

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

M.A. NO. _____ OF 2024

IN

MISCELLANEOUS APPLICATION NO 486 OF 2024

IN

WRIT PETITION (CIVIL) NO 880 OF 2017

IN THE MATTER OF:

State Bank of India

... Petitioner

Versus

Association for Democratic Reforms

... Respondent

AND IN THE MATTER OF:

Election Commission of India

... Applicant

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ADVOCATE FOR THE APPLICANT : MR. AMIT SHARMA

IN THE SUPREME COURT OF INDIA

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WRIT PETITION (CIVIL) NO 880 OF 2017

IN THE MATTER OF:

STATE BANK OF INDIA... PETITIONER

VERSUS

ASSOCIATION FOR DEMOCRATICS REFORMS ... RESPONDENT

AND IN THE MATTER OF:

ELECTION COMMISSION OF INDIA ... APPLICANT

**APPLICATION ON BEHALF OF THE ELECTION COMMISSION OF
INDIA FOR MODIFICATION OF ORDER DATED 11.03.2024 PASSED
BY THIS HON'BLE COURT IN MISCELLANEOUS APPLICATION NO.
486 OF 2024 IN WRIT PETITION (CIVIL) NO. 880 OF 2017**

1. By the present Application, the Applicant-Election Commission of India seeks modification/clarification of the Order dated 11.03.2024 passed by this Hon'ble Court in Miscellaneous

Application No. 486 of 2024 in Writ Petition (Civil) No. 880 of 2017. The facts and circumstances leading to the filing of the present Application are set out hereafter.

True copy of the Order dated 11.03.2024 passed by this Hon'ble Court in Miscellaneous Application No. 486 of 2024 in Writ Petition (Civil) No. 880 of 2017 is annexed herewith and marked as **ANNEXURE-A/1** at pages 7 - 19.

2. It is stated that pursuant to the directions of this Hon'ble Court, vide its Orders dated 12.04.2019 and 02.11.2023 passed in W.P. (C) No. 880 of 2017, the Election Commission of India produced the information/data so sought, both:
 - (a) in a sealed cover, (containing 106 sealed envelopes) during the course of hearing in the aforementioned W.P. (C) No. 880 of 2017, as is evident from a perusal of the Order dated 02.11.2023 passed by this Hon'ble Court in W.P. (C) No. 880 of 2017; and
 - (b) in sealed boxes, (containing 309 and 214 sealed envelopes respectively) in two tranches pursuant to the directions contained in the Order dated 02.11.2023 passed by this Hon'ble Court in W.P. (C) No. 880 of 2017.
3. It is respectfully stated that in the Order dated 11.03.2024 passed by this Hon'ble Court in Miscellaneous Application No. 486 of 2024 [in Writ Petition (Civil) No. 880 of 2017], it has been

observed by this Hon'ble Court that "*Copies of the statements which were filed by the ECI before this Court would be maintained in the Office of the ECI*".

4. It is most respectfully submitted herein that in compliance of the orders passed by this Hon'ble Court and in order to maintain the confidentiality of the aforesaid information/data, the Election Commission of India forwarded the documents received by it to this Hon'ble Court in sealed covers/boxes, without retaining any copies of the same. Thus, no copies of the documents/statements filed by the Election Commission of India before this Hon'ble Court in the instant case were ever retained by it.
5. In view of the same, it is requested that the aforementioned portion of the Order dated 11.03.2024 passed by this Hon'ble Court in Miscellaneous Application No. 486 of 2024 [in Writ Petition (Civil) No. 880 of 2017] may be rectified/modified and the aforementioned documents/data/information so submitted by the Election Commission of India before this Hon'ble Court in sealed covers/boxes may be returned to it, to enable the Election Commission of India to comply with the directions passed by this Hon'ble Court, as contained in the Order dated 11.03.2024.
6. The Applicant-Election Commission of India submits that the present application is being moved bonafide and it would be in the

interests of justice for this Hon'ble Court to grant the relief prayed for.

