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Political Fundings, Banks and Electoral Bonds

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Abstract

The electoral bonds scheme was introduced in India to ensure transparency in political funding while protecting donor anonymity. However, the scheme has sparked debates over its effectiveness, legal validity, and implications for democracy. This paper critically examines the electoral bonds system, its impact on political financing, and concerns about corruption, accountability, and corporate influence. By analyzing judicial precedents, legislative frameworks, and recent controversies, this study highlights the potential risks and benefits of the scheme. The findings suggest that while electoral bonds aim to reform political funding, their opaque nature raises significant concerns about transparency and democratic integrity.

Keywords: *Electoral Bonds, SBI, RBI, Political Fundings.*

1. Introduction :

India being the largest democratic country, number of political parties participate in contesting the elections. Political Parties are one which coordinates contestants to compete elections. They represent particular ideology, which ultimately decides policies of nation. Right to form association is guaranteed in 'Constitution of India', but forming political party is not easy process.

The Independent sovereign body Election Commission of India (ECI in short) regulates the five yearly elections. Certain criterion for formation of party are laid down for registration and recognition with ECI.

The periodical contest of elections needs the funds for political parties to achieve their political goals.

Recently, the funding process was put under scanner by RTI (Right to Information) activists, the media and ultimately by the Supreme Court. The introduction of Electoral Bond (EB) raised many questions regarding its objects (to curb use of black money in election process) ,nature (the bearer instrument) and compatibility with laws (limits on donations, tax incidence) as well the constitutionality (process of amending the enactments and about supremacy of public interest over right of privacy) thereof.

2. Necessity of Funds in Political Parties:

Political Parties (Parties in short) periodically face elections. Parties require strategic planning depending on prevailing circumstances. For Selection of candidates, engaging volunteers, training them for circulating ideology to reach maximum number of people, engaging booth representative , polling agents, media publicity , printing leaflets , exhibiting banners , organising rallies is the election campaigning program, it requires the funding. Funds of the political parties can be justified as it may aid poor candidate having public support to contest elections. Funds may be contributed through member subscriptions & may be collected through funds raising programmes. However, such funds may not match with the expenditure budget resultingly party needs to receive donations. The major portion of funds is contributed by corporates.

3. Background of Electoral Bonds:

3.1 Pre -Independence & Post Independence feelings for Party Funds.

Corporate funding to Political Parties in India traces back to the freedom movement¹. In 1951, when elections were held for the first time, the game of collecting donations had started. Even at that time, the political party which had the largest fund was having supremacy. During that time, Indian National Congress (Congress in short) was the biggest party having higher chances of winning & donations were mostly given to Congress. At that time, 34% amount of all the donations were given by prominent industrialists like TATAs, Birlas & Thakurdas and continued their support to Congress during years 1962 and 1968². At that time, *RSS, Bharatiya Jana Sangh, Akhil Bharatiya, CPI* were smaller parties. At election arena, these smaller parties were having low budget. At that time, *Jana Sangh*, in future which became *Bharatiya Janata Party* (BJP in short) wasn't given any funding as it's chances of winning were low. Thus, Donations become major roles in elections. Even during freedom movement, while sharing the stage with Gandhiji & Jinnah at Pune ,in 1943, Dr. Bhimrao Ambedkar said and suggested that, 'money is taking the field as organised player' and having the financial assistance from businessmen is essential to maintain their supremacy³. However, Corporate Funding to elections are criticised by former PM Atal Bihari Vajpai saying that, '*Jantantra* is becoming *Dhantantra* and it is not good for our country.'

3.2 Enactment of Representation Of The People Act, 1951 :

After Independence, the first election took place in 1951 in a well organised manner. Having background of freedom movement, without much funding the Indian National Congress had won. It was felt that, for issues relating to how will the elections be held, what rules would be there, what statutory provisions are needed be regularised through enactment and by setting code of conduct, there must be some regulation. For this, 'The Representation of The People Act, 1951' is enacted to define and regulate the election process, registration criterion for parties, regulating their operations, fundings , budgetary allocations , audit etc.

3.3 TISCO Case :

After 1951 elections, relationship between political parties & company owners regarding licence,

¹ Manish Dubey, *Financing Elections in India: Scrutiny of Corporate Donation*, OBSERVER RSCH. FOUND. (Apr. 12, 2019), <https://www.orfonline.org/expert-speak/financing-elections-india-scrutiny-corporate-donation-49750>.

² Ibid

³ P. Vaidyanathan Iyer, *Indian Politicians Hit the Jackpot with 1957 TISCO Case—It Set the Tone for Political Funding*, THE PRINT (Feb. 26, 2024), <https://theprint.in/the-fineprint/indian-politicians-hit-the-jackpot-with-1957-tisco-case-it-set-the-tone-for-political-funding/1858558/>.

land acquisition & allotments issues were in the infant stage. In the year 1957, the first case was registered in court against Tata Iron & Steel Co., Ltd.⁴. Brief facts are that, one Jayantilal Ranchhoddas Koticha was the shareholder of Tata Iron & Steel Co. While scrutinising financial report by TISCO, he observed that company is donating money to Congress. He filed a case in court stating that this is our money, and without asking us company is donating to political party. In its judgement at para 5, the Court analyses the fact that, company is donating party as it wants Congress Party to be in power for their goodwill, safety, security, promotions and for setting goodplace in market. Thus, it became clear that, companies who donate political parties are expecting benefit from it.

3.4 Income Tax Act :

When TISCO case is proceeded with, the political parties receiving donations started a nationwide debate about it. After few years, in year 1961, Income Tax Department released a draft of 800 pages concerning the direct taxes. The draft was mainly about regulating the income tax of the entire country and at that time, the politicians were pressurising the Direct Taxes Authorities that the donations given by companies to the political parties should be deducted from taxable amount as the donations are for public welfare. But it was not accepted. Later on, section 13A, Section 80GGB & 80GGC were inserted in Income Tax Act to provide 100% tax deduction in case of donations to political parties.

3.5 Emergence of 'Swatantra Party' :

These discussions were debated till 1959 and at that time, a political party namely Swatantra Party came in to existence. It started campaigning by organising rallies, supporting the industrialists & business world. This party started the slogan that 'a government has no business to be in business'⁵ and free business (*laissez faire*) should be there. It promised that, upon their victory, the principle of free business will be implemented. Obviously, all the industrialists and business firms started giving donations to this particular party and they wanted this party should win. Upon receiving donations, 'Swatantra party' started flourishing & within 2-3 years in year 1967, when state elections were held, Congress faced a huge loss. At that time, defeating Congress in 9 states wasn't a small matter and even after that Congress didn't get scarce in donation.

⁴ Jayantilal Ranchhoddas Koticha And ... vs Tata Iron And Steel Co. Ltd. AIR 1958 BOMBAY 155.

⁵ For Businesses, SWATANTRA PARTY, <https://www.swatantra.org.in/for-businesses/#:~:text=A%20government%20has%20no%20business%20to%20be%20in%20business> (last visited Mar. 27, 2025).

3.6 Indira Gandhi amended the Companies Act:

Thereafter, Indira Gandhi government (Congress Party) observed 'swatantra party's strategy for couple of years and to dry the flow of donations, in year 1969, government deleted Section 293A of Companies Act, whereby the companies were banned from donating the political parties. Now, businessmen couldn't donate to the political parties and its result was seen within few years on 'Swatantra party'. In the coming years, this party became weak. Now, the donations by companies were banned but companies had to get their work done. The Licences from government authorities were required plus politicians needed cash. For this, politicians & companies found illegal way to receive and give money to the political parties and this was brought to light due to a case of Graphite India.

