



The Unconstitutional Nature of Electoral Bonds in India: Impacts on Political Transparency and the Democratic Process

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Abstract – This paper examines the recent Indian Supreme Court ruling declaring electoral bonds unconstitutional. Electoral bonds were introduced in 2017 as an anonymous way for donors to fund political parties. However, critics argued that the lack of transparency allowed unlimited and unregulated corporate donations to parties. This violated the citizen's right to information under the Indian Constitution. The paper outlines how electoral bonds operate via the State Bank of India. Donors could anonymously purchase bonds of various amounts, depositing money directly into the parties' accounts. From 2018 to 2022, bonds worth nearly \$2 billion were issued, with the ruling BJP receiving 60% of the donations. Opposition parties claimed the system enabled money laundering and unfair political influence by corporations. Analyzing the Supreme Court's rationale, the paper shows how the judges ruled unanimously that bonds contravened the people's right to know the source of political funding. This right outweighed arguments to protect donor privacy. The court also found the bonds failed to curb black money as claimed. As a result, the State Bank must disclose all bond transaction details to the Election Commission. This data will be made public before the upcoming 2024 national elections. The implications of this verdict are explored, including impacts on ruling party finances and India's electoral integrity. Comparisons are made to the political donation laws in the UK, US, and Germany. The paper concludes by emphasizing the need to balance transparency with legitimate privacy concerns in designing fair, constitutional systems of political finance. This will strengthen Indian democracy by enabling voter knowledge and oversight of donor influences. The abstract summarizes the background context, key aspects, court ruling arguments, implications, and conclusions of the full research paper. It outlines the significance of the topic by highlighting how the case upheld democratic principles of transparency and accountability against potential abuses of anonymous political funding.

Keywords: Electoral bonds, Political funding, Anonymous donations, Transparency, right to information, Supreme Court ruling, Electoral reforms, Party donations, Elections, Democracy.

1.INTRODUCTION

1.1 Background on Electoral Bonds in India

Political campaign financing has historically been an opaque affair in India. Largely unregulated political donations meant the role of black money and corporate influence in elections was pervasive yet invisible to the public. This clouded transparency and accountability around parties and candidates. In this context, electoral bonds were introduced by the Modi government in 2017 as an attempt to reform political funding. As announced in that year's Union Budget speech, the aim was to clean up election finances by improving transparency and reducing cash transactions. Under the new Electoral Bond Scheme, donations could be made anonymously to parties through specified branches of the State Bank of India. The bearer bonds,



available in values from Rs 1000 to Rs 1 crore, would have a tenure of 15 days within which they had to be encashed by recipient parties.

The scheme was justified as enabling legitimate donations from corporations, individuals and groups who wished to maintain their privacy. The previous system of cash equivalents was portrayed as breeding black money and being open to misuse. Electoral bonds, acting like bearer instruments, would supposedly tackle this by funneling "white money" transparently into the system. However, right from the start, opposition parties, transparency activists and constitutional experts raised serious concerns. They argued the scheme effectively legitimized and facilitated unlimited, undisclosed corporate donations to ruling parties. Being routed via the state-owned SBI, the secrecy around donors was being enabled by the government itself, unlike the previous system of electoral trusts run by the private sector.

Critics pointed out how donor anonymity works against the citizen's fundamental right to know the financial bedrock of parties seeking votes. The Representation of People's Act mandated declaration of donations above Rs 20,000. By removing caps on donations and diluting transparency, electoral bonds were termed a retrograde step for democratic accountability. Despite the mounting criticism, the bond scheme opened for subscriptions in March 2018. By October that year, bonds worth over Rs 1000 crore were purchased, with the ruling BJP cornering over 95% of this amount. In 2019–20, bonds worth Rs 5000 crore were issued, with reports of large corporations buying most of them.

With general elections approaching in 2024, scrutiny of electoral bonds has sharpened. Opposition parties claim the scheme has singularly benefited the ruling party's war chest while crippling their own fundraising. The Supreme Court began examining its constitutional validity based on petitions filed soon after its announcement. Court struck down the scheme as illegal and arbitrary, marking a landmark victory for transparency. Its full impact, however, depends on comprehensive disclosure of bond transactions to ascertain who donated how much to which party. Ensuring free and fair elections requires public knowledge of donors that seek to shape policies and governance.