PRAYER

The Applicant most respectfully prays that this Hon'ble Court may graciously be pleased to:

- (i) direct clarification and modification of the operative portion of the Order dated 11.03.2024 passed by this Hon'ble Court in Miscellaneous Application No. 486 of 2024 [in Writ Petition (Civil) No. 880 of 2017]; and/or
- (ii) direct release of the documents/data/information submitted by the Election Commission of India before this Hon'ble Court in sealed covers/boxes, pursuant to the Orders dated 12.04.2019 and 02.11.2023 passed by this Hon'ble Court in W.P. (C) No. 880 of 2017; and/or
- (iii) pass such other orders as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

Filed by:



NEW DELHI

FILED ON: 12.03.2024

(AMIT SHARMA)
ADVOCATE FOR THE APPLICANT
CODE: 1781

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

M.A. NO. _____ OF 2024

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MISCELLANEOUS APPLICATION NO 486 OF 2024

IN

WRIT PETITION (CIVIL) NO 880 OF 2017

IN THE MATTER OF:

STATE BANK OF INDIA ... PETITIONER

VERSUS

ASSOCIATION FOR DEMOCRATICS REFORMS ... RESPONDENT

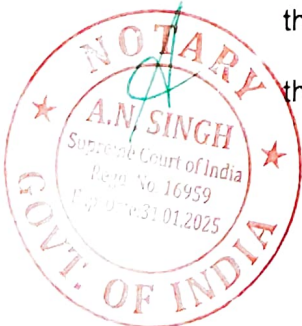
AND IN THE MATTER OF:

ELECTION COMMISSION OF INDIA ... APPLICANT

AFFIDAVIT

I, Prakash Chandra Gupta, S/o Nageshwar Prasad Gupta, aged 38 years, Under Secretary, Election Commission of India, having office at Nirvachan Sadan, Ashoka Road, New Delhi - 110001, do hereby solemnly affirm and state as under:

1. I am the Under Secretary of the Election Commission of India and as such am well acquainted with the facts and circumstances of the case and competent to affirm the present Affidavit on behalf of the Election Commission of India (i.e. the Applicant).



2. I state that I have read and understood the contents of the accompanying Application as contained in paras 1 to 6 at pages 1 to 4 and state that the averments of facts made therein are true to my knowledge and information derived from the records of the case and those submissions of law made therein are true as per the legal advice received and believed by me.

3. I state that the averments of facts stated herein above are true to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

Certified that the above named Deponent identify by Shri/Smt. Amit Sharma Adv Solemnly affirmed before me at Delhi S No. 3277 The contents of the affidavit which have been read & explained to me are true and correct

Adv.
I identify the deponent who has Signed/Put T.I. in my presence

Prakash chandra Gupta

DEPONENT

प्रकाश चंद्र गुप्ता / PRAKASH CHANDRA GUPTA
अवर सचिव / Under Secretary
भारत निर्वाचन आयोग
Election Commission of India
निर्वाचन सदन/Nirvachan Sadan
अशोक रोड /Ashoka Road
नई दिल्ली-110001 /New Delhi-110001

VERIFICATION

I, the deponent above named, do hereby verify that the contents of this affidavit are true and correct to the best of my knowledge no part of it is false and nothing material has been concealed thereof.

Verified at New Delhi, on this _____ day of March, 2024.

12 MAR 2024



ATTESTED
A.N. Singh, Adv.
Notary Public
Govt. of India, New Delhi

12 MAR 2024

Prakash chandra Gupta
DEPONENT

प्रकाश चंद्र गुप्ता / PRAKASH CHANDRA GUPTA
अवर सचिव / Under Secretary
भारत निर्वाचन आयोग
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नई दिल्ली-110001 /New Delhi-110001

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

Miscellaneous Application No 486 of 2024

In

Writ Petition (Civil) No 880 of 2017

State Bank of India

Applicant

Versus

Association for Democratic Reforms and Others

Respondents

W I T H

Contempt Petition (Civil) No 138 of 2024

In

Writ Petition (Civil) No 880 of 2017

&

Contempt Petition (Civil) No 140 of 2024

In

Writ Petition (Civil) No 59 of 2018

ORDER

- 1 By a judgment dated 15 February 2024¹, this Court declared the Electoral Bond Scheme and the provisions of the Finance Act 2017 which amended the provisions of the Representation of People Act 1951 and the Income Tax Act 1961, unconstitutional on the ground that the non-disclosure of information regarding the funding of political parties is violative of the right to information of citizens under Article 19(1)(a) of the Constitution. The amendments which were introduced by the Finance Act 2017 to the provisions of the Companies Act 2013, permitting unlimited funding of political parties by corporate entities were held to be arbitrary and violative of Article 14 of the Constitution.