3.7 Case of Graphite India Company :

There was a company - Graphite India Ltd. of which Dalpat Rai Mehta⁶ was a shareholder & while checking the financial statements of the company, he observed that, Rs 1,52,000 were given to All India Congress Committee for advertisement. He became very confused that Congress is a political party, why is our company giving them money for advertisement. So, he found out that - Congress used to launch a booklet or magazine in India and companies used to give money to Congress for advertisement in it. It also became evident that it is not the single company but many companies donated for it. There are 180 such companies, giving around Rs 16 crores to Congress for advertisement. But the real issue was that the advertisements weren't printed. So, after several complaints, few advertisements were hurriedly printed and distributed. Then allegations were made on all the companies that they're giving donations under the guise of advertisement to political parties. The opposition criticised that cash, being black money and donations from foreign source were used for funding elections.

3.8 Advent of Foreign Contribution Regulation Act, 1976

For regulating foreign fundings, in the year 1976, 'Foreign Contribution Regulation Act, 1976' (FCRA in short) was brought which included that journalism, judiciary and political parties cannot take donation from outside of India (Section 4). But, banning the Foreign Contributions created a huge problem for both ruling as well for opposition party.

⁶ *Congress Souvenir Funds: The Big Payoffs*, INDIA TODAY (Sept. 30, 1977), <https://www.indiatoday.in/magazine/indiascope/story/19770930-congress-souvenir-funds-the-big-payoffs-818717-2015-03-18>.

3.9 Amendment in Companies Act in Rajiv Gandhi Era :

Glancing at all these scenario, in year 1985 Rajiv Gandhi Government amended the Companies Act again & whatever was banned - that companies won't be able to give donations to political parties, as introduced by Indira Gandhi Govt, was removed to curtail the influence of black money. Now, these companies were allowed to donate to political parties subject to some rules.

Per the rules, donations that'll be given would be as per prescribed norm. Like, they won't be able to give amount exceeding the limit. The average of the companies profit for last 3 years will be the base and limit was set upto 5% of that average. In succeeding years, this 5% limit was increased to 7.5% and the condition imposed on it was that - the amount shouldn't be more than Rs. 25,000 even if the average of profit is more than Rs.25,000 and the company which donates, need to disclose it in its annual financial report stating the amount and recipient party.

Suppose if a company donated to three political parties - Party A, Party B, Party C it needs to disclose about each of the recipient in its annual report about how much donation is made to each one.

However, when Rajiv Gandhi Government amended the act lifting ban on contributions to political parties, a new problem arose. Suppose a businessman donated Political party A and political Party B won ,then Political party B being victorious would trouble donors of Party A . This was a huge headache for companies, if they guessed wrong on election & if other parties would win, then their business would be at risk. So, to avoid this, in year 1996 Tata group found a way.

3.10 Introduction of Electoral Trust :

What TATA group did was - they formed an 'electoral trust' by adding all its companies and also added different companies to collect money together in a common pool for donation to political parties & the donation would go to political parties. It means companies won't donate the political parties directly, there'll be an electoral trust which works as buffer between companies and political parties.

With 'electoral trust', the companies were in a safe zone and political parties couldn't harass them after coming to power. Another benefit was that, the shareholders of the companies couldn't know which political party has received donation. They just knew that the money has been given to the electoral trust.

The functioning is that, All TATA companies donate to this trust, and based on representation of political parties in Parliament, they will distribute the funds. Over the years, at least 19 ETs were setup after TATA's Electoral Trust. [However, after 2020, only one namely 'Prudent Electoral Trust' (earlier called as *Satya Electoral Trust* formed by *Bharati Group* in 2013)came in to existence].

These trusts are required to maintain list of names of contributors and their PAN, making them more transparent than Electoral Bonds' says Sanjeev Kumar, Partner, Luthra and Luthra.⁷

The electoral trust formed by TATA gained success due to which other companies formed small electoral trusts in India so that they can also donate. All these electoral trusts were governed by the norm of confidentiality and secrecy, they didn't have a website, they didn't have a public listed number & obviously no regulations were framed for electoral trusts. Companies and group of companies could manage it in their own designed manner. In future, government made regulations regarding eligibility of companies to form electoral trust⁸.

Now, standard electoral trusts were formed, however, problem of black money remained unsolved. Without cash (black money), none of the political parties could survive in elections. Political parties observed that, goons in society can gather crowds, collect cash, manage black money and hence, they took assistance of the criminals. Later on, goons themselves realized that they are doing hard work of collecting money to support party candidate, so why they wouldn't take part in elections. Now more than 46% of our MPs have criminal charges⁹. It is the cash & black money which opened the gate for criminals to enter the politics.

3.11 Disclosure requirements regarding candidate :

When all these things were at peak, in the year 2002, NGO namely ADR (Association of Democratic Rights) knocked the door of supreme court stating that Article 19 (1) (a) guarantees the fundamental right to know about candidate and voter should know about the candidate representing them as to how many criminal charges are on candidate, how many assets does he have, how much wealth does his family have. We should know all this so that we can vote as an informed voter.

After this, supreme court¹⁰ gives direction that, all the candidates who participate in election, need to submit their details about their wealth as well criminal charges. Now, all the candidates at the time of filling candidature form need to disclose these things. However, the issue of funding of political parties remained open.

⁷ *Industry: India Inc may go back to electoral trusts, but experts say questions on transparency to continue to linger*, Fin. Express (Mar. 2025), <https://www.financialexpress.com/business/industry-india-inc-may-go-back-to-electoral-trusts-but-experts-say-questions-on-transparency-to-continue-to-linger-3397866>.

⁸ *Government paves way for setting up electoral trust companies*, Econ. Times (July 23, 2013), <https://economictimes.indiatimes.com/news/economy/policy/government-paves-way-for-setting-up-electoral-trust-companies/articleshow/21211913.cms?from=mdr>.

⁹ *Record 46% of newly elected Lok Sabha MPs facing criminal cases: Study*, New Indian Express (June 6, 2024), <https://www.newindianexpress.com/nation/2024/Jun/06/record-46-of-newly-elected-lok-sabha-mps-facing-criminal-cases-study>.

¹⁰ Lok Prahari v. Union of India, W.P.(C) No. 784 of 2015 (India).

3.12 Amendment in Representation of the People Act, 1951 :

Considering these things, in the same year 2003, Representation of the People Act was amended in which a limit on cash donation was inserted. If anyone donates more than Rs. 20,000 in cash to a political party, then donor needs to submit his name, PAN details etc. and in the annual report of the political party in compliance to the section 29 C of the Representation of People Act, the donors' details be disclosed.

Convenient meaning is that, if political party get donations of less than Rs.20,000 then there is no need to have details of donor , but if the donation is more than Rs. 20,000 then political party need to store the details of the company or the individual who is donating - the address, Pan Card, every detail and submit the same to Election Commission¹¹. This was done to curtail the dirty game of black money circulation.

Now, the question might be raised that why was the limit of Rs.20,000/-is set up and why didn't political party take details of those who're giving a donation of less than Rs. 20,000/- The answer lies in fact that sometimes a political party organises rallies, which need financial support. To support, people donate meagre amounts like Rs 10, Rs 100 - so its not easy for political party to keep record of details about small donors, that's why the cash limit was imposed. For example, Kanshi Ram founder of Bahujan Samaj Party collected cash by saying 'note do vote do'¹² (give currency and cast the vote)

Firstly, cash limit was Rs.20,000, after introduction of electoral bonds, the limit is lowered to Rs.2,000. Now, the rule is to disclose all the details if one donate more than Rs.20,000. Through this, people will know who donated to whom and what benefit are they getting but politicians found a solution to this as well.

