

# REINSTATED, CONDITIONALLY: ON CBI DIRECTOR'S RETURN

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

In setting aside the orders [divesting Alok Verma of his functions and duties as Director of the CBI](#), the Supreme Court has strengthened the principle that the head of the agency should be insulated against any form of interference. The court took up the matter in the midst of an unseemly tussle for supremacy between Mr. Verma and Special Director Rakesh Asthana, with corruption charges being traded. However, the court's interim order asking for a time-bound inquiry into the charges against Mr. Verma is now of no avail, as the Bench, headed by Chief Justice Ranjan Gogoi, has chosen to deal only with the major question of law involved. The decision has gone against the government, with the court holding that the action taken against Mr. Verma amounted to a 'transfer', something that cannot be done by any authority except the high-powered selection committee headed by the Prime Minister in terms of the 2003 amendments to the law. It has rejected the government's contention that stripping the CBI Director of his duties did not amount to a transfer, but only a measure to deal with an extraordinary situation. It has gone into the legislative intent behind the amendments to the Central Vigilance Commission Act in 2003, which included changes to the Delhi Special Police Establishment Act before coming up with its finding.

The Bench has noted that the amendments flow from the principles laid down by the Supreme Court in 1997 in *Vineet Narain* to protect the agency, especially its Director, from external interference. As the law is clear that any transfer of the Director can only be made by the selection committee, and there being no provision for any other interim measure, the only way the government can divest the head of the agency of his powers is to let the same committee make the decision. The court has been mindful of the fact that an officer could be stripped of his power without being formally transferred to another position, thereby achieving the objective of interfering with the agency's functioning by oblique means. Its decision will further strengthen the CBI's independence. However, it is intriguing that the court passed a consequential order to the selection committee to meet within a week and consider Mr. Verma's powers and authority. Until then, he has been restrained from making any policy decisions. Having set aside the orders of the government divesting Mr. Verma of his powers, as well as the CVC's order recommending the action, the court could have reinstated him unconditionally. What it has done, instead, is to soften the blow it had dealt the government by giving it an opportunity to achieve through the committee route what it could not do successfully through its midnight 'coup'.

As India takes over operations in the Iranian port, the possibilities and challenges are huge

**END**

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