- 2 In order to give full effect to the judgment which was rendered by the Constitution Bench, this Court directed the State Bank of India², which was the authorized Bank to deal with Electoral Bonds under the Electoral Bond Scheme to submit details of the Electoral Bonds purchased by the contributors and redeemed by political parties between 12 April 2019 (the date on which an interim order was passed by this Court directing the Election Commission of India³ to collect details of the contributions) till 15 February 2024 (the date of the judgment).

1 2024 INSC 113
2 “SBI”
3 “ECI”

- 3 This Court directed the SBI to submit the following details by 6 March 2024 to the ECI:
- (a) Details of each Electoral Bond purchased including the date of purchase, the name of the purchaser and the denomination of the Electoral Bond; and
 - (b) Details of each Electoral Bond redeemed by political parties including the date of encashment and the denomination of the Electoral Bond.
- 4 The ECI was directed to collate the information to be submitted by the SBI and publish it on its website by 13 March 2024. The directions of this Court are extracted below:

“219. 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."

5 The SBI filed a Miscellaneous Application before this Court two days before the expiry of the deadline seeking an extension of time until 30 June 2024 for complying with the directions. The petitioners before this Court - Association for Democratic Reforms⁴ and the Communist Party of India (Marxist) - instituted a petition invoking the contempt jurisdiction of this Court against SBI for willful disobedience of the order of this Court.

6 In support of the application by the SBI, we have heard Mr Harish N Salve, senior counsel. Mr Salve submitted that the information which was received by the SBI was maintained in two separate silos and was maintained with the utmost secrecy to fulfill the core purpose of the Electoral Bond Scheme. The learned Senior counsel submitted that there is no difficulty in the disclosure of information available in two separate silos which are referred to in (b) and

⁴ "ADR"

(c) of the operative directions. The counsel submitted that this exercise can be completed within three weeks. However, it is submitted that the difficulty of SBI arose since it construed the direction of this Court as requiring it to carry out a matching exercise of the donor and bond details with the corresponding details pertaining to encashment by political parties.

7 While evaluating the submission made on behalf of the SBI, a reference to some of the key aspects of the Scheme would be in order at this stage. Clause 7(4) of the Electoral Bond Scheme stipulates that the information furnished by the buyer of an Electoral Bond shall be treated as confidential by the authorized bank and shall be disclosed only when called upon to do so by a competent court or upon the registration of an offence by a law enforcement agency. Thus, in terms of the provisions of the Electoral Bond Scheme itself, SBI is mandated to disclose information when demanded by a court. What has to be analyzed is whether SBI is justified in seeking an extension of time.

8 The SBI seeks an extension of time on the ground that the process of “decoding the Electoral Bonds and matching the donor to the donations” is a complex and time-consuming exercise. To substantiate this argument, the SBI has averred that:

(a) Information is not available in a digital format: Clause 7.1.2 of the Standard Operating Procedure regarding the sale and redemption of

Electoral Bonds stipulates that “no details of bond purchaser including KYC and other details will be entered in the core banking system.” Thus, the details of the purchases of bonds are not available centrally;

- (b) The donor details and the recipient details are available in two separate silos: The details of the purchasers of Electoral Bonds were kept in a sealed cover at the designated branch. These sealed covers were deposited in the main branch of the SBI in Mumbai at the end of each phase of the issuance of the Electoral Bonds. The information on the redemption of Electoral Bonds (that is, the original bond and the pay-in slip) were stored in a sealed cover and sent to the SBI, Mumbai Branch;
- (c) Matching of information in the two silos is a time-consuming process: The matching of the information on the purchase and redemption of Electoral Bonds would be a time-consuming process since donor information and redemption information is maintained in two separate silos, independent of each other; and
- (d) There is a large number of data sets to decipher: A total of 22,217 bonds were purchased between 12 April 2019 to 15 February 2024. This would cumulatively add up to 44,434 data sets since there are two silos of information. In other words, the compilation of this information would be a time-consuming process because of the large number of data-sets.

