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MONEY IN POLITICS AND THE PURSUIT OF TRANSPARENCY: ADR V. UNION OF INDIA

Mohan Sainanda Reddy Koduri[1]

I. ABSTRACT

The Supreme Court decision in Association for Democratic Reforms v. Union of India (2024) marks a turning point in Indian constitutional jurisprudence around electoral transparency and the RTI. The case contested the constitutionality of the Electoral Bonds Scheme, 2018, which allowed corporate contributions to political parties without any limit but anonymously. The scheme was found unconstitutional by a five-judge Constitution Bench unanimously because it infringed Article 19(1)(a) of the Constitution by robbing citizens of the necessary information on political funding. The Court once again confirmed that the freedom of speech and expression is inseparable from the right to know the origin of political funding, as it is essential to democratic involvement. It struck down amendments to the Representation of the People Act, the Income Tax Act, and the Companies Act that had legitimized electoral secrecy in sources and expenditures of electoral funds. It pointed out that corporate entities are not citizens and thus they cannot enjoy the same political rights, and that pure corporate power is a wrongful interpretation of democratic equality. Based on an analysis of proportionality, the Court overturned the government's claim that the anonymity of a donor was a protection of free speech and stated that transparency was a constitutional requirement. The decision redefined electoral responsibility and furthered the principle of informational democracy by recovering political access to information on political donations and establishing and making them available through disclosure via the Election Commission. It highlights that the secret in political finance is contrary to constitutional government, and democracy can only flourish when citizens cast their vote fully knowing the financial forces behind the electoral processes.

[1] 5th semester, BA LL.B Student at Dr. B. R. Ambedkar College of Law, Andhra University (India). Email: kmohansainandareddy@gmail.com

II. KEYWORDS

Electoral bonds, Political funding, Corporate entities, Transparency, Informational democracy, Right to Information, Article 19(1)(a), Electoral Finance Reform.

III. INTRODUCTION

The existing democratic system that the framers of the Constitution envisioned is based on the principles of the educated engagement of citizens, clear governance, and responsible representation. Article 19 (1) (a) of the Indian Constitution also gives freedom not only to speech and expression but also to the right to get information, especially in situations when democratic decisions are at issue. Jurisprudence that has been formulated in the Supreme Court throughout a cluster of historic rulings, including State of UP v. Raj Narain[2] and Union of India v. Association for Democratic Reforms[3] - acknowledges a basic inquiry right to know about the records of candidates, government officials, and systems of political funding. It was on this constitutional basis that the Supreme Court considered the efficacy of the Electoral Bonds Scheme, 2018, which institutionalised the aspects of anonymous and unrestricted corporate funding to political parties through banking instruments against disclosure.

A five-judge Constitution Bench voted unanimously on 15 February 2024, striking down the scheme and pronouncing the enabling provisions of the scheme unconstitutional.[4] The Court also determined that the electoral bonds were unconstitutional under Article 19(1)(a),[5] That it denied citizens the right to determine the financial quid pro quo upon which the electoral outcomes were based, the ruling restores application of transparency in the electoral finance system and confirms that the regime of secrecy in political finance failed to support democracy. Although it is simply a fiscal policy argument, the case is also an indicator of one of the decisive periods of deliberative democracy in India.

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[2] *State of UP v Raj Narain* (1975) 4 SCC 428
[3] *Union of India v Association for Democratic Reforms* (2002) 5 SCC 294
[4] *Association for Democratic Reforms v Union of India* (2024) 1 SCC Online SC 90
[5] Constitution of India 1950, art 19(1)(a)

This commentary analyses the ruling in terms of transparency, information autonomy, and constitutional importance of free speech as the main points of this analysis.

IV. HISTORICAL BACKGROUND OF THE CASE

India is known to have one of the opaque political financing systems, where the transactions are mostly cash deals. In order to rectify the corruption issues, in 1951, Parliament passed the Representation of the People Act, 1951 (RPA) to issue special obligations to disclose information of candidates to the electorate and on their part, parliamentary parties. The Companies Act, 2013, added to these provisions through ceilings and transparency requirements on corporate donations.[6]

A sequence of Finance Acts, radically altering the law, were enacted controversially as Money Bills using Article 110[7] In 2017 and 2018.

There were amendments to four laws:

- Representation of the People Act, 1951
- The Income Tax Act, 1961
- The Companies Act 2013
- The Reserve Bank of India Act, 1934

All these amendments enabled the Electoral Bonds Scheme by removing expenditure limitations, allowing anonymity in the form of donation when done by foreign-based companies, and, by far, the most important amendment, making it no longer mandatory that the names of donors be disclosed. The consequent anonymity of the donors was the creation of an order of systemized obscurity, where even the source of corporate contributions to parties would remain unknown.

