

**Electoral Bond: How Electoral Bonds limited the Scope of  
Transparency of Political Finance**

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## ABSTRACT

*As we know India is a great democratic country so this is a fundamental peace of information of every voters of India to know who are funding the political parties. Transparency is most essential for political finance. Voters need to know where the money the political parties are using in the campaigning and other activities coming from? Political Finance has long worked as the origin of corruption in India. For more transparency and accountability, in 2017 the BJP government moved the conception of a new political funding mechanism, known as Electoral Bonds. In truth, electoral bonds have only legitimized opacity. The government has promised reform, while doubling down on immoral old habits. The electoral bonds were introduced with the Finance Bill in the year of 2017. On January 29, 2018 the NDA Government notified the Electoral Bond Scheme 2018. The bonds will be issued in multiples of Rs 1,000, Rs 10,000, Rs 100,000 and Rs 1 crore (the range of a bond is between Rs 1,000 to Rs 1 crore). These will be available at some branches of SBI. The 29 specified SBI branches are in cities such as New Delhi, Gandhinagar, Chandigarh, Bengaluru, Bhopal, Mumbai, Jaipur, Lucknow, Chennai, Kolkata and Guwahati. But these Electoral Bond takes away people's right to know where political parties get money from. According to RTI activist, Anjali Bharadwaj this bond is absolutely apposite of the government argument.*

**Key Words:** *Electoral Bonds, Political Finance, Transparency, Political Parties, Democracy.*

## INTRODUCTION

In the 21<sup>st</sup> century, money plays an important role in politics, particularly in elections. This was not so about 50 years ago; during that period Political parties did not use so much money. Today, India devotes more than the U.S. on elections, with a per capita GDP that is 3% of U.S. In the recent times, having more money may not assure success, but having no money surely leads to defeat. Where does this money that the political parties are spending coming from? It comes from political funding, anyone can do funding to any political party anonymously including corporate funding, public funding overseas funding etc.

The Electoral Bonds were introduced by the Government with the Finance Bill (2017) by amending RBI Act (Section 30) to introduce new provision called Electoral Bond Scheme. The Government of India introduced three big changes in mechanism of political funding in India, now political parties can receive overseas funds; any company can donate any amount of money to any political party. Any individual and group of people or company can donate money anonymously to any party through **Electoral Bonds**. The Electoral Bond Scheme was announced by the Central Government on January 29, 2018. Electoral bond is like a promissory note that can be bought by any Indian citizen or company incorporated in India from selected branches of SBI in India. It can be issued in multiples of Rs 1000, Rs 10000, Rs 1 lakh, Rs 10 lakh, and Rs 1 crore to political parties of their choice, which have to redeem them within 15 days. Buyers of the bonds have to submit full KYC details at the time of buying, but beneficiary political party is not required to reveal the identity of the entity that has given in the bond.

### **Electoral bonds: Condition**

1. Any party that is registered under section 29A of the Representation of the People Act, 1951 (43 of 1951) and has secured at least one percent votes polled in the most recent General elections or Assembly elections is eligible to receive electoral bonds. The party will be allotted a verified account by the Election Commission of the India (ECI) and the electoral bond transactions can be made only through this account.
2. The electoral bonds will not bear the name of donor. Thus, the political party might not be aware of the donor's identity.

### **HISTORY OF POLITICAL FINANCE**

The history of political funding in India goes back to the freedom movement. The Birlas were one of the leading donors of the Indian National Congress. After the independence, the business class as a whole secured some leverage over the shaping of the Congress Government's Economic Policy. It contributed the majority of donation towards poll-spending in the post-independence era. In the 1960s, the Congress and the Swatantra Party the latter shared by C. Rajagopalachari as a party advocating from big companies such as

Tata and Birla, who together accounted for 34% of the total company contribution in 1962 and 1968 elections.

In 1969, the Indira Gandhi Government enforced complete ban on corporate funding (via deletion of the section 293A of the Company Act) to break the nexus between politics and business. However, this proved counterproductive. To beat the ban, political parties started raising funds by publishing souvenirs, in which advertisements were placed by the business houses. Businesses also resorted to tax evasions, black-market operations and other illegal mechanisms due to political pressures and the threat of selective raids and nationalisation. This period also saw the rise of “briefcase politics” through which vast amounts of black money was transferred into the Congress party account. In the era of licence permit raj, this arrangement also suited the business. However, a forward looking Rajiv Gandhi Government, took a decision of removing the ban in 1985.

