

Petition Against Electoral Bonds

March 30, 2021

The Supreme Court dismissed an application that had sought a stay on the sale of Electoral Bonds ahead of the upcoming State Assembly elections in West Bengal, Assam, Kerala, Tamil Nadu and Puducherry. Hearing a petition filed by NGO Association for Democratic Reforms (ADR) seeking an interim direction to bar the sale of Electoral Bonds, CJI Bobde said, "Since the bonds were allowed to be released in 2018 and 2019 without interruption, and sufficient safeguards are there, there is no justification to stay the electoral bonds at present".

In news: Electoral bonds don't help clean up election funding

Placing it in syllabus: Economy

Dimensions

- What are Electoral Bonds?
- Provisions of the Scheme
- Objectives of the Scheme
- Criticisms
- Solutions

Content:

What are Electoral Bonds?

- Electoral bonds are instruments or securities that can be used to donate funds to political parties.
- They are **interest-free bearer instruments** used to donate money anonymously to political parties.
- A bearer instrument does not carry any information about the buyer or payee and the holder of the instrument (which is the political party) is presumed to be its

owner.

- Electoral Bonds have been proposed as a way of reforming election funding in the Union Budget 2017. They were Introduced with the Finance Bill 2017.

Provisions of the Electoral Bond Scheme:

- Electoral bonds would be a bearer instrument in the nature of a promissory note and an interest-free banking instrument
- A citizen of India or a body incorporated in India will be eligible to purchase the bond
- Electoral bonds can be purchased for any value in multiples of ₹1,000, ₹10,000, ₹10 lakh, and ₹1 crore from any of the specified branches of the State Bank of India
- There is no limit on the number of bonds an individual or company can purchase.
- The purchaser will be allowed to buy electoral bonds only on due fulfillment of all the extant KYC norms and by making payment from a bank account
- The electoral bonds are available for purchase for 10 days in the beginning of every quarter.
- The first 10 days of January, April, July and October have been specified by the government for purchase of electoral bonds. An additional period of 30 days shall be specified by the government in the year of Lok Sabha elections.
- The bonds will have a life of 15 days (15 days time has been prescribed for the bonds to ensure that they do not become a parallel currency)
- They can be used to make donations to registered political parties that have secured not less than 1% of the votes polled in the last election to the Lok Sabha or Assembly
- The bond shall be encashed by an eligible political party only through a designated bank account with the

authorized bank

- In February 2017, the then finance minister said that the donations would be tax deductible. Hence, a donor will get a deduction and the recipient, or the political party, will get tax exemption, provided returns are filed by the political party.

Objectives of the Scheme:

- Electoral bonds were being introduced to ensure that all the donations made to a party would be accounted for in the balance sheets without exposing the donor details to the public.
- The government said that electoral bonds would keep a tab on the use of black money for funding elections.
- In the absence of electoral bonds, donors would have no option but to donate by cash after siphoning off money from their businesses, the government said.

Criticisms:

The ECI, the Reserve Bank of India, the Ministry of Law and Justice and MPs have also in the past expressed concerns about the opacity of the electoral bonds scheme leading to increased black money circulation, money laundering, cross-border counterfeiting and forgery.

Threatens Spirit of Democracy:

- The concept of donor “anonymity” threatens the very spirit of democracy.
- By keeping this knowledge from citizens and voters, the electoral bonds scheme violates fundamental tenets of democracy.
- When citizens cast their votes they have the right to do so on the basis of full and complete information. The knowledge of who funds political parties is very essential.
- The Indian Supreme Court has long held – and rightly so

– that the “right to know”, especially in the context of elections, is an integral part of the right to freedom of expression under the Indian Constitution.

Helps Money Power to influence politics:

- For a democracy to flourish, the role of money in influencing politics ought to be limited.
- The electoral bonds scheme, however, removes all pre-existing limits on political donations, and effectively allows well-resourced corporations to buy politicians by paying immense sums of money.
- This produces an uneven playing field for political parties and elections become a battle of money power rather than ideas.

