

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
IA NO. 115592 OF 2024
IN
WRIT PETITION (CIVIL) NO. 1382 OF 2019**

IN THE MATTER OF:

ASSOCIATION FOR DEMOCRATIC

REFORMS & ANR.

... PETITIONERS

Versus

ELECTION COMMISSION OF INDIA & ANR.

... RESPONDENTS

**REPLY AFFIDAVIT ON BEHALF OF THE
RESPONDENT NO. 1 TO THE APPLICATION FOR
DIRECTIONS FILED BY THE PETITIONER**

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ADVOCATE FOR RESPONDENT No.1: **PRATEEK KUMAR**

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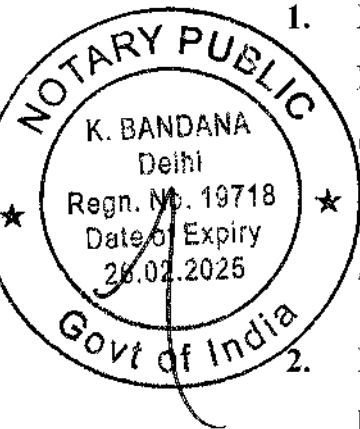
ELECTION COMMISSION OF INDIA & ANR.

... RESPONDENTS

REPLY AFFIDAVIT ON BEHALF OF THE
RESPONDENT NO. 1 TO THE APPLICATION FOR
DIRECTIONS FILED BY THE PETITIONER

I, Vijay Kumar Pandey, S/o Late D.N. Pandey, aged 46 years, Director (Law), Election Commission of India, having office at Nirvachan Sadan, Ashoka Road, New Delhi - 110001, do hereby solemnly affirm and state as under:

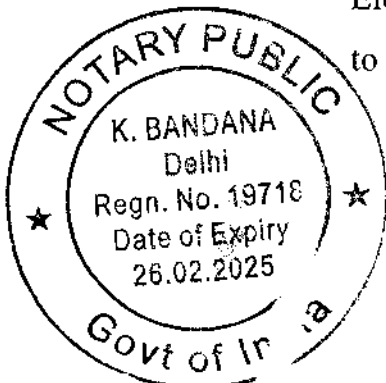
1. I am the Director (Law) of the Election Commission of India and as such am well acquainted with the facts and circumstances of the case and competent to affirm the present reply on behalf of the Respondent No. 1 ("the Answering Respondent").
2. I state that I have read and understood the contents of the Interim Application filed by the Petitioner and at the outset, I deny all the averments, submissions, contentions as well as the allegations contained in the present Interim Application, as set out hereinbelow, which is neither maintainable nor it



deserves any consideration / indulgence by this Hon'ble Court. This application / petition deserves to be rejected at the threshold, by the orders by this Hon'ble Court.

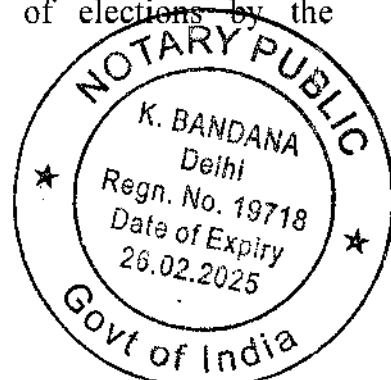
PRELIMINARY OBJECTIONS AND SUBMISSIONS

3. That the Answering Respondent most respectfully submits that the elections for the 19th Lok Sabha are underway and are at an advance stage towards its conclusion. Out of the seven phases scheduled for this election process, five phases have been completed and the remaining two phases are scheduled for 25.05.2024 and 01.06.2024. It has been a settled principle of law, authoritatively and repeatedly laid down by this Hon'ble Court that no petition, which may have the impact of either creating a suspicion and/or impeding the conduct of the process and conclusion of elections by the Election Commission of India, would deserve to be rejected at the threshold itself.
4. It is most respectfully submitted that approximately 97 crore voters had been expected to participate in the election process for election of the 19th Lok Sabha. The gradual shift, with the technological advancement from Paper Ballots to EVM, has brought a positive change in the process of conduct of elections thereby immensely benefiting the democracy. This endeavour on the part of the Election Commission of India to move on from paper ballot to Electronic Voting by adopting the latest technology has