They started showing donations in denomination of Rs. 19500, 19900 or 18800 which are less than Rs. 20,000. These are manipulated figures to escape the clutches of record keeping of donors above Rs.20,000/-. Suppose anybody want to give a donation of Rs. 40-50 lakh to a political party and he doesn't want to disclose his name, then after receiving the cash political party will adjust the amount by issuing receipts of Rs. 19900, 19500 to escape the liability of keeping record. Besides political party can appoint auditor of its own choice for its convenience.

One example of Mayawati will suffice this point. Mayawati (*successor of Kanshi Ram*) had around

¹¹ Press Information Bureau, Govt. of India, PM Modi Launches BJP's Election Campaign, PIB (June 24, 2023, 10:45 AM), <https://pib.gov.in/PressReleaselframePage.aspx?PRID=1937050>.

¹² Ajoy Bose, Rise of Kanshi Ram, the Man Who Created Dalit Politics, The Print (Oct. 9, 2018, 8:30 AM), <https://theprint.in/opinion/rise-of-kanshi-ram-man-who-created-dalit-politics/27100/>.

Rs 402 crores of cash for which she was questioned. She quietly replied that this is party fund¹³. Then she was asked that, even if it's a party fund, tell us the name - who has given it. So, she told that all these donations are less than Rs 20,000 which have accumulated to Rs 402 crores.

This limit of Rs 20,000 raised lot of questions. Due to this, some politicians also shunted some money in their own pockets. Suppose someone gives Rs. 1000 crore, then the politician gives Rs. 500 crores to the party fund and the rest of Rs. 500 crores were transferred to their personal bank account.

The entire system of electoral funds is eclipsed with the background of the game of black money. India is leader of digital payments however, is suffering from black money itself. The ECI is fed up of scrutinising the annual audited accounts and syphoning of public money .

The reformative view is that auditing should be done by the auditor suggested by CAG as the political parties audit themselves and bear the clean cheat . There is not a single party who promises disclosure of their fundings after their victory, but expects such disclosure from the opponent party.

3.13 FCRA, 1976 Repealed and not amended :

In order to avoid furnishing the details of foreign donations between year 1976 to 2010, the FCRA, 1976 itself was repealed on 29th September 2010 and it is replaced by FCRA, 2010¹⁴. Thus, government got clean chit about past foreign donations.

3.14 Vedanta Case :

In January 2013, ADR noticed that two companies - Sterlite Industries Ltd and Sesa Goa Limited formed an electoral trust in India & are donating crores of rupees to both BJP & Congress¹⁵¹⁶. So, ADR seems to have a doubt regarding this. It probed and it is revealed that, these two companies are controlled by parent company namely Vedanta having its headquarters in London & Wales. Sterlite & Sesa which were donating, had more than 50% shares acquired by a British company¹⁷ means donations are routed from outside of India to BJP & Congress. According to the FCRA, this was an

¹³ Scroll Staff, This Is Party Money That Has Been Deposited Honestly: Mayawati on Cash ED Found, Scroll.in (Jan. 10, 2017, 2:30 PM), <https://scroll.in/latest/825236/this-is-party-money-that-has-been-deposited-honestly-mayawati-on-cash-ed-found>.

¹⁴ Foreign Contribution (Regulation) Act, 2010, § 54(1), No. 42, Acts of Parliament, 2010 (India).

¹⁵ PTI, Vedanta Donations to BJP, Congress Ruled Illegal by Delhi HC, Livemint (Mar. 30, 2014, 9:12 PM), <https://www.livemint.com/Politics/VZinsJYcuZfRKGsys4GvaK/Vedanta-donations-to-BJP-Congress-ruled-illegal-by-Delhi-HC.html>.

¹⁶ Business Today, Vedanta Cuts Political Donations in India by Half, Bus. Today (Mar. 31, 2014, 11:30 AM), <https://www.businesstoday.in/latest/corporate/story/vedanta-cuts-political-donations-in-india-by-half-132741-2014-03-31>.

¹⁷ Kiran Pandey, Foreign Vedanta Funds Cong, BJP, Down to Earth (Apr. 10, 2014, 5:00 PM), <https://www.downtoearth.org.in/environment/foreign-vedanta-funds-cong-bjp-44024>.

illegal activity.

ADR filed a PIL¹⁸ in Delhi High Court stating that BJP & Congress were violating the law of country & taking money from outside and action should be taken against them. When this matter was heard by the court, ADR engaged two lawyers but BJP hand in hand with Congress engaged an army of highly paid lawyers of the country. It is surprising to note that, two opposition parties of the country who oppose the ideology of each other on every matter, came together for this particular matter.

This matter took long span of a year and finally decided by court on 28th March, 2014 delivering the judgement in which BJP & Congress were declared guilty for taking foreign funding blatantly contravening the provisions of Section 29 D of Representation of People's Act and directed to take action against them within 6 months.

However, to give the go bye to the verdict, BJP & Congress holding hands together passed a bill in Parliament¹⁹ and FCRA 2010 was amended retrospectively to amend the definition of foreign company and the exemption from scrutiny for foreign donations is granted since 1976.

3.15 Finance Bill, 2016 :

On 14/05/2016, Finance Bill received assent from President. The Finance Act brought retrospective amendment to the FCRA, 2010 for change of the definition of what constitutes a foreign source in such a way that key beneficiaries of UK-based Vedanta group — the BJP and Congress — would not face legal scrutiny for donations, with effect from 26.09.2010²⁰. On 29/11/2016, The SLPs filed assailing the judgment of Delhi High Court by these two political parties, but subsequently withdrawn.

On 21/03/2017, The Hon'ble Delhi High Court issued contempt notice to Union of India on a petition filed by the petitioners (Contempt Petition (C) 233 of 2017). The petitioners had argued that the amendment in FCRA 2010 with effect from 26.09.2010 would not come to the aid of the two political parties. The High Court specifically recorded the contention of the petitioners that amendment made by Finance Act 2016 would not help the two political parties.

On 03/10/2017, This Hon'ble Court issued notice on a PIL filed by the petitioner No. 1 herein, being Writ Petition (Civil) No. 880 of 2017, challenging the provisions of Finance Act, 2016 and Finance Act, 2017 including the amendment to FCRA 2010.

¹⁸ Association for Democratic Reforms v. Union of India, 2014 SCC OnLine Del 5288,

¹⁹ NDTV, New Law Clears Political Parties That Illegally Took Foreign Funds, NDTV (Mar. 15, 2018, 4:20 PM), <https://www.ndtv.com/india-news/new-law-clears-political-parties-that-illegally-took-foreign-funds-1824347>.

²⁰ Association for Democratic Reforms, PIL Against Amendment to FCRA 1976 and 2010, ADR India (Apr. 2018), https://adrindia.org/sites/default/files/PIL_against_amendment_to_FCRA_1976_and_2010_April2018.pdf.

But the illegal political funding from British company now became legal, but ADR doesn't accept defeat. ADR approached High Court again by filing a petition that these two parties, which enacted a bill and amended the law of FCRA was of 2010 but they received the donation before 2010. Now these political parties get stuck in problem again and the country witnessed the great hassle. The Act which didn't even exist as FCRA Act 1976 which was already removed can't be amended but was repealed it was brought up in the parliament as a bill and changed this causing a lot of chaos, but nobody could do anything.

