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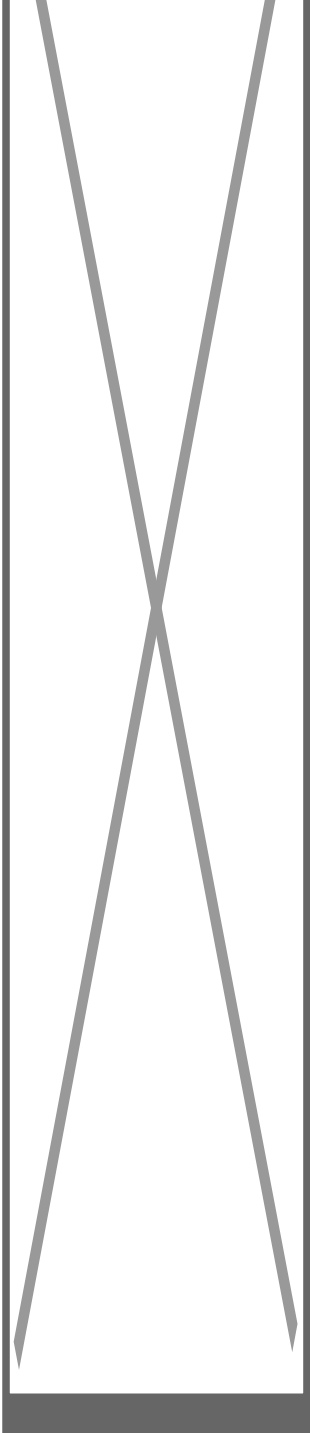
Electoral Bond Schemes

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Why is in news? Electoral Bonds: How SC struck down amendments in three key laws,

restored status quo restricting political donations

Prioritising voters' right to information regarding political parties' sources of funding, the Supreme Court February 15 **struck down the Electoral Bonds Scheme (EBS)**.

Introduced by the Centre **in 2018**, EBS allowed **individuals and corporations** to anonymously fund political parties by purchasing electoral bonds **from the State Bank of India**.

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Along with the Electoral Bonds Scheme (EBS), the Supreme Court also struck down several amendments that the government made in key laws to facilitate corporate donations to political parties.

The amendments were made through **The Finance Act, 2016, and The Finance Act, 2017**, before the EBS was introduced in January 2018.

Before the two Finance Acts were passed, political parties were **required to declare all contributions more than Rs 20,000 with no exceptions**, and to maintain a record of all donations more than Rs 20,000 for purposes of taxation.

Also, there was a cap on the amount of money that a company could donate to a political party in a financial year: companies could **contribute a maximum of 7.5% of their average net profits** from the preceding three years.

The Finance Act, 2017 amended **The Representation of the People Act, 1951 (RPA), The Income-tax Act, 1961, and The Companies Act, 2013.**

The amendments allowed electoral bonds to cut through many of the restrictions on political party funding by completely doing away with the donation limit for companies, and removing the requirements to declare and maintain a record of donations through electoral bonds.

The Supreme Court's judgment has **restored the status quo that existed before the Finance Act, 2017** was passed, in all of these statutes. This is what the relevant provisions of these laws say.

The Representation of the People Act, 1951:

Section 29C of the Act requires political parties to **prepare a report detailing the donations received by them** in a financial year. Parties are required to declare all contributions higher than Rs 20,000 in this report, and specify whether they were received from individual persons or from companies.

The Finance Act, 2017, amended the RP Act to include **an exception to Section 29C**. It said that the requirement to declare all donations in excess of Rs 20,000 would **not apply to donations received through Electoral Bonds**.

The **Supreme Court struck down the amendment**, and observed that the original requirement to disclose contributions of more than Rs 20,000 did an effective job of balancing voters' right to information with the right to privacy of donors, as donations below this threshold were far less likely to influence political decisions.

The Companies Act, 2013:

A number of changes were made to **Section 182 of the Act**, which details the prohibitions and restrictions a company must abide by when giving political contributions.

Prior to the amendment, Section 182(1) placed a cap on the amount of money a company could donate in a single financial year, limiting it to **7.5% of the company's average net profits** during the previous three financial years.

