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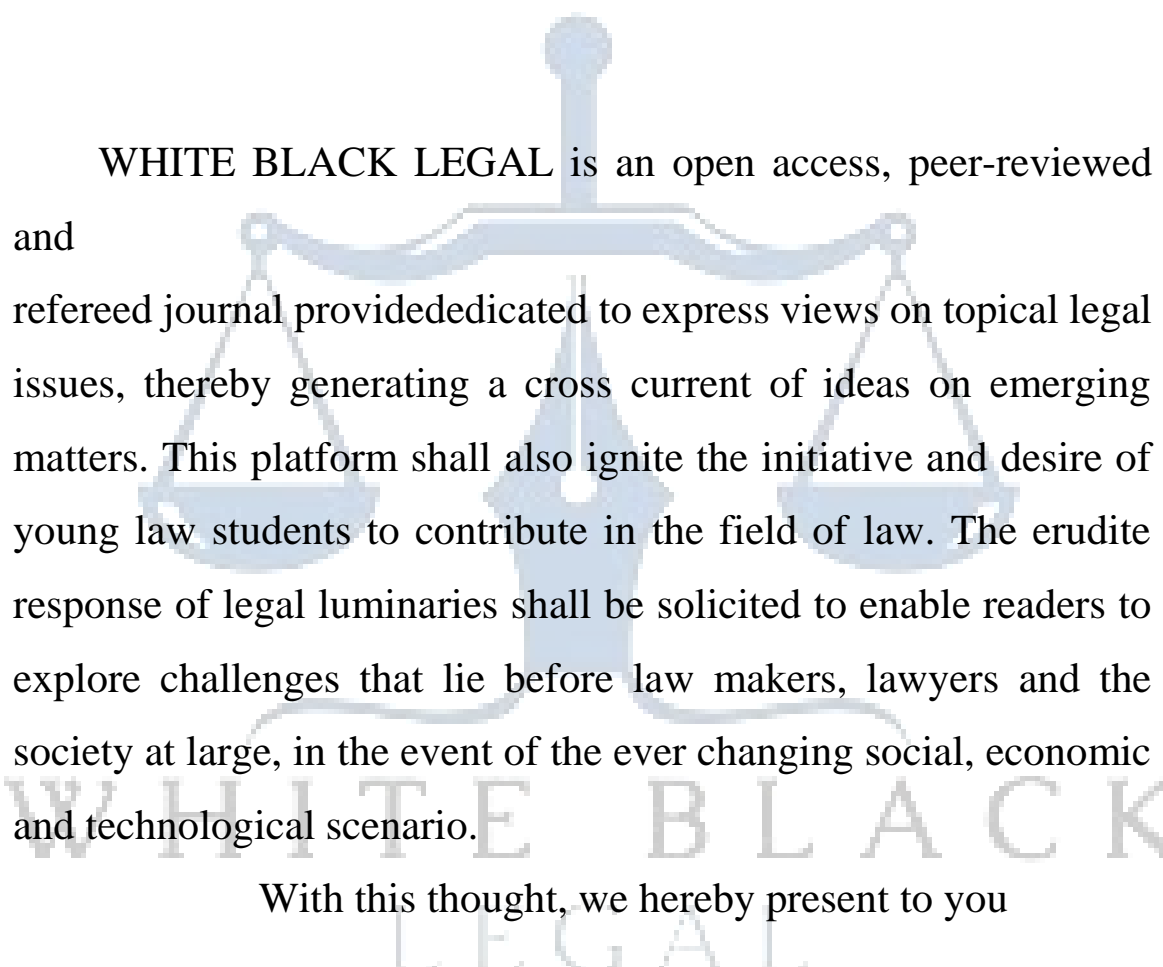


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With this thought, we hereby present to you

A CONSTITUTIONAL CONTROVERSY: THE INDIA LAW CONCERNING ELECTORAL BONDS

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ABSTRACT

There has been a great deal of constitutional discussion in India about the introduction of Electoral Bonds, with many people worried about how they may affect the openness and equity of political financing. Focusing on the seminal Supreme Court decision that deemed Electoral Bonds illegal, this study provides a critical examination of their unconstitutionality. Their opaque nature, which the Court saw as threatening both the right to know and the integrity of the voting process, led to its conclusion. The article delves into the extensive criticism of Electoral Bonds, bringing attention to the concerns voiced by opposition parties, legal experts, and members of civil society who contend that these bonds encourage corruption and unbridled corporate power. An analysis is provided of the reasoning behind the Supreme Court's decision to invalidate the plan, particularly its stress on the constitutional need for openness in the funding of political campaigns. The study also explores the ruling's short- and long-term effects, looking at how it would affect India's democratic procedures and the credibility of its elections. Legislative and policy changes that may occur as a result of the decision are also covered. The purpose of this research is to add to the current conversation on electoral reforms and the need of a more open and responsible system for financing political campaigns in India.

