



INDIAN PARLIAMENT JUNIOR

Study Guide

Agenda: Discussing the controversy surrounding electoral bonds and discussing measures to bring about enhanced transparency in the funding of political parties

ANNUAL WORLD SUMMIT 2024



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Letter from the Executive Board

As Pratibha Patil, the first female president of India once said, *“The Parliament of the country is the repository of the sovereign will of the people, and its successful functioning is a joint responsibility of both the government and the opposition.”*

Dear Delegates,

We, the Executive Board of the Indian Parliament, warmly welcome you to the 13th Edition of the Annual World Summit, 2024. The Indian Parliament is one of the most interesting committees under the banner of AWS and we strive to uphold its reputation for engaging and thought-provoking debates. The agenda is designed to stimulate critical thinking around research pedagogy, and well-researched discussions can pave the way for impactful resolutions. The study guide serves as a valuable resource to ensure everyone is well-briefed on the agenda. It must not be used as the only source of research.

We foster a welcoming environment where all delegates, regardless of experience, have equal opportunity to contribute and gain valuable insights. We look forward to your active participation which paired with your information and dramatics will serve to make this committee a grand success and cherish that memory in the ever changing world of Indian Politics.

Yours faithfully,

The Indian Parliament Junior Executive Board

Chairperson: Vibhati Bhundia

Vice-Chairperson: Vedant Chawda

Moderator: Anirudh Banga



Introduction to the Committee

The Rajya Sabha and the Lok Sabha are the two chambers that make up India's parliament, which is the highest legislative body. Both directly and indirectly, the people elect the members of the parliament. These are the individuals who serve as the nation's elected representatives. They create laws, talk about the important problems, and come up with answers. These individuals also serve to keep the executive body in line. This committee will be debating the executive's powers and whether the federal government should exercise more control over it in order to implement the will of the people.

Functions of the Indian Parliament: The Indian Parliament is where policy and legislation presented by the government is discussed. It is a combination of the legislature and the executive branch, with the administration in office only as long as it can maintain the support of the people.

Legislative Functions: All items on the Union List and Concurrent List are subject to legislation by the Parliament. The Union law takes precedence over State law under the Concurrent List, the topics under dual state and federal authority.

Executive Functions: In a parliamentary form of governance, the executive is accountable to the legislature and the legislature has also been given many instruments by the constitution through which it can fulfil this duty effectively.



Introduction to the Committee

Amending Powers: The Parliament is also granted amending powers under the Constitution (Article 368). Both the Lok Sabha and the Rajya Sabha have equal powers with respect to amending the Constitution of India. An amendment proposal initiated in one house should be passed by the other House as well to be effective.

Electoral Powers: The Parliament takes part in the election process of the President and the Vice President, the Electoral College consists of elected members of both the Houses of the Parliament.

Judicial Functions: The Parliament has been empowered with punishing the members of the House who disobey the rules. While, the power of the Parliament to punish its members is not generally subject to judicial review. The Parliament also has important powers to impeach the President, the Vice President, the judges of the Supreme Court, the High Court's, and the Auditor General of India etc.



History of Indian Parliament

Parliament is the supreme legislative body of India. The Indian Parliament comprises the President and the two Houses - Rajya Sabha (Council of States) and Lok Sabha (House of the People). The President has the power to summon and prorogue either House of Parliament or to dissolve Lok Sabha.

The Constitution of India came into force on January 26, 1950. The first general elections under the new Constitution were held during the year 1951-52 and the first elected Parliament came into existence in April, 1952. During British rule, the legislative branch of India was the Imperial Legislative Council, which was created in 1861 via the Indian Councils Act of 1861 and disbanded in 1947, when India gained independence.

Following independence, the Constituent Assembly of India was elected to write the Constitution of India, its members serving as the nation's first parliament. In 1950 after the constitution came into force, the Constituent Assembly of India was disbanded, and succeeded by the Parliament of India, which is active to this day.



Electoral Board

The Agenda

“Discussing the controversy surrounding electoral bonds and discussing measures to bring about enhanced transparency in the funding of political parties.”

Introduction

The issue of political funding is multifaceted and lacks simple solutions. Political entities often require substantial contributions from various sources, some of which may be less desirable. Larger contributions raise concerns about dependence, potential corruption, and a decline in ethical conduct within public life.