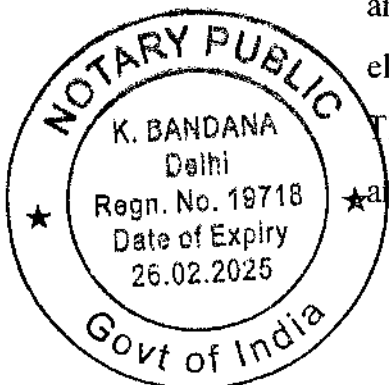


also been duly supported and strengthened by the orders passed by this Hon'ble Court from time to time.

5. That our country, as the biggest democracy in the world, is proud of the process of conducting election by the Election Commission of India at such large scale, by adopting technology (EVMs) for last more than two decades. The Indian nation feels proud of its election process conducted by the Election Commission of India in a fair and transparent manner, for the democracy to have its full play. In fact, various other countries, following the principle of democracy and elections – always look towards the efficacy of the process of conduct of elections by the Election Commission of India [at such a large scale] adopting the latest technology.
6. However, on the other hand, there are also certain elements and vested interests who keep on throwing baseless and false allegations, creating unwarranted atmosphere of suspicion – in the close proximity of time of conduct of every election by the Election Commission of India, to somehow discredit the same. It is most humbly submitted that there is a consistent malafide campaign/design/efforts to keep on raising suspicion and doubt in every possible manner and by misleading assertions and baseless allegations regarding the conduct of elections by the Election Commission of India.

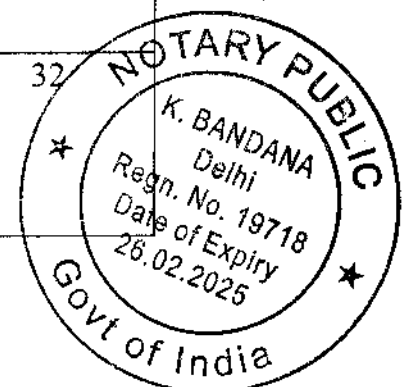


7. This Hon'ble Court had always supported the bonafide efforts of the Election Commission of India in warding off of all such allegations and doubts regarding the conduct of the election process by Election Commission of India and, thereby, extending support for free and transparent conduct of elections by the Election Commission of India. Every such support from this Hon'ble Court augments the faith and trust of the country in the fairness and transparency in the election process, so undertaken by the Election Commission of India on each occasion.
8. It is most humbly submitted that recently in a detailed hearing, this Hon'ble Court, after granting hearing to the same petitioner [Association of Democratic Reforms] and upon satisfying itself of the fact that there had been no substance in any of the allegations made by the same petitioner against the conduct of election process by Election Commission of India, rendered its judgment on 26.4.2024, rejecting the writ petition being W.P.(Civil) No. 434/2023 – *Association of Democratic Reforms vs. Election Commission of India & Anr.*, a copy whereof is annexed herewith and is marked as ANNEXURE – R/1 from pages 68-123.
9. The respondent Election Commission of India most humbly and respectfully submits that 5 out of 7 phases of the present election process have stood completed as on 20th May, 2024. The next two phases are scheduled to be held on 25.05.2024 and 01.06.2024. In terms of the principles of law laid down



by this Hon'ble Court with reference to Article 329(b) of the Constitution of India, the present application being IA No. 115592 of 2024 is not maintainable and the same deserves to be rejected at the threshold itself. The Election Commission of India, in this regard, places reliance, inter alia, on the following judgments of this Hon'ble Court:

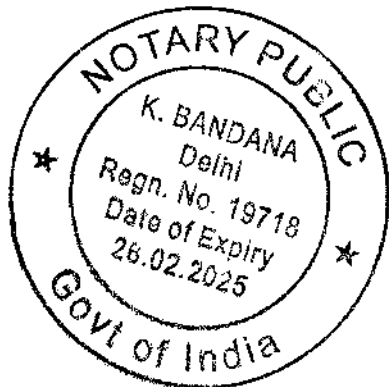
Sl. No.	Name of the Case	Citation	Relevant Paragraphs
1.	N.P. Ponnuswami v. Returning Officer, Namakkal Constituency & Ors.	1952 (1) SCC 94	12-14
2.	Mohinder Singh Gill & Anr. v. The Chief Election Commissioner, New Delhi & Ors.	(1978) 1 SCC 405	92
3.	Manda Jaganath v. K.S. Rathnam & Ors.	(2004) 7 SCC 492	8, 12-14, 22
4.	Satta Panchayat Iyakkam v. Chief Election Commissioner	2016 SCC Online Mad 6867	10
5.	Chief Election Commissioner Election Commission	1994 SCC Online AP 272	32



	of India New Delhi v. Dr. Alladi P. Raj Kumar		
6.	Atul Kumar & Anr. v. Election Commission of Bharat & Anr.	PIL No. 17/2022 before the Hon'ble Allahabad High Court (Lucknow Bench)	PIL is not an exception to Article 329. Paragraph number not mentioned.

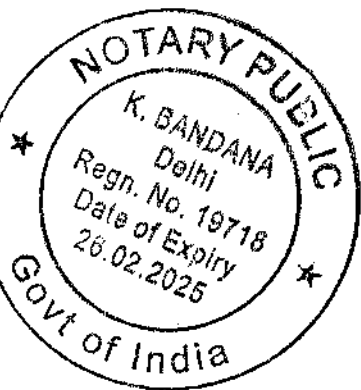
10. That by reiterating the prayer, the present IA and the petition are not maintainable and would deserve to be rejected at the threshold itself on behalf of the respondent Election Commission of India, the following further preliminary submissions /objections are being submitted for the kind consideration of this Hon'ble Court and which are without prejudice to each other:

- (i) The petitioner in this writ petition, which is pending for last more than 4 years, while filing the present IA No. 115592/2024, did not state/inform this Hon'ble Court of the judgment of this Hon'ble Court dated 26.4.2024 in W.P. (Civil) No. 434/2023 - *Association for Democratic Reforms vs. Election Commission of India & Anr.*, and the said decision had been suppressed and concealed by the same petitioner, i.e., Association for Democratic Reforms & Anr. On this



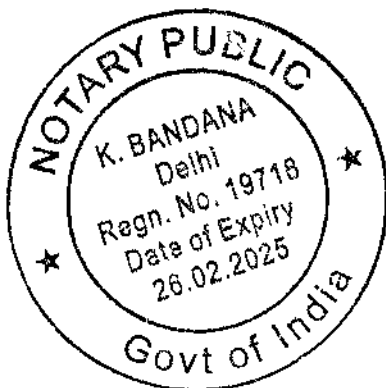
ground also, the present application deserves to be rejected at the threshold itself.

- (ii) It is further respectfully submitted that the present application is also founded on completely untrue and false allegations. It is respectfully submitted that in the hearing before this Hon'ble Court in W.P. (Civil) No. 434/2023 - *Association for Democratic Reforms vs. Election Commission of India & Anr.*, on the second day of final hearing, the petitioner had relied upon a News Report of Manorama to contend that there was variance in the operation of the EVMs. A copy of the said News Report dated 18.04.2024, annexed herewith and marked as ANNEXURE - R/2 (from pages 124-126) was handed over on behalf of the Petitioner and whereby the Election Commission of India was required to verify the allegations against EVM contained in the said article in Manorama and place the true facts before the Hon'ble Court. The inquiries had been made from the local authorities by the Election Commission of India. It was found that the said News Report was entirely untrue and was false. This position was placed before this Hon'ble Court. It is submitted that even now the petitioner has indulged in relying upon untrue and false allegations in filing the present IA No. 115592/24 before this Hon'ble Court. The petitioner did not disclose the fact of making similar untrue and false allegations, based upon a false News