KEYWORDS: Electoral Bonds, Supreme Court, Transparency, Political Funding, Constitutional Law

INTRODUCTION

The lack of openness and responsibility surrounding political parties and candidates in India has long cast doubt on the legitimacy of campaign finance in the country. To clean up election funding, the Modi government suggested electoral bonds in 2017 to increase transparency and decrease cash transactions. At first, the plan's proponents said it was a better alternative to cash equivalents as it enabled people to donate to political parties anonymously via State Bank of India branches. However, constitutional experts, transparency advocates, and opposition parties all felt it legalized companies' ability to make limitless payments anonymously. Some feel that the right of people to know how political parties are funded is violated by the anonymity of contributors. Donations above 20,000 rupees were needed to be declared under the Representation of the People Act, and electoral bonds were seen as a move in the wrong way since they removed contribution limitations and reduced transparency. The bond program started taking subscribers in March 2018, and the ruling BJP controlled more than 95% of the total. The majority of the bonds issued in 2019–20, totaling Rs 5,000 crore, were bought by large corporations.¹ As the general elections approach, the inspection of electoral bonds has become more intense, with opposition parties arguing that the plan benefits the governing party while harming their fundraising efforts. The Supreme Court ruled the plan unlawful and arbitrary, a significant victory for transparency. The full effect of the scheme depends on the disclosure of bond transactions to determine who gave what amount of money to which party. The public must be aware of contributors interested in shaping policies and governance to ensure free and fair elections.²

RULING DECLARES BONDS UNCONSTITUTIONAL BY SUPREME COURT

Because it infringed people's fundamental right to access information and greatly reduced transparency in political financing, the Indian Supreme Court ruled that the Electoral Bond Scheme was illegal and contrary to the constitution. Legislative changes in 2017 to the Finance Act and the Representation of the People's Act made it easier for political parties to accept donations from anonymous sources. Transparency and a decrease in the use of illicit funds to fund elections were goals of the government. Approximately 95% of the over Rs 16,000 crores

¹ Sharik, M. D. "Electoral Bonds: A Critical Study." Issue 2 Indian JL & Legal Rsch. 4 (2022): 1.

² George, A. Shaji. "The Unconstitutional Nature of Electoral Bonds in India: Impacts on Political Transparency and the Democratic Process." PURIP 2, no. 1 (2024): 150-164.

distributed via electoral bonds from 2018 to early 2022 went to the Bharatiya Janata Party (BJP).³

Several PILs, or public interest lawsuits, were filed in 2017 that questioned the system's constitutionality. Opposition political groups and non-governmental organizations (NGOs) like the Association for Democratic Changes are among the petitioners. The lawsuits claimed that the elimination of disclosure requirements for political donations violated the right to know of the people, as stated in Article 19(1)(a) of the Constitution. The fundamental right to freedom of expression is safeguarded under Article 19(1)(a). The right to know about public problems and candidates is part of this, as the Supreme Court has interpreted it, so that people may make educated choices. Petitioners claimed that this right was violated since political contributors' identities and contributions were hidden via the use of bonds.⁴

By directing donations via regular banking channels instead of shady ones, the government cast doubt on claims that electoral bonds would increase transparency. A middle ground between transparency and privacy, donor anonymity was proposed to deter individuals and organizations from contributing to political parties. The case was first examined by the Supreme Court in 2021, but in April of 2022, a bigger constitutional bench was asked to review it because of serious problems with individual rights. In October 2022, hearings were initiated, and a unanimous verdict was rendered declaring the program in violation of law. The court ruled that restrictions on the right to information may only be imposed in extreme cases, including where there is a threat to public safety or national security. The need for political donations to remain anonymous violates reasonable limitations; the state cannot prioritize privacy above openness, violating a fundamental democratic principle. Since the predominance of illegal finances was not reduced by anonymous contributions, the electoral bond program was unable to achieve its aims. Further concentration of power in the hands of big businesses has resulted from the elimination of restrictions on corporate contributions. Voters' rights, transparency, and accountability have been vindicated by this landmark decision, which highlights the need of openness in disentangling dubious motives from political donations.

³ Prakash, Bhaswat. "Interpreting the Illicit Nexus of Ruling Party in form of "Electoral Bond Scheme": After it being declared as "Unconstitutional" by Apex Court." Available at SSRN 4816678 (2024).