3.16 Political Parties are public authorities amenable within the scope of RTI.

Including the aforesaid two parties other four biggest national political parties, thus six parties in all [1. *Indian National Congress/ All India Congress Committee (AICC)* ; 2. *Bhartiya Janata Party(BJP)* ; 3. *Communist Party of India (Marxist) (CPM)*; 4. *Communist Party of India(CPI)*; 5. *Nationalist Congress Party(NCP)* ; and 6. *Bahujan Samaj Party(BSP)*] came into the ambit and scope of RTI as in 2013 Central Information Commission (CIC)²¹ declared them as public authority, and being public authority these 6 political parties will come under RTI so that the citizen can file RTI application to get the desired information in detail, like where from the funding is made, how do they carry their work, they could easily take it²². These 6 parties came together against it and directly opposed their inclusion under RTI probe. Political parties opted for stand that to include them under RTI scope and for declaring them as public authority, the writ orders of Supreme Court are needed. ADR replied that, Central Information Commission (CIC) cannot be used to seek a writ from the Supreme Court to bring recognised political parties under the ambit of the Right to Information Act (RTI).

3.17 Funding revealed in Law Commission Report

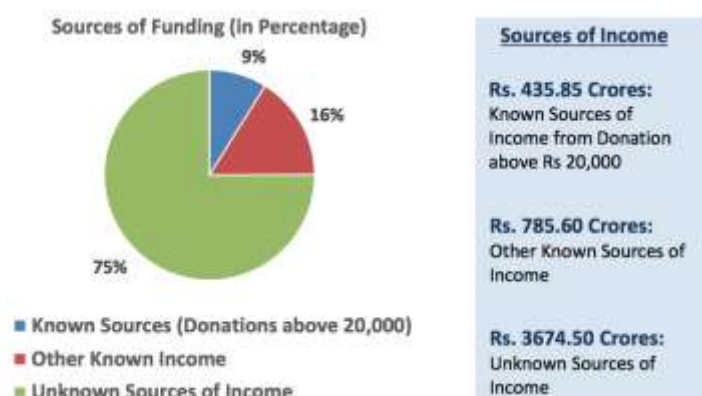
In 2015, Law commission of India submitted its 255th report²³ in which some shocking numbers were put forward. The Lok Sabha election held in 2009 marked as a base for analysis of the election expenses. It came to be known that, the donation of less than Rs.20,000 which was allowed to the political parties caused the game of black money became worse in this election, which needs to be stopped. Its dangerous for the country's democracy because all the donations they received - almost

²¹ Complaint No. CIC/SM/C/2011/001386

²² Political Parties Come Within Ambit of RTI Act: CIC, *The Hindu* (June 3, 2013), <https://www.thehindu.com/news/national/political-parties-come-within-ambit-of-rti-act-cic/article4778358.ece>.

²³ Law Commission of India, *Electoral Reforms*, Report No. 255, at 36 (2015), https://lawcommissionofindia.nic.in/cat_electoral_reforms/.

75% of which the sources were unknown²⁴.



(Image taken from 255th Law Commission report)

In fact, its the rule in income tax that if the party shows a donation of less than Rs. 20,000/- then they don't get tax benefit (if this is not complied with, the party is not entitled to any tax relief under Section 29C(4) read with section 13 of IT Act).

3.18 Expenditure Monitoring division of ECI

To stop the black money circulation in elections , Election Commission started a monitoring division (Expenditure Monitoring²⁵) , to stop the votes from being bought during election. This is the best step. In 2010, ECI took action against a sitting MLA in UP namely Umlesh Yadav for not disclosing expenditure, banning him for 3 years²⁶. Similarly, in 2016, two constituency seats in Tamil Nadu were contested by giving cash and EC Expenditure Monitoring Division caught it & by cancelling the ongoing elections , fresh elections were held²⁷.

Looking at its success, Election Commission sent a letter dated 06/06/2016 to Law Ministry that, it's monitoring task is gaining the success in fair play and that, commission should be given permanent power for it²⁸. So that, it can take these steps to curtail use of black money and vote buying²⁹. The

²⁴ Ass'n for Democratic Reforms, *Electoral & Political Reforms*, <https://adrindia.org/sites/default/files/Electoral,%20Political%20Reforms%20and%20ADR.pdf>.

²⁵ Election Commission of India, *Expenditure Monitoring*, <https://www.eci.gov.in/expenditure-monitoring>.

²⁶ Paid News Claims First Political Scalp as EC Disqualifies MLA, *The Hindu* (Nov. 21, 2011), <https://www.thehindu.com/news/national/paid-news-claims-first-political-scalp-as-ec-disqualifies-mla/article2556366.ece>.

²⁷ Election Commission Cancels Polls to Two Tamil Nadu Assembly Seats, *Mint* (Apr. 10, 2017), <https://www.livemint.com/Politics/PhzCUjs2N578k4GjhqeiCO/Election-Commission-cancels-polls-to-two-Tamil-Nadu-assembly.html>.

²⁸ Election Commission Wants Power to Deregister Political Parties, *Hindustan Times* (Sept. 27, 2019), <https://www.hindustantimes.com/india-news/election-commission-wants-power-to-deregister-political-parties/story-XnXfACjlgikmfb2dtqw0xH.html>.

²⁹ EC to Approach Govt for More Power, *Hindustan Times* (Apr. 3, 2019), <https://www.hindustantimes.com/india-news/ec-to-approach-govt-for-more-power/story-xQ1GUmZd0GRxMyYdVATQyM.html>.

political parties also sent a letter to Law Ministry & the requested that EC 's request be cancelled³⁰. It is surfaced that, issue of black money is only in speeches of parties, but not in their agendas.

4. **Finance Act, 2017 (Introduction of Electoral Bonds)**

In the year 2017, electoral bonds are introduced to fight against game of black money & cash. Finance minister late Arun Jaitley brought a bill in the parliament on 01/02/2017. He remarked that, even after 70 years, we are unable to find out a way for the transparency of political funding and to achieve the transparency, accountability and to curtail black money in political funding, we've brought a very important reform, called as 'electoral bond'³¹.

4.1 Limit of Rs. 20,000/- is reduced to Rs. 2,000/-

Electoral Bonds are introduced with big promises to bring the transparency in political funding and thereby the limit of donor's cash is set to Rs.2,000/- instead Rs. 20,000/- so that black money can be reduced.

4.2 Amendments in various Acts :

Finance Act, 2017 made amendments in various enactments. In Reserve Bank of India Act, 1934, the amendment is made to authorise scheduled banks to issue electoral bonds. Income Tax Act, 1961 is also amended to exempt political parties from keeping record of electoral bonds. Representation of Peoples Act, 1951 amended to exclude electoral bond from 'contribution report' of political parties. Companies Act, 2013 amended to remove upper limit of donations and allowed not to disclose the details of recipient parties. The limit earlier was set up for donation to political party was 7.5 % of average profit of preceding three years, (Section 182 of Companies Act) . Through amendment, this limit is removed. This denotes that the company can donate as it wants without fear of any limit.

4.3 Denominations of Electoral Bonds

Furthermore, Finance Ministry launched electoral bonds with denominations of Rs.1000, 10000, 1 lakh, 10 lakh, 1 crore for convenience of buying and depositing the money.