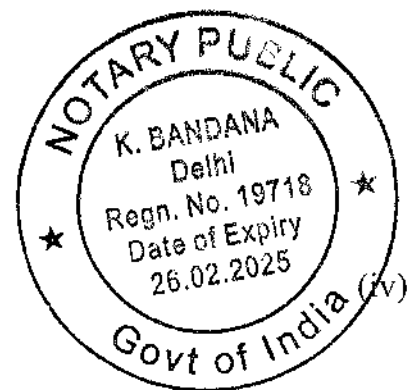
Report in Manorama, while filing the present application. It is respectfully reiterated that the judgment of this Hon'ble Court in W.P. (Civil) No. 434/2023 by the same petitioner has also not been disclosed in the present application.

- (iii) It is submitted that the substance of the W.P. (Civil) No. 1382/2019 and the present IA are almost similar and are to the same effect. It is submitted that the petitioner in W.P. (Civil) No. 1382/2019 and the petitioner in W.P. (Civil) No. 434/2023 is by the same petitioner, namely, Association for Democratic Reforms. It is submitted that the various aspects in relation to the provisions of Rule 49S and Form 17(c) were agitated and were considered by this Hon'ble Court in the judgment dated 26.04.2024. The petitioner, after having failed in its pursuit/design in its attempt, resulting in the judgment dated 26.04.2024, had then [in an impermissible and mischievous manner, by misusing the process of law] filed the present IA No. 115592/2024 in W.P. (Civil) No. 1382/2019 on 10.05.2024. This clearly demonstrates the design of keeping one or another case alive in the midst of election. The practice of creating false narrative and creating suspicion in the minds of voters becomes much more discernible by the simultaneous one side campaign undertaken on social media immediately after court proceedings. Thus, this



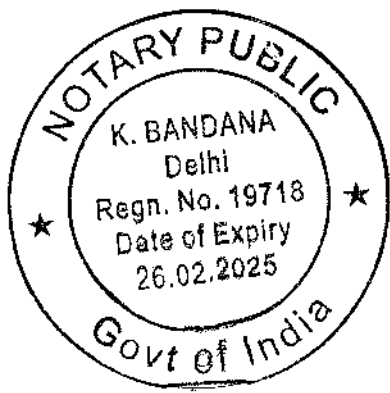
application is not maintainable and deserves to be rejected on the threshold itself. Besides and in addition to the principles laid down in this behalf under Article 329(b) of the Constitution of India, it is submitted that the present application is also not maintainable for suppression and concealment of relevant facts, making untrue and false allegations and also by the principles of res judicata and constructive res judicata, as laid down by this Hon'ble Court. It is submitted that the petitioner, having raised various aspects in relation to Section 49S and Form 17C before this Hon'ble Court, where detailed submissions on behalf of the Election Commission of India had also been considered and this Hon'ble Court, upon getting satisfied with the integrity of the entire election process, arrived at its conclusion, as recorded and incorporated in its judgment dated 26.04.2024. The principles laid down by this Hon'ble Court in its judgment dated 26.04.2024 [suppressed and concealed from this Hon'ble Court in the present I.A.] also covers and fully applies to the present writ petition, which also deserves to be rejected by this Hon'ble Court. In any case, it is most humbly submitted that the filing of the present application in this writ petition by the same applicant, in such manner, deserves to be rejected at the threshold itself.