Creates asymmetry in donation:

- Electoral bonds allow receiving limitless donation and that too asymmetrically.
- Since the donations are routed through the State Bank of India, it is possible for the government to find out who is donating to which party, but not for the political opposition to know.
- This, in turn, means that every donor is aware that the central government can trace their donations back to them.
- Statistics bear this out: a vast majority of the immensely vast sums donated through multiple electoral cycles over the last three years, have gone to the ruling party.

Leads to an influx of black money:

- Since the identity of the donor has been kept anonymous, it could lead to an influx of black money.
- The government moved an amendment in the Finance Bill to ensure that Section 182 of Companies Act mandating companies to disclose the political donations would not

be applicable to companies in case of electoral bonds.

- Thus, Indian, foreign and even shell companies can now donate to political parties without having to inform anyone of the contribution.
- The central bank had warned the government that the bonds would “undermine the faith in Indian banknotes and encourage money laundering.”

Threat to National Security :

- In January 2017, a month before the Government proposed the electoral bonds scheme the total number of political parties registered with the Election Commission of India (ECI) stood at around 1,800. As of March 1, 2021, this number has increased to 2,704.
- According to ADR , the reason for this glut of new parties “definitely points the needle of suspicion towards the government’s controversial electoral bonds and unlimited and anonymous corporate donations.”
- The ADR says that “a vast majority of these parties will never contest elections”. It believes these parties “may be involved in money laundering activities or may simply be using their status to turn black money into white”, which has ramifications for India’s national security and sovereignty.

Solutions

State or Public Funding of Elections:

- In this system, the government gives funds to political parties or candidates for contesting elections.
- Its main purpose is to make it unnecessary for contestants to take money from powerful moneyed interests so that they can remain clean.
- Public funding can increase transparency in party and candidate finance and thereby help curb corruption.
- If parties and candidates receive at least a basic

amount of money from the State the country could have a functioning multi-party system without people having to give up their scarce resources.

Earlier recommendations related to State Funding:

The Indrajit Gupta Committee (1998)

- It endorsed state funding of elections, seeing “full justification constitutional, legal as well as on ground of public interest” in order to establish a fair playing field for parties with less money.
- The Committee recommended two limitations to state funding.
 - Firstly, that state funds should be given only to national and state parties allotted a symbol and not to independent candidates.
 - Secondly, that in the short-term state funding should only be given in kind, in the form of certain facilities to the recognised political parties and their candidates.
- The Committee noted that at the time of the report the economic situation of the country only suited partial and not full state funding of elections.

The 1999 Law Commission of India report

- It concluded that total state funding of elections is “desirable” so long as political parties are prohibited from taking funds from other sources.
- The Commission concurred with the Indrajit Gupta Committee that only partial state funding was possible given the economic conditions of the country at that time.
- Additionally, it strongly recommended that the appropriate regulatory framework be put in place with regard to political parties (provisions ensuring internal democracy, internal structures and maintenance

of accounts, their auditing and submission to the Election Commission) before state funding of elections is attempted.

“Ethics in Governance”: 2nd ARC Report

- A report of the Second Administrative Reforms Commission (2008) also recommended partial state funding of elections for the purpose of reducing “illegitimate and unnecessary funding” of Elections Expenses.

National Electoral Fund:

- A National Electoral Fund to which all donors can contribute
- The funds would be allocated to political parties in proportion to the votes they get.
- Not only would this protect the identity of donors, it would also weed out black money from political funding.
- There can be a tax benefit for those who donate to the fund

Bringing More Safeguards

- At least safeguards should be inserted in the Electoral Bond Scheme to ensure transparency, including political parties disclosing the identity of the donors under the Right to Information Act.
- The ECI could make a list of all political parties eligible for receiving donations under the scheme, and political parties that do not take part in any election and continue to receive donations through electoral bonds should be delisted.

Mould your thought: Although introduced with claims that bonds will stop black money from entering elections, in reality they merely open doors to new avenues of corruption. Evaluate.

Approach to the answer:

- Introduction
- Write about Electoral Bonds and their objectives
- Discuss the criticisms of the scheme
- Suggest solutions briefly
- Conclusion