### **Changes on corporate funding laws**

A major change affecting corporate donation was brought in 2013 by amending the Company Act. This legislation raised the earlier 5 percent limit to 7.5 percent, allowing corporate to donate up to 7.5 percent of the net average profit earned in the preceding three years. While this was done to allow more funding space for political parties, the 2017 Finance Act brought by BJP Government, removed the earlier limit (by amending the Section 182 of Company Act 2013). In addition, changes were made in the Foreign Contribution Regulation Act (FCRA). Two other recent important developments with direct links to corporate funding are the legal basis for Electoral Trusts and Electoral Bonds. While the Electoral Trusts Scheme was floated as early as 1996 by the Tata Group, this innovative form of corporate donations received legal sanctity in 2013 by bringing these entities under the Section 25 of the Companies Act, 1956. The Electoral Bonds Scheme was introduced through the Finance Act 2017. It allows anyone, including corporates, to donate to political parties via electoral bonds. To sum up, laws and institutional forms related to corporate donations have gone through massive transformations since 2013.

## **NEED FOR FUNDS TO POLITICAL PARTIES**

In the 21<sup>st</sup> century not a single election can be won without using money, political parties spends big amount of money in election in India. By October 2018, in four and a half years, the BJP Government spent as much on adds as the Manmohan Singh Government spent in its ten years in power. Out of its total expenditure of nearly Rs 5,000 crore, Rs 2,136.39 crores was spent on advertising in the print media and Rs 2,211.11 crore was spent on electronic media. In FY 2017-18, election propaganda was the primary expense of the BJP – it spent Rs 567.43 crore that year, whereas the Congress spent Rs 29.22 crore.

Continuing on this path, between February 20 and April 24, 2019, the BJP spent just under Rs 6 crore on political ads on Google platforms, according to the firm's transparency report. This was nearly ten times as much as Congress spending on the same platforms. On Facebook, the BJP officially spent Rs 1.32 crore between early February and April 20. While this is higher than any other party's expenditure, this figure still conceals some other publicity initiatives. Unofficial BJP Facebook pages, such 'Bharat ke Mann ki Baat', 'Nation with NaMo' and 'My First Vote for Modi' cumulatively spent Rs 4.50 crore in the same period. The organisation behind these Facebook pages is called the Association of Billion Minds. An investigation by the Huffington Post revealed that this shadowy firm was created exclusively to support the BJP. The firm itself posted rising revenue of Rs 23.5 crore in 2017/18. The Election Commission has not investigated if these firms were using party or government funds.

So without funds nothing is possible. To reach voters, candidate and parties uses the types of platform mentioned above. They hold big election rallies. They travel and have to pay party workers. In India, there is an added expenditure of buying votes through distribution of gifts, money liquor and so on. For all the political activities, political parties need money.

Given that money is required, a central issue is whether a winning candidate or party will work for the public or for those who have funded them. So, some countries have public funding of election. They focus on public funding, limits on expenditure, limits on donations transparency in funding and penalties for non-compliance.

## **NEED TO KNOW FOR VOTERS TO POLITICAL FINANCE**

According to Jagdeep Chhokar (founding member of the Association for the Democratic Reforms), ADR has filled petition in the Supreme Court against Electoral bonds. This is very important as the voters need to know all the details of political finance. When people who donate money are not sponsors and are commercial profits making entities, they donate only when there is more than adequate rate of return. So, when a corporation donates money to a political party, there is obviously a quid pro quo, whether it is known or not. If voters do not know whose money a candidate is using to fund his or her election, they won't know subsequently whether a decision made by government is based on the national interest, or in the interest of whoever donated the money.

## **INDIA VS US ELECTION EXPENSES**

The world's biggest democracy will soon hold what's likely to be one of the world's costliest election. This time the polling exercise, due to start on April 11 and to be end by May 2019, will cost an unprecedented Rs 50,000 crore (\$7 billion), according to the New Delhi-based Centre for media studies. About \$6.5 billion was spent during the U.S. presidential election in 2016, according to Open Secrets.org, which tracks money in America politics.

The CMS projected marks a 40 percent jump from the \$5 billion estimated to have been spent during India's 2014 parliamentary vote. And it amount to roughly \$8 spent per vote in the country where about 60 percent of the population lives on around \$3 a day.

So we can say huge amount of money is spent by political parties in election and this money comes from Electoral Bonds. BJP government has introduced this scheme for increasing the funds. It ensures the anonymity to the donor. Today even if someone gives Rs 20,000 crore it is anonymised. Through this scheme anyone who is citizen of India can donate any amount to any political party and nobody will know the donor.

## **ELECTORAL BOND: HERE'S WHAT THE NUMBERS SAYS**

More than Rs 6,000 crore worth of electoral bond have been sold in 12 cycles so far. As many as 55% of these bonds were sold in 2019-20. The electoral bond scheme was introduced by the central government to put control on uncounted money flowing into the political system and improve financial transparency. Since March 1, 2019 till date, there were 12 window open for the purchases of electoral bonds across various branches of SBI in different cities. The maximum value of electoral bonds sold was during the 9th phase i.e. April 1 – April 20, 2019. A total of Rs 2,256.4 crores worth of electoral bonds were sold during this phase. The next highest was the earlier phase i.e. 8th phase between March 1 – March 15, 2019, when bonds worth Rs 1365.7 crores were sold. A total of Rs 3,355.93 crores worth of electoral bonds were sold in the current financial year of 2019-20. This is higher than the whole of the previous financial year which was Rs 2,550.78 crores. 99.7% of the bonds purchased by value are of Rs 1 crore & Rs 10 lakh denomination.

