

“Political Funding and Funding Fundamentals”

Anukriti Sinha¹
Galgotias University
Greater Noida

Across the world, political parties need access to money in order to reach out to the electorate explain their policies and receive inputs from people. And in order to raise their wealth, parties resort the political party funding. One of the primary sources of this finding is the voluntary contributions made by individuals. Besides this, corporate body pay hefty donations to parties in different forms. And foreign aid is another source. In financial year 2017-18 the ruling BJP got an income of over Rs 1000 crore. It spent Rs 750 crore during the period. The figures were made available by election watchdog Association of Democratic Reforms.

Electoral bonds could be a first step towards transparency in India’s election funding. New electoral bonds are to replace the cash donations to political parties. The move is aimed to make the poll funding more transparent. Electoral bonds allow donors to pay political parties using banks as an intermediary. The donors can buy these bonds from the state bank of India. Electoral bonds would be valid for 15 days. The political parties that get electoral bonds can in cash these bonds only through a designated bank account.² The electoral bonds will be available at specified SBI branches for 10 days each in the months of January, April, July and October. They will not carry the donors name even though the purchaser would have to fulfil KYC norms at the bank. A citizen of India or a body corporate incorporated in India will be eligible to purchase these bonds. The bonds will not carry the name of the payee and can be bought for any value in multiples of Rs 1000, Rs 10,000, Rs 100000, Rs 10, 00000 or Rs 10, 000000. These bonds can be given to a registered political party which has secured at least 1% vote in the Lok Sabha or state Assembly elections. The political parties will have to give one bank account to the election commission and it will have to be in cashed within 15 days.³

The Association of Democratic Reforms analyse the income and expenditure of National political parties based on their income tax returns submitted to Election Commission of India. Over the 50% of the total funds of national parties are form unknown sources It analyse the income and expenditure of six of the seven parties i.e., The BJP, BSP, NCP, CPI CPIM and TMC. As per the report, the BJP had declared a total income of Rs 1, 027. 34 crore during 2017-18 and spent Rs 758. 47crore. The communist party of India (Marxist) follows in the second place with an income of Rs 104.85 crore and an expenditure of Rs 83.48 crore. Mayawati’s BSP declared a total income of Rs 51.7 crore during the year 2017- 18 and out of which the party spent only Rs 14.78 crore that is 29%. The Sharad Pawar led NCP was the only party which spent more than its total income which was Rs 8.15 crore. The party spent Rs 8.84 crore TMC declared the total income of Rs 5.17 crore and spent Rs 1.76 crore. While the communist party of India’s total income was Rs 1.55 crore and its spent Rs 1.10 crore.

¹ Anukriti, BALLB(student)

² <https://www.indiatoday.in/elections/lok-sabha-2019/story/what-are-electoral-bonds-1500621-2019-04-12>

³ www.thehindu.com/news/national/the-hindu-explains-what-is-an-electoral-bond-and-how-do-we-get-one/article22367124.ece

National parties are required to submit a copy of their reports to the Election Commission of India. The Electoral bonds can be cashed by an eligible political party only through a bank account. Only the political parties registered under section 29 (A) of the Representation of People Act 1951 and which secured not less 1% of the vote scored in the last general election to the House of People or the legislative assembly of the state are eligible to receive electoral bonds. Currently, there are 22 registered Electoral trusts formed by various industrial houses and companies. According to the Election commission guidelines, all electoral trusts formed after January 2013 are required to declare details of many received and how it is disbursed. The central government mandate these firms to donate 95% of total income to registered political parties in a financial year. The government has taken several steps to make political funding transparent. Electoral bonds is one of them to cleanse the political system. Recently the Election commission also made some recommendations to the Law Ministry regarding political funding. The NDA dispensation brought about major changes in the way political parties are funded with an aim to cleanse the political system and bring about transparency it included electoral bonds. An electoral bond is a bearer instrument like Promissory note. It can be purchased by an Indian citizen or a body corporate in India with a KYC complaint account. These bonds are available at specified State Bank of India branches. Donors can donate bonds to their political party of choice that can then be cashed through the party's verified account within 15 days. The electoral bonds don't bear the name of the donor. The sale of the first batch of electoral bonds took place between March 1st to 10th, 2018. Electoral bonds worth Rs 222 crores were issued in the first transaction itself. As per the ADR, the BJP received Rs 210 crore from contributions through electoral bonds in the year 2017- 18. The government also removed the cap on corporate contributions to political parties with the 2017 finance Act. The Act lifted the 7.7% limit of net profit of a company's past three financial years to make donations to political parties; it also removed the obligation to report such contributions in companies profit and loss account. As per the 2017 report of ADR, the BJP receives the maximum donations of Rs 705.81 crore from 2987 corporate donors. The congress received the total contributions of Rs 198.16 crore. The Election Commission has been pushing the Rs 2000 cap for a long time. The government allows foreign companies to fund political parties in India. Meanwhile the Election Commission is working on to limit the funding of political parties on election campaigns. The Election commission recommendations are: A party's expenditure limit should be 50% or less of the combined maximum spends for all its candidates. Individual spending to be capped based on whether it's an assembly or a general election. Anonymous donations are limited to 20% of a party's total collections.⁴

Political parties and competitive election campaigns requires significant resources. Ideally these resources should be raised and spend transparently. India has numerous regulations that cleaning up political funding. Every political party needs to pitch itself. Its objective and intended actions to get votes for it and that means advertising itself. Raising funds is aimed at financing advertisement cost and other miscellaneous expensed incurred by the party to promote itself. Among the various methods of getting a political party funded, the most commonly seen are by individual persons, public funding and corporate funding. A political party may acquire funds by donations from people or companies and so on. State funding or public funding is where the government provides funds to parties for election related purposes. This allows the parties to gather funds without approaching companies or people as

