

SC RULING STRIKES A BLOW FOR CBI'S INDEPENDENCE

Relevant for: Governance in India | Topic: Important Aspects of Governance, Transparency & Accountability including Right to Information and Citizen Charter

The Alok Verma divestment case has led the Supreme Court to further protect the tenure of the CBI Director and the independence of the country's premier investigative agency from interference by political higher-ups.

The judgment by the three-judge Bench led by Chief Justice of India echoes what senior advocate Fali Nariman, appearing for Mr. Verma, said during the court hearing.

Mr. Nariman had said that the unceremonious overnight divestment of his client as CBI Director through orders of the government and the CVC pointed to an interference in the statutory guarantee of a two-year tenure.

'Centre of power'

He had described the CBI Director as the "centre of power in an abundantly powerful organisation having jurisdiction to investigate and to prosecute key offences and offenders having great ramifications and consequences on public life."

In short, the CBI was an able weapon in the hands of the rule of law to prosecute corruption in public life, among other offences.

With this judgment, the Supreme Court has protected the tenure of the CBI Director. It has interpreted Section 4B (2) of the Delhi Special Police Establishment (DSPE) Act of 1946 to expand the meaning of the word 'transfer' to include divestment and dispossession of CBI Director, quite like what happened to Mr. Verma.

The judgment mandates that the high-power committee of the Prime Minister, the CJI and the Opposition leader, set up under Section 4A (1) of the 1946 Act, should first approve any move by the government to transfer or even divest a CBI Director before the end of his tenure.

Contention dismissed

The court dismissed the contention of the government that the PM Committee had very limited power, that is, to make recommendation for appointment of a CBI Director.

The CVC argued that just because a person becomes a CBI Director, he or she does not cease to be a civil/government servant.

The CVC has power over all civil/government servants.

To this, Chief Justice Gogoi countered, in his judgment, that Parliament has consistently enacted laws, from the CVC Act in 2003 to the amendments which ushered in provisions like 4A and 4B into the DSPE Act, in order to "completely insulate" the CBI Director's office from outside influences.

These laws were a "sequel" to the court's own Vineet Narain judgment to protect the integrity of

CBI.

Parliament has consistently enacted laws to insulate the CBI Director's office

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