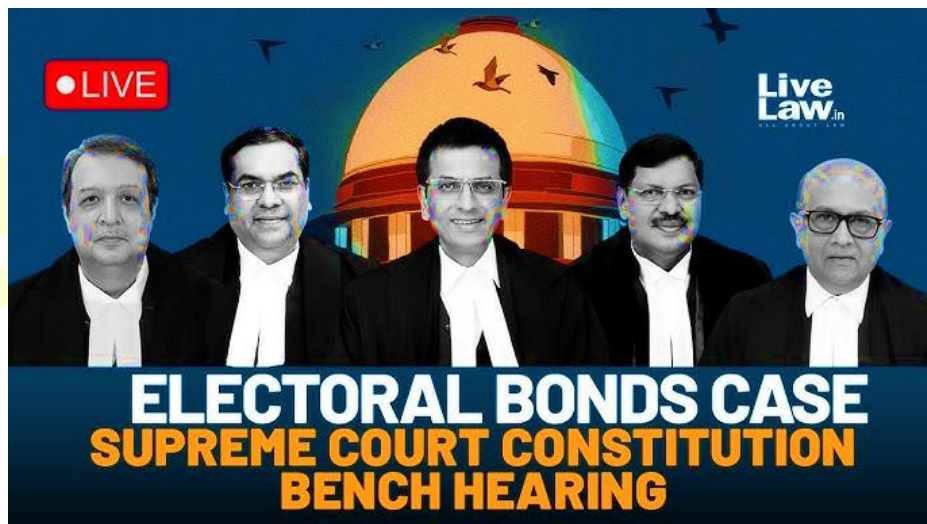


# Electoral Bonds Case

## All You Need To Know

### Why In News

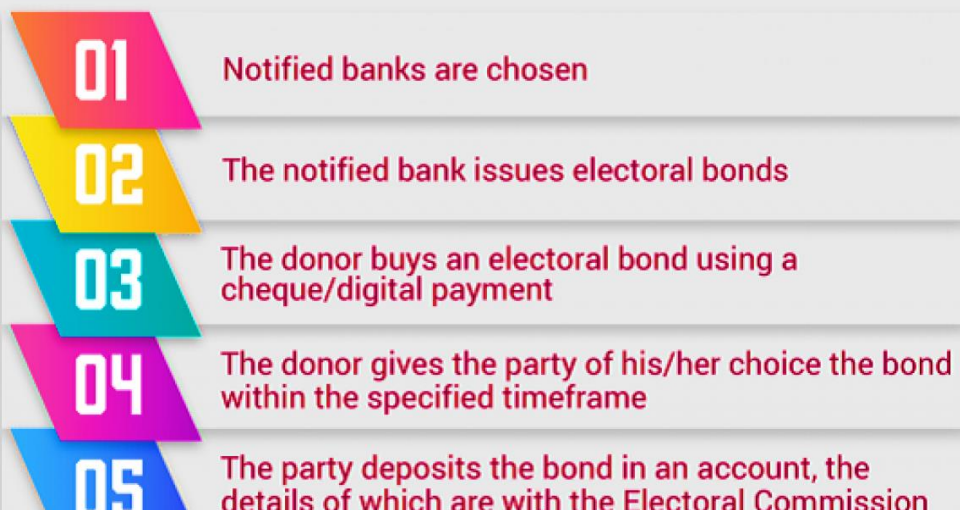
- A **five-judge Constitution Bench** of the Supreme Court of India is hearing a batch of petitions **challenging the legal validity of the electoral bonds scheme** which facilitates anonymous donations to political parties.
- The **matter is being heard by** Chief Justice of India (CJI) DY Chandrachud along with Justices Sanjiv Khanna, BR Gavai, JB Pardiwala and Manoj Misra.



### Electoral Bond Scheme

- An electoral bond is an instrument in the nature of a **promissory note or bearer bond** which can be purchased by any individual, company, firm or association of persons provided the person or body is a citizen of India or incorporated or established in India, can be purchased by companies and individuals in India from **authorised branches of the State Bank of India**.
- These bonds are sold in multiples of Rs **1,000, Rs 10,000, Rs 1 lakh, Rs 10 lakh, and Rs 1 crore**. They can be purchased through a KYC-compliant account to make donations to a political party. The political parties have to encash them within 15 days time.

## How An Electoral Bond Works



- The name and other **information of the donor are not entered** on the instrument and thus electoral bonds are said to be anonymous.
- There is **no cap on the number of electoral bonds** that a person or company can purchase. The Finance Act was passed as a money bill, which meant that it did not require the assent of the Rajya Sabha.

