



Transparency In Electoral Funding

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(Mains Examination, GS Paper 2 -Salient features of the Representation of People's Act)

Context:

- The Election Commission of India has announced dates for elections to five Legislative Assemblies.
- Petition challenging the electoral bonds scheme, which deals with the vexed issue of election funding, continues to languish in the Supreme Court.
- The delay in adjudicating on the case filed in September 2017 is inexplicable in light of the observation by the apex court that the matter gives rise to “weighty issues which have a tremendous bearing on the sanctity of the electoral process in the country.”

About electoral bonds:

- The broad Features of the Scheme are given below:
- Electoral Bond 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 Bond (s) would be issued/purchased for any value, in multiples of **1,000, Rs.10,000, Rs.1,00,000, Rs.10,00,000 and Rs.1,00,00,000** from the Specified Branches of the State Bank of India (SBI).
- The purchaser would be allowed to buy Electoral Bond(s) only on due fulfilment of all the extant KYC norms and by making payment from a bank account.
- It will not carry the name of payee.

- Electoral Bonds would have a life of only 15 days during which it can be used for making donation only to the political parties registered under section 29A of the Representation of the Peoples Act, 1951 (43 of 1951) and which secured not less than one per cent of the votes polled in the last general election to the House of the People or a Legislative Assembly.
- The Electoral Bond(s) shall be encashed by an eligible political party only through a designated bank account with the authorised bank.

Lack of transparency:

- The political system in India has traditionally been hostile to the idea of transparency in electoral financing.
- The government introduced regressive amendments to laws, including the Income Tax Act of 1961, the Companies Act of 2013, and the Representation of the People Act of 1951, to introduce electoral bonds which allow donors to anonymously donate unlimited amounts of funds to political parties.
- The scheme allows parties to receive these bonds without the public, the Election Commission or even the Income Tax Department knowing the identity of the donors.
- It has legitimised opacity and opened the floodgates for anonymous donations to parties, dealing a severe blow to voters' right to know.
- People's ability to track donations by big businesses and expose quid pro quo has been undermined.
- Expressing its concerns to electoral bonds in the Supreme Court, the Election Commission has contended that they will have an adverse impact on transparency in political party financing
- Election Commission stated that it would make it impossible for the constitutional body to ascertain whether donations received were in compliance with the statutory framework governing political parties.

Increase foreign influence:

- In 2016 and 2017, amendments were made to the Foreign Contribution (Regulation) Act (FCRA), 2010, with retrospective effect enabled Indian subsidiaries of foreign companies to make donations to political parties,
- Thus, electoral bonds allow anonymous financing by foreign entities opening Indian elections to the influence of foreign interests.

Money laundering:

- One of the stated objectives of introducing electoral bonds was to address the problem of black money and large cash donations.

- Electoral bonds have argued that since bonds can only be purchased via cheques, demand drafts, direct debit or electronic clearing, they will stem the flow of black money.
- But the crux of the problem lies in the provision of the Income Tax Act under which political parties were exempted from disclosing sources of donations of less than ₹20,000.
- Amendments to the Income Tax Act in 2017 only lowered the stipulated ceiling of anonymous contributions from ₹20,000 to ₹2,000.
- Most parties claimed that a majority of their income was received in denominations smaller than ₹20,000 thus doing away with the requirement to disclose the source of donation.
- Creative accountants can easily neutralise the impact of a lowered ceiling by multiplying the number of unattributed cash donations by a factor of 10, enabling donors to continue to anonymously pump cash into the system.

Act as a tool of converting black money into white:

- Electoral bonds are likely to abet money laundering since the amendments to the Companies Act in 2017 removed the cap of 7.5% on political contributions by a company as a percentage of its average net profits of the preceding three years.
- This allows for black money to be easily routed through shell companies to purchase electoral bonds, an apprehension also expressed by the Election Commission.
- Even the Reserve Bank of India flagged serious concerns about the electoral bonds.

Increase big money in electoral process:

- The rationale given by the government for providing anonymity to donors of electoral bonds is to allow donors to use legitimate funds to support political parties by protecting them against the wrath of rival parties, especially the party in power.
- But as bonds are issued only through the State Bank of India, it would not be difficult for the party in power to access information about the identity of purchasers and details of bonds sold to them, and match those to deposits in political party accounts.
- It is no surprise, therefore, that the lion's share of donations through bonds have been cornered by the party in power – it bagged 95% of bonds issued in the first tranche in March 2018 and approximately 60% of bonds sold till March 2019.
- Bonds worth nearly ₹6,500 crore have been sold so far.
- They have consolidated the role of big money in electoral politics.
- Information obtained under the Right to Information (RTI) Act shows that bond with the highest denomination value of ₹1 crore are the most preferred by donors and constitute 92% of the total value of bonds sold till October 2020.

Way forward:

- Electoral bonds militate against every known principle of transparency and lend themselves to use by special interest groups, corporate lobbyists and foreign entities to acquire a stranglehold on the electoral process and governance at the expense of citizens.
- To ensure public trust in the electoral process, it is critical that the Supreme Court immediately adjudicates on the matter.
- If bonds are to be retained as an instrument for contributing to political parties, donations must be made transparent and parties should be obligated to file reports with the Election Commission and other oversight bodies disclosing the names of donors and amounts received. This information must also be placed in the public domain.
- These steps are necessary to safeguard democracy and ensure that elections do not become a mere formality.