⁴ Rathee, Himangshu. "Electoral Bonds Scheme & Election Finance: A Systematic Process to Imbalance the Electoral Level Playing Field." A Landmark on the Indian Constitution 224 (2023).

THE FUNCTIONS OF ELECTORAL BONDS

Bonds Allowed Anonymous Political Donations

Because they enable anonymous donations to political parties, electoral bonds in India have caused controversy. There was no buyer's or payee's name written on the certificates of these bonds; they were bearer instruments. You may buy these at any State Bank of India branch. After fifteen days, the bond will be cashed in by the political party of your choice. After SBI transfers the gift money to the recipient's account, the recipient may deposit the bond. The use of electoral bonds facilitated substantial anonymous donations, including contributions from corporations and international entities, without requiring donor identification. This led to "legalised money laundering" by activists, who referred to it as "legalised money laundering."⁵ The government defended anonymity, claiming that public disclosure would convince funders to refrain from donating to political campaigns. Critics argue that the citizen's right to know where substantial financing for political parties comes from is more important than privacy. Anonymity has led to the absence of transparency in political funding and the undermining of fair elections. Democracy is distorted when political parties receive money from unknown sources, as seen in corporate bonds, which allows the governing party to engage in cronyism with large corporations.

Experts argue that electoral bonds have enabled parties to receive anonymous money from foreign sources, obscuring foreign influence in domestic politics. The removal of caps and transparency increased the level of anonymity, with the governing BJP receiving almost 95%⁶ of all contributions for electoral bonds. India had open reporting standards for party fundraising before bonds, but the idea of anonymity degraded transparency, leading to genuine investigations by courts and civic society.

Donors Bought Bonds from SBI Branches

As soon as the electoral bond program was put into place, the SBI was made the only bank liable for issuing and selling electoral bonds to donors. A total of 29 branches were originally set up in major cities throughout India by the bank. Hundreds more branches throughout the country were added to the list as time went on. Bonds were offered by the SBI in denominations ranging from 1,000 to 1 crore, with increments of 1,000, 10,000, 1 lakh, 10 lakh, and 1 crore.

⁵ Kumar, Ravinder. "Understanding Electoral Bonds in India: Transparency or Ambiguity?" *Excellencia: IMDJE* (2994-9521) 2, no. 7 (2024): 444-453.

⁶ Kumar, Ashutosh. "The Role of Money in India's Elections: How Effective Is the Political Finance Regime?" *Millennial Asia* (2024).

Buyers had to provide the bank their name, address, and PAN number—basic KYC data—in order to get a bond.⁷ Neither the public nor the Election Commission were informed of the identity of those who bought electoral bonds by the bank. The purchaser chose which political party to support when they made a cash or electronic transfer contribution to the SBI account. Redistribution would have occurred if the parties did not deposit the bonds into their accounts within fifteen days after issuance. From March 2018 to October 2022, SBI branches offered election bonds to donors with a total value of over Rs 16,000 crores.⁸ However, the bank did not provide information about who purchased how many bonds and for which organisations. This has raised concerns about money laundering and the rationale behind SBI's use as a vehicle for facilitating anonymous political contributions. The SBI justified its position by referencing the rule of law and stating that it was only carrying out obligations in accordance with a lawfully established plan.

Bonds Funnelled Donations to Political Parties

The electoral bond system is a novel mechanism that allows anonymous donations to covertly reach political parties. Donors may "funnel" the bond funds they received from SBI to any of the registered political parties. The obligee was obligated to deposit the bond certificate into their official bank account within fifteen days of receiving it. The party's donation will be credited to their account, and the bank will get the encashed bond. Because of this, donations might move directly into party coffers in an undetectable manner. In the past, political parties that accepted corporate donations were obligated to reveal the names of donors and the sums given via electoral trusts as per the restrictions set down by the RBI. Electoral bonds eliminated these regulations, allowing an infinite amount of money to be surreptitiously channeled. The strategy mostly benefited the ruling Bharatiya Janata Party, according to studies that looked at bond donations. Out of a total of 16,000 crores provided between 2018 and 22, the Bharatiya Janata Party (BJP) got almost 75% of the anonymous bond money, or more than 12,000 crores. A pitiful Rs 800 crore, or 5%, was collected by the Congress, who said that bonds were used as a means for anonymous "bribes" to the BJP. The ruling party's allies were allegedly profited at the expense of democratic accountability and other stakeholders as a result of the anonymous transfer of monies from foreign firms and other unknown sources, according to the government.