1.1 Supreme Court Ruling Declaring Bonds Unconstitutional

The Supreme Court of India delivered a landmark judgment striking down the Electoral Bond Scheme as unconstitutional and illegal. By a 4:1 majority, the five-judge bench ruled that the scheme seriously compromised transparency in political funding, going against the fundamental right to information of citizens. The electoral bonds scheme had allowed anonymous donations to political parties. Introduced in 2017 via amendments to the Finance Act and Representation of People's Act, it opened a window for unchecked corporate donations to ruling parties. The government claimed it would improve transparency and reduce black money in election financing. However, over Rs 16,000 crores was donated via electoral bonds from 2018–early 2022, with 95% going to the BJP.

Multiple public interest litigations (PILs) were filed in 2017 challenging the scheme's constitutional validity. Petitioners included NGOs working on electoral reforms like the Association for Democratic Reforms (ADR), along with opposition political parties. The cases argued that removing disclosure requirements for political donations contravened the citizens' right to know under Article 19(1)(a) of the Constitution. Article 19(1)(a) guarantees the fundamental right to freedom of speech and expression. The Supreme Court has interpreted this to include the right to information about public issues and candidates for ensuring informed voting choices. By cloaking the identities and amounts of political funding through bonds, this right was being violated as per petitioners.



The government contested these assertions. It claimed electoral bonds would improve transparency by funneling donations through banking channels instead of illegal cash. Seeking to balance transparency with privacy, it argued donor anonymity incentivized legitimate funding. Making all donor details public could discourage individuals and organizations from contributing to parties they support. A 3-judge bench of the Supreme Court began hearing arguments in the case in 2021. In April 2022 it referred the matter to a larger 5-judge constitutional bench given the weighty issues involved regarding citizens' rights. Hearings took place over 10 days starting October 2022, with the 5-judge bench unanimously declaring the scheme illegal.

The majority ruling held that the right to information could only be restricted on well-established grounds such as national security or public order. The anonymity of political donors did not qualify as a reasonable restriction. The State also could not assign such importance to privacy concerns as to compromise a foundational democratic right. Moreover, it found the electoral bond scheme failed to meet its own stated goals. There was no evidence that anonymous donations reduced the prevalence of black money. Rather, removing caps on corporate donations had further shifted power to big business interests. This landmark verdict is a resounding victory for transparency, accountability, and the rights of voters. It reaffirms the centrality of disclosure in cleansing election finance from opaque interests. While details of past bond transactions are still emerging, the banning of anonymous donations prevents further erosion of transparency standards in a democracy.

2. WHAT ARE ELECTORAL BONDS AND HOW DO THEY OPERATE

2.1 Bonds Allowed Anonymous Political Donations

The key feature of electoral bonds that made them controversial was the anonymity they afforded to donors. Under the scheme, anyone could donate any amount to a political party while remaining invisible to the public. Electoral bonds were bearer instruments that did not carry the name of the buyer or payee. They only had a coded number and value embedded. Anyone could buy these bonds at select branches of State Bank of India by depositing money electronically or through cheque/DD.

To make a donation, a buyer would simply hand over the bond to their preferred political party, which could encash it within 15 days. The party would deposit the bond in their account and receive the donation amount directly from SBI. Nowhere did the donor's name appear in the process. This complete anonymity for donors was a drastic change from the previous norms. Earlier, political contributions above Rs 20,000 had to be disclosed by parties to the Election Commission. This included the donor details like name, PAN number, address etc. Only cash donations below 20,000 could be anonymous.

By removing identification requirements, electoral bonds facilitated large anonymous donations including from corporations and foreign entities. In a single year, billions could be routed to parties in the guise of electoral bonds without public traceability. Activists termed it "legalized money laundering". Defending anonymity, the government claimed donors privacy should be protected, and public disclosure could discourage them from contributing to politics. However, critics argued the citizen's right to know where parties get major funding from outweighs such privacy.

Anonymity prevents accountability in political finance and undermines fair elections. If parties shaping laws and policies get black box donations, it distorts democracy. Activists gave an example of how corporate bonds enabled cronyism between big business and the ruling party.



