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CASE COMMENT: ASSOCIATION FOR DEMOCRATIC REFORMS V. UNION OF INDIA (2024) 5 SCC 1

Peekanksha

Citation: (2024) 5 SCC 1

Case Type: Civil Writ Petition

Bench Strength: Constitution Bench (Five Judges)

Coram: D.Y. Chandrachud (CJ), Sanjiv Khanna, B.R. Gavai, J.B. Pardiwala, Manoj Misra

INTRODUCTION

On 15 February 2024, the Supreme Court of India delivered a decision that squarely addressed the growing concerns about anonymity in political finance. In *Association for Democratic Reforms v. Union of India*, the Court invalidated the Electoral Bond Scheme introduced in 2018, ruling that it violated the right to information under Article 19(1)(a) of the Constitution. The judgment refocused attention on the democratic imperative of transparency and re-emphasised that electoral processes are not just about casting votes, but about casting informed votes.

FACTS OF THE CASE

The Electoral Bond Scheme, brought in through the Finance Act, 2017, amended four statutes—the RBI Act, 1934; the Representation of the People Act, 1951; the Income-tax Act, 1961; and the Companies Act, 2013. It allowed individuals and companies to buy bearer bonds from select SBI branches and donate them to political parties. Crucially, donor identities were neither recorded publicly nor required to be disclosed by the recipient parties.

Civil society organisations—particularly the Association for Democratic Reforms and Common Cause—challenged this structure, arguing that such anonymity eroded the core of democratic accountability. The use of a Money Bill to introduce these changes further raised procedural concerns about parliamentary bypass. The petitioners contended that the

amendments violated voters' right to know who funds political parties, a right previously upheld by the Court in earlier rulings.

ISSUES

1. Whether the Electoral Bond Scheme violated the right to information under Article 19(1)(a).
2. Whether the use of the Money Bill route to enact electoral finance changes was constitutionally valid.
3. Whether lifting caps on corporate political contributions distorted electoral fairness.

PETITIONERS' ARGUMENTS

The petitioners criticised the scheme for legalising opacity in political donations. It allowed even shell companies or firms with no profit history to donate anonymously and in unlimited amounts. This, they argued, created fertile ground for quid pro quo arrangements between political parties and corporate donors.

They referred to *Union of India v. Association for Democratic Reforms*, (2002)¹ and *People's Union for Civil Liberties v. Union of India*, (2003)², where the Court had upheld the voter's right to access background information about candidates and political actors. The petitioners contended that the current scheme directly violated this established right.

They also took issue with the procedural mechanism used: the Finance Act was certified as a Money Bill under Article 110, thereby denying the Rajya Sabha a meaningful legislative role in scrutinising the electoral reforms.

RESPONDENTS' ARGUMENTS

The Union of India defended the scheme by arguing that its objective was to curb the influence of unaccounted cash in elections. According to the government, the scheme formalised political donations and channelled them through the banking system, thus reducing the scope for illegal funding. It also argued that donor anonymity served a legitimate interest—namely, to prevent reprisals or harassment of donors.

¹ *Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294 (India).

² *People's Union for Civil Liberties v. Union of India*, (2003) 4 SCC 399 (India).

In defence of the procedural route taken, the government asserted that the amendments involved taxation and expenditure, and were therefore validly introduced as part of a Money Bill.

JUDGMENT AND REASONING

The Constitution Bench struck down the Electoral Bond Scheme as unconstitutional and invalidated key statutory amendments that enabled its operation.

A. Right to Information

The Court held that the right to information is intrinsic to Article 19(1)(a). It emphasised that an informed electorate is essential to electoral democracy. When voters are deprived of the knowledge of who funds political parties, their ability to make informed decisions suffers. Citing *PUCI* and *ADR*, the Court underscored that electoral funding information is not peripheral—it is central to democratic participation.

B. Proportionality Review

While the Court acknowledged that reducing black money in politics was a legitimate aim, it found the Electoral Bond Scheme to be a disproportionate means of achieving that aim. Applying the test laid down in *Modern Dental College v. State of M.P.*³ the Court held that the scheme failed the 'necessity' and 'balancing' prongs. Less restrictive alternatives, such as public disclosure with safeguards, were available.

C. Corporate Donations

The Court noted with concern that the removal of the 7.5% cap on corporate donations and the scrapping of shareholder disclosure requirements opened the door to unaccountable and potentially coercive funding. These amendments, especially to Section 182 of the Companies Act, were declared unconstitutional.

Directions Issued

1. The Electoral Bond Scheme stands quashed.
2. The State Bank of India must furnish all details of electoral bond purchases and encashments (from 12 April 2019 onwards) to the Election Commission.

³ *Modern Dental Coll. & Rsch. Ctr. v. State of M.P.*, (2016) 7 SCC 353 (India).

3. The Election Commission must publish this information on its official website.
4. Amendments to laws that permitted donor anonymity and unlimited corporate donations were struck down.

DEFECTS IN LAW

1. **Opaque Donation Pathways:** The scheme incentivized secrecy over openness, inverting the very idea of democratic disclosure.
2. **Unchecked Corporate Leverage:** Removing caps and enabling anonymous contributions from firms—many of which may lack financial legitimacy—allowed disproportionate corporate influence.
3. **Procedural Evasion:** The use of a Money Bill bypassed the upper house, undermining bicameral checks that are foundational to constitutional governance.
4. **Absence of Voter Agency:** The voter, central to the democratic process, was denied a key tool—knowledge of political affiliations and financial backers.
5. **Corporate Governance Risks:** By removing the requirement for companies to disclose political donations to shareholders, internal transparency was compromised.
6. **Information Asymmetry:** Because the State Bank of India held donor data, the possibility that the ruling government could indirectly access it skewed the electoral field.

CONCLUSION

This judgment will likely be remembered not just for striking down a controversial funding mechanism, but for restoring faith in electoral transparency. It sets a precedent that electoral reforms must pass the tests of constitutional propriety and democratic fairness. Democracy thrives not only when people vote, but when they know why they are voting—and whom they are voting for.

By drawing a clear constitutional line against anonymity in political funding, the Court has reaffirmed the value of openness in public life. The ruling is likely to shape legislative behaviour and civil society discourse on campaign finance for years to come.