⁷ Venkatramani, R. "First Dr. KC Ramamurthy Endowment Lecture on Constitutional Governance & Public Policy from an Indian Perspective." *CMR Univ. J. Contemp. Legal Aff.* 5 (2023): 7.

⁸ Ananda, D. "Electoral bonds: a peril to democracy and transparent elections in India." *Journal of Liberty and International Affairs* 9, no. 1 (2023): 89-100.

OPPOSITION TO ELECTORAL BONDS

No Limits on Corporate Donations

Some have argued that unfettered corporate expenditure resulted from the electoral bonds model's provision for unlimited corporate donations to political parties. Corporations, according to some, might be undermining democratic accountability by using their anonymity to finance unlimited contributions. From 2018 to 2022, the election bonds market received Rs 16,000 crores, with companies contributing about 95% of the cash to political parties and candidates, according to the protesters. Many people were concerned that political parties were using corporations to influence policies and that corruption was pervasive as a result of these events. Opponents of disclosure standards and limits said that doing away with them would lead to a double distortion, while proponents of transparency argued that businesses would resort to illegal means to reinvest their donations if contributions were limited. All three of these big democracies Germany, the UK, and the US remain committed to similar limits on corporate contributions. But when India lifted its constraints, anonymity-fueled boundless corporate power was born. Although electoral bonds were earlier characterized by the Election Commission as having "adverse transparency implications," the scheme was still launched without consultation by the government.

Concerns over Lack of Transparency

Electoral bonds in India have been criticised for reducing transparency in political finance, as they allowed anonymous donations without disclosure of donor information. This contradicts the transparency requirements set by the Reserve Bank of India (RBI) to clean up electoral finance. Between 2018 and 2022, over 16,000 crore rupees were contributed via electoral bonds, but there was no transparency about donor information.⁹ People from other countries may donate anonymously via electoral bonds, and critics say that lowering transparency would make it easier for illegal monies to be provided to political parties. According to a Parliamentary Standing Committee's research on electoral relationships, openness about campaign funding is characteristic of contemporary democracies. On the other hand, electoral bonds introduced untraceable finances into the democratic system by enabling endless anonymous donations to be paid directly to party accounts via a public sector bank. The problem was made worse by the introduction of untraceable funding and the elimination of transparency requirements.

⁹ Shaikh, Abdul Ahad. "Electoral Bonds: An Unconstitutional Path for Democracy." *Jus Corpus LJ* 4 (2023): 141.

Violation of Right to Information

Electoral bonds have been challenged by the highest court in India, which claims they violate the right to knowledge guaranteed by Article 19(1)(a) of the constitution. It is believed that the public has a right to know who is influencing their elected officials and what their financial interests are in relation to the opaque nature of these bonds as a means of financing political parties. A huge information vacuum around crucial aspects of the democratic process, sometimes known as state-sponsored corruption, has resulted from the reduction of accountability caused by the elimination of transparency regulations. Without transparency on the origins, amounts, and interests of political donations, organizations may unlawfully and excessively influence elections across the globe. As a cornerstone of the freedom to freely express oneself and to cast a valid ballot, the Supreme Court has upheld the significance of transparent elections. Those who are against electoral bonds say they don't have enough merit to warrant cutting off such a vital source of data.

CONCLUSION AND REASONING OF THE SUPREME COURT IN THE CASE OF ASSOCIATION FOR DEMOCRATIC REFORMS V. UNION OF INDIA¹⁰

Bonds Violated RTI

In a historic decision, India's highest court found that electoral bonds violated citizens' constitutionally protected right to receive vital information. These bonds allowed for unlimited anonymous contributions to political parties, which in turn prevented voters from having access to important information that would have helped them make educated choices. According to the Court, there are very few circumstances in which the right to information, as guaranteed by Article 19(1)(a), may be limited, including situations involving threats to national security, public order, or the nation's integrity. Political donations, however, did not qualify as an area requiring such confidentiality. The bench concluded that transparency in political financing is critical for preserving the credibility of voting. Election integrity is jeopardized when contributors' identities and the interests they support are not made public. Thanks to electoral bonds' anonymity feature, important information on the factors impacting policy and governance remains hidden. The Court sided with the petitioners who challenged the bonds, stating that removing transparency and without putting limitations on political donations diminishes democratic norms. To combat abuse and corruption, the ruling highlighted that the