Experts also pointed out that electoral bonds made anonymous foreign funding of parties possible. As bearer instruments, bonds could be bought with foreign money and donated without either the public or the Election Commission being aware. This further black boxes foreign influence in domestic politics. While the government intended bonds as a step to reduce anonymous cash donations, the removal of caps and disclosure in effect enhanced anonymity. Nearly 95% of all electoral bond donations went to the ruling BJP, raising questions over quid pro quo. Before bonds, India had reporting norms for party funding among the most transparent democracies globally. But the anonymity principle undermined transparency to an extent perhaps unprecedented in a major democracy. This engendered legitimate scrutiny from civil society and the judiciary.

2.2 Donors Bought Bonds From SBI Branches

The electoral bond scheme made the State Bank of India (SBI) the exclusive banker for the issuance and sale of the bonds to donors. As per provisions of the scheme, SBI was authorized to open special designated branches across India where individuals and companies could physically purchase electoral bonds. Initially, 29 SBI branches in major cities were earmarked for this purpose. The list was expanded in subsequent years to include hundreds of branches spread across the country for easier access. While initially meant only for Indian citizens and entities, later foreign entities were also allowed to donate via bonds purchased from SBI.

The minimum bond value was Rs 1000 and maximum Rs 1 crore. Bonds were available in multiples of Rs 1000, Rs 10,000, Rs 1 lakh, Rs 10 lakh and Rs 1 crore. To purchase a bond, a buyer was required to provide basic KYC details to the SBI like name, address and PAN number. However, while the bank recorded the details, it did not disclose the names of electoral bond buyers to anyone – the public, Election Commission or any other authority. The purchase information was fully protected by banking confidentiality norms.

The buyer deposited the bond value in cash or via electronic transfer into the SBI account and specified the preferred political party. The money was then debited from the buyer's account. In exchange, SBI provided a physical electoral bond certificate within 4 days via a banking channel or post. This certificate simply had the electoral bond's designated serial number and value. No particulars related to the identity of the buyer were imprinted on it. It was essentially a bearer bond that the buyer could hand over to any political party anonymously.

Parties had to deposit the bonds in their accounts within 15 days of issuance, else the amount would be credited back to the buyer. On encashment by parties, SBI verified the bond details before crediting the donation amount to that party's account directly. Between March 2018 to October 2022, SBI branches sold electoral bonds worth over Rs 16,000 crores to donors. However, the bank revealed no specifics around who bought how many bonds and for which parties. This complete anonymity made electoral bonds controversial as a potential channel for money laundering. Critics questioned why SBI, being a public sector bank, was being used as the channel for enabling anonymous political funding. SBI defended its role citing rule of law – it was simply discharging duties assigned as per provisions of a legally instituted scheme. The widespread SBI branch network facilitated secretive bond sales across India on a scale that alarmed transparency advocates. But the anonymity afforded to buyers under banking protocol made tracing dodgy transactions impossible without full disclosure by the bank.

2.3 Bonds Funneled Donations to Political Parties



The electoral bond scheme was devised to enable donations to directly reach political parties in a confidential manner. Once a bond was purchased by a donor from SBI, it could be anonymously handed over or 'funneled' to any registered political party. The recipient party then had to deposit the bond certificate in their official bank account within 15 days of it being issued. On receiving the encashed bond, the bank would credit the donation amount to the party's account.

This effectively created a direct funnel for donations to flow from donors to party treasuries in a totally opaque process. Neither the donor's identity nor the quantum of donations was disclosed at any point. The party had access to the donor details but did not have to reveal it under the amended law. Such funneling of anonymous funding ran counter to the principles of transparency and disclosure in political financing. It shielded the links between donors and parties receiving contributions through electoral bonds.

Previously, under RBI guidelines, electoral trusts were used by political parties to receive corporate donations. But details of donors and amounts had to be declared. Electoral bonds removed such requirements enabling clandestine funneling of unlimited donations. Reports analyzing bond donations showed that one party overwhelmingly benefited – the ruling Bharatiya Janata Party. Of the Rs 16,000 crores donated via bonds from 2018–22, more than Rs 12,000 crores went to the BJP. The party thus got over 75% of the anonymous bond funding.

The Congress received just Rs 800 crore or 5% while declaring bonds a channel for anonymous "bribes" to the BJP. The funneling of bonds heavily in favour of the ruling party reinforced allegations of quid pro quo and misuse of anonymity. The government claimed that since donations were received via the banking route rather than unaccounted cash, it was a substantial improvement. However, without transparency on donor details and amounts, such reasoning was criticized as a false equivalence. Experts argued that the direct anonymous funneling of money from opaque sources, including foreign companies, to ruling parties compromised democratic accountability. It also tilted the playing field heavily in favour of parties in power. While electoral bonds aimed to reduce petty cash donations, the removal of caps enabled massive anonymous donations to flow to parties through banking channels. Thus, transparency was seriously undermined in the name of improving funding cleanliness.