- 9 The crux of the submission of the SBI is that the matching of information to ascertain who contributed to which political party is a time-consuming process since the information is maintained in two separate silos. The operative directions of this Court directed the SBI to disclose the transactions as set out in direction (b) and direction (c) extracted above. The SBI submits in its application itself that the donor details and redemption details are available, *albeit* in separate silos. In other words, the directions which have been issued by this Court require the SBI to disclose the information which is readily available with it.
- 10 At this stage, it would be material to refer to the FAQs on Electoral Bonds published by the SBI which states that the ‘Know Your Customer’⁵ documents must be submitted by the purchaser each time the Electoral Bond is purchased, irrespective of whether the purchaser has a KYC verified SBI account⁶. That is, one set of documents (the Electoral Bond application form, KYC documents and pay-in slip) can only be used to purchase one Electoral Bond⁷. Contributors who have an SBI account as well as those who do not

⁵ “KYC”

⁶ FAQ Question No. 16. I have an SBI Bank Account, Do I still need to Re-submit the KYC Documents? Yes. KYC norms will be applicable regardless of whether the applicant is an SBI account holder or a non-SBI account holder.

⁷ FAQ Question No. 45. Can I use more than one Instrument with one Electoral Bond Application Form? No. On single set Documents i.e. Electoral Bond Application Form, KYC Documents, Citizenship Documents and Pay-in slip for purchase of Electoral Bonds, Donor can use only one Instrument. In case Donor desires to use another Instrument, he/she has to submit another set of documents i.e. Electoral Bond Application Form, KYC Documents, Citizenship Documents and Pay-in slip to the Authorized SBI Branch.

have to submit the Electoral Bond application, KYC documentation and proof of payment through NEFT, cheque or demand draft.⁸ Thus, the details of the Electoral Bonds which have been purchased and which have been directed to be disclosed by this Court are readily available.

- 11 Similarly, the FAQs on Electoral Bonds published by the SBI with respect to redemption of Bonds states that each political party can open only one current account for Electoral Bond redemption.⁹ The current account could

⁸ FAQ Question No. 19: I am not maintaining account with any Branch of State Bank of India. How can I purchase Electoral Bond? Purchaser not maintaining account with State Bank of India can purchase Electoral Bond through a. Cheque / DD drawn in favour of the Authorized SBI Branch and payable at the local Clearing House.

Steps involved:

i. Purchaser submits the Electoral Bond Application Form alongwith pay-in-slip, Citizenship & KYC documents and Cheque/ DD at Authorized SBI Branch. The same need to be submitted at least three working days before the closure of the scheme, so that clear funds for issuance of Electoral Bonds, are available with the Authorized SBI Branch. In case of payment through DD, a confirmation letter from the DD issuance Branch on the prescribed format should also be provided.

ii. The Cheque/ DD should be in favour of "State Bank of India A/c Electoral Bond Scheme -2018"

iii. Once the Citizenship and KYC documents are verified the instrument will be sent in clearing. Tear off portion of pay-in-slip will be handed over to the Applicant. iv. On the third working day the Purchaser/ Authorised Representative need to visit the Branch with the tear off portion of pay-in-slip and collect the EB from the Branch against acknowledgment.

⁹ FAQ Question No. 4. For redemption of Electoral Bond, can a Political Party open Current Account with any Bank? No. The Current Account will be opened only in the presently 4 Authorized SBI

Branches as under:

(i) Chennai Main Branch (00800): 84, Rajaji Salai, Chennai – 600001

(ii) Kolkata Main Branch (00001): Samriddhi Bhawan, 1, Strand Road, Kolkata –700001

be opened by the political party only in twenty-nine designated branches all over the country. Thus, information about a political party's encashment of Electoral Bonds would only be stored in these branches which would be clearly accessible. The authorized branches must submit the pay-in-slip and other details to the main branch. There is no dispute about the fact that this process was duly followed.