¹⁰ 2024 INSC 113

best parliamentary democracies need full disclosure of all political donations. As the Court pointed out, choices are made based on the interests of financial supporters rather than the public benefit when financing methods are not transparent. This leads to corruption and a distortion of public policy. Political bribery between powerful contributors and the parties in power might shape policy in this situation. The mechanism prevents these inappropriate influences from being investigated by hiding the identities of those involved. The administration argued that the bonds were necessary to safeguard the privacy of donors, but the Court found that the public's right to open and honest elections was more important. Candidates for public office and political parties willingly engage in the arena of public accountability. Consequently, voters have a right to know who is financially supporting the candidates for office. Restoring openness in political contributions, the Court struck down electoral bonds as unconstitutional. It also abolished anonymity as an excessive intrusion on the people's right to know by requiring the disclosure of all bond-related transactions to the Election Commission for public monitoring. For revealing the financial forces behind political parties and preserving the value of informed voting in a democratic society, this ruling has received widespread appreciation from experts.

Failed to Curb Black Money as Claimed

Due to their ineffectiveness in combating dark money and improving the openness of political financing, the Supreme Court struck down electoral bonds. In its decision to invalidate electoral bonds, the Supreme Court relied on this basic concept. Election bonds, according to the government, would increase the reach of the legitimate economy and decrease the amount of illicit money used in elections by requiring donations to be made via official banking channels. Yet, the court failed to discover any proof that the approach had reduced murky money or brought about genuine transparency. According to the research, electoral bonds really opened a new avenue for the illicit transfer of monies to political parties. Removing electoral bonds from the equation promoted opacity over transparency. This was achieved by lowering donation restrictions and doing away with the need for open reporting of contributions. Over seventy-five per cent of the sixteen thousand crores of rupees that were contributed via electoral bonds were given to the party that was in power at the time.¹¹ This concentration of contributions was not indicative of a decline in illegal fundraising; rather, it suggested a lack

¹¹ Shaikh, Abdul Ahad. "Electoral Bonds: An Unconstitutional Path for Democracy." *Jus Corpus LJ* 4 (2023): 141.

of openness and accountability. It has been observed by specialists that electoral bonds may have just consisted of a transfer of illicit funds from cash to banking channels. It is still possible to create shell firms to carry out anonymous bond purchases with illegal cash and then contribute those bonds to political parties. As a result of a lack of transparency, bonds actually legitimised unlawful contributions, which was the opposite of what they were intended to do. As a result of the removal of restrictions on political donations, electoral bonds introduced a floodgate of opportunities for money laundering via the use of a valid instrument. It has been brought to the attention of the Association for Democratic Reforms that opaque bonds prove to be more detrimental than monetary contributions. It is at least true that the latter left some paper trace. In its decision, the US Supreme Court found that electoral bonds promoted a culture of carelessness, hindered regulatory oversight of donations, and undermined openness. Claims that banking systems may help eliminate black money become meaningless justifications because of this. The Court noted that transparency requirements are measures that are widely believed to be successful in combating unlawful funding of politics while safeguarding the right to information. The administration claims that since bond donors could stay anonymous, the instruments were ineffective in reducing the influence of money in politics. According to specialists at the relevant institution, this conclusion is crucial since it strongly suggests that electoral bonds do not have a meaningful influence on black money in elections. This confirms the Court's long-held view that secrecy encourages wrongdoing and that transparency allows for oversights.¹²

Prioritised Donor Privacy Over Transparency

According to the Supreme Court's ruling, the electoral bonds system puts contributor privacy ahead of the need for open political finance. Citizens' right to know where their election funds are coming from is undermined by the system, which views donor anonymity as essential to privacy protection. The government's position was that protecting the identity of donors was important to avoid any kind of reprisal against those who provide money to political parties. The Court, however, felt that the level of openness was inadequate and that the level of anonymity was too high. The court pointed out that the Election Commission is already compelled to know about contributions above Rs 2000 under the current statutes. In contrast, the electoral bonds system did away with the need for transparency altogether, without making

¹² Mehrotra, Abhinav, and Amit Upadhyay. "Electoral Bonds: What the SC judgment means and how political funding is regulated in western democracies." *ABP Live* (2024).

any special accommodations for certain contributors. The Court stressed that donor privacy does not justify restricting the public's right to access information; such restrictions are only permissible in very restricted circumstances, such as to preserve public order or to avoid incitement. Therefore, the scheme's requirement that donors remain anonymous did not constitute a legitimate limitation on the right to knowledge of the public.¹³