3. OPPOSITION TO ELECTORAL BONDS

3.1 No Limits on Corporate Donations

A major ground for objection against electoral bonds was the removal of ceilings on company donations to political parties. Earlier, the Companies Act had prohibited companies from contributing over 7.5% of their average net profits of the past 3 years to campaigns. This cap on donations was lifted under the electoral bonds scheme. Critics argued this would allow unlimited and unregulated corporate funding to political parties. With no transparency requirements either, it marked a severe setback to democratic accountability. Political outcomes could be overtly influenced by corporate interests pumping in limitless money anonymously.

Activists highlighted how nearly 95% of the Rs 16,000 crores worth of electoral bonds purchased between 2018–2022 came from corporate sources. With no caps, companies funneled massive amounts to parties conveniently in the name of bonds. For instance, before the 2019 general elections, it was reported that India's biggest corporate group donated hundreds of crores to the ruling BJP through electoral bonds. Giant public sector companies also contributed generously to the party.



With no restraints, corporate donors could contribute any amount at will to their preferred parties or candidates. This sparked fears of institutionalized corruption and quid pro quo between big business and political parties shaping crucial policies. The government argued capping donations would push corporate money back into black channels. It was better to receive such funding transparently even if the donor names were not disclosed. Transparency activists countered that removing both limits and disclosure requirements was a double distortion.

Interestingly, most major democracies still adhere to reasonable ceilings on party donations. The US bars companies from giving over \$5000 annually to a political committee. The UK prohibits foreign donations and caps individual contributions. Germany sets an annual per-party limit of €1.5 million on private contributions. In contrast, India's removal of curbs enabled unlimited corporate influence powered by anonymity. The Election Commission itself termed electoral bonds as having "adverse transparency implications". But the government disregarded such protests and enacted the scheme unilaterally.

3.2 Concerns Over Lack of Transparency

A fundamental critique against electoral bonds centered around the dilution of transparency in political funding. By removing mandatory disclosure requirements, electoral bonds enabled large anonymous donations to parties. This flew in the face of transparency standards India had established to clean up election financing. Previously, under RBI guidelines, all political contributions above Rs 20,000 had to be declared to the Election Commission in detail. This included donor name, amount, address, PAN number etc. Electoral bonds scrapped this transparency clause. Parties got anonymous donations directly into their accounts without revealing donor identities.

This engendered serious concern over the subversion of public transparency around elections. Critics argued anonymity prevented accountability in political funding and corrupted free and fair elections. If parties shaping laws and policies get black box funding, it distorts democracy and enables quid pro quo. Activists highlighted how nearly Rs 16,000 crores was donated via electoral bonds from 2018–2022 with no transparency on donor details. The removal of transparency requirements effectively legalized anonymous donations that could include black money.

The government claimed transparency standards had to be balanced against privacy concerns. Political donors may not want their identities revealed publicly. But activists termed this a false dichotomy as the right to information is fundamental for safeguarding democracy. They argued that if transparency is diluted, illegal money circulating in the economy can be easily donated to parties through the shell of electoral bonds. Even foreign actors can donate anonymously, which earlier laws prevented.

Interestingly, a Parliamentary Standing Committee that examined electoral bonds pointed out that all major democracies ensure transparency in political funding. The US, UK, France, Japan, Canada, Germany all mandate declaration of donor details above a threshold. In contrast, electoral bonds uniquely allowed limitless anonymous donations directly to parties' accounts facilitated by a public sector bank. This was termed a death blow to transparency by pushing unaccounted money into the democratic system. By removing caps and public reporting norms on party funding, electoral bonds in effect institutionalized opacity and unaccountability in Indian elections. This critique formed the crux of petitions against it in the Supreme Court alleging violation of the citizens' right to information.



3.3 Violation of Right to Information

A key ground on which electoral bonds were challenged was that they infringed on the fundamental right to information of citizens guaranteed by the Constitution. By enabling anonymous political donations, it deprived voters of crucial information on parties and candidates contesting elections. Article 19(1)(a) of the Indian Constitution guarantees the right to freedom of speech and expression. This has been interpreted by the Supreme Court to also include the right to seek, receive and impart information on matters of public interest. Knowing the financial backing and interests behind parties and politicians is vital information for voters to make informed choices.