It is further respectfully submitted that this Hon'ble Court had also witnessed and observed in the



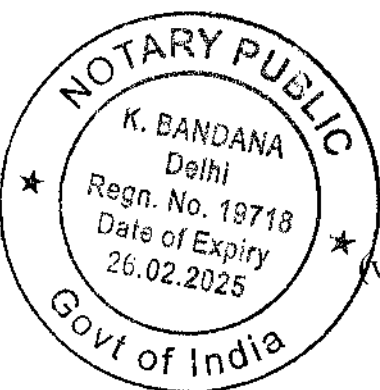
proceedings in W.P. (C) No. 434/2023 that the real objective of filing such repeated petitions and applications, as it was also articulated before this Hon'ble Court on behalf of the petitioner that its objective/design/desire is to compel the Election Commission of India and also the Indian Nation to roll back to the process of conducting elections, at such a large scale, not by the Electronic Process but by retrograde step of going back to the conduct of the elections by Paper Ballots. Such a contention, it is respectfully submitted, made before this Hon'ble Court was a clear expression and conclusive evidence of objection of certain quarters to push back the Election Commission of India and the Indian Nation, being a role model for a number of other countries for conducting elections at such large scale through the electronic methodology, to go back to the paper ballot system.

- (v) It is apparent that the present petition as well as the present IA is yet another attempt on the part of the same petitioner, having failed to succeed before this Hon'ble Court when the judgment dated 26.4.2024 was pronounced, to once again approach this Hon'ble Court in a matter pending for last 4 years and by concealing the fact of the judgment of this Hon'ble Court, to file the present application once again within days, founded on untrue and false allegations to somehow continue to



create prejudice/suspicion/doubts/integrity of the process of election and to succeed in its mala fide design to gain support for its campaign from Electronic Voting Machines to Paper Ballots.

(vii) The present IA No. 115592/24, filed by the same petitioner, are founded on untrue and false allegations. The relief prayed for by them, apart from the fact that it is not maintainable at the threshold itself, would also be barred being contrary to the legislative mandate given by the Representation of the People Act, 1951 and the guidelines made thereunder for 'the conduct of the elections. The prayers, which have been made by the same petitioner against the Election Commission of India are, in fact, contrary to the statutory mandate and, therefore, even otherwise there is no requirement for the Election Commission of India to take steps which are desired and prayed for by the same petitioner [which are contrary to the legislative mandate as incorporated in the Conduct of Election Rules, 1961 made under the 1951 Act] and, therefore, no prayer for mandamus would even otherwise be maintainable and would deserve to be rejected by the orders of this Hon'ble Court.

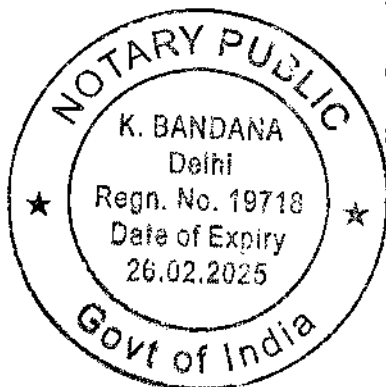


(viii) The continuing mala fide attempt by the petitioner Association for Democratic Reforms by repeatedly creating suspicion by making untrue and false allegations, have been adversely commented upon by

this Hon'ble Court in the judgment dated 26.04.2024 in W.P. (C) No. 434/2023 and the relevant portion thereof is reproduced as under:

"8. [...] This, in essence captures the underlying weakness in the petitioning association's entire case, inasmuch as the only grounds for the reliefs sought lie in the realm of apprehension and suspicion."

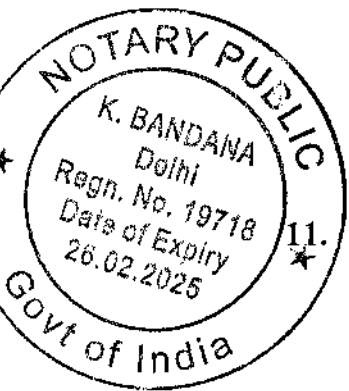
- (ix) The above-mentioned observation made by this Hon'ble Court further makes it clear that why the same petitioner has withheld and suppressed the judgment of this Hon'ble Court dated 26.04.2024 while filing the present IA No. 115592/2014 and thereby disintitiled itself from any indulgence from this Hon'ble Court in the present I.A. – which even otherwise is not maintainable, is barred and in any case deserves to be rejected by the orders of this Hon'ble Court.
- (x) It is further submitted that the procedure and mechanism for any election process, which is divided into phases, even otherwise cannot be changed/alterd midway and when any such alteration would also be not in conformity with the legislative mandate incorporated in the statutory rules strictly adhered to by the Election Commission of India in conducting any election. This submission is without prejudice to the submission on behalf of the Election Commission of India that the present IA and the writ petition are not



maintainable, also in view of the principles of law laid down under Article 329(b) of the Constitution of India.

