

IN THE SUPREME COURT OF INDIA
(INHERENT JURISDICTION)
CONTEMPT PETITION (CIVIL) NO. _____ OF 2024
IN
WRIT PETITION (CIVIL) NO. 880 OF 2017

IN THE MATTER OF:

ASSOCIATION FOR DEMOCRATIC REFORMSPETITIONER

VERSUS

DINESH KUMAR KHARA

...ALLEGED
CONTEMNOR/RESPONDENT

AND IN THE MATTER OF:

ASSOCIATION FOR DEMOCRATIC REFORMS ... PETITIONER

FILING INDEX

S.NO.	PARTICULARS	COPIES	C.FEE
1.	Contempt Petition on behalf of the Petitioners	1+3	NIL/-
2.	ANNEXURE -P1 TO P7	1+3	NIL/-
3.			
4.		TOTAL	NIL/=

Prashant Bhushan
(PRASHANT BHUSHAN)
301 NEW LAWYER CHAMBER
SUPREME COURT OF INDIA
NEW DELHI 110001
CODE NO.: 515

NEW DEHI:
DATED: 06.03.2024

HANS RAJ, I. CARD NO. 3080 REGD. CLERK, MOB. NO.: 9868862875

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PAPER BOOK

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ADVOCATE FOR THE PETITIONER: PRASHANT BHUSHAN

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IN THE SUPREME COURT OF INDIA
(INHERENT JURISDICTION)
CONTEMPT PETITION (C) NO. _____ OF 2024
IN
WRIT PETITION (C) NO. 880 OF 2017

IN THE MATTER OF:

1. ASSOCIATION FOR DEMOCRATIC REFORMS
THROUGH ITS FOUNDER-TRUSTEE
PROF. JAGDEEP S. CHHOKAR
T-95, 2ND FLOOR, C.L HOUSE,
GAUTAM NAGAR
NEW DELHI-110049 ...PETITIONER NO. 1

2. COMMON CAUSE
(A REGISTERED SOCIETY)
THROUGH ITS DIRECTOR
5, INDUSTRIAL AREA
NELSON MANDELA ROAD
VASANT KUNJ, NEW DELHI- 110070. ...PETITIONER NO. 2

VERSUS

1. DINESH KUMAR KHARA
CHAIRMAN, STATE BANK OF INDIA
CORPORATE CENTRE,
NARIMAN POINT, MUMBAI.
...ALLEGED CONTEMNOR/RESPONDENT

AND IN THE MATTER OF:

1. ASSOCIATION FOR DEMOCRATIC REFORMS
THROUGH ITS FOUNDER-TRUSTEE
PROF. JAGDEEP S. CHHOKAR
T-95, 2ND FLOOR, C.L HOUSE,
GAUTAM NAGAR
NEW DELHI-110049 ...PETITIONER NO. 1

2. COMMON CAUSE
(A REGISTERED SOCIETY)
THROUGH ITS DIRECTOR
5, INDUSTRIAL AREA
NELSON MANDELA ROAD
VASANT KUNJ, NEW DELHI- 110070

...PETITIONER NO. 2

VERSUS

1. UNION OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
ROOM NO. 137, NORTH BLOCK,
NEW DELHI-110001

...RESPONDENT NO. 1

2. UNION OF INDIA
MINISTRY OF LAW AND JUSTICE
4TH FLOOR, A WING,
RAJENDRA PRASAD ROAD,
SHASTRI BHAVAN,
NEW DELHI - 110001

...RESPONDENT NO. 2

3. ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN,
ASHOKA ROAD,
NEW DELHI - 110001

...RESPONDENT NO. 3

TO
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUDGES OF
THE HON'BLE SUPREME COURT OF INDIA

**THE HUMBLE PETITION OF
THE PETITIONER ABOVE NAMED**

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner herein is filing the instant petition seeking initiation of contempt proceedings against State Bank of India (SBI) for wilfully and deliberately disobeying the order, dated 15.02.2024, passed by this Hon'ble Court in *W.P.(C) No. 880 of 2017* wherein this Hon'ble Court directed SBI to submit details of contribution made to the political parties through Electoral Bonds to the Election Commission of India (ECI) by 06.03.2024. The directions given by this Hon'ble Court in ***Association for Democratic Reforms vs Union of India (2024) SCC Online SC 150*** is quoted herein below:

221. In view of our discussion above, the following directions are issued:

- a. The issuing bank shall herewith stop the issuance of Electoral Bonds;*
- b. SBI shall submit details of the Electoral Bonds purchased since the interim order of this Court dated 12 April 2019 till date to the ECI. The details shall include the date of purchase of each Electoral Bond, the name of the purchaser of the bond and the denomination of the Electoral Bond purchased;*
- c. SBI shall submit the details of political parties which have received contributions through Electoral Bonds since the interim order of this Court dated 12 April 2019 till date to the ECI. SBI must disclose details of each Electoral Bond encashed by political parties which shall*

include the date of encashment and the denomination of the Electoral Bond;

- d. SBI shall submit the above information to the ECI within three weeks from the date of this judgment, that is, by 6 March 2024;***
- e. The ECI shall publish the information shared by the SBI on its official website within one week of the receipt of the information, that is, by 13 March 2024; and*
- f. Electoral Bonds which are within the validity period of fifteen days but that which have not been encashed by the political party yet shall be returned by the political party or the purchaser depending on who is in possession of the bond to the issuing bank. The issuing bank, upon the return of the valid bond, shall refund the amount to the purchaser's account. [Emphasis Supplied]*

A copy of the ***Association for Democratic Reforms vs Union of India*** reported as ***(2024) SCC Online SC 150*** passed by the constitution bench of this Hon'ble Court in WPC No. 880 of 2017 is annexed herewith as **ANNEXURE P1 (Pg. 20-146)**.

2. That two days before the expiry of the stated deadline for State Bank of India (SBI) for submitting information concerning electoral bonds to the Election Commission of India, SBI has filed M.A. No. 486 of 2024 dated 04.03.2024 in W.P.C No. 880 of 2017 seeking time till 30.06.2024 to comply with directions passed in para 221 (b), (c) and (d) of the judgment dated 15.02.2024. It is submitted that the said application is *mala fide* and demonstrates a wilful and deliberate disobedience & defiance of the judgement passed by the Constitution Bench of this Hon'ble Court. It is

further a clear attempt to undermine the authority of this Hon'ble Court.

The relevant part of MA No. 486 of 2024 filed by Chairman, SBI is quoted herein below:

....

10. It is submitted that donor details were kept in a sealed cover at the designated branches and all such sealed covers were deposited in the Main Branch of the Applicant bank, which is located in Mumbai.

11. On the other end, each political party was required to maintain a designated account in any of the 29 authorised Branches. It was only in this account that electoral bonds received by that party could be deposited and redeemed. At the time of redemption, the original bond, the pay-in slip would be stored in a sealed cover and sent to the SBI Mumbai Main Branch.

12. It can thus be noted that both sets of information's were being stored independently of each other. Thus, to re-match them would be a task requiring significant amount of effort. In order to make available donor information, the date of issue of each bond will have to be checked, and matched against the date of purchase by a particular donor. This exercise would only deal with the first silo of information. These Bonds were redeemed by the Political Parties in their designated Bank accounts. Accordingly this information would then have to be matched against the bond redemption information that makes up the second silo.

13. It is submitted that the retrieval of information from each silo and the procedure of matching the information of one silo to that of the other would be a time consuming exercise. The details are stored separately, some of the details such as number of Bonds, etc. are stored digitally while the other set of details such as name of purchaser, KYC etc., are stored physically. The purpose of not storing all details digitally was to ensure that it cannot be gathered easily to achieve the object of the scheme.

14. In that regard, it is further submitted that this Hon'ble Court has directed for making public, donor information from the date of its interim order of April 12, 2019, to the date of the judgement

i.e. 15.02.2024. In that time period, twenty-two thousand two hundred seventeen (22,217) electoral bonds were used for making donations to various political parties. Redeemed Bonds were deposited to Mumbai Main Branch by the Authorised Branches at the end of each phase in sealed envelopes. Coupled with the fact that two different information silos existed, this would mean that a total of forty four thousand four hundred thirty four (44,434) information sets would have to be decoded, compiled and compared.

