Press Release from Common Cause on the Electoral Bonds Judgment

Common Cause and ADR, the original petitioners in the Electoral Bonds case, stand vindicated by today’s Supreme Court verdict which struck down the Electoral Bond Scheme 2018 holding that it is violative of the right to information under Article 19(1)(a) of the Constitution. The two petitioners had jointly challenged the constitutionality of the Electoral Bonds scheme in a PIL in 2017 while other petitioners (Congress leader Jaya Thakur and CPIM) had joined in later. Common Cause and ADR had subsequently made several submissions over the past few years to strengthen their case and to draw the attention of the Apex Court to serious dangers such a scheme posed to the autonomy of the country and its free and fair elections.

The main plea of the petitioner organisations, put forward by their counsel Prashant Bhushan, was that the EBs had not only made electoral funding of political parties more opaque, but the scheme had also legitimised high-level corruption at an unprecedented scale by removing funding limits for corporate donors and by opening a backdoor for the funding of Indian elections by foreign interests and lobbyists. The PIL sought direction from the Supreme Court to strike down the amendments brought in illegally as part of a “Money Bill” in order to bypass the scrutiny of the Upper House of Indian Parliament.

We act Common Cause believe that today’s landmark judgment will have a long-term effect on India’s electoral democracy. We believe that this will go a long way in making the electoral process more transparent even though a lot more needs to be done to safeguard democracy from the dark shadow of money and muscle power. We are committed to continuing our fight for free and fair elections in India through democratic means.

The petitioners had prayed that wide-ranging amendments in Finance Act, 2017, Finance Act, 2016, The Representation of Peoples Act, 1951, The Reserve Bank of India Act, 1934, The Income Tax Act, 1961 and The Companies Act, were brought in illegally as part of a “Money Bill”, in order to bypass the scrutiny and deliberations of the Rajya Sabha.

The Finance Act, 2016 has allowed foreign companies with subsidiaries in India to fund political parties, effectively exposing India’s democratic political system to corporate lobbyists who may want to pursue their hidden agenda. The earlier restriction that political donations would not exceed 7.5 per cent of the donating company’s average three-year net profit was done away with. This also leads to the absurdity of the loss-making companies making donations of any amount of their choice to political parties even out of their capital or reserves.

Common Cause is of the opinion that today’s judgment upholds the citizen’s right to know as to who is funding a political party. As the Court said, the information of funding to political parties is essential for the citizens for their effective exercise and choice of voting.

Common Cause works for probity in public life and Governance reforms since 1980. It also brings out the Status of Policing in India Reports (SPIR) for citizen-centric policing.