

The Central Bureau of Investigation traces its origin to the Special Police Establishment (SPE) which was set up in 1941 by the Government of India. The functions of the SPE then were to investigate cases of bribery and corruption in transactions with the War & Supply Deptt. Of India during World War II. Even after the end of the War, the need for a Central Government agency to investigate cases of bribery and corruption by Central Government employees was felt. The **Delhi Special Police Establishment Act** was therefore brought into force in 1946. The CBI's power to investigate cases is derived from this Act.

THE DELHI SPECIAL POLICE ESTABLISHMENT ACT, 1946¹
(25 of 1946) As amended by the Central Vigilance Commission Act, 2003 (45 of 2003) (19th November, 1946)

An Act to make provision for the constitution of a special police force² (in Delhi for the investigation of certain offences in³ (the Union Territories)), for the superintendence and administration of the said force and for the extension to other⁴ (***) of the powers and jurisdiction of members of the said force in regard to the investigation of the said offences.

Whereas it is necessary to constitute a special police force² (in Delhi for the investigation of certain offences in³ (the Union territories) and to make provision for the superintendence and administration of the said force and for the extension to other areas⁴ (***) of the powers and jurisdiction of the members of the said force in regard to the investigation of the said offences;

It is hereby enacted as follows:-

Short title and extent.- (1) This Act may be called the Delhi Special Police Establishment Act, 1946.

(2) It extends to⁵ (the whole of India)⁶ (***) .

1. The Act has been extended to the new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949), Sec.3 (w.e.f.1-1-1950) and to the Union Territories of Manipur, Tripura by the Union Territories (Laws) Act, 1950 (30 of 1950) sec. 3 (16-4-1950). Vindhya Pradesh, to which this Act was extended, now forms part of the State of Madhya Pradesh-See Act 37 of 1956, sec. 9(1)(e) (1-11-1956). Manipur and Tripura are also States now-see Act 81 of 1971. This Act has now been extended to the Union Territories of-

- i. Goa, Daman and Diu by Reg. 12 of 1962 (27-12-1962); Goa is now a State.
- ii. Dadra and Nagar Haveli by Reg. of 1963 (1-7-1965);
- iii. Pondicherry by Reg. 7 of 1963 (1-10-1963);
- iv. Laccadive, Minicoy and Amindivi Islands by Reg.8 of 1965. Now known as Lakshdweep Islands-See Act 34 of 1973.

The Act has been applied to the Union Territory of Himachal Pradesh with effect from 25-12-1948-See the Himachal Pradesh (Application of Laws) Order, 1948, published in the Gazette of India, 1949, Pt. I, Sec.I. p.87: Himachal Pradesh is now a State-Act 53 of 1970.

Before 1950, the Act was applied to-

i. Darjeeling District-See Calcutta Gazette 20-3-1947, Pt I, p.470.

ii. Darjeeling District-See Calcutta Gazette 20-3-1947, Pt I, p.470.

iii. Khasi States including Shillong administered area- See Assam, Gazette, 7-12-1949, Pt.II, P.1761. Now forming part of Meghalaya State- See act 55 of 1969, Sec. 3 (2-4-1970)

2. Subs. By Act 26 of 1952, Sec. 2 for “for the State of Delhi for the investigation of certain offences committed in connection with matters concerning Departments of the Central Government”.

3. Subs. By A.L.O. 1956. for “Part C States”.

4. The words “in the States” omitted by Act 3 of 1951, Sec. 2 and Sch. (w.e.f. 1-4-1951)

5. Subs. By A.L.O. 1950, for “all the Provinces of India.”

6. Subs. by Act 3 of 1951 and omitted by Act 62 of 1956, Sec.2 and Sch.

1[**A. Interpretation section.** – Words and expressions used herein and not defined but defined in the Central Vigilance Commission Act, 2003, shall have the meanings, respectively, assigned to them in that Act.]

2. **Constitution and powers of police establishment.** – (1) Notwithstanding anything in the Police Act, 1861 (5 of 1861), the Central Government may constitute a special police force to be called the Delhi Special Police Establishment 2[***] for the investigation 3 [in any 4 [Union territory]] of offences notified under section 3.

2) Subject to any order which the Central Government may make in this behalf, Members of the said police establishment shall have throughout 5 [any 4[Union territory]] in relation to the investigation of such offences and arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers of 6[that Union territory] have in connection with the investigation of offences committed therein.

(3) Any member of the said police establishment of or above the rank of Sub-inspector may, subject to any orders which the Central Government may make in this behalf, exercise in 5[any 4[Union territory]] any of the powers of the officers in charge of a police station in the area in which he is for the time being and when so exercising such powers shall, subject to any such orders as aforesaid, be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station.

3. **Offences to be investigated by special police establishment.** – The Central Government may, by notification in the Official Gazette, specify the offences or classes of offences 7[***] which are to be investigated by the Delhi Special Police Establishment.