### Benefits of Electoral Bonds

**WILL BRING** substantial transparency in political donations against the present system of contributions in the election funding mechanism

**HOW MUCH** funding comes, what kind of funding it is, the source of funding and where it will be spent will be known clearly

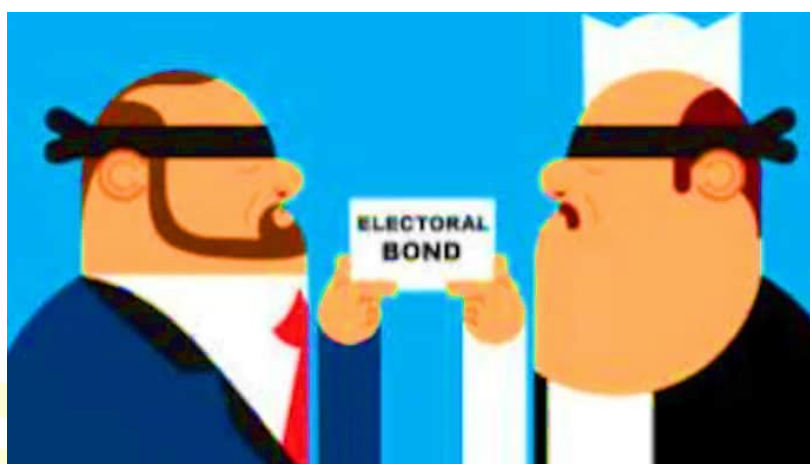
**NON DISCLOSURE** of recipients will ensure people are free to donate to any political party of their choice

**WILL REINFORCE** the idea of moving away from a cash system towards clean money which cheque system could not achieve

**15 DAYS** between buying and selling will ensure they don't turn into a parallel economy

## Challenges

- **Violates Right to Information:** It has been argued in the court that the Electoral Bond scheme violates the citizen's fundamental right to information under Article 19 (1) a, about political parties.
- **Enables backdoor lobbying and quid pro quo:** Bhushan told the court that there is circumstantial evidence to prove that there were kickbacks being paid by corporations via electoral bonds to political parties in power to get favours for the corporations.



- **Opens doors to shell companies:** It has been argued that since the government removed the limit of 7.5 per cent of the annual profit for companies to make donations to political parties and allowed Indian subsidiaries of foreign companies to make donations, shell companies can now also be used to make donations.



## Shell Corporation

*[ˈʃel ,kɔr-pə-ˈrɑː-shən]*

A corporation without active business operations or significant assets.

- It has been argued that Electoral Bonds are opaque instruments that are not entirely anonymous. As **nobody can come to know other than the government** who contributed to whom. Since the SBI comes under the government, donations to the opposition can come under scrutiny by an investigative agency, which leads to selective anonymity.
- Sibal in his argument has submitted before the court that the name "**Electoral Bond**" is a **misnomer** as the money can be used for any purpose after it is withdrawn since no one is asking how the parties spent the money. "There is nothing in the scheme which connects the donations made to the participation in the electoral process."



- **Promotes corruption:** the account can be closed anytime by the political party. He also submitted before the court that this is a scheme to protect criminals from being prosecuted under the Prevention of Corruption Act (PCA) and Prevention of Money Laundering Act (PMLA).
- "More than **50 per cent have been received only by the ruling party** at the Centre and the rest have only been received by the ruling party in States. Not even 1 per cent has been received by opposition parties that aren't ruling in opposition states,"



- **Advocate Farasat** appearing for the CPI (M) submitted before the court that the electoral bonds scheme did not primarily aim to reduce black money but rather aimed to reroute non-anonymous funding from normal banking channels to anonymous Electoral Bonds. Farasat called the scheme an "**alternative white money channel**" created by the government to replace the already existing disclosure-based channels, such as RTGS, bank drafts, and cheques with added anonymity.



## What Supreme Court Said

- Supreme Court said it is "**slightly difficult to accept**" the government's contention that voters do not have the right to know the source of funding of political parties.
- It **directed the Election Commission of India** to submit in two weeks the details of contributions received by political parties by way of electoral bonds until September 30, 2023.
- "**Why not make everything open?** As it is, everyone knows about it (donation through electoral bond). The party knows about it. The only person who is deprived is the voter. Your contention that voters do not have the right to know, after the number of decisions of this court, is slightly difficult to accept," Justice Khanna said.



## What Government Said ?

- **Solicitor General Tushar Mehta**, appearing for the Centre, submitted that under the 2018 scheme, the party which receives the funds via bonds knows who has donated, and that “there cannot be a system where the donor and donee do not know (each other)”.
- Responding to the query on making “everything open”, Mehta said that would defeat the confidentiality deliberately built into the scheme **to protect the donor from victimisation**.
- The other option, he said, would be to go back to the previous regime under which cash flows were allowed and, in turn, encouraged black money.

