

# OPACITY RULES: THE HINDU EDITORIAL ON HOW ELECTORAL BONDS UNDERMINES VOTERS' RIGHT TO KNOW ABOUT POLITICAL FUNDING

Relevant for: Indian Polity | Topic: Elections, Election Commission and the Electoral Reforms in India Incl. Political Parties

The reasons given by the Supreme Court for not staying the issuance of electoral bonds are unconvincing. A Bench headed by the Chief Justice of India, Justice S.A. Bobde, has said there is no justification for staying the scheme as electoral bonds have been released in 2018, 2019 and 2020 without any legal impediment; and that “certain safeguards” have been provided in the Court’s interim order of April 12, 2019. The Court ought to have considered that when the earlier order was passed, the time available was deemed to be too limited for an in-depth hearing. An order favouring the continuance of the scheme cannot be repeated year after year. The portion of the 2019 order asking political parties to submit to the Election Commission in a sealed cover all details of the anonymous contributions received through electoral bonds was meant to avoid tilting the balance in favour of either side until the matter was heard in detail. It was also underscored then that “weighty issues which have a tremendous bearing on the sanctity of the electoral process in the country” were involved. In this context, it defies logic for the Court to maintain that no interim stay is necessary while not giving any indication when it will take up the case for final disposal. The latest order also fails to note that the submission of contribution particulars by political parties was a one-time arrangement. There is nothing to suggest that it applies to subsequent tranches of the sale of electoral bonds. Therefore, to describe it as a ‘safeguard’ has little meaning.

The problem with taking up only applications for stay is that vital constitutional issues do not fall under the zone of consideration. The infirmity in the electoral bonds scheme is not, as the Court seems to suggest, limited to ‘black money’ being used to fund parties. It has laboured to point out that the scheme works solely through banking channels and can be utilised only with KYC-compliant entities. However, the crux of the issue is the anonymity given to corporate donors in combination with the absence of any ceiling. This means that the right to know of voters, recognised as a constitutional right in past rulings, is abridged. Further, the link between contributions and policy-making remains impenetrable to the citizen. Any number of shell companies can be created, and their bank accounts used for making anonymous contributions. The claim that the veil of anonymity can be pierced with a little effort by matching the audited accounts of parties with the statutory filings of companies is quite way off the mark. Parties declare a cumulative figure of amounts received through the bonds. No inference can be drawn by a company’s disclosure of its total contribution to one or more political parties. It is time the Court recognised that the electoral bonds scheme, by its very nature, undermines the voters’ right to know.

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From the abrogation of the special status of Jammu and Kashmir, to the landmark Ayodhya verdict, 2019 proved to be an eventful year.

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