(xi) It is respectfully submitted that five out of seven phases of the election process, as per the laid down statutory procedure, have already stood concluded. The remaining two phases on 25.04.2024 as well as on 01.06.2024 also deserve to be carried out and concluded in the same manner and procedure, which is mandated by law and where the satisfaction of this Hon'ble Court had also stood achieved through the judgment dated 26.04.2023 passed by this Hon'ble Court.

(xii) It is respectfully reiterated that another attempt to create a mala fide suspicion and integrity of the election process by the same petitioner by making untrue and false allegations for achieving its true design of discrediting the electoral process by creating false narratives, the Election Commission of India respectfully submits, would not get permitted by the orders of this Hon'ble Court and the present application would also deserve to be rejected at the threshold itself.

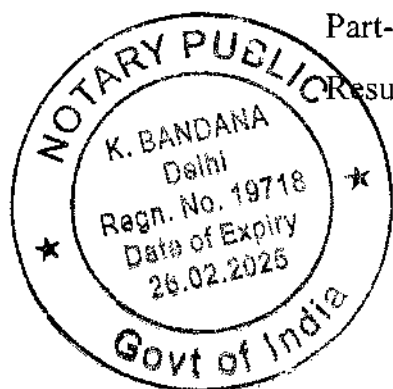


11. Without prejudice to the submissions made hereinabove, [which are without prejudice to each other], praying for rejection of the present application / petition at the threshold itself, it is further respectfully submitted that even

otherwise, there is no truth substance in the allegations made and the contentions raised on behalf of the petitioner/applicant.

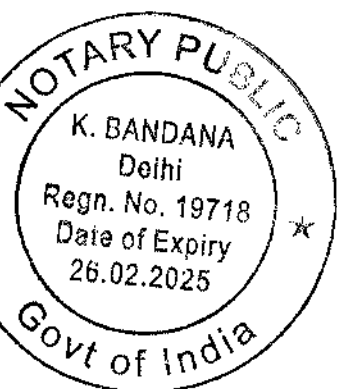
12. For the convenience of this Hon'ble Court and for further appreciation of the contentions / allegations made in the present application, it is most respectfully submitted that the prayers made in the main writ petition filed in 2019 and now in the present I.A., bearing a typed date of 26.04.2024 are virtually to the same effect. The tabulated chart reproducing the prayers made in the main writ petition on the one side and made in the present I.A. on the other side, is annexed as ANNEXURE – R/3 (from pages 127 to128)

13. The present Interim Application has been filed by the Petitioner for seeking directions from this Hon'ble Court to direct the Answering Respondent to disclose authenticated record of voter turnout by uploading on its website scanned legible copies of Form 17C Part-I (Account of Votes Recorded) of all polling stations after each phase of polling in the ensuing General Elections to Lok Sabha, 2024 and to provide in public domain a tabulation of the constituency and polling station wise figures of voter turnout in absolute numbers and in percentage form in the aforesaid election. Furthermore, the Petitioner has also sought disclosure of Part- II of Form 17C, which contains the candidate-wise Result of Counting, after the compilation of results.



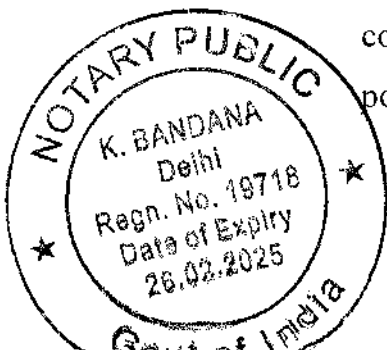
14. While reiterating the submission on behalf of the Election Commission of India that the present application is not maintainable, it is submitted that this Hon'ble Court – in the detailed hearing resulting into the judgment dated 26.04.2024, had considered all such related aspects i.e. related to Rule 49S as well as Form 17C. There had been no further permissibility for this petitioner to seek to raise, in a completely impermissible manner and by misusing the process of law, further allegations in that regard. It is submitted that *vide* order dated 17.05.2024 this Hon'ble Court granted time to the Answering Respondent to file a reply to the present Interim Application.