According to experts, the Supreme Court has made it quite plain that individuals cannot cite privacy as an excuse to hide information that the public needs, especially in cases where there might be conflicts of interest, such as with political funding. Honesty is vital in a democratic society. Political parties and candidates knowingly submit to public scrutiny when they seek office, the Court said. Voters must be able to discern whether these donations are from legal, honest sources before casting their ballots, hence it is crucial that the public knows where these monies are coming from. It was the Court's rejection of the notion that protecting political finance information in the interest of privacy that led to the invalidation of the electoral bond system. It brought attention to the fact that people have a right to know whether large donations may influence political choices in a certain way. The decision has been well-received by legal experts who believe that openness about issues such as campaign finance is essential for a democratic society. It encourages openness, promotes responsibility, and helps in avoiding any conflicts of interest.¹⁴

IMPACTS AND AFTERMATH OF THE RULING

Disclosure of Donor Details Ordered

In its decision on electoral bonds, the Supreme Court ordered the government to provide details on all contributors and contributions linked to the controversial bonds. For fair and free elections, the Court said, transparency in political finance is key. So, it said that everything having to do with electoral bond transactions had to be made public knowledge right away. The State Bank of India, which issuing the bearer bonds, is required by the order to provide the Election Commission with detailed information within a four-week period. This includes the names of the buyers, the total amount of bonds purchased, the dates of purchase, and the denominations of the bonds. Additionally, SBI must reveal which political parties got the matching donation amounts when they redeemed the bonds. The Court ruled that all parties are

¹³ Prakash, Bhaswat. "Interpreting the Illicit Nexus of Ruling Party in form of "Electoral Bond Scheme": After it being declared as "Unconstitutional" by Apex Court." *Available at SSRN 4816678* (2024).

¹⁴ *ibid*

required to disclose the sums obtained via bond payments, even though it is not yet a legal requirement.

This departure from anonymity is a significant victory for openness. The initiative facilitated political contributions exceeding Rs 16,000 crores without disclosing donor identities or amounts.¹⁵ This opacity will be revealed by a systematic disclosure of the entities that covertly financed each political party till now. The Court affirmed the citizen's entitlement to essential information about the funding of parties seeking political power. It observed that anonymous fundraising contradicts democratic values and may facilitate quid pro quo arrangements between parties and their substantial contributors.

Mandating transparency will reveal questionable funds transmitted via electoral bonds. Previously, any company, even illicit sources or foreign corporations, could anonymously contribute limitless amounts to political parties via bonds acquired at SBI offices. Legal experts have praised the verdict for emphasising openness and upholding voters' basic right to knowledge about election financing. This ensures transparency in democracy by facilitating the examination of financial impacts on candidates pursuing public office.

Pre-bond Donation Rules Back in Effect

The Supreme Court ruling nullifying electoral bonds has reinstated the legislative framework regulating political party financing that was in place before the contentious bonds were issued in 2017. Experts say that this signifies a substantial regression in the standards of openness and accountability that were undermined by electoral ties. Regulations requiring the disclosure of contributions above Rs 20,000 have been reinstated.¹⁶

Parties were required to report yearly contributions of more than Rs 20,000 and the names of their donors to the Election Commission under the Representation of People's Act, which was in place before electoral bonds were introduced. The donors' names, addresses, and PAN details were part of this. Corporate donations were capped at 7.5% of the average net income over the previous three years, according to the company's law. This limited the ability of registered

¹⁵ Yadav, Ramesh, and Kiran Yadav. "THE ELECTORAL BOND JUDGEMENT-A CRITICAL ANALYSIS: Recent Judgement on Electoral Bond." *Motherhood International Journal of Research & Innovation* 1, no. 01 (2024): 46-49.

¹⁶ Patel, Shashank. "Unveiling the Privacy Dilemma: Unpacking the Supreme Court's Electoral Bonds Judgment & its Retroactive Ramifications for Donors." *Available at SSRN 4742040* (2024).

companies to make unlimited financial donations to political parties or candidates. Both of these rules were rendered obsolete by electoral bonds. Anonymous funding, perhaps from overseas and illegal sources, was able to flourish after restrictions on contributions and information about donors were lifted. The Supreme Court ruled that, contrary to claims, electoral bonds' anonymity violated the right to know of people and did nothing to fix the problem of political financing. As a result, the bond-enabling amendments to the RPA and Companies Act were null and void. Party funding transparency is back to how it was before 2017. Activists saw it as a major improvement to India's election transparency system, which was undermined by revisions to electoral bonds. For contributions over Rs 20,000, political parties are once again required to submit to the Election Commission the names of all donors along with the matching amounts. Because of this, the public will have an easier time looking into the parties' financial interests. The corporate donation ceiling of 7.5% is back in place. In contrast to the skewed anonymous fundraising that benefited the governing party throughout the electoral bonds era (2018–2022), this helps level the playing field.¹⁷