[6] Companies Act 2013, s 182 (as amended before 2017)
[7] Constitution of India 1950, art 110

The Electoral Bonds Scheme, 2018, was issued by the Reserve Bank of India under section 31.[8] It permitted such individuals or companies to buy bearer instruments of the State Bank of India (SBI) and give them to a political party that had been recognised by the Election Commission. SBI was required to maintain confidentiality and subsequently destroy donor records after a specified time, and thus, this barred even access under the Right to Information Act, 2005.[9]

Civil-society groups like the Association of Democratic Reforms (ADR), which were succeeded by Common Cause and others, appealed to the constitutionality of the scheme in the Supreme Court. Interim relief was repeatedly refused, which enabled the scheme to operate in two Lok Sabha elections (2019 and 2024) before the scheme was finally considered for final hearing by a Constitution Bench in 2023.

The petitioners claimed that the scheme institutionalised political corruption and stifled electoral information, thus violating the norm of transparency needed to engage in democracy. The Union government justified the plan by stating that anonymity would help keep off black money and allow free speech since it would help the contributors to avoid being harassed. This case, therefore, raised a constitutional conflict between a privacy supported by the state and the right of citizens to political information.

V. ISSUES BEFORE THE COURT

The following are the main questions presented by the Constitution Bench:

- On the issue of whether or not anonymous political financing through the Electoral Bonds Scheme violates citizens' right to information under Article 19(1)(a)?
- The question is whether the disclosure obligation is violated as a result of the Finance Act amendments?

[8] Reserve Bank of India Act, 1934 s 31
[9] Right to Information Act, 2005

 (ISSN: 2583-7753)

- The equality of political participation is undermined by the presence or absence of a limitation on unlimited corporate and foreign-origin donations?
- Whether the amendments to electoral financing laws could constitutionally be passed through the Money Bill route under Article 110 of the Constitution?

VI. RATIONALE AND REASONING OF THE COURT

On February 15, 2024, a Constitution Bench of the Supreme Court unanimously quashed the scheme of Electoral Bonds and the amendments facilitating it. The opinion by Dr D.Y. Chandrachud, CJI, stated that the scheme infringed Article 19(1)(a)[10] By depriving citizens of important electoral financial information.[11] The Court reiterated that there is a right to political expression, and that the right to know who funds political parties is essential.

A. ELECTORAL INFORMATION AS A FUNDAMENTAL RIGHT

The Court traced a direct line of continuity in doctrine between Raj Narain.[12] and ADR[13] and PUCL v Union of India[14] That right to information on political funding is a derived right that derives from Article 19 (1)(a).[15] Voters have no funding information available to them, and therefore, they cannot make informed determinations regarding prejudice, quid pro quo, or governance hold.

B. CORPORATE GIFTS AND DISPROPORTIONAL POLITICAL INTERFERENCE

The Court also struck down the amendment to section 182 of the Companies Act, acting on grounds that the removal of the limit to corporate contribution and removal of disclosure under-level by the competitive political sphere favoured the established or Governing party. Companies are legal persons, and unlike natural persons, they do not

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[10] Constitution of India 1950, art 19(1)(a)
[11] *Association for Democratic Reforms v Union of India* (2024) 1 SCC Online SC 90
[12] *State of UP v Raj Narain* (1975) 4 SCC 428
[13] *Association for Democratic Reforms v Union of India* (2024) 1 SCC Online SC 90
[14] *People's Union for Civil Liberties v Union of India* (2003) 4 SCC 399
[15] Constitution of India 1950, art 19(1)(a)

vote; their intervention in elections is only instrumental in nature and profit-oriented, and therefore must be more strictly checked by the constitution.[16]

C. PROPORTIONALITY TEST AND MEANS-END ANALYSIS

The Union claimed that secrecy enhances freedom of speech because it maintains secrecy on the identity of the donors. The Court dismissed this assertion and said that anonymity is not a least-restrictive measure. Without blanket issuance of secrecy, it would have been possible to accomplish the same goal using mechanisms like protected disclosure or limited confidentiality. The scheme was therefore not up to the proportionality standard which had been established in the modern dental college[17] and Puttaswamy.[18]

D. MONEY BILL QUESTION

In the case of Money Bill, the Court decided that the amendments to the Finance Act could not have been legislated as a Money Bill. In Rojer Mathew v. South India Bank Ltd[19] The court referred the question regarding the scope and interpretation of Article 110 to a larger bench to avoid conflict with the Aadhaar judgment. The seven-judge bench is expected to provide clarity on the "money bill route".

