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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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CASE COMMENTARY: ASSOCIATION FOR DEMOCRATIC REFORMS V. UNION OF INDIA & OTHERS (2024 SCC ONLINE SC 144)

AUTHORED BY - SIMRAN SONI

Course: LL.M. in Constitutional and Administrative Law

Institution: Gujarat National Law University Silvassa

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(Suo Motu Writ Petition (Civil) No. 4 of 2021 and connected matters)

On 15 February 2024, the Supreme Court of India delivered a landmark judgment in *Association for Democratic Reforms v. Union of India*, declaring the Electoral Bond Scheme, 2018 unconstitutional¹. This verdict stands as a milestone in India's electoral jurisprudence, reasserting the fundamental right to information, transparency in political funding, and the principles of participatory democracy. A five-judge Constitution Bench, headed by Chief Justice D.Y. Chandrachud, unanimously held that the scheme violated the voters' right to know, as guaranteed under Article 19(1)(a) of the Constitution, and arbitrarily privileged corporate influence over electoral fairness². The genesis of the case lies in a set of petitions filed by civil society organisations, primarily the Association for Democratic Reforms (ADR), challenging the validity of the Electoral Bond Scheme introduced in 2018³. The scheme was introduced as a purported reform measure to curb black money in electoral funding by allowing individuals and companies to purchase bonds from the State Bank of India (SBI) and donate them to political parties. However, the identity of the donor remained anonymous to the public, while the government, through SBI, retained access to this information⁴. The scheme was accompanied by legislative amendments to the Finance Act, the Companies Act, the Representation of the People

¹ *Association for Democratic Reforms v Union of India* [2024] SCC OnLine SC 144.

² Constitution of India 1950, art 19(1)(a); *Association for Democratic Reforms* (n 1) [Para 117].

³ *Ibid* [Para 1].

⁴ *Ibid* [Para 6]– [9]

Act, and the Income Tax Act—all of which diluted safeguards and enabled unlimited, opaque, and anonymous corporate donations.

The petitioners contended that the scheme, far from cleansing political funding, opened the floodgates to unaccounted influence in politics. They argued that voters, as citizens of a constitutional democracy, have a right to know who funds political parties so they can make informed choices. By allowing secrecy in donations, especially from corporations and shell entities, the scheme fundamentally undermined the core democratic principle of electoral transparency. It was also argued that the scheme violated Article 14 of the Constitution by creating an uneven playing field—ruling parties could access donor details through SBI, while the opposition and citizens remained in the dark.

The Union Government, on the other hand, defended the scheme by stating that it served to formalize political funding through banking channels, thereby reducing cash donations and black money⁵. It maintained that the anonymity of donors protected them from potential political retribution and promoted freedom of political association⁶. The Attorney General argued that voters did not have an unfettered right to know everything about political parties, especially when weighed against the donors' right to privacy and confidentiality in political contributions⁷.

In a strongly reasoned judgment, the Court struck down the Electoral Bond Scheme and the legislative amendments that enabled it⁸. The Bench held that the right to information, particularly in the context of electoral choices, was part of the broader right to freedom of speech and expression under Article 19(1)(a)⁹. The Court reiterated that informed voting is a cornerstone of democratic participation and that secrecy in political donations prevents citizens from knowing whether parties are being influenced by private interests¹⁰. The Court observed that transparency in political funding is essential for ensuring accountability, preventing quid pro quo arrangements, and safeguarding electoral integrity¹¹.

One of the most critical aspects of the judgment was its focus on corporate donations. The Court

⁵ *Association for Democratic Reforms v Union of India* [2024] SCC OnLine SC 144 [Para 38]–[42].

⁶ *Ibid* [Para 43].

⁷ *Ibid* [Para 46]– [48].

⁸ *Ibid* [Para 90]– [92]; see also Finance Act 2017; Companies (Amendment) Act 2017.

⁹ Constitution of India 1950, art 19(1)(a); *Association for Democratic Reforms* (n 1) [Para 117].

¹⁰ *Ibid* [Para 119]– [122].

¹¹ *Ibid* [Para 130].

struck down the amendment to the Companies Act, 2013 that had removed the cap on corporate donations and the requirement to disclose contributions in financial statements. The Bench held that such unlimited and anonymous donations gave disproportionate influence to corporations—entities that are not citizens and therefore not entitled to fundamental rights such as freedom of expression. By enabling companies, including loss-making and shell companies, to contribute unlimited funds without disclosure, the law allowed undue economic influence in politics, distorting the very idea of equal political participation.

The judgment also addressed the issue of arbitrariness under Article 14¹². It found that the scheme and its legislative framework granted a de facto informational advantage to the ruling government, which could access the donor data via the SBI¹³. This asymmetry, combined with the absence of safeguards against misuse, rendered the scheme manifestly arbitrary and violative of the right to equality¹⁴. The Court emphasized that the architecture of a level playing field must not be compromised by opaque financial systems that favor power concentration¹⁵.