4.4 Authority to handle Electoral Bonds vested in State Bank of India (SBI)

As mentioned earlier, the authority to issue Electoral Bonds is given to SBI by amendments in RBI Act, 1934. If anybody wants to donate a political party then he can visit specialised SBI Branches, as authority to issue Electoral Bonds is given to 29 branches of SBI³² like Delhi's Parliament Street

³⁰ Election Commission's Power & Jurisdiction, *The Indian Express* (Nov. 20, 2016), <https://indianexpress.com/article/india/india-news-india/election-commission-ec-power-jurisdiction-voting-4386614/>.

³¹ Journey of Electoral Bonds: Arun Jaitley Defended Anonymity, *Deccan Herald* (Feb. 22, 2024), <https://www.deccanherald.com/india/journey-of-electoral-bonds-arun-jaitley-defended-anonymity-2896789>.

³² Business Today, *Electoral Bonds on Sale from Today: List of 29 Authorised SBI Branches That'll Encash*, BUS. TODAY (Dec. 5, 2022), <https://www.businesstoday.in/latest/economy/story/electoral-bonds-on-sale-from-today-list-of-29-authorised-sbi-branches-thatll-encash-355222-2022-12-05>.

Branch, Lucknow's Hazratganj Branch and other 27 branches in metro cities.

4.5 KYC Compliance for buying Electoral Bonds :

And whenever anybody go to buy the electoral bond, if he is having an SBI account then by details already with SBI, can buy easily . In case anybody don't have an SBI account then he need to comply with KYC norms giving his identity proof³³. The form contains all the details of buyer of electoral bond.

4.6 Conditions on Recipient Political Party :

There are two restrictions regarding giving electoral bond in donation to political party, firstly it should be registered under section 29A of The Representation of People Act, 1951 and secondly , in the last general election, that party should've got more than 1% of votes. Holder of the Electoral Bond can donate it to the party which is complying with both the parameters . The party can receive the money by depositing the bond with SBI . SBI knows that who bought the bond & of how much amount. But apart from SBI, nobody else can know that who bought the bond and for whom . Even the political parties won't know that who donated the electoral bond to them.

4.7 Electoral Bond is bearer instrument .

These electoral bonds will not be issued in the name of purchaser, it'll act as a 'bearer instrument' means the one who receives this bond will own it. Other negotiable instruments like cheque, DD the name of issuer is mentioned. Electoral Bond will act just like a currency note , and bearer thereof owns the same . Suppose, anybody bought this bond & went to the office to give it to 'A Party' and on the road, somebody snatched it and gave it in 'B Party' office , then it belongs to B Party. Electoral Bond is nothing but the converted & consolidated currency note , circulated for the sake of political donation.

4.8 Limitation on concurrence of Electoral Bond

One can buy electoral bonds on specific dates as decided for it like from 1-10th of January, April, July & October³⁴ anyone can buy the electoral bond & in case of election time, the window can be opened for another 15/ 30 days per the direction of the central government.

From the date of purchase of electoral bond ,it be donated within 15 days span, otherwise it becomes stale to be in concurrence and the amount gets transferred to the PM relief Fund³⁵. More than Rs.20

³³ Ministry of Finance, *Press Release on Electoral Bonds*, DEP'T OF ECON. AFFS. (Jan. 2, 2018), https://dea.gov.in/sites/default/files/Electoral%20Bonds_Press%20RELEASE_2-1-2018.pdf.

³⁴ Press Information Bureau, *Government of India Announces Electoral Bond Scheme*, PIB (Jan. 2, 2018), <https://pib.gov.in/newsite/PrintRelease.aspx?relid=175194>.

³⁵ *Automatic Deposit of Uncashed Electoral Bonds into PM National Relief Fund Not a Voluntary Donation: Delhi HC*, LIVE LAW (Feb. 9, 2024), <https://www.livelaw.in/news-updates/automatic-deposit-uncashed-electoral-bonds-pm-national-relief-fund-voluntary-donation-delhi-high-court-221051>.

crores worth of uncashed bonds are transferred to PM relief fund from SBI³⁶.

4.9 Tax Exemption :

Buyer the donor and receiver the political party is exempted from paying tax and receives the amount of bond free of any tax obligation. There won't be any tax on it³⁷. The government has already given more than nine crores for its operations³⁸. Despite the printing is done by Security Printing & Minting Corporation India Ltd. , for which government has paid Rs. 1.90 crore to this company³⁹.

5. Controversies :

On the wake of general elections 2024, the series of controversies & media trials began.

5.1 Unfair Amendments are carried out to bring Electoral Bonds :

The enactments with settled provisions like Companies Act, RBI Act, RPA Act and Income Tax Act are disturbed to accommodate Electoral Bonds.

5.1.1. Amendments are carried out through Money Bill / Finance Act :

The exclusive power to introduce bearer instruments exceeding Re. One is with Reserve Bank of India. Electoral Bond is bearer instrument. Through amendment, SBI is given power to introduce Electoral Bonds. The process of amendment is performed through Money Bill method. RBI is out of scope of Money Bill having sovereign status. Though also the amendment is carried out via Money Bill. The very process of amendment created controversies and opposition alleged that with fear to lose at Rajya Sabha, the Government short circuited the process as for Money Bill the mandate of Rajya Sabha is unwarranted for⁴⁰.

5.2 Electoral Bonds introduced without consultation with RBI & ECI :

The Government kept saying that it has discussed with RBI & ECI and after their approval the electoral bonds are launched⁴¹. However , the correspondence amongst Government, RBI & ECI was leaked and it became evident that there was not an approval but the objection.

³⁶ Poonam Agarwal, *PM National Relief Fund Gets Unused Electoral Bond Funds, Escapes RTI—Why?*, THE QUINT (Feb. 14, 2024), <https://www.thequint.com/news/india/prime-ministers-national-relief-fund-pmnr-fgets-unused-electoral-bond-funds-escapes-rti-why>.

³⁷ The Wire Staff, *Union Government Spent ₹14 Crore of Taxpayers' Money on Running the Electoral Bond Scheme: RTI*, THE WIRE (Feb. 19, 2024), <https://thewire.in/government/union-govt-spent-rs-14-cr-of-taxpayers-money-on-running-the-electoral-bond-scheme-rti>.

³⁸ Newslick Bureau, *₹9.5 Crore of Taxpayer Money Spent on Commission & Printing of Electoral Bonds*, NEWSCLICK (Feb. 20, 2024), <https://www.newslick.in/Rs-9.5%20Cr-taxpayer-money-spent-commission-printing-electoral-bonds>.

³⁹ Ibid

⁴⁰ Chakshu Roy, *How Finance Bill Amendments Affect Tribunals*, PRS INDIA (Mar. 2024), <https://prsindia.org/articles-by-prs-team/how-finance-bill-amendments-affect-tribunals>.

⁴¹ Indian Express Staff, *Explained: Electoral Bonds, RBI, ECI, and the Supreme Court's Ruling*, THE INDIAN EXPRESS (Mar. 2024), <https://indianexpress.com/article/explained/explained-law/electoral-bonds-rbi-eci-supreme-court-explained-9006086/>.

5.2.1 Concerns raised by RBI on Electoral Bonds

Before the electoral bonds, on 30th January 2017, RBI had written a letter⁴² to Ministry of Finance. RBI raised many concerns, firstly, RBI said that Electoral Bonds are like a currency notes the issuance of which is the exclusive privilege of and if SBI is empowered to issue bearer instrument then the trust upon RBI as central bank will be lowered.