Hence, opacity around funding through electoral bonds was argued to be an unconstitutional violation of the citizen's right to know the interests shaping public representatives and policies. The removal of disclosure norms blocked crucial information to voters and weakened accountability. For instance, if a party passes a law favoring certain corporations after receiving massive anonymous donations from them, it amounts to quid pro quo. But since electoral bonds conceal donor details, voters remain unaware of such influences compromising public interest.

Electoral bonds created an information black hole around critical aspects of the democratic process. Critics termed it state-sponsored corruption that legalized dark money by denying public information fundamentally needed to uphold democracy. Political funding transparency is recognized globally as essential for free and fair elections. A lack of information on funding sources, amounts and interests can enable undue and illegal influence by entities seeking to tilt the electoral playing field.

The Supreme Court has in several rulings upheld transparency in elections as integral to the freedom of expression and the right to vote meaningfully. However, electoral bonds introduced sweeping anonymity in party financing in complete contrast with this constitutional principle. By challenging electoral bonds for negating the right to information, critics laid the ground for the Supreme Court to review if anonymous donations constituted a reasonable restriction on Article 19(1)(a) rights. Many experts maintained it did not meet the criteria to justify blocking such vital flow of information.

4. SUPREME COURT RULING AND RATIONALE

4.1 Bonds Violated Right to Information

The Supreme Court, in its verdict, ruled decisively that electoral bonds violated the citizen's fundamental right to information under the Indian Constitution. By enabling unlimited anonymous political donations, electoral bonds deprived voters of vital information needed to make informed choices during elections. The Court held that the right to information under Article 19(1)(a) could only be reasonably restricted on limited grounds like sovereignty, integrity, security, public order etc. Anonymity of political funding did not qualify as a reasonable restriction on the freedom of information.

The judges ruled that transparency in electoral funding was essential to preserve the 'purity' of elections. If voters do not know which entities are financing parties and what interests they represent, it severely compromises fair elections. Anonymous bonds concealed crucial information on the forces shaping public policy and governance. Upholding the PILs against electoral bonds, the Court affirmed that removing transparency requirements and caps on donations was antithetical to free and fair democracy. It noted that most major parliamentary democracies have transparency norms on political funding to check abuse. The verdict stated that opaque political finance breeds corruption and subversion of public interest. Policies



could get shaped not for public welfare but due to quid pro quo between parties in power and big donors. Anonymity prevents scrutiny of such improper influences.

Responding to the government's emphasis on privacy of donors, the Court held that the right to transparent elections outweighed such privacy concerns. Political parties and candidates voluntarily subject themselves to public scrutiny. Hence, voters have the right to know the financial origins of parties seeking power. By declaring electoral bonds illegal, the Court restored the status quo ante of transparency in political donations. It directed all bond transactions must be disclosed to the Election Commission for public scrutiny. Thereby, it struck down anonymity as severely violating the citizen's right to vital information on election funding. Experts have lauded the ruling for strongly affirming that an informed choice is integral to the democratic process. By banning opaque electoral bonds, the Court has asserted people's right to know crucial details on the forces seeking political power through financial means.

4.2 Failed to Curb Black Money as Claimed

A key plank of the Supreme Court's rationale for striking down electoral bonds was that it failed to achieve its own stated goal of reducing black money and improving transparency in political funding. The government had claimed that by requiring donations to be made through formal banking channels, electoral bonds would expand the formal economy and curb the use of illicit cash in elections. However, the Court found no evidence that the scheme had led to genuine transparency or reduced black money. It noted that electoral bonds in fact enabled a new channel for black money to be routed to political parties. By removing caps on donations and crucially, removing the requirement for transparent reporting of donations, electoral bonds facilitated opacity rather than transparency.

The Court pointed out that over 75% of the Rs 16,000 crores donated through electoral bonds went to the ruling party. This concentration of donations indicated lack of transparency and accountability rather than reduction in illicit funding. Experts have noted that electoral bonds may have simply shifted black money from cash to banking channels. Shell companies can still be used to purchase bonds anonymously using illicit funds and donate them to parties. Far from reducing black money, bonds actually legitimized illicit donations due to lack of transparency. By removing limits on political donations, electoral bonds also opened the floodgates for money laundering under a legitimate instrument. The Association for Democratic Reforms pointed out that opaque bonds are more damaging than cash donations. The latter at least left some paper trail.