What are electoral bonds?

Electoral bonds are paper instruments issued by the government-owned State Bank of India to facilitate political donations through a banking channel. These instruments are issued in denominations ranging between 1,000 and 10 million rupees and sold at least four times each year. An individual or a company could buy these bonds in favour of the political party they want to donate to by paying the corresponding value to the bank. The donor's identity was not disclosed through this mechanism. Parties could then cash the bonds issued in their favour as and when required.



Electoral Board

The Legal Framework to Introduce Electoral Bonds

On 14 May 2016, the Finance Act, 2016 came into force. It amended Section 2(1)(j)(vi) of the Foreign Contribution Regulation Act, 2010 (FCRA), which defines “foreign source”, to allow foreign companies who have a majority share in Indian companies to donate to political parties. Previously, foreign companies were prohibited from donating to political parties under the FCRA and the Foreign Exchange Management Act, 1999.

On 31 March 2017, the Finance Act, 2017 amended the Representation of the People Act, 1951 (RoPA), the Reserve Bank of India Act, 1934, the Income Tax Act, 1961, and the Companies Act, 2013.

Section 11 of the Finance Act, 2017 amended Section 13A of the Income Tax Act exempting political parties from keeping a detailed record of contributions received through electoral bonds.

Section 135 amended Section 31 of the RBI Act. This permitted the Union government to “authorise any scheduled bank to issue electoral bonds[s].”

Section 137 introduced a provision to Section 29C of RoPA, exempting political parties from publishing contributions received through electoral bonds in “Contribution Reports.” These reports disclose contributions received by parties “in excess of twenty thousand rupees” from companies and individuals.

Section 154 amended Section 182 of the Companies Act, 2013 which removed the upper limit on how much a company could donate to a political party. Previously companies could only donate up to 7.5 percent of three years of the company’s net profits.



Electoral Board

How does it work?

- 1. 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.**
- 1. Electoral bonds would be issued/purchased for any value, in multiples of 1,000, 10,000, 1,00,000, 10,00,000 and 1,00,00,000 from the specified branches of the State Bank of India (SBI).**
- 1. 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 the 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 percent of the votes polled in the last general election to the House of the People or a Legislative Assembly.**
- 1. The bonds under the Scheme shall be available for purchase for a period of 10 days each in the months of January, April, July and October, as may be specified by the Central Government. An additional period of 30 days shall be specified by the Central Government in the year of the General election to the House of People.**
- 1. The bond shall be encashed by an eligible political party only through a designated bank account with the authorised bank.**



Challenges to the Introduction of Electoral Bonds

Shortly after the amendments were introduced, in September 2017 and January 2018, two Non-Governmental Organisations—Association for Democratic Reforms (ADR) and Common Cause— and the Communist Party of India (Marxist) filed petitions in the Supreme Court challenging the amendments. At the outset, the petitions argued that the Finance Acts were wrongfully passed as money bills to prevent higher scrutiny by the Rajya Sabha. This challenge is tagged with the larger challenge to the use of money bills under Article 110.

Petitioners also argued that the scheme allowed “non-transparency in political funding” and legitimised electoral corruption at a “huge scale.”

On 25 March 2019, the Election Commission of India (ECI), one of the respondents, filed an affidavit opposing the Electoral Bond Scheme. The affidavit claimed that the scheme is contrary to the goal of transparency in political finance. It also claimed that the Election Commission of India (ECI) had shared a letter to the Union Government on 26 May 2017, warning against the “repercussions/impact on the transparency aspect of political finance/funding.” Further, they submitted that exempting political parties from sharing details regarding contributions would keep information on foreign funding in the dark. The affidavit stated, “unchecked foreign funding of political parties in India, which could lead to Indian policies being influenced by foreign companies.”



The Legal Battle

On 12 April 2019, a bench led by Chief Justice Ranjan Gogoi, with Justices Deepak Gupta, and Sanjiv Khanna directed all political parties to submit details of donations, donors, and bank account numbers in a sealed cover to the Election Commission of India (ECI). The Bench refrained from imposing a stay on the implementation of the scheme stating that “such weighty issues would require an in-depth hearing.”

Following this Order, the petitioners approached the Court on multiple occasions. An application for an urgent hearing was filed in November 2019, then again in October 2020 before the Bihar elections.