Secondly, RBI said that amended section 31 of RBI Act will cause problem in the core principle of central banking will arise and much talked about transparency might not be achievable. Since the Bond is bearer, the person who bought the Bond may not be the donor. The buyer may handover the Bond to any person for donating it to political party. How will one track it that whoever gave his KYC has only donated? It might be possible that the person doing KYC might buy the bond and then someone else would be donating. This will not curtail the black marketing. Furthermore, RBI stated that Electoral Bond is violating the provisions of The Prevention of Money Laundering Act.

The letter sent by RBI is replied by the Finance ministry on the same day⁴³.and the letter of reply was also leaked. Two main things are contained in the reply, one is the object of electoral bond, which failed to convince RBI and second is that the objection is raised at belated stage as the financial bill has already been printed. RBI replied that the objection was raised within two days.

5.2.2. Concerns raised by ECI :

After that, the matter arrives at Election Commission. So even election commission writes the letter and that letter has also been made public through RTI⁴⁴. Wherein, it states that, this electoral bond should be stopped & the Companies Act which was amended to the effect that the company can donate as much it wants to, be restored. The amendments are very dangerous as people will start making shell companies with which black money will keep on entering the market & people will start opening shell companies just to donate political parties.

5.2.3 Concerns raised by Law Ministry :

After this, law ministry even objected it⁴⁵. The provision of 1% vote for registration with election commission may prevent small parties from getting money. This is contrary to the object of The Representation of Peoples Act, 1951 i.e., against the principles of democracy.

⁴² Association for Democratic Reforms, *Electoral Bonds: Seeking Secretive Funds, Modi Govt Overruled RBI*, ADR INDIA (Mar. 2024), <https://adrindia.org/content/electoral-bonds-seeking-secretive-funds-modi-govt-overruled-rbi>.

⁴³ Ibid.

⁴⁴ *Election Commission Opposed Electoral Bonds*, ECON. TIMES (Mar. 2024), <https://economictimes.indiatimes.com/news/politics-and-nation/election-commission-opposed-electoral-bonds/articleshow/107732582.cms?from=mdr>.

⁴⁵ *CEC Objected to 1% Vote Share Requirement for Electoral Bonds*, THE HINDU (Mar. 2024), <https://www.thehindu.com/news/national/electoral-bonds-law-ministry-cec-objected-to-1-vote-share-requirement/article61617050.ece>.

5.2.4 : Suggestions of RBI :

Amidst this , on 27th September 2017⁴⁶ RBI again sent a letter ⁴⁷ wherein everything from Money laundering to how black money can float in the market and rest of the concerns are repeatedly raised with request to reconsider the idea of EBs in physical form and suggested it may be in Demat form.

5.3 : Data kept by SBI have high risk of leakage :

Even if govt's intention to bring transparency is correct , but the transparency is not achievable because all the data is kept by SBI ,which basically comes under government. The chairman of SBI is appointed by government of India. It is possible for the ruling party to call SBI for finding out all the details of bonds, their numbers, how much money was given and to whom, how much money was given to opposition and thus the data is having leakage risk.⁴⁸. Neither the common people know about the donor, nor election commission, not even the income tax department and nor the opposition knows, except the ruling party can have access .Apart from ruling party , the buyer and donor only knows the bond transactions.

5.4 : Serial Number ascertaining identity of Electoral Bonds :

The government said that there won't be any serial number or security code so that the ruling government also doesn't know who gave it the money. Assuming that SBI isn't sharing any data with anyone and is doing its job very accurately ,even then the problem is that these electoral bonds are subjected to the checking in laboratory and the bonds were treated with ultraviolet ray.

It has a secret number regarding which even SBI was stated that we need to keep a unique code which will facilitate many things⁴⁹. As some can make fake electoral bonds and give it to the political parties, so it is important to keep a unique code. Now, due to having this unique code the entire transparency game becomes zero. Anyone can buy a bond & the companies and political parties can co-ordinate amongst them through this number. Donor may influence the government to trace out his donation by that unique code and may get favours in land deals, license negotiations, even leaving the nation. Considering this view, the electoral trust is better option.

Earlier also the ruling party was getting more contributions and now also the ruling party gets more

⁴⁶ *RBI's Objections to Electoral Bonds*, THE WIRE (Mar. 2024), <https://cdn.thewire.in/wp-content/uploads/2023/11/02081851/RBI2.jpg>.

⁴⁷ Urjit Patel, *Letters to the Government on Electoral Bonds*, SCRIBD (Mar. 2024), <https://www.scribd.com/document/438671973/Urjit-Patel-s-Letters>.

⁴⁸ *Electoral Bonds Are Selectively Anonymous for the Ruling Party: Supreme Court*, BAR & BENCH (Mar. 2024), <https://www.barandbench.com/news/electoral-bonds-selectively-anonymous-ruling-party-oppositionsupremecourt>.

⁴⁹ *Electoral Bonds Data: Unique Numbers from SBI & EC Under SC Order*, LIVEMINT (Mar. 2024), <https://www.livemint.com/news/india/electoral-bonds-data-case-unique-numbers-sbi-election-commission-supreme-court-order-bjp-tmc-congress-11711027098622.html>.

contributions.⁵⁰ The ruling party currently receives ten times more than opposition and that is not the fair game⁵¹. On all such counts, the electoral bonds are resisted and opposition wants that Government should resign.

5.5 Undue Interpretation of Art. 21 of Constitution :

Disclosure of political fundings are always resisted by taking undue support of Art. 21, arguing that disclosure of donor's name will infringe the privacy. However, since it is of public interest, right to information must prevail. Further, that fundamental rights are for human beings and not for artificial persons like company. Transparency in political funding is very important as the voter should know that the party to whom he is voting is receiving money from such source. It also checks diagnose the unfair play. The company donated currently, then if in coming years, the company boomingly flourished, then at least the voter may know the tie-up.

6. Constitutionality of Electoral Bonds :

The electoral bonds introduced by government and the Acts which were amended was challenged by NGO namely ADR in the Supreme Court by filing petition [Writ Petition (Civil) No. 880 of 2017 filed on 04/09/2017]. Similar Writ Petition is filed by political party namely CPI on 19/01/2018 after government introduced 'Electoral Bonds Scheme 2018' on 02/01/2018. At the outset the matter was not expediated facing delay but finally the hearing started to test the constitutionality of the electoral bonds.

On 05/03/2019, ADR approached Supreme Court for stay on sale of Electoral Bonds in the light of upcoming Loksabha Elections. On 25/03/2019, ECI filed counter affidavit saying that, amendments carried out by government in order to bring Electoral Bonds will suffer serious consequences looking into object of transparency of political fundings.

On 16/10/2023, case was transferred from 3 Judges Bench to 5 Judges Bench being constitutional bench as it involves 'substantial question of law'. On first day i.e., 31/10/2023 before constitutional bench, petitioners argued against Electoral Bonds with support of various points like black money, corporate funding etc. On second day, i.e., 01/11/2023, Central Government argued supporting Electoral Bonds in light of privacy- confidentiality and to eradicate black money. On third day, i.e., 02/11/2023, Government argued supporting Electoral Bond Scheme saying the implementation is 'fool proof' and 'unbreachable'. Petitioners also argued on same day opposing Union's argument

⁵⁰ Congress Raised ₹1,662 Crore in 5 Years, BJP ₹852 Crore, TIMES OF INDIA (Mar. 2024), <https://timesofindia.indiatimes.com/congress-raises-rs-1662-crore-in-5-years-bjp-rs-852-crore/articleshow/14815077.cms>.