E. RELIEF GRANTED

The Court quashed the Electoral Bonds Scheme 2018 and repealed amendments of the RPA, IT Act, and Companies Act. Mandated the State Bank of India(SBI) to disclose details of donor to party donations to the Election Commission of India (ECI), and ECI was directed to publish records on its website. It was the first occasion when the Court overturned a central election financing structure on the basis of informational obscurity.

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[16] Companies Act 2013, s 182 (post 2017 amendment struck down)
[17] *Modern Dental College and Research centre and Ors v State of Madhya Pradesh* (2016) 1 SCC 765
[18] *K.S. Puttaswamy v Union of India* (2017) 10 SCC 1
[19] *Rojer Mathew v South India Bank Ltd* (2020) 6 SCC 1

VII. ANALYSIS (TRANSPARENCY & ARTICLE19(1)(A) FOCUS)

The Electoral Bonds judgment can be viewed as a restatement of the fact that information is the bread and butter of democracy. This case alters Article 19 (1) (a) to be a speech-oriented right to a democracy-supportive institutional right.

A. THE CONSTITUTIONAL CENTRALITY OF THE RIGHT TO KNOW

The Court had put the voter in the middle of the constitutional scheme, repeating Justice Mathew in a dictum that there are but few secrets in a government of responsibility such as ours. By claiming that secrecy of political finance was not only a regulatory fault but also a structural fault as a violation of a fundamental right, the Court engaged with transparency at the level of a grand democratic principle.

B. FREE SPEECH TO INFORMED ELECTORAL CHOICE

Previous jurisprudence dealt with disclosures by candidates; this case extends the doctrine to the question of political parties and financial capture, and the logic behind electoral transparency is finished. This right to vote can only have significance once it is accompanied by the right to assess influence.

C. CORPORATE INFLUENCE AND INFORMATIONAL ASYMMETRY

The Court recognized that a structural imbalance existed: affluent corporations obtain excessive power, and common citizens have no idea about the quid pro quo. The informational disenfranchisement is thus the constitutional harm; the citizens are unable to legally know how governance is being bought.

D. PROPORTIONALITY AS A WEAPON AGAINST SECRECY?

The proportionality analysis is important. The Union was arguing that it had a right to privacy in the capacity of a donor, but the Court was right in its rejection of the encroachment of privacy as a means of overcoming the idea of transparency in society, especially where the demands by powerful actors are at play, and the outcome of elections. The Court, by refusing the argument of harassment, affirmed Article 19(1)(a) against speculative concerns about potential harassment of donors.

E. MAKING ELECTIONS MORE PUBLIC

Rationally, the decision somewhat accepts elections, rather than taking them as a private financial market. Transparency is, therefore, not a regulatory nuisance; it is an obligation prescribed by the Constitution.

VIII. IMPLICATIONS AND POST-JUDGMENT ISSUES

Although the ruling is a step in the right direction of democratic accountability, its possible consequences will be based on compliance and enforcement.

- **Implementation Gaps:** SBI was the first bank to stall the provision of donor records, which reflects institutional hesitation. This restates that the declarations of the judges made are not sufficient to ensure electoral integrity without an administrative check.
- **Foreign Influence Risk:** The amendments had facilitated the circumstances through which foreign-owned parties could finance the Indian parties through an indirect means. This loophole is closed by the judgment supporting sovereignty in democratic finance.
- **Judicial Review of Economic Policy Decisions:** The Court has made clear that even a financial policy that impacts the essential rights is not beyond American scrutiny and that the State should not be able to use economic policy claims to repeal the actions that infringe on the Constitution.

IX. CONCLUSION

The judgment in the case of Association for Democratic Reforms v Union of India is a renaissance of the Indian constitution in election transparency. By issuing orders to demolish a cloudy system of financing, the Court revived the primacy of informational democracy - that citizens can no longer usefully exercise the political agency without

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information about the people who control the manner in which governmental affairs are carried out.

This ruling, as opposed to other cases of free speech that have dealt with the issue of either censorship or punishment, acknowledges that withholding information is just as constitutionally harmful as speech suppression. The decision confirms to reiterate that Article 19(1)(a) does not merely safeguard freedom of expression, but also of political information.

In an order based on the constitutional accountability principle, secrecy is not neutral - it is a distortion. The Electoral Bonds Scheme was an instrument that enabled democratic imbalance by making electoral finance invisibility legal. The Supreme Court intervention rejuvenates the balance between the citizen and the State, the voter and the party, the power and the scrutiny. The decision it makes sure that the Indian voter does not cast his ballot in ignorance, but in such a way that is constitutionally informed, which gives a reason that both democracy and dissent are upheld by their integrity.

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