

Summary of petition in SC against electoral Bonds

The Petitioners have filed the instant Public Interest Litigation under Article 32 of the Constitution of India on the issue of corruption and subversion of democracy through illicit & foreign funding of political parties and opaqueness in the accounts of all political parties. The petitioners are seeking directions from this Hon'ble Court to strike down amendments made through Finance Act, 2017 and earlier Finance Act, 2016, both passed as money bills, and which have opened doors to unlimited political donations, even from foreign companies and thereby legitimizing electoral corruption at a huge scale, while at the same time ensuring complete non-transparency in political funding.

The amendments in question have opened the floodgates to unlimited corporate donations to political parties and anonymous financing by Indian as well as foreign companies which can have serious repercussions on the Indian democracy. The said amendments have removed the caps on campaign donations by companies and have legalised anonymous donations.

The Finance Act of 2017 has introduced the use of electoral bonds which is exempt from disclosure under the Representation of Peoples Act, 1951, opening doors to unchecked, unknown funding to political parties. The Act has also removed the previous limit of 7.5 per cent of the company's average three-year net profit for political donations with the result that a company is no longer required to name the parties to which such contributions are made. Similarly, the Finance Act of 2016 amended the Foreign Contribution Regulation Act (FCRA), 2010, to allow foreign companies with subsidiaries in India to fund political parties in India, effectively, exposing the Indian politics and democracy to international lobbyists who may want to further their agenda.

These Amendments pose a serious danger to the autonomy of the country and are bound to adversely affect electoral transparency, encourage corrupt practices in politics and have made the unholy nexus between politics and corporate houses more opaque and treacherous and is bound to be misused by special interest groups and corporate lobbyists.

Petitioners submit that there is a fear that if the recent amendments are not set aside, these corporate houses and extremely wealthy lobby groups can have a stranglehold on the electoral process and governance. Such activities, if allowed, can result in a situation that

legislation, regulations etc. can be ultimately be passed and laws brought in to favour of these corporates and lobby groups at the expense of the common citizens of the country. The petitioners also submit that such wide-ranging amendments in various statutes were brought in illegally as a “Money Bill”, in order to bypass the Rajya Sabha.

The details of the amendments made in various statutes introduced through Finance Act, 2017 and Finance Act 2016:

- Section 31, the Reserve Bank of India Act, 1934 through Part III, Section 135 of the Finance Act, 2017,
- Section 29C, the Representation of the People Act, 1951 through Part – IV, Section 137 of the Finance Act, 2017
- Section 13A, the Income Tax Act, 1961 through Chapter III, Section 11 of the Finance Act, 2017 and in
- Section 182 of the Companies Act, 2013 through Part-XII, Section 154, the Finance Act, 2017.
- Section 2 of the Foreign Contribution Regulation Act, 2010 (FCRA) through Finance Act, 2016

Prayer: The petitioners are challenging these amendments as being unconstitutional and violative of doctrines of separation of powers and citizen’s fundamental right to information which are parts of the basic structure of the Constitution. The aforesaid amendments are also patently arbitrary, capricious and discriminatory as they attempt to keep from the citizen’s crucial information regarding electoral funding.