8[4. Superintendence and administration of Special Police Establishment. – (1) The Superintendence of the Delhi Special Police Establishment insofar as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988), shall vest in the Commission. _____

1. Ins. by Act 45 of 2003. sec. 26 (w.e.f. 11-9-2003)
 2. The words “for the State of Delhi” omitted by Act 26 of 1952, sec. 3, (w.e.f. 6-3-1952).
 3. Subs. by Act 26 of 1952, sec. 3 for “in that state” (w.e.f. 6-3-1952).
 4. Subs. by A.L.O. 1956, for “Part C State”.
 5. Subs. by A.L.O. 1956, for “the State of Delhi”.
 6. Subs. by A.L.O. 1956, for “that State”.
 7. The words “committed in connection with matters concerning Departments of the Central Government” omitted by Act 26 of 1952, sec. 5 (w.e.f. 6-3-1952).
 8. Subs. by Act 45 of 2003, sec. 26 (w.e.f. 11-9-2003), for section 4 “*Superintendence and administration of special police establishment.* – (1) The Superintendence of the Delhi Special Police Establishment shall vest in the Central Government.
- (2) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government who shall exercise in respect of that police establishment such of the powers exercisable by an Inspector-General of Police in respect of the Police force in a State, as the Central Government may specify in this behalf.”
- (2) Save as otherwise provided in sub-section (1), the superintendence of the said police establishment in all other matters shall vest in the Central Government.
- (3) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government (hereinafter referred to as the Director) who shall exercise in respect of that police establishment such of the powers exercisable by an Inspector-General of Police in respect of the police force in a State as the Central Government may specify in this behalf.

4 A. Committee for appointment of Director.-(1) The Central Government shall appoint the Director on the recommendation of the Committee consisting of :-

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| (a) the Central Vigilance Commissioner | Chairperson |
| (b) Vigilance Commissioners | Members |
| (c) Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government | Members |
| (d) Secretary (Co-ordination and Public Greivances the Cabinet Secretariat | Member |

(2) While making any recommendation under sub-section (1), the Committee

shall take into consideration the views of the outgoing Director.

(3) The Committee shall recommend a panel of officers-

- (a) On the basis of seniority, integrity and experience in the investigation of anti-corruption cases; and
- (b) Chosen from amongst belonging the Indian Police Service constituted under the All-India Services Act, 1951 (61 of 1951), for being considered for appointment as the Director.

Comments

The Director is to be appointed by the Central Government on the recommendation of the Committee consisting of (i) the Central Vigilance Commissioner as Chairperson, (ii) Vigilance Commissioners as Members, (iii) Secretary to the Government of India incharge of the Ministry of Home Affairs in the Central Government as Member (iv) Secretary Coordination and Public Grievances in the Cabinet Secretariat as Member.

4B. Terms and Conditions of service of Director- (1) The director shall notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office

(2) The Director shall not be transferred except with the previous consent of the Committee referred to in sub-section (1) of section 4 A.

4C. Appointment for posts of Superintendent of Police and above, extension and curtailment of their tenure, etc. –(1) The Committee referred to in section 4A shall, after consulting the Director, recommend officers for appointment to the posts of the level of Superintendent of Police and above and also recommend the extension or curtailment of the tenure of such officers in the Delhi Special Police Establishment.

(2) On receipt of the recommendation under sub-section (1), the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation.

5. Extension of powers and jurisdiction of special police establishment to other areas- (1) The Central Government may by order extend to any area (including Railways areas), ¹[in ²[a State, not being a Union territory]] the powers and jurisdiction of member of the Delhi Special Police Establishment for the investigation of any offences or classes of offences specified in notification under section 3.

(2) When by an order under sub-section (1) the powers and jurisdiction of members of the said police establishment are extended to any such area, a member thereof may, subject to any orders which the Central Government may make in this behalf, discharge the function of a police officer in that area and shall, while so discharging such functions, be deemed to be a member of a police force of that area and be vested with the powers, functions and privileges and be subject to the liabilities of a police officer belonging to that police force.

³[(3) Where any such order under sub-section (1) is made in relation to any area, then, without prejudice to the provisions of sub-section (2) any member of the Delhi Special Police Establishment of or above the rank of Sub-Inspector may subject to any orders which the Central Government may make in this behalf, exercise the powers of the officer in charge of a police station in that area and when so exercising such powers, shall be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station.]

⁴[**6. Consent of State Government to exercise of powers and jurisdiction.** _ Noting contained in section 5 shall be deemed to enable any member of the Delhi Special Police Establishment to exercise powers and jurisdiction in any area in ⁵[a State not being a Union Territory or railways area], Without the consent of the Government of that State.]

⁷[**6A. Approval of Central Government to conduct inquiry or investigation.**-(1) The Delhi Special Police Establishment shall not conduct any enquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988) except with the previous approval of the Central Government where such allegation relates to – _____

1. Subs. By Act 26 of 1952, sec.5 for “in Indian out side the State of Delhi”(w.e.f. 6-3-1952).

2. Subs. By A.L.O. 1956 for “a Part of A State of a Part B state”.

3. Ins. By Act 40 of 1964, sec.5 (w.e.f. 18.12.1964).

4. Subs by Act 26 of 1952, sec 6 for section 6 (w.e.f. 6.3.1952).

5. Subs. By A.L.O. 1956, for “a Part A State or a Part B State not being a railway area”.

6. See S.O. 11, Gazette of India, 1971, Pt.II, Sec. 3(ii)p. 18 for such a notification.

7. Ins. By Act 45 of 2003, sec. 26(w.e.f. 11.9.2003)

(a) the employees of the Central Government of the Level of Joint Secretary and above ;and

(b) such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government Companies, Societies and local Authorities owned or controlled by that Government.

(2) Notwithstanding anything contained in sub-section (1), no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration referred to in clause (c) of the *Explanation* to section 7 of the Prevention of Corruption Act, 1988 (49 of 1988.)

Comments

Without the previous approval of the Central Government the Delhi Special Police Establishment cannot conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988, where the employees of the Central Government are of the level of Joint Secretary and above.

Repeal of Ordinance 22 of 1946.- [Rep. By the Repealing and Amending Act, 1950 (35

of 1950), sec.2 and Sch. I.]