Electoral Bonds for Anonymous Corporate Funding

Why in news?

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- Electoral Bonds were introduced as a tool to make electoral funding clean and ensure transparency.
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- But it is anything but that and has the potential to completely distort the electoral playing field to favour incumbents.
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How is the transparency in political funding?

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- A ‘Law Commission Report’ noted that opacity in political funding results in “lobbying and capture” of the government by big donors.
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- A survey found that only 31% of the income of political parties that was declared to the IT department was from unknown sources.
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- Notably, it is estimated that the declared income of parties is only a fraction of their total actual income.
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- This is despite the existence of declaration norms, traditionally governed by four legislations:
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- Representation of the People Act (RPA)
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- Income Tax Act
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- Companies Act
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- Foreign Contribution (Regulation) Act (FCRA)

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What were the norms for political donations?

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- **Corporate Donors -** Companies had to declare in their profit and loss (P&L) statement, the party-wise break-up of political donations.
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- Also, a company was supposed to be at least three years old to contribute to a party.
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- The maximum cap on its contribution was fixed at 7.5% of its average net profit in the three preceding years.
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- Parties were also not entitled to accept contributions from foreign entities.
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- **Public Donors –** Anonymous donations were allowed for sums below Rs.20,000.
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- For contributions of Rs.20,000 and above, the identity of the donor was to be disclosed.
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What are electoral bonds and its implications?

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- If a business could anonymously fund politics, then it would enable a businessman to lobby for a change in policy with ease.
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- He can then legally funnel a part of the profits accruing from this policy change to the politician or party that brought it about.
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- Electoral bonds are ideal for this and they would also help in the legally routing black money to politics as they are anonymous.
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- The RBI Act was hence amended to enable the issuance of electoral bonds, which would be sold through notified banks.
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- **Hypothetical Working Model -** Electoral bonds are essentially bearer bonds that ensure donor anonymity.

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- If a company X wishes to contribute Rs.10 crores to party Y, it could buy 10 electoral bonds of Rs.1 crore each from a bank A.
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- Notably, these bonds would carry only a serial number and an expiry date but not the identity of the buyer.
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- Company X would then deposit these bonds in Party Y's designated account with bank B.
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- Bank B would know that this money belongs to Party Y but it doesn't record the fact that it has come from Company X.
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What are the other legal changes?

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- Finance Act 2016 amended the FCRA to allow parties to accept donations from foreign companies.
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- Also, this year, the Finance Act 2017 was passed, which amended the RPA, the Companies Act and the IT Act.
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- **Implications -** The 7.5% cap on company donations was eliminated, thereby enabling even loss-making companies to make unlimited donations.
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- The requirement for a company to have been in existence for 3 years has been removed - which would enable even overnight shell companies to route funds.
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- Also, companies no longer need to declare the names of the parties to which they have donated – So, even shareholders won't know where their money has gone.
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- Parties no longer have to reveal donor identity for contributions above Rs.20,000, if these are in the form of electoral bonds.
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- Also, a foreign company can anonymously donate unlimited sums to any political party without the EC's knowledge.

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What do these bonds mean for a fair electioneering?

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- **Skewing Elections -** The most evil feature of electoral bonds is their potential to load the dice heavily in favour of the ruling party.
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- In the hypothetical model above, only bank A knows the donor, while only bank B knows the recipient.
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- But both the banks report to the RBI, which has been malleable to the Central government's dictates.
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- So, only the ruling party can ascertain which companies donated to the Opposition parties.
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- It is then free to use the organs of the state to gently dissuade (or retaliate against) these donors who bankroll the opposition.
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- Hence, once the scheme for electoral bonds is notified, the Opposition parties may struggle to raise adequate funds.
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- **Government's rationale** - Electoral bonds was said to protect donors from harassment due to anonymity.
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- But this argument doesn't stand merit as the proposed module would do little to address such harassment.
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- On the contrary, it can actually facilitate further harassment due to the removal of maximum caps on donations.
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- Going forward, there is little doubt that democracy will be the biggest casualty if electoral bonds get notified.
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Source: The Hindu

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