...

A copy of MA No. 486 of 2024 filed by the State Bank of India in WP (C) No. 880 of 2017 is annexed herewith as **ANNEXURE P2 (Pg. 147-156)**).

3. It is submitted that the State Bank of India has deliberately filed the said Application for Direction dated 04.03.2024 at the last moment in order to ensure that the details of donor and the amount of donations are not disclosed to the public before the upcoming Lok Sabha elections. The said application neither discloses the progress made so far & steps taken to comply with the judgment dated 15.02.2024, nor it shows even part-compliance of the judgment passed by this Hon'ble Court.
4. Moreover, the affidavit supporting the application has neither been sworn by the Chairman or the Managing Director of State Bank of India. It has been sworn by a low level functionary of SBI namely one Mr. Narendra Pratap Singh who describes himself to as Assistant General Manager working at Corporate Centre, State Bank of India, Mumbai. It is surprising

that the name of Mr. Narendra Pratap Singh, who has signed the affidavit, does not even figure in the list of 59 high ranking officers working at Corporate Centre Mumbai as per SBI's website. A copy of details of officers working at the Corporate Centre, Mumbai as per SBI website downloaded by the petitioner on 06.03.2024 is annexed herewith as **Annexure P3 (Pg. 157-160)**.

5. That SBI has the record of unique number allotted to each Electoral Bond and the KYC details of its purchaser. That the requirement of the KYC is mentioned in Section 4 of the EB scheme itself, therefore, the SBI is well aware of the identity of purchasers of each Electoral Bond. The relevant clause of the scheme is quoted herein below:

4.Applicability of Know Your Customer Norms.-

(1)The extant instructions issued by the Reserve Bank of India regarding Know Your Customer norms of a bank's customer shall apply for buyers of the bonds.

(2) The authorised bank may call for any additional Know Your Customer documents, if it deems necessary.

A copy of Electoral Bond Scheme, 2018 dated 02.01.2018 is annexed herewith as **ANNEXURE P4 (Pg. 161-166)**.

6. As per clause 7 of the Scheme, information furnished by the buyer can be disclosed when demanded by a competent court. As per Clause 12 (4) of the Scheme, Electoral Bonds have to be encashed within fifteen days failing which the amount of bonds not encashed are to be deposited by

the bank to the PM relief Fund. Thus, it is inconceivable that SBI does not have the recorded information readily available within its data base.

7. Procedure for making application for purchase of bonds.—

- (1) *Every buyer desirous of purchasing bond can apply with a physical or through online application in the format specified in Annexure II to this notification.*
- (2) *Every application shall contain particulars as per the format in Annexure-II and shall be accompanied with the specified documents.*
- (3) *On receipt of an application, the issuing branch shall issue the requisite bond, if all the requirements are fulfilled.*
- (4) ***The information furnished by the buyer shall be treated confidential by the authorised bank and shall not be disclosed to any authority for any purposes, except when demanded by a competent court or upon registration of criminal case by any law enforcement agency.***
- (5) *A non-Know Your Customer compliant application or an application not meeting the requirements of the scheme shall be rejected.*
- (6) *The bond shall be issued to the buyer on non-refundable basis.*

12. Encashment of the bond.-

- (1) *The bond can be encashed only by an eligible political party by depositing the same in their designated bank account.*
- (2) ***The amount of bonds not encashed within the validity period of fifteen days shall be deposited by the authorised bank to the Prime Minister Relief Fund.***

7. Furthermore, Union of India in its affidavit dated 15.03.2019 stated that *the scheme envisages building a transparent system of acquiring bonds with validated KYC and on audit trail.* It is further admitted by UOI that KYC documents, PAN, details of identity, address in full of the donor are

recorded by the SBI. A copy of the affidavit dated 15.03.2019 filed by Union of India in WPC No. 880 of 2017 is annexed herewith as **ANNEXURE P5 (Pg. 167-189)**.