The Supreme Court ruled that electoral bonds in effect undermined transparency, prevented regulatory oversight on donations and fostered unaccountability. This made claims of reducing black money through banking channels a hollow justification. Upholding the right to information, the Court noted that transparency requirements are internationally recognized tools to curb illicit funding in politics. By granting anonymity to donors, bonds failed to clean up political finance as claimed by the government. Experts state this strong observation on electoral bonds making no substantive difference to black money in elections is significant. It affirms the Court's opinion that opacity breeds illegality while transparency enables oversight.

4.3 Prioritized Donor Privacy Over Transparency

The Supreme Court ruled that electoral bonds accorded undue weightage to privacy of donors at the cost of transparency in political funding. By upholding anonymity as essential to protect donor privacy, the scheme compromised the citizen's right to information on election financing. The government had



contended anonymity was necessary as donors may not want their political funding publicly disclosed for fear of reprisals. However, the Court held that a blanket anonymity shield, without exceptions, was disproportionate to the aim of protecting privacy.

It observed that details of all donations above Rs 2000 were already required to be reported to the Election Commission. Electoral bonds enhanced privacy significantly by removing this transparency rule itself, rather than making exceptions to disclosure requirements for certain cases. Upholding the right to know, the Court ruled that transparency could only be justifiably restricted based on established constitutional grounds like public order or incitement. Anonymity of donors did not meet the threshold of reasonable restrictions on the freedom of information.

Experts argue the Court has affirmed that privacy cannot be a catch-all justification to deny public information, especially in cases of possible conflicts of interest like political funding. Transparency is the default norm in a democracy. Moreover, the Court noted that parties and candidates voluntarily subject themselves to public scrutiny by contesting elections. Details of their funding sources are matters of significant public interest. Voters have the right to assess if parties are funded by legal and benign sources before choosing them to power.

By striking down electoral bonds, the Court asserted that anonymizing details of political funding under the garb of protecting privacy was untenable. It observed that voters have the right to gauge if quid pro quo resulted between donors and parties through significant contributions. Legal experts have lauded the ruling for reinforcing that in a democracy, the balance must tilt in favour of transparency when it comes to essential public information like election funding. This upholds integrity, accountability, and limits potential conflicts of interest.

5. IMPACTS AND AFTERMATH OF THE RULING

5.1 Disclosure of Donor Details Ordered

The most significant impact of the Supreme Court verdict on electoral bonds was the directive to the government to reveal details of all donors and donations made through the controversial bonds. The Court stated that maintaining transparency in political funding was essential for free and fair elections. Hence, it ordered that all information about electoral bond transactions must be made public on an urgent basis.

As per the ruling, the State Bank of India, which issued the bearer bonds, will have to furnish detailed data to the Election Commission within 4 weeks. This covers information on who purchased how many bonds, when and in which denominations. Additionally, SBI must also provide data on which political parties subsequently encashed the bonds and received the donation amounts in their accounts. Even though parties are not legally obligated now, the Court said all parties must voluntarily reveal amounts received through bond donations.

This break from anonymity is a major win for transparency. The scheme had enabled over Rs 16,000 crores of political donations without donor or amount details. Now this opacity will be uncovered through systematic disclosure of who funded which party secretly until now. The Court asserted the citizen's right to know crucial details regarding financing of parties which aim to gain political power. It noted anonymous funding ran counter to democratic principles and could enable quid pro quo deals between parties and their big donors.



By mandating disclosure, dubious funding channeled via electoral bonds will be exposed. Earlier, any entity including illegal sources or foreign companies could anonymously donate unlimited sums to parties through bonds purchased at SBI branches. Legal experts have lauded the ruling for prioritizing transparency and affirming the fundamental right to information of voters regarding election funding. This upholds accountability in democracy by enabling scrutiny of financial influences on parties seeking public office.

5.2 Pre-bond Donation Rules Back in Effect

The Supreme Court verdict striking down electoral bonds has restored the legal framework governing political party funding that existed prior to the controversial bonds being introduced in 2017. Experts state this marks a significant reversal to norms of transparency and accountability that were weakened by electoral bonds. Rules mandating declarations of donations above Rs 20,000 are back in effect.

