SC refusal to stay Electoral Bonds Scheme

Why in News?

The Supreme Court (SC) has declined to stay the operation of the Electoral Bonds Scheme (EBS), citing the fact that the plea for stay had been heard and refused in 2019 itself.

What was the 2019 SC order?

- In an order in April 2019, a Bench of the SC headed by the then Chief Justice of India, had asked political parties to disclose the details of the donations they had received through the anonymous bonds.
- It asked the parties to disclose these details in sealed cover to the Election Commission of India (ECI).
- Given the limited time available then and the weighty issues involved in the matter, it declined to grant a stay.

What is so disappointing?

- However, it is disappointing to note that nine months on, the SC remains unmoved by submissions that a fresh window for purchase of bonds is set to be opened soon.
- The scheme itself was being frequently opened so that the ruling party would stand to benefit.
- The Reserve Bank of India and the ECI had voiced their reservations about the scheme, which was enabled by provisions of the Finance Act, 2017.
- The Association for Democratic Reforms, the petitioner, has disclosed that an overwhelming majority of the donations made through electoral bonds had gone to the current ruling party at the Centre.
- Further, the ECI has already made clear its strong opposition to the various amendments to the law on contributions to political parties.

What was the ECI's response?

- The ECI, in its response filed in the court, said the provisions would enable the creation of shell companies for the sole purpose of making political donations and no other business.
- It also said that the abolition of the clause that says firms must declare political contributions in their profit-loss accounts would compromise

transparency.

- It added that the amendments to the law on foreign contributions would mean that there would be unchecked foreign funding of political parties, leading to foreign influence on India's policy-making.
- Overall, it had recorded its unequivocal position that the EBS would help the use of black money for political funding.
- In this backdrop, it is quite intriguing that the SC has given the ECI a fortnight to reply to the petition for stay when its position is quite clear.

What could the court do?

- The least the court can do now is to speed up the final hearing of the petitions challenging the scheme.
- There are indeed strong grounds for putting an end to the system of anonymous bearer bonds being used to fund parties.
- Such anonymity gives a clear and unfair advantage to the ruling party of the day.
- It must be remembered that the failure to have an early hearing has already led to the scheme being opened ahead of every major election.
- It may not be possible to assess the adverse impact that such opacity can have on the electoral process.
- This is a matter crying for an early and expeditious decision.

Source: The Hindu

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