⁴ <https://www.livemint.com/opinion/columns/opinion-how-to-ensure-political-funding-is-clean-and-transparent-1549994213111.html>

it often leads to such contributions having influence over the political parties they fund. Also, state funding helps saves the high amount wasted in election campaigns and provides fair opportunities to political parties.⁵

State funding is of two types. Direct funding is that gives direct funds to political parties. Indirect funding includes other methods except direct funding like free access to media, free access to public places for rallies, free or subsidised transport facilities and so on. Direct funding by state is prohibited in India. However indirect funding is allowed in a regulated manner. Another method is corporate funding . In India donations by corporate bodies is governed by the Companies Act, 2013. Section 182 of the Act provides the company needs to be at least three years old to be able to donate to a political party. Companies can donate up to 7.5% of average net profits they made during three simultaneous proceeding financial years. Such contributions must be disclosed in the company's profit and loss accounts. Approval of the Board of directors needs to be obtained by passing a resolution. If a company violates provisions of this election, it may have to pay a fine of five times the amount contributed and punishment can go up to six months.⁶

One of the biggest problems in corporate funding is the use of fake companies to root black money. Statutory provisions exist to allow the political parties to accept funds or restrict donations. Section 29B of Representation of People's Act entitles parties to accept voluntary contributions by any person or a company except a government company. Section 29C of Representation of People's Act mandates the political parties to declare donations if it exceeds Rs 20,000. Such declarations are made by making a report and submitting it to the Election commission.⁷ Failing to submit the report on time disentitles party from relief under the Income Tax Act, 1961. What makes political funding legitimate depends on the laws of the country. Different countries have different restrictions on political funding. For example in the US and the UK corporations donations are not permissible. While in countries like Australia and Malaysia, they are accepted. The source political funding varies around the world based on culture, precedent and legal standards. In many countries, political parties are at least partially funded from the national budget in the form of various types of allowances. In the US, the political funding at the federal level is governed by law enacted by congress Congress and enforced by the federal election commission an independent federal agency. Most campaign spending is privately financed. Public financing is available for qualifying candidates for Presidential post of the US. It is considered unlawful to accept donations from foreign interests. Furthermore corporation donations are considered illegal unless political actions committees are formed. In UK, political funding has been a source for controversy for years.⁸ There are three main ways the political parties funded membership fees, party donations or through state funding. State funding is reserved for administrative costs. Declarations must be made for donations above 5000 pounds for national parties and 1000 pounds or more for local associations. Although the anonymous donations are allowed any amount more than 50 pounds is prohibited. In Great Britain these donations and loans are reported on the electoral commission online database to ensure that there is transparency on the funding of parties. Most democratic countries banned donations from corporations, foreign interest or they may require shareholder approval for the company donations. But

⁵ https://www.jstor.org/stable/43953396?seq=1#page_scan_tab_contents

⁶ <https://www.thehindu.com/opinion/lead/a-vote-for-state-funding/article22545432.ece>

⁷ http://legislative.gov.in/sites/default/files/04_representation%20of%20the%20people%20act%2C%201951.pdf

⁸ <https://www.electoralcommission.org.uk/find-information-by-subject/political-parties-campaigning-and-donations/public-funding-for-parties>

Malaysia and Australia do not have such a ban. In Australia, political parties and independent candidates receive political funding for campaigning as per the commonwealth electoral Act 1918. The Australian Electoral commission publishes the donation figures annually.⁹ But political donations are legal in Malaysia. The Election offences Act 1954 regulates the maximum expenses allowed for candidates vying for parliamentary seats and for state seats during the campaign period. However when it comes to funding a political party there is no limit and parties are not obliged to disclose the source of the funding which makes political donations a vague subject but entirely legal in the country. However in June 2018, the current Malaysian government said it will table a new law on political funding in parliament in order to reduce corruption. Meanwhile in Singapore, the political donations Act is much strict as compare to other countries. This Act basically serves to prohibit donations to political parties from anyone who is not defined as a permissible donor such as foreigners. Anonymous donors are also tightly restricted. A donation is only considered anonymous if the recipient is unable to ascertain the identity of the donor.¹⁰ Money is the necessary evil for the function of political parties. There is no escaping that but unregulated, undisclosed and fake political funding can threaten the very fabric of the democracy and governance.

Supreme Court has ordered all political parties to submit details of the poll bonds. This electoral poll bonds received to the May 15th, 2019 to the Election commission by the 30th in a sealed cover. Supreme Court also said that the sale of the electoral bonds during election stands cancelled. Over Rs 1700 crore donated to political parties in just the last three months with no hint or clue of who is funding the political parties and how much. The Supreme Court asked political parties to submit details of bonds received till May 15th and donors to the Election commission by May 30th.¹¹ The court which is hearing a petition against electoral bonds also said the additional days allowed for sale of bonds during election season stands cancelled. Attorney General K.K.Venugopal had opposed disclosing details of donors and who they fund. The income figures for 2017, 2018 show 95% of the corporate donations that here went to the BJP. After the Supreme Court's intervention, the congress has demanded the BJP to reveal its source of funds. After the Interim order of Supreme Court, the big question was of who gets access to the sensitive data. The petitioner wanted all voters to get access, while the Election Commission wanted to monitor.¹² Because of citizens funding in elections and once the party gets into the power then they will be working on citizens interests.

⁹https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1819/Quick_Guides/ElectionFundingStates

¹⁰ <https://www.eld.gov.sg/registry.html>

¹¹ <https://www.thehindu.com/news/national/voters-neednt-know-source-of-political-funding-govt/article26811609.ece>

¹² <https://www.orfonline.org/expert-speak/political-funding-how-bjp-and-congress-compete-for-every-piece-of-the-pie-50287/>