⁵¹ Bibhudatta Pradhan, Modi's BJP Keeps Top Spot as India's Richest Political Party, BLOOMBERG (Jan. 28, 2022), <https://www.bloomberg.com/news/articles/2022-01-28/modi-s-bjp-keeps-top-spot-as-india-s-richest-political-party>.

saying the scheme is undemocratic, illegal and unfair. On 15/02/2024, Supreme Court strikes down Electoral Bonds scheme declaring it unconstitutional alongwith other amendments carried out to bring electoral bonds.

7. Issues before Constitutional Bench

For deciding the matter, two issues were framed. First issue was : Whether non-disclosure of information on voluntary contributions to political parties violates the Article 19(1)(A) - Right To Information ? Second Issue was : Whether the unlimited corporate donations to political parties, even by loss making companies by amending Companies Act violate principle of Free & Fair Elections as envisaged in Article 14 ?

7.1 Whether non-disclosure of information on voluntary contributions to political parties violates the Article 19(1)(A) - Right To Information

This issue was framed in the light of amendments to Section 29C of the Representation of People Act, 1951, Section 182(3) of the Companies Act and Section 13A(b) of the Income Tax Act, 1961.

Arguments of Government : The government stated that they have brought these scheme for combating the use of black money in election process⁵². The information of donor needs to remain unrevealed as Article 21 guarantees the Right of Privacy and Right of Life⁵³. Under such compulsion identity of the donor needs to be concealed.

Further, it was explained through example that, suppose if 'A' is a donor & he want to donate to a political party. For any reason, if that political party loses, other political party wins, then it can harass 'A'. His life could be in danger, they can threaten 'A' with raids of ED, EBI. 'A' can be harassed. So, the person donating would never want to reveal its identity. Like, when a citizen votes, he does it secretly not in front of everyone. This is the same situation. If the political party knows that who has voted in it's favour and who casted vote against it , then the voter voting against may face the consequences.

Observations of Supreme Court : After considering these arguments , Supreme Court said that its true that government want to combat black money. However, the electoral bond they have introduced

⁵² Indian Express, *Govt Defends Electoral Bonds, Calls It a Step Against Black Money, Amit Shah Defends Scheme*, INDIAN EXPRESS (Mar. 27, 2025), <https://indianexpress.com/article/india/govt-electoral-bonds-black-money-amit-shah-9216743>.

⁵³ Supreme Court Observer, *RTI, Privacy, Proportionality, Empirical Evidence, and AI Transcripts: Key Themes from the Electoral Bonds Judgment*, SUP. CT. OBSERVER (Mar. 27, 2025), <https://www.scobserver.in/journal/rti-privacy-proportionality-empirical-evidenceand-ai-transcripts-key-themes-from-the-electoral-bonds-judgement>.

hasn't followed the test of least restrictive means⁵⁴.

Test of 'least restrictive means' means to use the method which is less harmful. Suppose a snake appears in crowded room and there are various weapons like stick, gun, grenade etc.in room, then in such case, a person should use stick to prevent risk instead of using gun or grenade which will cause harm to more people. Therefore, he should use least restrictive means. Same is the case with electoral bonds.

Supreme Court observed that, if one has to stop black money then it could've stopped without violating Article 19(1)(A) comprising RTI⁵⁵. Like, electoral trusts could've been used, awareness be spread not to take hard cash by political parties, taking donations through UPI or cheque or through other banking method. It was asserted that the test of 'least restrictive means' has been failed in this matter. Denying the use of RTI under the guise of privacy is grossly unconstitutional. Supreme Court answered this issue in affirmative.

7.2 Whether the unlimited corporate donations to political parties violate principle of Free & Fair Elections as envisaged in Article 14?

This issue was framed in light of amendment to Section 182(1) of the Companies Act permitting unlimited corporate contributions.

Supreme Court observed that, if a donor is donating a political party honestly, they do have Right to Privacy, his details may be hidden. However, Court needs to see, whether the donor is giving money honestly for the support of political party or just to take a license, to make other deal, using 'quid pro quo' (principle of give and take) and that's why donating the money⁵⁶.

If they're donating honestly and supporting their favourite party then constitution will protect its privacy & won't let to know that whom have they donated to. But if someone is donating just to get a license or to take another benefit, then in that case constitution can't protect his privacy. If someone is donating Rs 20,000 or less than that, then they might be donating to support their political party. But the real problem arises when a loss making company is giving thousands of crores. In that case, there can be a doubt on its intention.

Right of privacy will become subordinate to public interest & need arises to reveal the details of

⁵⁴ *Supreme Court's Decision to Declare Electoral Bonds Unconstitutional is a Monumental Defense of Democracy*, FRONTLINE (Mar. 27, 2025), <https://frontline.thehindu.com/columns/supreme-courts-decision-to-declare-electoral-bonds-unconstitutional-is-a-monumental-defense-of-democracy/article67852053.ece>.

⁵⁵ *How Electoral Bond Scheme is Violative of Article 19(1)(a) of Constitution: What Does SC Verdict Mean?*, NEWS18 (Mar. 27, 2025), <https://www.news18.com/explainers/how-electoral-bond-scheme-is-violative-of-article-191a-of-constitution-what-does-sc-verdict-mean-8779845.html>.

⁵⁶ *Why Did the Supreme Court Strike Down the Electoral Bonds Scheme? Explained*, THE HINDU (Mar. 27, 2025), <https://www.thehindu.com/news/national/why-did-the-supreme-court-strike-down-the-electoral-bonds-scheme-explained/article67848657.ece>.

donation , the right to privacy cannot be the hiding shield to cover and conceal the ‘quid pro quo’ and such disclosure will be balance between transparency and privacy. Of course , the weighbridge is of public interest.

The amendment of Companies Act Sec. 182(3) allowing unlimited contributions, donations was declared unconstitutional, thereby Constitutional Bench answered this issue in affirmative.

7.3 Amendments in Companies Act, Income Tax Act, Representation of People Act declared unconstitutional

Entire reform of electoral bond was declared unconstitutional on 15th February, 2024⁵⁷ and discarded by the Supreme court with giving consequential effect of abrogating the accommodating provisions of the Income Tax Act, Representation of People Act, Companies Act.

7.4 Directions to SBI for full disclosure of data :

In its Judgment dated 15/02/2024, the Court directed SBI to immediately stop the issuance of electoral bonds and ordered election commission to make public-display of all the details of the donor companies and recipient political parties. If any political party still possess uncashed bonds, then those should be returned back and all these details be made available to the public latest by 21st March 2024.

On 04/03/2024, SBI filed application for seeking time to disclose data saying that, data being complex process takes time to decode it.

On 06/03/2024, ADR filed contempt application opposing SBI’s application praying extension of time, saying that, SBI have unique serial number on electoral bonds and as such, data being ascertained is ready for disclosure.

On 11/03/2024, Supreme Court dismissed SBI Application and directed to comply judgement in one day i.e., on 12/03/2024.

On 15/03/2024, Supreme Court took note of missing Electoral Bonds data through Misc. Application filed by ECI.

On 18/03/2024, Supreme Court orders SBI for complete disclosure of transactions and finally on 21/03/2024, SBI filed affidavit confirming full disclosure of Electoral Bonds Details.

