



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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Electoral Bond Scheme: Gateway of Political Funding

Is there an example of an electoral reform scheme that created an unintended loophole for political parties to receive undisclosed money? Yes, there is a very interesting example of Electoral bond Scheme. So, let's delve into the chain of events and their consequences in the political landscape of India. 2017, a year dominated by demonetization, also saw another significant event of introduction of a new political funding mechanism. The then Finance Minister Arun Jaitley introduced the Electoral Bond Scheme through a **Finance bill** in Parliament which eventually changed the course of election funding in India forever. The scheme introduced money instruments which can be brought by individuals or companies to fund political parties of their choice by ensuring complete anonymity. It is valid for fifteen days from the date of issue and the political party can encash it through their account with State bank of India, only bank authorised to issue such bonds. These bonds are introduced only in thousand, ten thousand, 1 lakh, 10 lakh and 1 crore denominations. Political parties registered under **Section 29A of Representation of People's Act, 1951** which secured at least 1% of votes in the last general elections to the Lok Sabha or state legislative assemblies are eligible to receive electoral bonds. It is important to understand the aim behind introducing this scheme which the government claimed was to **ensure transparency** in funding but it ended up being a potential for increase in corruption and black money.

Looking at both sides of the coin

Next, we'll delve into the scheme's impact, considering both its promised advantages and potential downsides. The scheme worked at making the funding more safe and digitized. All transactions are carried out via cheques or digitally leaving no scope of money laundering or fraud. Moreover, political parties have to timely disclose their account with the Election Commission of India (ECI), which acts as a supervisory authority over the same. It helps to stop those political parties that entirely work to gain money from public by introducing a clause

of political parties who win more than 1% in the respective elections. Now, it is crucial to go through the concerns raised with respect to the scheme. Firstly, the scheme does exactly the opposite of what it was meant to do in the first place. The scheme also gives rise to **crony capitalism** where mutually beneficial relationship exists between government and large companies. By keeping the source of donations anonymous, the Scheme creates a blind spot for voters. This absence of transparency directly contradicts the fundamental idea of ensuring free and fair elections in a democratic system. It compromises **Right to know** under Article 19 of Indian Constitution to a greater extent which forms the most important part of freedom of expression. Quoting a personal opinion, “On the outset, the scheme simply tends to benefit conglomerates and multinationals. It acts like quid pro quo leaving behind voters concerns and rights. In addition to this, the scheme, presented as a reform, might unintentionally favor incumbents. Concerns and aspirations of common man are sidelined by this scheme. By now, it is not new that such a scheme which is sugar-coated to be for the benefit of everyone tends to deviate from its purpose and goes on to satisfy big purse in the country. How long will the poor man have to wait till his needs are actually addressed and acted upon in true spirits”.

Making way through a Legal Battle

In 2017, the Association for Democratic Reforms (ADR) initiated legal action by filing a petition with the Hon’ble Supreme Court to challenge the constitutionality of the Scheme. On February 15, 2024 Supreme Court delivers unanimous judgement annulling the scheme highlighting that the scheme infringed upon fundamental **Right to Information** under **Article 19(1)(a)** of the constitution. The Supreme Court based on its decision on the "**Proportionality Test**" established in the 2017 KS Puttaswamy case, which recognized the Right to Privacy held that the Electoral Bond Scheme wasn't the least restrictive way to achieve its goals. Instead, another method would have been adopted to secure its objective of clearing black money.

Way Forward

Speaking of possible suggestions to tackle the negatives of this scheme, **National Political Fund** can do the needful. It acts as a public fund where political parties receive funds on the basis of their importance, votes secured in the past elections, membership fees and donations received from private sources. **Indrajit Gupta Committee on State Funding of Elections, 1998**, endorsed State funding of elections in India to ensure level playing field for parties with less money power and resources. Secondly, in Chile, a system of “**Reserved Contributions**” exists wherein donors donate the amount of their choice to electoral service and they forward

the sum to the political party without revealing its identity. Thirdly, putting a **cap on maximum amount** a party can receive from a single donor and an expenditure limit will ensure accountability of money sweeping in political parties treasure. **Law Commission of 1999** proposes to amend Representation of People's Act, 1951 introducing **Section 78A** for maintenance, audit and publication of political party accounts to ensure credibility and transparency.

Conclusion

The Supreme Court's decision to strike down the Electoral Bond Scheme stands as a landmark judgment in Indian political history. It reaffirms the primacy of constitutional values and principles, particularly the right to information, within the political process and strengthens the public's perception of the Supreme Court as a resolute guardian of fundamental rights underscoring Court's vital role as a watchdog, ensuring a just and equitable political system for all. A critical step towards a healthy democracy is for the legislature to champion clean political funding.