Before electoral bonds were introduced, the Representation of People's Act required that parties submit details of donors and amounts for all contributions above Rs 20,000 to the Election Commission every year. This included name, address and PAN details of donors. The companies law also restricted corporate donations to 7.5% of average net profits over the past 3 years. This prevented unlimited funding by registered companies to political parties or candidates.

Electoral bonds scrapped both these rules. By removing caps on donations and opacity around donors, they opened the doors for unrestricted anonymous funding including from foreign and illegal sources. The Supreme Court ruled that electoral bond anonymity violated the citizen's right to information, and failed to clean up political funding as claimed. Hence it struck down amendments made to the RPA and Companies Act to facilitate the bonds.

With this, the pre-2017 status quo on transparency in party funding has been restored. Activists have termed it a major boost to India's election transparency framework that was undermined in the name of electoral bond reforms. Parties are once again legally required to submit details of all donors and amounts to the Election Commission for contributions above Rs 20,000. This will enable public scrutiny of financial interests behind parties. The 7.5% limit on corporate donations also kicks back in. This levels the playing field somewhat instead of skewed anonymous funding to the party in power seen in the electoral bonds era from 2018-2022.

5.3 Implications for Ruling Party Funding and Upcoming Elections

The Supreme Court verdict banning electoral bonds is expected to significantly impact funding of the ruling Bharatiya Janata Party (BJP) in the run-up to the 2024 general elections. Of the over Rs 16,000 crores donated via electoral bonds since 2018, the BJP received more than 60% or about Rs 10,000 crores. With the anonymity offered by bonds now revoked, there are concerns within the party that corporate donors may become more reluctant. Large companies including state-owned giants which donated generously to the BJP via bonds may have their details exposed.

This could negatively affect the BJP's funding pipeline ahead of crucial state and national polls. The party is working to strategize alternative means to raise funds without the cloak of anonymity bonds provided. Options like seeking smaller individual donations are being considered. The BJP may also push for other avenues of political finance like electoral trusts which maintain some degree of anonymity of donors. But overall, funding is likely to be impacted as corporate backers shrink from donating directly to ruling party coffers without a secrecy cover.- For national parties like the Congress, the verdict restores support from



traditional individual donors. With anonymity lifted, individuals who shied from donating openly via electoral bonds may return to contributing transparently up to Rs 20,000.

However, the wider finance implications are more adverse for the incumbent BJP which gained disproportionately from anonymous bond funding. With its accounts possibly set to shrink, the verdict may influence how the party approaches upcoming election spending. Some analysts argue the impact may be less drastic as patronage networks between big business and ruling party already existed. Corporates invested in policy influence may find ways to sustain funding while maintaining a veneer of compliance. But electoral bonds had offered unparalleled scale and opacity. Their banning will likely force some rethink of political financing strategies by parties heavily dependent on big donor support. This may affect election dynamics with funding constraints kicking in.

6. COMPARISONS TO POLITICAL DONATION RULES IN OTHER DEMOCRACIES

The controversy over electoral bonds in India ignited debates around how political financing is regulated in democracies worldwide. Comparisons were frequently made to norms in the US, UK, Canada, Germany and other nations.

Unlike India's bonds, most democracies mandate transparency in political donations above a reasonable threshold through public declarations. For instance, US law requires campaigns to periodically disclose contributions above \$200 along with donor details to the Federal Election Commission. This reporting is mandatory even if donors wish to remain anonymous.

The UK bans foreign donations and caps individual contributions per year to between £500 - £2500 depending on the entity. Donations above £500 to parties at constituency or national levels must be reported to the Electoral Commission.

Canada prohibits contributions except from individuals who are citizens or permanent residents. Corporations, unions and foreign entities cannot donate. The maximum individual donation to a party is capped at \$1600 annually. All contributions above \$200 must be disclosed.

France caps individual donations to parties at €7500 annually and corporate donations at €15000. Donations above €150 must be transparently reported. The ban on foreign and anonymous contributions is strictly enforced with criminal penalties for violations.

In Germany, the total donation amount per individual cannot exceed €1 million annually across all parties. For companies, it cannot exceed €1.5 million annually. Donations of over €50,000 must be publicly disclosed and face scrutiny. Anonymous cash donations are restricted to €500.

Compared to these democracies, India's electoral bonds scheme granted complete anonymity even for unlimited political donations from foreign companies. The Supreme Court ruled this was out of line with global transparency norms. Its decision brings India back in sync with other democracies.