8. Observations from Details released by Order of Supreme Court :

8.1 Ruling Party got Higher Donations :

On 12/04/2019, Supreme Court directed all parties to submit donation details to ECI in sealed

⁵⁷ 2024 INSC 113

envelope⁵⁸. On 21/03/2024, the data is released by SBI in public. Looking into all the details⁵⁹ and data released, it is observed that, the ruling party got higher donations and 92.30% electoral bonds was bought in a denomination of Rs 1 Crore. It means that, instead of common people, the corporate donors were donating

8.2 Troubled Companies who bought Electoral Bonds given clean-chits and other benefits :

Released data revealed many astonishing aspects, such as, 21 companies have bought bonds after the raids by central agencies like CBI, ED⁶⁰. Most of these companies bought EBs in same month in which the raid conducted. For example, ‘Future Gaming & Hotel Services Pvt. Ltd.’, was raided in the 1st week of April and on 7th April the donation is contributed. The profit of this company was Rs 215 crores and this company had donated more than Rs 1300 crores⁶¹. Similarly, Aurobindo Pharma was raided on November 2022 & the money was donated at the same time⁶². And that's why it was said that the Companies Act which was changed to allow unlimited donations. Due to mandate of disclosure, these unfair facts are revealed.

Similarly, CBI raided DLF's office regarding a deal between DLF & Robert Vadra in January 2021⁶³ and then from October 2019 to November 2022, Rs 170 crore were donated through bonds and then after 5 months, in April 2023 it came to light that the deal between DLF & Robert Vadra didn't have any violation⁶⁴. Megha Engineering donated Rs 100 crore on 11th April 2023 and in the next month, they got a tunnel project of Rs 14,400 crore⁶⁵.

⁵⁸ Election Commission of India, *Disclosure of Electoral Bonds*, ELECTION COMM'N INDIA (Mar. 27, 2025), <https://www.eci.gov.in/disclosure-of-electoral-bonds>.

⁵⁹ Election Commission of India, *Electoral Bonds Data*, ELECTION COMM'N INDIA (Mar. 27, 2025), <https://www.eci.gov.in/eci-backend/public/api/download?url=LMAhAK6sOPBp%2FNFF0iRfXbEB1EVSLT41NNLRjYnJJP1KivrUxbfgkDatmHy12e%2FzBiU51zPFZI5qMtjV1qgjFmSC%2FSz9GPIId9Zlf4WX9G%2FyncUhH2YfOjkZLtGsyZ9B56VRYj06ilsFTelbq233Uw%3D%3D>.

⁶⁰ *After Raids by Central Agencies, These 21 Companies Purchased Electoral Bonds*, SCROLL.IN (Mar. 27, 2025), <https://scroll.in/article/1065267/after-raids-by-central-agencies-these-21-companies-purchased-electoral-bonds>.

⁶¹ *Congress Says Electoral Bonds Data Exposes BJP's Corrupt Tactics*, NDTV (Mar. 27, 2025), <https://www.ndtv.com/india-news/congress-says-electoral-bonds-data-exposes-bjps-corrupt-tactics-5241950>.

⁶² *Aurobindo Donated to BJP Five Days After Sarath's Arrest*, TIMES OF INDIA (Mar. 27, 2025), <https://timesofindia.indiatimes.com/city/hyderabad/aurobindo-donated-to-bjp-five-days-after-saraths-arrest/articleshow/108694739.cms>.

⁶³ *DLF Closes 11.5% Down After CBI Raids Office*, BUSINESS STANDARD (Mar. 27, 2025), https://www.business-standard.com/article/news-ians/dlf-closes-11-5-down-after-cbi-raids-office-119012500859_1.html.

⁶⁴ *After ₹170 Crore to BJP, Real Estate Firm DLF Got Clean Chit in Vadra Deal from Haryana*, SCROLL.IN (Mar. 27, 2025), <https://scroll.in/article/1065652/after-rs-170-crore-to-bjp-real-estate-firm-dlf-got-clean-chit-in-vadra-deal-from-haryana>.

⁶⁵ *Megha Engineering Beats L&T to Bag ₹14,400 Crore Thane-Borivali Twin Tunnel Project*, MONEYCONTROL (Mar. 27, 2025), <https://www.moneycontrol.com/news/business/megha-engineering-beats-lt-to-bag-rs14400-crore-thane-borivali-twin-tunnel-project-mmrda-head-10575341.html>.

8.3 Unfair Buying of Electoral Bonds :

It is observed that, companies have donated through electoral bonds more than their profit⁶⁶. In this matter, Dr. Chandrachud, CJI, Supreme Court asked Govt, 'If you don't have a percentage, then why would a company or what conceivable reasons would a company donate 100% of its profit. I have a one rupee profit but I'll donate a hundred crore. Why would a company do that?'

8.4 Clean Chit for donor Companies in Covid Period :

During Covid, drugs like 'Remdesivir' were introduced. At that time, there were seven companies failed in quality checks but bought electoral bonds for political fundings⁶⁷. For example, Hetero Labs was sent 6 notices by Maharashtra Food & Drug Administration in July 2021 as it's sample of manufactured 'Remdesivir' was yellowish instead of clear . That's why this sample had failed in the quality. Omprakash Sadhwani former Joint Commissioner of Drugs said that ,it's license should be suspended and in July 2021, notice was sent to this company and in April 2022 they donated Rs. 40 crores and they escaped⁶⁸. Rest of the remaining companies whose drugs failed the quality checks, were subjected to the notice and after buying bonds everything got sorted out.

8.5 List of Donor Companies includes Companies working for Government :

Among the list of donors, the top 50 companies who gave the most donations, surprisingly their working & operating was depending on governmental grants and government contracts, require approvals for use of lands, licenses from pollution control authorities , no objections regarding environmental matters ,etc.,⁶⁹.

9. Conclusion and Suggestions :

Anybody can support its chosen political party by contributing to the funding, but it is emphasized that such contributions be made in transparent manner. There should not be the hidden element of quid pro quo causing unfairness in election process.

Political Parties need funds . It is universally accepted that ,the corporate contributions in funding plays the important role and may be act like game changer. Indeed, its welcome stage to introduce the Electoral Bonds. The mechanism of Electoral Bonds created the controversy as it lacked the core

⁶⁶ *Electoral Bonds Data: SBI Top Donors vs. Net Profit Comparison – Future Gaming, Airtel*, THE QUINT (Mar. 27, 2025), <https://www.thequint.com/news/politics/electoral-bonds-data-sbi-top-donors-vs-net-profit-comparison-future-gaming-airtel>.

⁶⁷ *Seven Firms that Failed Drug Quality Test Gave Money to Political Parties Through Electoral Bonds*, SCROLL.IN (Mar. 27, 2025), <https://scroll.in/article/1065318/seven-firms-that-failed-drug-quality-test-gave-money-to-political-parties-through-electoral-bonds>.

⁶⁸ Ibid.

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principle of transparency . In democratic set-up ,the elections need the fair play. It is settled position that public interest prevails over right of privacy.

It is observed that, Electoral Bonds were introduced without taking into consideration of other authorities like RBI and ECI. Suggestions of RBI to bring electoral bonds in ‘demat form’ is discarded. If Electoral Bonds are to be introduced in bearer instrument, RBI be given power to issue it, however, instead of RBI, its subsidiary body i.e., SBI has given power, which is against the core principles of central banking functions. Moreover, central government while introducing electoral bonds be given mandate to each political party to reveal their donations in each financial year for its transparency. The information be kept open as it’s not private but public money. Though Electoral Bonds are declared as unconstitutional, it opened the idea for legislature to prepare strong law for protecting everyone’s interest in Corporate Fundings as well Political Parties.

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