15. It is submitted that to the main writ petition filed in the year 2019, a detailed Counter Affidavit had been filed on behalf of the Answering Respondent on 15th April, 2022 opposing the main petition by giving the detailed descriptions demonstrating complete absence of any truth or merit in the contentions raised on behalf of the Petitioner. It is submitted that even when the detailed counter affidavit had been filed on 15.04.2022, since there was no merit or substance in the allegations made by the petitioner, as was demonstrated / established by the contents of the counter affidavit, the petitioner could not and had not expressed any disagreement therewith and had never filed any rejoinder in the main writ petition. The obvious design was to not raise the issue before the start of election but to keep it pending and suddenly raise it after the commencement of elections.



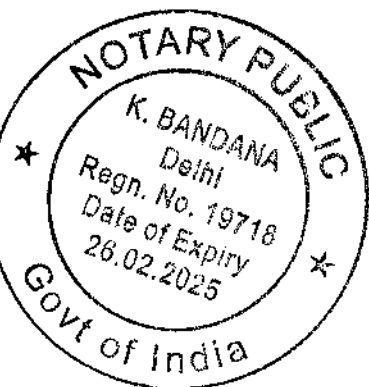
16. It is submitted that in the detailed submissions made by the Answering Respondent in the counter affidavit filed on 15.04.2022, inter alia, the following has been submitted:

- (i) That the voter turnout data, as available on the 'Voter Turnout App' [non-statutory], is only tentative or provisional in nature and through the secondary source. On the other hand, the votes counted are reported as per the statutorily-created mechanisms. The tentative / provisional figures from secondary source can never be the final turnout figure as the final figures are on the basis of the statutory forms and the figures contained therein and are dealt according to the procedure laid down. The Petitioner has based its contentions/allegations on the fallacious assumption that the data available on the 'Voter Turnout App' was the basis on which the results are declared by the Election Commission of India.
- (ii) Under the statutory mandate, the declaration of result by the Election Commission of India is only by the concerned RO – is only on the basis of the statutory data recorded in the aforementioned Form 17C and basis whereupon the result is declared by the RO in Form 21C.
- (iii) It is pertinent to note at this juncture that Form 17C consists of two parts and Part I is filled at the time of poll and Part II is filled at the conclusion of counting.



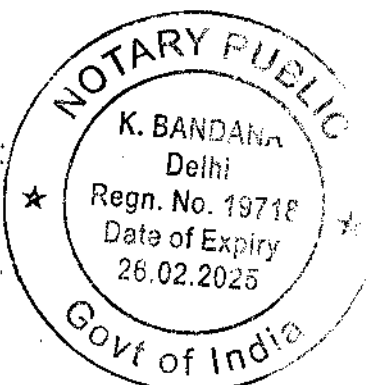
On one hand in Part I, Column 7 is meant for objectively noting whether the number votes recorded in the voting machine tally with the number of voters who casted valid votes, and on the other in Part II, at the bottom of the table recording the number of votes casted in favour of each candidate after counting, there is an objective noting as to whether the total number of votes counted tallies with the total number of votes polled as recorded in Part I of Form 17C.