However, reasonable restrictions to prevent harassment of genuine individual donors may still be required while mandating transparency for all large contributions. The comparisons highlight the importance of balanced regulation and transparency to fulfill democratic accountability.



7. CONCLUSION

7.1 Importance of Political Transparency and Fair Electoral Processes

The Supreme Court's landmark ruling to strike down electoral bonds has underscored the critical need for transparency and accountability in political funding for free and fair elections. By banning anonymity for donors, the Court has upheld the citizen's fundamental right to information to strengthen India's electoral democracy. This conclusion is significant because elections are the lifeblood of democratic systems. The fairness of electoral processes and the faith people have in them shapes the quality of democracy and governance. Opaque political financing, if unchecked, has the power to erode this public trust over time.

When contours of power can get defined by big money flows behind closed doors, it spawns corruption, conflicts of interest and policy distortions that hurt public welfare. The public has every right to know the financial bedrock upon which parties and candidates contest elections to gain power over lawmaking and administration. Transparency in electoral funding ensures that citizens can scrutinize if parties promote policies favored by big donors after getting elected. Such scrutiny fosters accountability and safeguards against quid pro quo deals between political elites and their financial patrons. Thereby, transparency becomes integral to free, fair and ethical democratic processes.

By mandating disclosure of donor details for electoral bonds and all large contributions, the Supreme Court has assertively restored essential transparency standards in India's election financing system. This upholds the citizen's right to information and ability to assess the forces seeking to shape political power. The electoral bonds case also shows that opacity in the name of reforms can be more damaging than status quo. Conceptually, bonds aimed to improve funding cleanliness but ended up enabling black money at scale while crippling transparency. This affirms why election reforms must strengthen democratic principles, not dilute them. In conclusion, the Supreme Court's commendable ruling striking down electoral bonds will bolster the integrity and fairness of India's electoral democracy. It reaffirms that transparency in political funding is non-negotiable for free, ethical and accountable democratic processes.

7.2 Need for Balanced Policies on Political Donations

The electoral bonds case has highlighted the importance of evolving a balanced regulatory framework for political funding in India. While the Supreme Court has rightly prioritized transparency as fundamental, balanced norms are also needed to maintain fair play and prevent harassment of genuine donors. This nuanced balancing act is essential because elections require funding. At the same time, electoral finance must have oversight to prevent conflicts of interest and undue influence. Reasonable restrictions and transparency without overreach are thus required.

For instance, while the Court ordered anonymity of electoral bonds to be lifted as it violated voters' right to information, unhindered disclosure norms can discourage lawful, small donors from funding parties they support. Hence, the Rs 20,000 threshold under election law, below which donor details need not be disclosed, serves a fair purpose. Although opacity for large donations is rightly banned, small individual donors may need protection from potential harassment by political opponents. Similarly, while the Supreme Court restored the 7.5% limit on corporate donations, a case can be made for raising this cap reasonably to around 10–15% of profits. A higher limit allows legitimate funding aligned with companies' interests, without opening floodgates for disproportionate influence.

Such nuanced rules distinguish between transparency needed in big donor funding which can skew policies versus building a wider base through smaller donations from individuals, professionals, and



enterprises. Overall, the crux is balancing transparency, freedom, and fairness in political funding. The landmark ruling on electoral bonds tilted the needle back towards transparency crucially needed to strengthen electoral integrity. Going forward, policy frameworks must sustain this with balanced complementary measures. In conclusion, the electoral bonds verdict highlighted that election funding policies require judicious balancing of transparency, reasonable restrictions and democratic accountability. While the Court has firmly reiterated the importance of transparency to voters, balanced regulations are also needed to maintain free and fair democratic processes.

ACKNOWLEDGEMENT

I would like to extend my sincere gratitude to the media, newspapers, news channels and social media platforms for their diligent coverage and reporting on the electoral bonds scheme since its inception. The detailed investigative reports, op-eds, interviews, and panel discussions published and broadcast by journalists have significantly furthered public discourse and understanding of this controversial political financing instrument. By highlighting the hidden complexities, legal debates and democracy impacts of electoral bonds, the media has made an invaluable contribution in upholding transparency and keeping citizens informed on this contentious issue with immense public interest. Their dedicated reportage played a vital role in enabling healthy democratic deliberation.

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