12 Together with the application which has been filed by the SBI for the extension of time, ADR has filed a contempt petition in which it submits that the information which was directed to be disclosed by this Court can easily be disclosed by the SBI because of the unique number which is printed on the Electoral Bond. Irrespective of whether the unique identification number which is not discernible to the naked eye will enable the disclosure of details, the submissions of SBI in the application sufficiently indicate that the information which has been directed to be disclosed by this Court is readily available.

13 In view of the discussion, the Miscellaneous Application filed by the SBI seeking an extension of time for the disclosure of details of the purchase and redemption of Electoral Bonds until 30 June 2024 is dismissed. SBI is directed to disclose the details by the close of business hours on 12 March 2024.

(iii) Mumbai Main Branch (00300): Horniman Circle, Fort, Mumbai - 400001

(iv) New Delhi Main Branch (00691) : 11, Parliament Street, New Delhi - 110 001.

This was updated to 29 Branches later.

- 14 ECI shall compile the information and publish the details on its official website no later than by 5 pm on 15 March 2024.
- 15 During the pendency of the proceedings before the Constitution Bench, ECI had, in compliance with the interim order passed by this Court, filed its statements which have been maintained in the custody of the Court. Copies of the statements which were filed by the ECI before this Court would be maintained in the Office of the ECI. ECI shall forthwith publish the details of the information which was supplied to this Court in pursuance of the interim orders on its official website.
- 16 The SBI shall file an affidavit of its Chairman and Managing Director upon compliance with the directions which have been issued above. We are not inclined to exercise the contempt jurisdiction at this stage bearing in mind the application which was submitted for extension of time. However, we place SBI on notice that this Court will be inclined to proceed against it for willful disobedience of the judgment if SBI does not comply with the directions of this Court as set out in its judgment dated 15 February 2024 by the timelines indicated in this order.
- 17 The Miscellaneous Application for extension of time shall accordingly stand dismissed. The Contempt Petitions shall stand disposed of at this stage in the above terms.

18 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Sanjiv Khanna]

.....J.
[B R Gavai]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
March 11, 2024
CKB

ITEM NO.301+302+305

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No.486/2024 In W.P.(C) No.880/2017

(Arising out of impugned final judgment and order dated 15-02-2024 in W.P.(C) No. No. 880/2017 passed by the Supreme Court of India)

STATE BANK OF INDIA

Petitioner(s)

VERSUS

ASSOCIATION FOR DEMOCRATIC REFORMS & ORS.

Respondent(s)

(FOR ADMISSION and IA No.57595/2024-INTERVENTION/IMPLEADMENT and IA No.57604/2024-CLARIFICATION/DIRECTION and IA No.57592/2024-APPLICATION FOR PERMISSION)

WITH Contempt Petition (C) No.138/2024 In W.P.(C) No.880/2017
Contempt Petition (C) No.140/2024 In W.P.(C) No.59/2018
(With IA No.61563/2024-EXEMPTION FROM FILING O.T.)

Date : 11-03-2024 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Harish Salve, Sr. Adv.
Mr. Tushar Mehta, SG
Mr. Sanjay Kapur, AOR
Ms. Divya Singh Pundir, Adv.
Mr. Devesh Dubey, Adv.

Ms. Mahima Kapur, Adv.
Ms. Mansi Kapur, Adv.
Mrs. Shubhra Kapur, Adv.
Mr. Arjun Bhatia, Adv.
Mr. Surya Prakash, Adv.
Ms. Isha Virmani, Adv.

CPC 138/2024

Mr. Prashant Bhushan, AOR
Ms. Neha Rathi, Adv.
Mr. Pranav Sachdeva, Adv.
Ms. Kajal Giri, Adv.
Ms. Shivani Kapoor, Adv.
Mr. Kamal Kishore, Adv.

CPC 140/2024

Mr. Shadan Farasat, AOR
Mr. Harshit Anand, Adv.
Mr. Abhishek Babbar, Adv.
Ms. Hrishika Jain, Adv.
Ms. Natasha Maheshwari, Adv.
Ms. Mreganka Kukreja, Adv.
Mr. Aman Naqvi, Adv.

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 The Miscellaneous Application for extension of time is dismissed and the Contempt Petitions are disposed of in terms of the signed order..
- 2 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R. -cum-P.S.

(Signed order is placed on the file)

(SAROJ KUMARI GAUR)
Assistant Registrar

// TRUE COPY//