Implications for Ruling Party Funding and Upcoming Elections

It is believed that the ruling Bharatiya Janata Party's (BJP) funding in the run-up to the 2024 general election would be significantly impacted by the Supreme Court's rule banning electoral bonds. Electoral bonds have raised about Rs 16,000 crores since 2018, with the BJP pocketing over 60%, or 10,000 crores. Within the party, there are concerns about the possibility of corporate donors being hesitant to contribute due to the lack of anonymity from bonds. The details of large firms, particularly those controlled by states and who have made big bond contributions to the BJP, may be made public. In the run-up to crucial state and national elections, this may hurt the BJP's ability to raise money. Aside from bonds, the party is thinking of other ways to raise money that won't reveal their identity. Soliciting smaller individual donations is being considered. Electoral trusts, which maintain a degree of donor anonymity, are one alternative to traditional political finance that the BJP may support. As a whole, funding is likely to be impacted since corporate sponsors are pulling their money out of the ruling party's coffers.- A The decision restores funding for national parties like the Congress from traditional individual donations. Donors who were hesitant to publicly contribute up to Rs 20,000 using

¹⁷ George, A. Shaji. "The Unconstitutional Nature of Electoral Bonds in India: Impacts on Political Transparency and the Democratic Process." *Partners Universal Innovative Research Publication* 2, no. 1 (2024): 150-164.

electoral bonds may now do so openly thanks to the removal of anonymity.¹⁸ Nonetheless, the broader financial ramifications are more detrimental for the ruling BJP, which benefited disproportionately from anonymous bond financing. The potential reduction of its accounts may affect the party's strategy for future election expenditures. Certain observers contend that the effect may be less severe due to the pre-existing patronage networks between major corporations and the governing party. Corporations engaged in policy influence may discover methods to continue financing while preserving an appearance of compliance. However, electoral bonds provided unmatched magnitude and obscurity. Their prohibition will certainly compel those parties reliant on substantial donor backing to reevaluate their political finance practices. This may influence electoral dynamics when financial limitations are implemented.

COMPARISONS TO POLITICAL DONATION RULES IN OTHER DEMOCRACIES

Discussions on how democracies should regulate political financing have gone worldwide in response to the issue in India over electoral bonds. In these discussions, countries like the US, UK, Canada, and Germany are often brought up. In order to foster accountability, most democracies demand open disclosure of political contributions over a certain level, in contrast to India's approach. For instance, in the US, the Federal Election Commission has to know who donated more than \$200 to a campaign, regardless of whether they want to remain anonymous or not. The UK also has stringent regulations, with foreign contributions being outright forbidden and individual donations limited to between £500 and £2,500. The Electoral Commission must be notified of any contribution whether local or national that exceeds £500.¹⁹ Donations to political parties in Canada may only be made by citizens or permanent residents. We firmly prohibit any contributions from businesses, labor unions, or foreign entities. Any contribution above \$200 must be publicly disclosed, and an individual may contribute no more than \$1,600 per year to a political party. Companies in France are allowed to contribute up to €15,000 each year, whereas individuals are limited to €7,500. Donations above €150 are required to be disclosed. Donations from foreign organizations or individuals who want to remain anonymous are strictly forbidden, and those who breach these prohibitions may face

¹⁸ Kalra, Kartik. "Conflicting Rights, Definitive Standards? On the Indian Supreme Court's "Double Proportionality" Experiment in the Electoral Bonds Case." *JuWissBlog* (2024).

¹⁹ Kashyap, Anushka, and Gurupal Singh Gill. "Electoral Bond Scheme: The Legitimate Opacity in Political Funding." *Law Essentials J.* 1 (2020): 79.

criminal consequences.²⁰ In Germany, an individual may not contribute more than one million euros annually to all organisations combined at any one instance. The annual value for firms must not exceed €1.5 million. Donations over fifty thousand euros must be publicly disclosed and are subject to scrutiny. Anonymous cash donations are restricted to a maximum of €500.²¹ In contrast to these democracies, the electoral bonds program in India allowed users complete anonymity, allowing limitless political contributions from foreign companies. This was found to be in violation of global transparency requirements by the Supreme Court. With this ruling, India's ties to other democracies are solidified once again. While it's important to be transparent about all large donations and to avoid harassing real people who donate, appropriate restrictions may still be necessary. The comparisons show how a balanced regulatory framework and constant openness are necessary for the development of democratic accountability.