8. It is submitted that the electoral bonds are completely traceable which is evident from the fact that SBI maintains a secret number-based record of donors who buy bonds, and the political parties they donate to. The same has been observed in article dated 20.11.2019 of *Huffpost* titled *Electoral Bonds Are Traceable: Documents Nail Govt Lie On Anonymity*. The relevant part is quoted herein below:

.....

Anonymity Farce

When the electoral bond scheme was first announced in Finance Minister Jaitley's budget day speech on February 1, 2017, the government had no idea how these bonds would actually work.

It conducted perfunctory consultations with the Reserve Bank of India, the Election Commission of India and opposition parties, but disregarded their suggestions.

A year later, in January 2018, internal file notings of the finance ministry show, it drew up a basic conceptual framework for the bonds and then held consultations with SBI to figure out how to run the scheme.

In a meeting with the finance ministry on January 16, 2018, SBI explained these bonds would necessarily need serial numbers to identify the buyers and recipients of these financial instruments.

"Electoral bonds will not bear the name of the buyer or payee, but will necessarily need a serial number," bank officials said at the finance ministry meeting, according to internal notes of the ministry.

Without the serial numbers, the bank explained, there would be no audit trail available for internal control and reconciliation of the bonds by the bank. If courts and law enforcement agencies asked SBI for details on the purchaser of the bonds, the bank would have no answer. Without unique identifiers, the bonds could be forged, and accounting for them would be impossible.

Yet, the serial numbers intended to ensure the integrity of electoral bonds would also mean that the SBI would have absolute clarity on the path taken by these bonds — from an individual or corporate account from which they were purchased, to the account in which they were eventually deposited.

The donor would be granted anonymity from the public, but not from the SBI. Records show the finance ministry agreed with the SBI.

“Bank (SBI) may be allowed to put a serial number on the bonds to avoid these complications for the banks and also for the scheme,” senior officials of the Finance Ministry said in their internal notings. “However, the bank may be advised to keep information highly confidential to prevent its leaking in any way.”

A copy of the article dated 20.11.2019 published in *Huffpost* titled *Electoral Bonds Are Traceable: Documents Nail Govt Lie On Anonymity* is annexed herewith as **ANNEXURE P6 (Pg. 190-206)**.

9. As per experts on the said software, since each electoral bond has a unique number, a simply query on the database can generate a report in a particular format which does not require any manual verification. That sealed envelopes are only physical instruments like a cheque, the actual transaction of the cheque being deposited is in the database that can be easily extracted by generating a software query. As per SBI's own

website, SBI has 2,60,000 employees, 22,500 worldwide branches administered by a headquarters, 17 local head offices, 101 zonal offices and 208 foreign offices in 36 countries. It is hard to believe that SBI is not able to gather information which SBI has itself recorded.

10. Furthermore, as per RTI dated 25.06.2018 filed by Commodore Batra for management of EBs, SBI had spent Rs 60,43,005 on IT system development, operational cost was Rs 89,72,338 and net cost for floating of EBs was Rs 1,50,15,338. This implies that a well-functioning IT system is already in place with respect to management of sale and redemption of electoral bonds. A copy of RTI reply dated 25.06.2018 received by Commodore Batra regarding management of EBs is annexed herewith as **ANNEXURE P7 (Pg. 207-208)**.

11. It is pertinent to note that as per information received through RTI, in 30 phases of Electoral Bonds sale, only 19 out of 29 SBI Authorised Branches sold Electoral Bonds and 14 SBI Branches encashed Electoral Bonds. The data available as on January, 2024 further shows that only 25 Political Parties had opened their account and are eligible for encashing Electoral Bonds. Therefore, compiling of this information should not be difficult as the system is already in place.

