, Challenges and structures, Adda247 (Oct. 2, 2024, 9:55 P.M.), Central Vigilance Commission: Functions, Challenges and structures.

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- Power to the Commission to examine the witness or other documents.
- Power to have any Public record or copy from any Court or Office.
- To give Tender Advice to the Central government, Corporations established under the Central Act any other Governmental organizations, or local authorities to make it simple for all the organizations that come under the Supervision of the Central Government.

ADVANTAGES OF CENTRAL VIGILANCE COMMISSION:

- The Central Vigilance Commission is not responsible to anyone they are liable only to the Parliament.
- The Central Vigilance Commission ensures the Protection of Whistleblowers against Victimization and for that, the CVC was amended by the Act called Whistleblowers Protection Act, of 2014 this Act ensures that Whistleblowers are safeguarded and receive Complaints regarding misuse of Power by Public Servants and conduct an inquiry against them.
- The Central Vigilance Commission has supervisory power over the Central Bureau of Investigation regarding the Offences that come under the Prevention of Corruption Act, of 1988.
- The Central Vigilance Commission has the power to ask for any Report, document, or information from the Civil Courts and the Civil Courts are bound to give the necessary documents.
- The Central Vigilance Commission acts as an Advisory body that tends to advise the Central Government or any other Corporations that are established under the Central Government.
- The CVC ensures that there is no Corruption or Bribery among the various Departments and the Ministry and ensures there is transparency, efficiency, and Openness among various departments.

DISADVANTAGES OF CENTRAL VIGILANCE COMMISSION:

- The Central Vigilance Commission can conduct only inquiry whereas the investigative

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Powers are within the Central Bureau of Investigation.

- They have only Supervisory Power they cannot direct the CBI to investigate the case or Conduct inquiries.
- The Central Vigilance Commission's jurisdiction is very limited in that it covers only the Central Government its Jurisdiction is not extended to the State Government.
- The Central Vigilance Commission struggles with a lack of resources, including insufficient manpower and funding, which poses a significant challenge to its effectiveness.[9]
- The Central Vigilance Commission while receiving Complaints and after Conducting an Inquiry takes more time for Decision making which is a hindrance and also can undermine its responsibility.
- There are also other drawbacks such as interference politics which questions the CVC's Impartiality and Transparency.
- They don't have the power to file a Criminal Case against any Public Servant after conducting an inquiry.
- Since it acts as an Advisory body to the Central Government the Central Government may or may not listen to its Advice.

SOME CASE LAWS FOR CENTRAL VIGILANCE C0MMISSION:

Sumit Kumar vs State of West Bengal, 1980 AIR 1170:

In this case, Charges were framed against the member of the Indian Administration of Service by the Enquiry officer after the Inquiry. Later the report was sent to the State Vigilance Commission for Consultation after consultation with the State Government after Considerations imposed Punishments to the appellant. The Appellant dissatisfied with this filed an Appeal in the Supreme Court Challenging the validity of the Findings of the Enquiry Officer report in Consultation with that he argued that the State Vigilance Commission lacks statutory authority. However, the Supreme Court upheld the punishment imposed on the appellant, stating that mere consultation with the Vigilance Officer could be invalid. This judgment faced significant criticism from various jurists[10]. The Jurists said that there was a

[9] NEXT IAS, Central Vigilance Commission (CVC) (last visited Oct. 2, 2024).
[10] Ishan arun Mudbiri and Ayush Tiwari, Independence of the Indian judiciary : as demonstrated in relevant rulings, Ipleader (Oct. 2, 2024, 9:58 P.M.), Independence of the Indian judiciary : as demonstrated in relevant rulings - iPleaders.

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clear violation of Natural justice the findings Consulted by the State Vigilance Commission are against the Principles of Natural Justice.

R.S. Nayak vs A.R. Antulay, 1984 AIR 684:

In this case, the appellant filed a complaint against the respondent, who was the Chief Minister of Maharashtra, alleging misallocation of public funds and corruption. The complaint, sanctioned by the Governor, led to the Chief Minister's resignation on the same day, although he continued to serve as an MLA[11]. The Respondent contended that the sanction provided under Section 6 of the Prevention of Corruption Act, 1947 is necessary to file against a public servant. The issue here is whether the MLA can be treated as a Public Servant under Section 21 of the Indian penal code. And whether sanction provided under Section 6 of the Prevention of Corruption Act, 1947 is necessary to proceed against an MLA. The Supreme Court held that the MLA cannot be treated as a public Servant The Court further held that with Resignation from the CM, the Person ceases to be a Public Servant as a result of Section 6 of the Prevention of Corruption Act, 1947 cannot be initiated The person was a Public Servant when the Court called to take Notice he resigned as a result he ceases to be a Public Servant and Section 6 cannot be applied.

State of Uttar Pradesh vs Salig Ram Sharma AIR 1960 All 543:

In this case, Salig Ram Sharma received some quantity of iron sheets from the jail Officer in the register he recorded that as one mound of seventeen seers but actually, it was four mounds of seventeen seers later he changed in the register. The Enquiry Proceedings were instituted against him by the Jail Superintendent he said that to cover up the loss of 3 mounds he altered the register to cover up loss the Jail Superintendent concluded his Proceedings by saying to dismiss Salig Ram Sharma The Inspector General Agreed with him and issued a show cause Notice for why he should not be dismissed later he was dismissed on January 30, 1955, his explanation was also rejected he filed a suit in the High Court quashed the Dismissal Order by stating that it violates Article 311(2) as the Respondent was not given a reasonable opportunity to defend himself also he was not provided any evidence or an inquiry report for which he was dismissed and the Charges against him are Vague as it was not enough to suit against

[11] Anshika Aggarwal, All you need to know about the central vigilance commission, Ipleader (Oct. 2, 2024, 10:00 P.M.), All you need to know about the central vigilance commission - iPleaders.