THE IMPORTANCE OF ELECTORAL PROCEDURES THAT ARE FAIR AND TRANSPARENT POLITICIANS

Transparency and accountability in political financing are crucial for ensuring free and fair elections, as shown by the Supreme Court's landmark decision to invalidate electoral bonds. By ruling that campaign donors cannot remain anonymous, India's highest court has upheld the fundamental right of all people to know in an effort to strengthen the country's democratic democracy. Elections are the lifeblood of democratic systems, which is why this discovery is so important. The quality of governance and democracy is determined by the extent to which the people trust and believe in the electoral processes. Permitting unscrupulous political financing to go unregulated might gradually undermine public trust in political institutions.²²

When secret, large-scale monetary transactions define who has authority, it creates an environment ripe for corruption, bias, and policy distortions that hurt the public good. Politicians and political parties have an obligation to disclose the financial resources that enable them to compete for power in the legislative and executive branches. Transparency in election funding is essential so that citizens may check if parties, once elected, endorse the policies that big donors like. This sort of investigation prevents political leaders and their financial backers

²⁰ Padmanabhan, Dr Abhishek Sharma. "Electoral Bonds Scheme, 2018—A Death Kneel for Democratic Principles of Transparency and Public Disclosure of Political Funding's in India." *Elections, Democracy and Constitutional Morality in India*, October (2022).

²¹ *ibid*

²² Grimes, Marcia. "Procedural fairness and political trust." In *Handbook on political trust*, pp. 256-269. Edward Elgar Publishing, 2017.

from making deals in return for anything of value and promotes accountability. Freedom, fairness, and ethics in democratic processes depend on this kind of openness.²³

By mandating the disclosure of contributor details for electoral bonds and other substantial contributions, the Supreme Court of India has firmly restored vital transparency standards in India's election funding system. This safeguards the public's right to know and the ability to assess the forces seeking to influence political authority. Electoral bonds also show that secrecy for change's sake might be worse than doing nothing at all. Bonds, on the other hand, undermined transparency while enabling large amounts of dark money. The original idea of bonds was to make the financial system more transparent. This makes it quite evident that modifications to election procedures should not weaken but strengthen democratic principles. Finally, it is commendable that the Supreme Court has decided to invalidate electoral bonds, since this would help to ensure that India's electoral system is more transparent and fair. For responsible, ethical, and free democratic processes, full transparency about the funding of political campaigns is an essential need.

CONCLUSION: A NEED FOR POLICIES THAT STRIKE A BALANCE REGARDING POLITICAL DONATIONS

The need of creating a fair and accommodating legal framework for political fundraising in India has been highlighted by the electoral bonds case. Fair and balanced restrictions are nevertheless required to prevent harassment of legitimate contributions and maintain a level playing field, even if the Supreme Court has rightfully prioritized transparency as a fundamental value. This fine balancing effort is very essential since elections need funding. Also, to prevent vested interests and undue influence, there has to be oversight of campaign contributions. Thus, appropriate restrictions and transparency, within the bounds of legality, are required. In one case, for instance, the Supreme Court decided that voters' right to remain anonymous while purchasing electoral bonds should be removed since it violated that right. Nonetheless, genuine, small donors may be unable to support the political parties they support due to unfettered disclosure requirements. Accordingly, the election legislation-mandated threshold of Rs 20,000 below which donor information is not required to be disclosed serves an appropriate purpose. While outlawing opacity for large donations is reasonable,

²³ Thompson, Dennis F. *Just elections: Creating a fair electoral process in the United States*. (University of Chicago Press, 2002).

safeguarding smaller individual donors from potential persecution by political opponents should also be considered. Regardless of whether the Supreme Court reinstates the 7.5% cap or not, a comparable case might be made for raising the limit on corporate donations to 10% to 15% of profits. Real funds aligned with corporate goals may be secured via stricter regulation without allowing undue influence to swamp the system. The process of building a broader base via smaller donations from individuals, professions, and corporations is distinguished from the need for transparency in large donor contributions which might skew policy by these complex standards. When it comes to political fundraising, finding a middle ground between freedom, transparency, and fairness is usually the most crucial thing. In order to better safeguard the democratic process, openness has once again taken the stage, thanks to the historic judgment on electoral bonds. Moving forward, policy frameworks must be put in place to ensure this continues with balanced, complementary initiatives. Finally, the electoral bond verdict highlighted the necessity for transparent, fair, and democratically responsible policies that address election financing. While the Supreme Court has often stressed the need of being transparent with voters, it is crucial to have proportionate limits to ensure that democratic systems remain free and fair.



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