12. It is mandatory that SBI furnishes all information relating to electoral bonds within stipulated timeframe given by this Hon'ble Court as voters will not be able to exercise their informed opinion properly during Lok Sabha 2024 if complete information about EBs is not shared with them. Any form of anonymity in the political parties' finances goes against the essence of participatory democracy and People's Right to Know enshrined under Article 19(1)(a) of the Indian Constitution. Availability of information about EBs will give voters a chance to truly inspect, express and decide their choices. This defiant approach of the SBI towards citizen's 'Right to know' about huge sums of money received by parties through Electoral bonds and corporates in a non-transparent and unaccountable manner is reprehensible and betrays its clear motive to stifle citizen's voice and right to audit actions of the political class, and therefore it should be held as serious breach of contempt by this Hon'ble court.

13. As per the information available in the public domain through the audit reports of political parties, 20 recognised political parties (out of approx. 55-63 recognised parties eligible for receiving electoral bonds during the operation of the Scheme) have received electoral bonds from FY 2019-20 to FY 2022-23 (the period for which SBI has to compile this data). These 20 parties in total declared bonds worth Rs 9227.46321 cr. It

should not take SBI more than a few days to compile information for 20 political parties.

14. The admittedly the total number of Electoral Bonds sold so far from from FY 2019-20 to FY 2022-23 are 22,217. It is only 22,217 bonds which SBI has to compile and share with ECI. It is already established that most of these bonds are in the denomination of 1 crore and above. Between March 2018 to January 2024, 15,631 electoral bonds worth Rs 15,631 cr were purchased in the denomination of Rs 1 crore, which is more than 94% of the total bonds sold during all thirty phases. The Supreme Court ordered the SBI to compile this data from April 12, 2019 onwards (as per the interim order) up to February 15, 2024 (date of judgment). Given that most bonds are purchased in the highest denomination of Rs 1 cr (13,109 of the 22,217 bonds) and not smaller denominations, the extension requested by the SBI is *mala fide*.

EBs Sold by Numbers (April 2019 to January 2024)						
Phase	One Thousand (OT)	Ten Thousand (TT)	One Lakh (OT)	Ten Lakhs	One Crore	Total Amount Sold
Phase IX	2	11	696	1914	2058	4681
Phase X	19	6	35	339	788	1187
Phase XI	0	0	18	42	41	101
Phase XII	0	10	152	154	215	531
Phase XIII	0	0	27	34	78	139
Phase XIV	1	0	9	32	279	321
Phase XV	0	10	29	78	34	151
Phase XVI	2	0	64	237	671	974
Phase XVII	0	13	90	236	126	465
Phase XVIII	5	29	241	189	593	1057

Phase XIX	1	10	365	536	1156	2068
Phase XX	0	37	55	79	640	811
Phase XXI	5	0	10	84	381	480
Phase XXII	0	0	25	190	526	741
Phase XXIII	30	27	143	88	666	954
Phase XXIV	0	0	0	31	229	260
Phase XXV	6	2	46	83	300	437
Phase XXVI	0	10	69	468	923	1470
Phase XXVII	2	0	220	376	773	1371
Phase XXVIII	57	55	302	503	1095	2012
Phase XXIX	0	1	23	88	997	1109
Phase XXX	3	0	40	314	540	897
Total	133	221	2659	6095	13109	22217

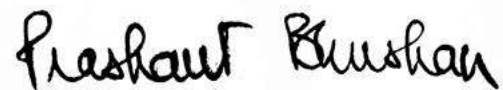
15. Therefore, it is submitted that the SBI has wilfully and deliberately disobeyed the judgment passed by the Constitution Bench of this Hon'ble Court, and the same not only negates the right to information of the citizens, but also wilfully undermines the authority of this Hon'ble Court.

P R A Y E R

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Initiate contempt proceedings against the alleged contemnor herein for wilful disobedience with the judgment dated 15.02.2024 passed by this Hon'ble Court in WP (C) No. 880 of 2017; and
- b) Pass any other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.

**FOR THIS ACT OF KINDNESS THE PETITIONER SHALL AS IN DUTY
BOUND EVER PRAY**

A handwritten signature in black ink that reads "Prashant Bhushan". The signature is written in a cursive, slightly slanted style.

PRASHANT BHUSHAN
(COUNSEL FOR THE PETITIONER)

Drawn by:
Neha Rathi, Kajal Giri &
Shivani Kapoor, Advs.

FILED ON: 06.03.2024
NEW DELHI