The total income through electoral bonds as declared by the political parties who have submitted their audit reports for 2018-19 amounts to Rs 599.07 crores which is only 23.5% of the total electoral bonds purchased in 2018-19. In other words, the two national parties together could have cornered more than 70% worth of the bonds in 2018-19.

As per the data analysed earlier in the story, purchases made during April 2019 and May 2019 are among the highest, amounting to approximately Rs 3,078.62 crores. The beneficiaries of which we would only be able to know when the political parties submit their audit reports for 2019-20, in the latter half of next year. In other words, the details of beneficiaries for electoral bonds worth more than Rs 3,300 crores will only be known in October 2020.

## **CRITICISM ON ELECTORAL BONDS**

According to Nitin Sethi Report in Huffpost, electoral bond does not carry the name of the person who bought it and does not carry the name of political party to which it could be given therefore it is called as bearer bond. Anyone can buy it can pass it to somebody else and that person can give it to another person and that person can give electoral bond to any political party. Anyone can buy as much they want and can deposit as much as they want with political party which can encash it. The Government argues there is no use of cash in politics

but by the use of Electoral Bond it is not possible to find who donated how much and to which political party.

According to Nitin Sethi report publish by huff Post India, exposed the no of lies BJP Government told to the Parliament, Election Commission and the Indian public –in its hurry to push through the controversial Electoral Bonds Scheme. More than Rs 6000 crore worth of these bonds have been sold so far, and we know that BJP pocketed 95% of the Rs 222 crore sold in the first tranche. According to the report of RTI activist Commodore Lokesh Batra (Retd) revealed that not only did the Government overrule the Reserve Bank of India's serious objection to the scheme, it also misled Election Commission officials on the key feature of the bonds. The Government's official repeated claim that bond donors are completely anonymous was also a lie, as was its initial justification for the scheme – that donors asked for a secret funding channel due to fear of political retribution.

The most important thing is, the documents exposed how often the rules governing the scheme were bent with impunity and according to political suitability -the Prime Minister's Office (PMO) asked the finance ministry to open an illegal sale window just ahead of the Karnataka State Assembly Election in May 2018. This so-called exception was later used as a pattern to open a similar window ahead of other critical assembly election that year.

According to this report #paisa politics by Nitin Sethi also found that the SBI accepted expired bonds worth Rs 10 crore that were sold in this same illegal window, after getting the finance ministry's sign-off. This meant that soon after the Karnataka election resulted in a suspended assembly, an unnamed political party, or parties was allowed to redeem Rs 10 crore against the rules.

According to Milan Vaishnav (senior fellow and director of the South Asia program at the Carnegie Endowment for International Peace) this is an extremely regressive scheme. Essentially whatever modicum of transparency might have been under previous system (is not there now). Granted, (there was very little transparency then) because even though anything above 20,000 had to be disclosed, there were way to avoid that. Corporations/ individuals gave cheques/ payment that were Rs 19,999. But be that as it may, there was limited transparency. Now, even the incentive to give through that route is gone because the government has essentially said it is perfectly legitimate for you to give synonymously any amount to any party from anywhere and nobody will know.

Former Finance Minister Arun Jaitley had said electoral bonds will be in the nature of bearer bonds and the identity of the donor will be anonymous. How so anonymity and transparency go together? They are the anti- thesis of each other.

According to The Hindu's article electoral bonds in this context the importance and need for funding, and proper laws. Even a glance at the best international laws and rules shows that we in India are lagging far behind. The gap between the stated purpose of the electoral bonds scheme and the letter of law are glaring, and several articles in the media have pointed them out. The voter does not know who is funding whom through electoral bonds. This is supposed to protect the donors from harassment from the authorities. It is true that black money cannot be used to buy electoral bonds. However, black money can be used outside the scheme during election. The reduction in cash donation from Rs 20,000 to Rs 2000 is not good enough.

## CONCLUSION

In one hand The global hunger Index 2019, India has ranked at 102<sup>nd</sup> place, and other hand election in India become the world's most expensive election. In India political parties are spending more money in election than U.S. Voters need to demand changes and we need voter's awareness campaigns. The simple message from voters to political parties could be "we like you" not your big money, if you want, we will all pitch in and give small individual donations. If voters reject candidates and parties that overspend or bribe them, we would have moved democracy one level higher. Most important, the electoral bonds scheme needs to be scrapped. The Supreme Court is hearing a petition on this issue. Let's hope Indian democracy survives without going through other crises.

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