Importantly, the Supreme Court directed the State Bank of India to immediately stop the issuance of electoral bonds and to furnish details of all bonds purchased since April 2019, including purchaser details and the parties that encashed them¹⁶. This data was ordered to be submitted to the Election Commission of India, which was then required to publish the information on its official website¹⁷. These directions not only struck down future implementation of the scheme but also ensured retrospective transparency and accountability¹⁸.

The judgment has far-reaching implications. First, it restores the primacy of voter awareness and democratic accountability in the electoral process. In a political climate where money power has become central to electoral success, the verdict strikes at the root of institutionalized opacity. Second, it rebalances the political field by reaffirming that corporations cannot be allowed to dominate democratic discourse through unchecked funding. By reaffirming that corporations are not citizens and thus cannot override individual rights, the Court has drawn a constitutional

¹² Constitution of India 1950, art 14; *Association for Democratic Reforms v Union of India* [2024] SCC Online SC 144 [Para 141].

¹³ *Ibid* [Para 143].

¹⁴ *Ibid* [Para 145].

¹⁵ *Ibid* [Para 146].

¹⁶ *Ibid* [Para 149]–[150].

¹⁷ *Ibid* [Para 151].

¹⁸ *Ibid* [Para 153].

boundary around corporate power in politics.

Third, the judgment serves as a reminder of the judiciary's role as the guardian of constitutional morality. Over the last decade, political finance reform had increasingly tilted towards opacity under the guise of reform. This verdict reinstates judicial checks on executive and legislative overreach, particularly when it affects core democratic values.

The decision strengthens the doctrine of “constitutional essentials,” which mandates that any law or policy that strikes at the heart of democratic functioning must pass strict constitutional scrutiny¹⁹.

However, the judgment is not without its limitations or criticisms. It does not address the broader and persistent issue of cash donations to political parties, which continue to constitute a significant portion of party funding²⁰. Additionally, while it tackles corporate funding through formal banking routes, it does not consider foreign or indirect funding via third parties or non-profit fronts²¹. Moreover, the implementation of the Court's directions—particularly the disclosure of donor information by SBI and the publication of this data—may encounter bureaucratic and political resistance²².

Comparatively, the Indian Supreme Court's judgment aligns with global democratic practices that favor transparency over anonymity in political funding. In South Africa, the Constitutional Court in *My Vote Counts NPC v. Minister of Justice and Correctional Services* (2021) held that voters have the right to know how political parties are funded²³. In the United Kingdom and Germany, strict disclosure norms are in place for political contributions, ensuring that the public is aware of who is influencing their elected representatives²⁴. Interestingly, the U.S. Supreme Court's *Citizens United* decision, which allowed unlimited corporate political expenditure, has been widely criticized for enabling the erosion of campaign finance ethics. In contrast, India's Electoral Bonds judgment moves in the opposite direction—prioritizing the integrity of elections over the financial might of private entities.

¹⁹ *Association for Democratic Reforms v Union of India* [2024] SCC OnLine SC 144 [Para 167].

²⁰ *Ibid* [Para 168].

²¹ *Ibid* [Para 170].

²² *Ibid* [Para 171]–[172].

²³ *My Vote Counts NPC v Minister of Justice and Correctional Services* [2021] (Constitutional Court of South Africa).

²⁴ See UK Political Parties, Elections and Referendums Act 2000; Germany: Political Parties Act (Parteiengesetz).

From a constitutional law perspective, this case is also notable for reinforcing the functional dimension of Article 19(1)(a)—not just as a negative right against state interference, but as a positive right enabling democratic participation. The Court interprets free speech not merely as the right to express, but also the right to **receive information**, particularly when it relates to matters of public interest like electoral finance. This expansive interpretation significantly enriches India's free speech jurisprudence.

The judgment also subtly invokes the doctrine of proportionality²⁵. In balancing the donor's right to privacy and the state's objective of controlling black money against the voter's right to information, the Court finds that the means adopted—namely, anonymity in donations—were **disproportionate** to the ends claimed²⁶. This application of proportionality doctrine is consistent with recent judicial trends in India (such as *Puttaswamy* on privacy and *Anuradha Bhasin* on internet freedom), indicating a maturing of constitutional jurisprudence around balancing competing rights²⁷.

In conclusion, *Association for Democratic Reforms v. Union of India (2024)* is a turning point in the struggle for electoral transparency and democratic fairness in India. It restores public faith in the democratic process and judicial oversight by dismantling a scheme that had institutionalized anonymity, inequity, and opacity in political finance²⁸. By upholding the right to information, curbing unchecked corporate influence, and protecting electoral integrity, the Supreme Court has not only reaffirmed its role as the sentinel of the Constitution but also reminded the nation that democracy cannot thrive without transparency, accountability, and citizen empowerment²⁹.

²⁵ *Association for Democratic Reforms v Union of India* [2024] SCC OnLine SC 144 [Para 174].

²⁶ *Ibid* [Para 175]– [176].

²⁷ *Justice K. S. Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1; *Anuradha Bhasin v Union of India* (2020) 3 SCC 637.

²⁸ *Association for Democratic Reforms* (n 1) [Para 180].

²⁹ *Ibid* [Para 181].