

**GOVERNMENT OF INDIA
PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS
LOK SABHA**

STARRED QUESTION NO:264
ANSWERED ON:22.07.2009
LEGAL FRAMEWORK FOR CBI
Tewari Shri Manish

Will the Minister of PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS be pleased to state:

- (a) whether the Government has issued any Notification under Section 2 of the Delhi Police Special Establishment Act (25 of 1946) constituting the Delhi Police Special Establishment;
- (b) if so, the details of the Notification issued under the Act;
- (c) whether the Government proposes to provide a proper legal framework,empowering the Central Bureau of Investigation (CBI);
- (d) if so, the details thereof and its present status, and
- (e) the steps taken by the Government to expedite enactment of law in this regard?

Answer

MINISTER OF THE STATE (Independent Charge) IN THE MINISTRY OF Science and Technology; MINISTER OF THE STATE (Independent Charge) IN THE MINISTRY OF Earth Sciences; MINISTER OF THE STATE IN THE MINISTRY OF Prime Minister's Office; MINISTER OF THE STATE IN THE MINISTRY OF Personnel, Public Grievances and Pensions,and MINISTER OF THE STATE IN THE MINISTRY OF Parliamentary Affairs .(SHRI PRITHVIRAJ CHAVAN)

(a) to (e): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO PARTS (a to (e) OF LOK SABHA STARRED QUESTION No.264 FOR 22.07.2009

(a) & (b): On July 12, 1943, the then Governor General enacted an Ordinance namely the Special Police Establishment (War Department) Ordinance, 1943 which was contained in the Ninth Schedule to the Government of India Act, 1935. By Section 2(4) of this Ordinance, the Special Police Establishment (War Department) was constituted to exercise throughout British India, the powers and jurisdiction exercisable in a province by the members of the police force of that province possessing all their powers, duties privileges and liabilities. On September 25, 1946 another Ordinance of the same name was promulgated. Section 2 of this Ordinance constituted a special police force for the Chief Commissioner's province of Delhi. This Ordinance was repealed by the Delhi Special Police Establishment Act, 1946 (XXV of 1946) which re-enacted the provisions of the Ordinance. This Act was adopted and amended by the Adaptation of Laws Order 1950 enacted under clause 2 of Article 372 of the Constitution of India on January 26, 1950. The Central Bureau of Investigation was set up vide Government of India Resolution dated 1st April 1963 by merging Special Police Establishment in the newly set up Bureau.

(c): CBI was set up, inter-alia, to be an Inter-State Crime Investigation Agency and also to handle important intra-State crimes which are sometimes too big for the State Police. CBI derives its powers from Delhi Special Police Establishment (DSPE) Act, 1946. This Act confers concurrent and co-extensive powers, duties, privileges and liabilities on the members of Delhi Special Police Establishment (CBI) with Police Officers of the Union Territories in relation to the investigation of offences notified by the Central Government under Section 3 of the Act and arrest of persons concerned in such offences.

(d)& (e): CBI functions in a federal set up where States have complete autonomy on the subjects allotted to them under the Constitution. CBI has adequate powers under the present legislation i.e. Delhi Special Police Establishment Act,1946 where the autonomy of the States is completely respected and their cooperation is always available to CBI for taking up any investigation required in public interest. This mechanism viz. the CBI's functioning under the DSPE Act has allowed CBI to maintain its reputation of a premier investigating agency of the country functioning with credibility and impartiality. Since a separate and exclusive enactment for CBI is already in existence namely the DSPE Act, 1946, the same is considered adequate in a federal set up.