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Public Servant there is no Ulterior Motive done by the Respondent and there is only a little evidence by stating this the High Court Rejected his Dismissal.

S. H. Rahman vs State of Orissa:

In this case, the Petitioner was placed under suspension from 05.04.1972 to 10.11.1976 he was released from suspension after four years. The Counsel for Petitioner made a grievance that the Punishment of Suspension should be Cancelled and it is Arbitrary and disproportionate. It drew the Court's attention to the various aspects that are recorded by the Enquiry Officer and specifically his recommendation on what background he found in the inquiry. The Petitioner has not opposed the Punishment Imposed but Argued that while disposing of the Appeal. The Government should foresee that the Punishment imposed should not be excessive and harsh. The Court allowed Part Petition and instructed the Petition to submit the Appeal to the Government and the Government should take proper and necessary order regarding the Punishment.

Vineet Narain vs Union of India:

This case, known as the Jain Hawala case, took place in the early 1990s and involved illegal money transfers through the Hawala system. A raid conducted by the CBI on the premises of four brothers, including S.K. Jain, uncovered diaries and documents detailing transactions and naming various politicians and bureaucrats. Vineet Narain was a Journalist and also a political activist who filed a Public Interest Litigation before The Hon'ble Supreme Court in the year 1993. In that Petition he argued the CBI and the Government of India not discharging their duties properly due to Political Pressure. The Supreme Court held that the CBI and ED had not conducted investigations properly they had not taken proper action against the High Profile Politicians. The Court held that they directly monitor the Investigations to ensure that they are conducted fairly. They fixed the Tenure for CBI and ED for 2 years and the Appointment of CBI director is through a Committee consisting of the Prime Minister, the Leader of the Opposition, and the Chief Justice of India this Case led to the formation of the Statutory Status of the Central Vigilance Commission to have Supervisory Power over CBI.

PROBLEM IN CENTRAL VIGILANCE COMMISSION:

The Problem with the Central Vigilance Commission is that it has only investigative Powers

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whereas it doesn't have full authority power over the Offences done by Public Servants the full Investigative powers are within the hands of the Central Bureau of Investigation. Also if we see the case of Sumith Kumar vs The State of West Bengal the Jurists Criticized the Interference of CVC. They argued that the actions of the State Vigilance Commission constituted a clear violation of natural justice.[12] I would like to convey that if there is no specific Commission or any Committee for investigation of cases then how the Public Servant can be punished?

There were over 6900 Corruption Cases that were handled by the CBI and were Pending Trials in Different Courts there were 361 Cases that were pending for more than 20 Years and there were 658 Corruption Cases that were Pending CBI investigation in 48 Cases for more than 5 years. Out of 6903 Cases that were under trial before the Courts among them 1379 cases that were pending for less than 3 years. The CVC's Annual Report said that there were 2100 cases Pending trial for more than 10 years and up to 20 years and 361 cases for more than20 Years the CVC Report said that there were 12773 cases as Appeal / Revision filed by CBI and by the Accused is still pending in Various High Court and Supreme Courts.

Many cases were Pending by the CBI if the Central Vigilance Commission handled these Cases completely the Pending would be reduced. Also by transferring full investigation authority to the Vigilance Commission the Burden with the CBI would be reduced by giving the CVC power to file a Criminal Suit against a Public Servant and to Note that if there is only power to conduct an inquiry then the Purpose of CVC is wasted Then the inquiry Power also can be transferred to the CBI. Then, it would result in a Case where the Commission will have complete authority they will not have any interference. Also to Note that in the Departmental inquiry, 82 cases were pending among them 54 Cases against Group An officers and 28 Cases against Group B and C Officers were pending at various stages according to The Report given by the CVC in December 2023. Of the total Cases Pending 25 Cases were Pending for Departmental action against Group A officers for more than 4 years 16 were between 1 and 3 years and 9 cases were less than a year so in the 51 cases the inquiry is still in Progress remaining 3 were Pending with Department of Personnel and Training for final orders and Group B and C 7 were Pending for more than 4 years and 2 cases between 3 and 4 years and One case between two and three years along with that 4 cases that were Pending between One

[12] Muskan Sharma, PRINCIPLES OF NATURAL JUSTICE: AN OVERVIEW, Legal Reading (Oct. 2, 2024, 10:05 P.M.),PRINCIPLES OF NATURAL JUSTICE : AN OVERVIEW Legal Readings.

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and Two years and 14 Cases that were Pending for less than a year This shows the well-functioning of CBI and their Case solvency rate.

CONCLUSION:

To Conclude my Article I would like to convey that the Commission should be given enough Power to Investigate the Cases for the Central Vigilance Commission that the CVC Act should be amended by adding special Provisions to the Act to Give enough Power to the Commission so that the cases would be solved quickly also there will be less Pending cases and the Commission need not depend on any other various Committees to solve their cases and as I said before it would reduce the burden of the CBI so that they can look into other cases that come under CRPC (Criminal Procedure Code) without any burden as a result it would ensure that there is transparency, efficiency and quick Proceedings of the Case.

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