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Electoral Bonds: Backdoor of Remittances

"Power tends to corrupt, and absolute power corrupts absolutely"

By Lord Action

The nature of Politics has changed drastically over the period. When we mention democracy we talk about it is for the people, by the people, to the government of people. When the concept of politics was not spread among general public their participation was limited to voting but as the society progressed people started taking active participation in political activities. In India people cast their vote for the political party but not for the leader. The obsession to support parties has changed the trajectory of support offered by Indian audience. As a ritual to offer monetary consideration “gift” or “remittances” to get something done such culture is very prevalent in Political sphere. To give a formal and professional approach to it, Electoral bonds in India are a unique mechanism introduced by the government to facilitate transparent funding of political parties. Essentially, electoral bonds are financial instruments that allow individuals and organizations to donate money to political parties without revealing their identities to the public or recipient party. In 2018 when the incumbent Government introduced the Scheme of Electoral Bond it was claimed to glorify the transparency in the donations made by general public yet it lagged certain principles which are necessary to uphold transparency of the process. Election Commission has been authorized to regulate the funding process along with keeping the accountability intact but the powerless approach had crunched the image of the Commission letting a free hand to parties has surely made fun of the system. From the time of introduction to getting bashed by the Highest Judicial Body, EC has played an very submissive role in Electoral Bond Scheme. No matter which political party opposed the scheme but everyone has benefitted to the core. On one end when the Govt. initiated a witch-hunt against the NGO’s who were receiving

funds from foreign sources to the contrary In 2014, the Delhi High Court determined that both parties had accepted donations from a foreign company, violating the Foreign Contribution Regulation Act (FCRA) of 2010, which replaced the older FCRA from 1976. However, changes in the definition of a "foreign company" made the court's decision invalid. This amendment by the Modi government ensures that funds received by political parties since 1976 are protected from investigation, a stance that even makes the Election Commission uncomfortable. Foreign funds in elections are a controversial issue across the world. Indian elections have not yet been affected by foreign influence, but it's clear that money, especially untraceable cash from businesses and individuals with vested interests, has often played a negative role in candidates' campaigns. Experts and opposition parties argue that removing limits on corporate donations and introducing electoral bonds have increased corporate influence in political decisions . After liberalization, real estate and manufacturing have emerged as major sources of political funding. This is likely because land is a fundamental component in both sectors. Additionally, due to regulatory limitations on land use, politicians have significant discretionary authority over business operations in these domains. As in the race of Politics no player wants to remain far from the winning line so even in committing certain unwarranted actions. So in 2013, electoral trusts were the UPA government's way of creating a layer of opacity in the process of corporate donations to parties. These trusts could receive contributions from various companies and disburse them to various parties, leaving the public none the wiser about which company was really channeling funds to which party or any quid pro quo transactions. No matter you are sitting in power or on the other side, you will start opposing a scheme or policy if it is degrading your personal gains rather deteriorating the Administrative system. In the democratic setting of a nation there are three core organs which work in a trail to uphold the sovereignty and fraternity of the nation. Schemes like Electoral Bonds shows a great disparity in the overall functioning and coordination in the system of checks and balances within the three organs i.e Legislature Executive and Judiciary. What has made this scheme suspicious and a hot news is that political parties are required to disclose the total amount of funds received through electoral bonds, they are not obligated to reveal the identities of individual donors. This opacity has raised concerns about the potential for quid pro quo arrangements between donors and political parties. The government boasted about transparency in the electoral bond system because transactions occurred through formal banking channels, ensuring that only legitimate entities using legal money could participate. This meant

that the State Bank of India (SBI), and likely the banking regulator, could track which entities made donations to political parties through a digital paper trail. However, transparency ends here. Donors are not required to report their donations, and political parties are not obligated to reveal the identity of donors. Essentially, every bond transaction is highly opaque. In fact, this lack of transparency is not accidental but built into the design of the scheme. In 2024 Union Government encountered a big setback In a groundbreaking decision, the Supreme Court declared the electoral bonds scheme unconstitutional, which allowed anonymous donations to political parties. A five-judge constitution bench unanimously ruled against this high-value scheme, stating that it violated the right to information and thereby infringed upon freedom of speech and expression as guaranteed by Article 19(1)(a) of the constitution. The judgment upheld a fundamental principle of democracy, particularly the voter's right to know who is financing political parties and their election campaigns. The court nullified amendments made to the Income Tax Act and the Representation of People Act that had enabled anonymous donations. It also deemed amendments to the Companies Act, which removed the requirement for companies to disclose details of recipient parties in their profit and loss accounts, as "manifestly arbitrary." From a democratic standpoint, it is crucial for the public to have access to information about political funding in order to act as watchdogs. The absence of this information undermines the fundamental principle of an 'informed electorate'. The court emphasized this by asserting that people have the right to know which individuals or entities are contributing to which political parties, as these parties operate within the public domain. Therefore, the evolution of politics has seen significant changes, with increased public engagement and scrutiny. Electoral bonds, introduced for transparent political funding, fell short of expectations, raising concerns about opacity and undue influence. However, a landmark Supreme Court ruling declared the scheme unconstitutional, upholding democratic principles and the public's right to transparency in political funding.