In early 2021, Association for Democratic Reforms (ADR) approached the Court seeking a stay on the scheme, before the commencement of a fresh round of bond sales. This application was substantially considered by a Bench led by Chief Justice S.A. Bobde, with Justices A.S. Bopanna, and V. Ramasubramanian. On 26 March 2021, the Bench denied any stay on the application of the scheme. They held that the “apprehension that foreign corporate houses may buy the bonds and attempt to influence the electoral process in the country, is...misconceived.” The Bench also sternly discouraged the petitioners from approaching the Court, stating that “there cannot be repeated applications seeking the same relief.”

On 16 October 2023, the petitioners approached the Court during mention, to hear the case prior to the 2024 General Elections. A Bench led by Chief Justice D.Y. Chandrachud, with Justices J.B. Pardiwala, and Manoj Misra, noting the “importance of the issue” referred the case to a five-judge Constitution Bench.



On 31 October 2023, a five-judge Constitution Bench led by CJI Chandrachud, with Justices Sanjiv Khanna, B.R. Gavai, J.B. Pardiwala, and Manoj Misra heard arguments over three days. Petitioners argued that the electoral bonds scheme increased corporate funding, black money circulation, and corruption. They argued that voters have a right to information about political parties' source of funding, as it informs the policies and views of that party. The Union contended that the scheme was designed to guarantee confidentiality and the right to privacy of the donors, who were otherwise exposed to retribution from political parties that they didn't fund.

Supreme Court's Ruling

On February 15, 2024, The court decided that contributions made for political funding cannot be anonymous and the electoral bonds are no longer a valid mode for donating to political parties. Voters, said the court, have the right to information that is necessary for them to cast their vote. Giving anonymity to donors making large contributions goes against that fundamental right. Large corporate donors could get quid pro quo (Quid pro quo describes an agreement between two or more parties in which there is a reciprocal exchange of goods or services) benefits from their anonymous contributions, including closer access to legislators and favourable policy decisions. By removing disclosure requirements the scheme could adversely impact India's electoral democracy. The court went on to rule that the absolute non-disclosure of funding needs to be done away with. The scheme is arbitrary and against India's constitutional principles and needs to be struck down, country's top judge D. Y. Chandrachud said, while pronouncing the order on behalf of the five-judge bench



Need for Transparency

Transparency is crucial as a fundamental democratic value, acting as a safeguard against undue monetary influence in politics. Effective transparency regulations should be broad in scope and apply universally, encompassing not just political parties and candidates but also donors. This prevents the circumvention of controls through alternative or indirect means.

Accountability: Transparency ensures that political parties and candidates are held accountable for their sources of funding and how that money is spent. It helps prevent corruption and misuse of public office for personal gain.

Preventing Corruption: Transparency acts as a deterrent against corruption and malpractice. By making parliamentary proceedings and financial transactions visible to the public, transparency helps expose any instances of corruption or unethical behaviour, thereby reducing the likelihood of such activities taking place.

Strengthening Democracy: Ultimately, transparency in political funding strengthens democracy by promoting fairness, accountability, and trust in the political process. It ensures that the voices and interests of ordinary citizens are not drowned out by the influence of money in politics.



The Way Forward

The way forward for India involves a blend of reforms inspired by international best practices while addressing unique challenges within its political landscape.

Firstly, enhancing transparency is crucial. This can be achieved by mandating full disclosure of donations above a nominal threshold, ensuring voters are informed about the financial backers of political parties.

Secondly, setting limits on contributions and election expenditures could diminish the disproportionate influence of affluent donors and create a level playing field for all political entities.

Additionally, adopting a system of public funding for political parties, akin to models in Germany or Canada, could reduce dependency on corporate donations. This should be coupled with strict enforcement of expenditure ceilings and robust auditing mechanisms to prevent misuse of funds.

Encouraging small contributions through tax incentives and matching grants could further diversify funding sources, promoting grassroots engagement in the political process.

India's journey towards refining its political funding mechanism should prioritise transparency, inclusivity, and accountability. By drawing lessons from global practices and tailoring them to fit its democratic ethos, India can strengthen the integrity of its electoral process, ensuring that its democracy remains vibrant and representative.