Section 182(3) required a company to disclose any amount contributed to any political party along with the particulars of the amount donated and the name of the receiving party.

This section was amended to **remove the cap on the amount of money a company could donate** to a political party. Also, only the total amount contributed had to be disclosed — and the company would no longer be required to declare which political party it had sent a donation to, nor the specific amount.

The court struck down this amendment. Chief Justice of India (CJI) D Y Chandrachud observed that **“permitting unlimited corporate contributions authorises unrestrained influence of companies** in the electoral process”.

The court held that **this violated the right to free and fair elections**, and restored the original provision which is meant to curb corruption in electoral financing.

The Income-tax Act, 1961:

Section 13A(b) of The Income-tax Act says that a political party **shall not include voluntary contributions** as part of its total income, but it is **required to maintain a record of all contributions received that are above Rs 20,000**. This record must include the name and address of the person who has made the donation.

The Act amended this section to include the words “other than contribution by way of Electoral Bond”.

Also, a new **Section 13A(d)** was added, which required that **all donations exceeding Rs 2,000 must be given through certain methods**, which included Electoral Bonds.

The court held that exempting political parties from maintaining a record of donations received through Electoral Bonds would **violate the right to information of voters** under Article 19(1)(a) of the Constitution.

The court struck down both the amendment to Section 13A(b), and the new Section 13A(d).

Electoral Bond Scheme:

Electoral bonds are an instrument through which **anyone can donate money to political parties**.

Electoral bonds can be **purchased by Indian citizens**. A person can buy Electoral Bonds, **either singly or jointly** with other individuals.

Only the political parties registered under **Section 29A of the Representation of the People Act, 1951** and which, secured **not less than one per cent of the votes polled in the last general election or a legislative assembly**, shall be eligible to receive the Electoral Bonds.

The bonds, which are sold in **multiples of Rs 1,000, Rs 10,000, Rs 1 lakh, Rs 10 lakh, and Rs 1 crore**, can be bought from **authorised branches of the State Bank of India** via cheque or digital mechanism (cash is not allowed).

The donor can then give this bond to the parties of their choice. **Donor’s name is not mentioned on the bond**.

The political parties can choose to **encash such bonds within 15 days** of receiving them and fund their electoral expenses.

The political parties have to **disclose the amount to the Election Commission**.

Objective of the scheme:

Transparency in political funding: To ensure that the funds being collected by the political parties is accounted money or clean money.

Issues with the Scheme:

Opaque funding: While the identity of the donor is captured, it is not revealed to the party or public. So transparency is not enhanced for the voter.

No IT break: Also income tax breaks may not be available for donations through electoral bonds. This pushes the donor to choose between remaining anonymous and saving on taxes.

No anonymity for donors: The privacy of the donor is compromised as the bank will know their identity.

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Differential benefits: These bonds will help any party that is in power because the government can know who donated what money and to whom.

Potential for Crony-Capitalism: May facilitate the inflow of black money and favor-seeking by businesses.

Non-Election Use: Critics argue that the name “Electoral Bond” is misleading, as the money can be used for any purpose, and there is no requirement for parties to use it for elections.

Loopholes: Corporate entities may still need to disclose donations, and caps on company contributions are eliminated, creating potential loopholes.

Implications of the Judgment:

Enhance the transparency and accountability of political funding:

The judgment will ensure that the public will have access to the information about the source and amount of funding received by the political parties through electoral bonds.

This will enable the public to scrutinize and hold the political parties accountable for their performance and conduct.

Reduce the influence of money and corporate power in politics:

The judgment will curb the influence of money and corporate power in politics, as the donors will no longer be able to hide their identity and agenda behind the veil of anonymity.

This will prevent the political parties from being influenced by the vested interests of the donors and ensure that they serve the public interest and the common good.

Ensure the level playing field for all political parties:

The judgment will level the playing field for all political parties, as they will no longer be discriminated against based on their vote share or popularity.

This will enable the smaller and regional parties to compete with the ruling party and the major opposition parties on an equal footing and offer a genuine choice to the voters.