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**SC Strikes Down Electoral  
Bonds Scheme**

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## SC STRIKES DOWN ELECTORAL BONDS SCHEME

### In Context

- The Supreme Court struck down the **electoral bonds scheme**, which provides blanket anonymity to financial contributions to political parties,

### Electoral Bond Scheme

- Electoral bonds are money instruments like promissory notes that can be bought by companies and individuals in India from authorised branches of the State Bank of India (SBI).
- It was launched in 2018, and was preceded by amendments to four legislations—the **Representation of the People Act, 1951, (RP Act)**, the **Companies Act, 2013**, the **Income Tax Act, 1961**, and the **Foreign Contributions Regulation Act, 2010 (FCRA)** through the **Finance Acts of 2016 and 2017**.
- **Amendments** : The amendment made to Section 182 of the Companies Act, 2013, permitting unlimited political contributions by companies
  - ◆ Crucial changes were introduced including the **removal of the prior cap** on the amount that companies can donate to political parties — 7.5% of the average profits of the preceding three fiscal years.
  - ◆ Initially, **Section 29C of the RP Act** required parties to declare all **contributions higher than ₹20,000**
  - ◆ However, the **Finance Act, 2017**, amended this provision to create an exception wherein such a requirement would not apply to donations received through electoral bonds.

### Key Highlights of Judgement

- It held that 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.
- The Chief Justice held that the right to privacy of political affiliation does not extend to those contributions, which may be made to influence policies.
  - ◆ It only extends to contributions made as a genuine form of political support.
- **Directions:** 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.

### Rationale Behind the Judgement

- The chief reason for corporate funding of political parties is to **influence the political process** which may in turn **improve the company's business performance**.
- Electoral bonds also 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 channeling funds to political parties.
- In the case of electoral bonds, processes for public consultation, and discussions in Parliament were not followed.
  - ◆ This raises fundamental issues in a democracy because Any government with a majority can pass any Bill, which becomes law
- The **absolute non-disclosure** of the source of political funding through electoral bonds promoted **corruption**.

### Government's Stand

- The government argued that information about financial contributions to political parties is not disclosed to protect the contributor's informational privacy to political affiliation.
- Thus, the court had to consider whether the fundamental right to informational privacy as recognised in the **Puttaswamy verdict**, includes information about a citizen's political affiliation.

### Conclusion and Way Forward

- Democracy requires transparency because in all leading democracies, transparency is the basis of campaign funding.
  - ◆ Information about funding of political parties is essential for the effective exercise of the choice of voting but voters in India have no idea who has been funding political parties and the amounts given.
- The recent verdict underscores the importance of transparency in political funding and upholding the right to information.
- It also reflects the **judiciary's commitment** to safeguarding the principles of democracy and free speech as enshrined in the Constitution.
- This is a very significant judgement which will have a long-term effect on our electoral democracy.

### MAINS PRACTICE QUESTION

Critically examine the Supreme Court's judgement on the Electoral Bonds Scheme with reference to political donations in India.