The Curious Case of Megha Engineering

Megha Engineering and Infrastructure Ltd made a number of electoral bond purchases close to the date of bagging crucial projects, including the all-weather Zojila tunnel that is being constructed at an estimated cost of Rs 4,500 crore in Jammu and Kashmir. Hyderabad-based Megha Engineering and Infrastructure Ltd (MEIL) has emerged as the second-biggest buyer of electoral bonds worth Rs 966 crore, according to data released by the Election Commission of India (ECI) on Thursday.

The unlisted firm donated the highest amount of about Rs 585 crore to the Bharatiya Janta Party (BJP), followed by Rs 195 crore to Bharat Rashtra Samithi (BRS), and Rs 85 crore to the Dravida Munnetra Kazhagam (DMK).

As per available information, MEIL had bought bonds worth Rs 20 crore in October 2020. The company secured the project to construct Asia's longest bi-directional road tunnel project in the Union Territory of Jammu and Kashmir in the October-November period of the same year.

In March 2023, MEIL had bagged a Rs 3,681 crore project for construction of a bullet train station at the Bandra Kurla Complex (BKC) in Mumbai. As per the ECI, the company made its highest purchase of bonds totalling Rs 140 crore in the very next month -- April 2023.

According to a company statement earlier, MEIL bagged a Rs 4,358 crore Polavaram project in November 2019 in Andhra Pradesh in a reverse tendering process initiated by the state government. MEIL had bought bonds worth Rs 5 crore in October 2019, the ECI data showed.

The company also has several projects in Uttar Pradesh, Uttarakhand, Gujarat, and Madhya Pradesh, among others.

It has also donated to the Bharat Rashtra Samithi (BRS), which until recently was in power in Telangana. The BRS, formerly known as Telangana Rashtra Samithi, got Rs 195 crore as donations from the company. MEIL donated bonds worth Rs 85 crore to the Dravida Munnetra Kazhagam (DMK), the ruling party in Tamil Nadu, and Rs 37 crore to the Jagan Mohan Reddy-led YSR Congress Party in Andhra Pradesh. The Telugu Desam Party (TDP) got about Rs 25 crore from the company, while the Congress got Rs 17 crore. The Janata Dal (Secular)- JD(S), Jana Sena Party and the Janata Dal (United)- JD(U) received smaller sums ranging from Rs 5 crore to Rs 10 crore from the company.



Concluding Statement

We recognise that there will always be a tussle between the Centre and the supreme court. However, this is what keeps these powers in check. This system of checks and balances keeps the country running. If any one side becomes too powerful, Such as the centre or supreme court, then it is more likely for the country to lose its way. Thus, an equal balance of both these bodies is essential to a well-functioning government.

While there may be differing perspectives on how best to address these issues, it's imperative that we continue to engage in constructive dialogue and seek solutions that uphold the integrity of our democratic institutions. We must strive to strike a balance between facilitating legitimate political funding and safeguarding against misuse and abuse.

Furthermore, it's essential to recognize the importance of ongoing scrutiny and oversight of electoral bonds.

The EB is awaiting a fruitful discussion. We are expecting a well researched and intellectual session. We hope you all make the best of this opportunity, by learning and enjoying it as much as possible. We will ensure an interesting and interactive session for all those participating, even the first time MUN-ers, so

Come. See. Conquer.

Lastly, the EB hopes the delegates throw words, not chairs.



QARMA

(Questions A Resolution Must Answer)

- What are electoral bonds, and how do they function within the political financing system in India?
- How do electoral bonds differ from traditional methods of political funding, such as direct donations or party membership fees?
- What are the main arguments in favour of electoral bonds, and what benefits do proponents claim they bring to the electoral process?
- What are the primary concerns and criticisms raised regarding electoral bonds, particularly in terms of transparency and accountability?
- How do electoral bonds impact the transparency of political funding, and what measures, if any, have been taken to address these concerns?
- What steps has the Indian government taken to regulate electoral bonds and ensure that they do not undermine democratic principles or lead to increased corruption?
- How do electoral bonds affect the level playing field for political parties and candidates, especially smaller or less established entities?
- What role do electoral bonds play in fostering transparency and public trust in the political process, and to what extent have they succeeded or failed in achieving these objectives?
- What are some alternative proposals or reforms that have been suggested to address the challenges posed by electoral bonds and improve transparency in political funding?
- How do international standards and best practices in political financing compare to the use of electoral bonds in India, and what lessons can be learned from other countries' experiences?



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