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EDITORIAL

Striking down of the Electoral Bonds

Why in News?

- The judgment of the Supreme Court of India, on February 15, 2024, striking down the electoral bonds scheme, is a landmark moment. Democracy requires transparency and the fact is that the electoral bonds scheme was opaque.
- Voters in India have no idea who has been funding political parties and the amounts given. In all leading democracies, transparency is the basis of campaign funding. The Court has restored that transparency.

Issues with the Electoral Bonds

- Electoral bonds removed the earlier limits on how much of its profits a company could donate to political parties. The scheme even allowed loss-making companies to make donations. This could have opened the door for shell companies to be formed with the purpose of channelling funds to political parties.
- The Electoral Bonds Scheme was passed as the Finance Bill 2017, however, Electoral bonds have nothing to do with the provisions for a Finance Bill. Again, a number of laws were amended to introduce the electoral bonds such as the RBI Act 1934, the Representation of the People Act (RPA), 1951, the Income Tax Act 1961, and the Companies Act 2013.
- The legal system remains opaque to the so-called ordinary citizen and voter. When four laws are amended to introduce a scheme that strikes at the root of democracy, namely transparency, layers of obfuscation are drawn over the scheme so that the citizen gives up trying to understand it.
- This also raises fundamental issues in a democracy. Any government with a majority can pass any Bill, which becomes law. There is no concept of an independent vote in India and ruling party members have to vote in favour of the government unlike in the United States.
- This means that a few people at the top of a ruling party can get almost any law they want passed. In the case of electoral bonds, processes for public consultation, and discussions in Parliament were not followed.

Significance of the Judgement

- The electoral bonds scheme has been struck down. All Amendments to the RPA Act, the Finance Act 2017, and the Companies Act 2013 are violative of Articles 19 and 14 of the Constitution. Article 19 refers to the right to information, and Article 14 to the right to equality, where arbitrariness in law is not permissible. These Articles are part of the Fundamental Rights in the Indian Constitution, and cannot be violated.
- The Supreme Court has directed the State Bank of India (SBI), the sole bank receiving funds in exchange for electoral bonds, to stop issuing them. The SBI has to submit the full details of all electoral bonds that have been issued so far, to the Election Commission of India (ECI) by March 6, 2024. In turn, the ECI has to publish this information on its website within two weeks.
- We need to note that two constitutional bodies, the ECI and the Supreme Court, have acted in favour of democracy. The power of judicial review of laws passed by Parliament on the basis of the Constitution is precious. We need to applaud the Constitution and those who framed it.



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- The issue of money in elections, which includes the use of black money and bribing of voters using campaign funds and freebies, remains. It is said that the price of democracy is eternal vigilance. The Supreme Court's judgment is the outcome of vigilance by citizens. We need political parties, but it is up to us to ensure that they work for the good of society and the nation.

Way Forward

- **Transparency and Accountability:** Implement measures to enhance transparency and accountability in political funding, ensuring that the process is more accessible to the public and less susceptible to misuse.
- **Strengthening Regulatory Framework:** Review and strengthen existing regulatory frameworks governing political finance to prevent loopholes and ensure fair and ethical practices in electoral funding.
- **Promoting Alternatives:** Explore alternative methods of political funding that prioritize integrity, such as publicly funded elections or stricter disclosure requirements for donors.
- **Engagement with Stakeholders:** Foster dialogue and collaboration with political parties, civil society organizations, and electoral authorities to develop comprehensive and inclusive solutions to address concerns related to electoral bonds.
- **Public Awareness Campaigns :** Launch public awareness campaigns to educate citizens about the implications of electoral bonds and the importance of transparent and fair electoral financing.
- **International Best Practices:** Study and adopt best practices from other democracies around the world that have successfully addressed challenges related to political funding and electoral transparency.
- Therefore, the abrogation of Electoral Bonds by the Supreme Court marks a significant milestone in the pursuit of transparency and fairness in political funding. This decision reflects a commitment to uphold the principles of democracy and strengthen the integrity of electoral processes. By nullifying Electoral Bonds, the Supreme Court has taken a crucial step towards promoting accountability and curbing the influence of opaque financing mechanisms in politics. However, it also underscores the need for continued vigilance and comprehensive reforms to address systemic issues in political finance. Ultimately, the decision opens up avenues for constructive dialogue and concerted efforts to enact reforms that uphold the ideals of democracy and ensure that electoral processes remain free, fair, and transparent.



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