- (iv) That a perusal of Rules 49S and 56C of the Conduct of Election Rules, 1961 clearly points out that at the close of the poll, the presiding officer prepares an account of votes recorded in Part-I of Form 17-C, as per the requirement under Rule 49S of the Conduct of Election Rules 1961. The same is then made *available to every polling agent present at the close of the poll by the presiding officer, after obtaining a receipt and attestation.*
- (v) It is submitted that there are approx. 2000 to 3000 booths in every Lok Sabha constituency. The incharge of every booth is known as the Presiding Officer. There is one overall incharge of the constituency described as the Returning Officer. The Returning Officer is located at one place where the Strong Room, generally, is also set up. The booths may be at far off places from the Strong Room. In certain constituencies, in some areas, sometimes it

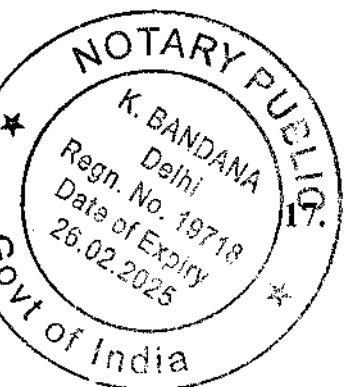


takes a lot of time to bring the sealed EVMs, copies of original Form 17-C etc. by each of the Presiding Officer of every booth to the Strong Room. Each of the Presiding Officer is obliged to hand over the EVMs and the original record etc. in the Strong Room. The Returning Officer, as per the statutory scheme, looks at the EVMs and other original record placed in the Strong Room and sealed, only when the process of counting is to begin. The sealing of the strong room after arrival of all polling parties and opening it on counting day is done in the presence of all the candidates and their authorized representatives.

- (vi) In the counting process, the Returning Officer has the votes recorded in an EVM counted by pressing the 'Result' button provided in the control unit. The same is then recorded in Part-II of Form 17-C, which is then signed *by the counting supervisor and also by the candidates or their election agents or their counting agents present*, as per the mandate under Rule 56C of the Conduct of Election Rules 1961. It is also relevant to mention herein that Part-II of Form 17-C also provides that the Counting Supervisor ought to mention whether the total number of votes shown in Part-II on Form 17-C tallies with the total number of votes shown against item 6 of Part-I on Form 17-C or whether any variance is noticed between the two totals.



- (vii) That the data recorded in the Form 17-C at the close of the poll is the basis on which the total number of votes polled at any polling station is ascertained. It is further submitted that the recorded data is statutory in nature. The results of the election are only declared by the RO thereafter as per Rule 64 of the Conduct of Election Rules 1961.
- (viii) That the present petition/application is based on surmise and conjectures and fails to appreciate the fundamental difference that the voter turnout data is facilitative and a transparency initiative of the Commission, in addition to extant statutory design of providing exact turnout data of each polling booth to the polling agents of the candidates. The present application clearly ignores the disclaimer attached to it including to the effect that the figures in the non-statutory Voter Turnout App on secondary data and is only on provisional basis. That the voter turnout app contained a clear disclaimer issued by the Commission at all times that "this provisional voter turnout data is made available by ROs on regular intervals, which is collated by the Chief Electoral Officers and ECI for wider dissemination and to ensure transparency in information dissemination".



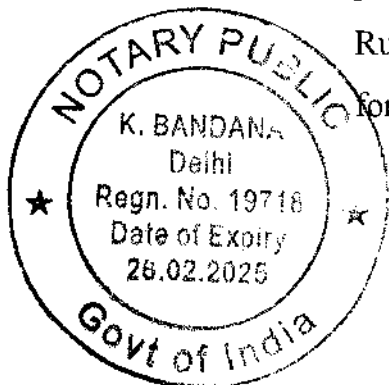
It is submitted that the perusal of prayers made in the main petition and the prayers made in the present Interim

Application shows that the Petitioner is essentially seeking the same reliefs.

18. Without prejudice to the submissions made hereinabove, it is humbly submitted that in any case, granting of any relief on the Interim Application would not be permissible and the main writ petition with the same prayer would deserve to be rejected by the orders of this Hon'ble Court.

The prayer of the Petitioner in seeking a mandamus in absence of any legal duty is not maintainable:

19. It is submitted that in the main petition as well as the present Interim Application, the Petitioner is essentially seeking to direct the Answering Respondent to put in public domain the legible copies of Form 17C (Part I) after conclusion of poll and of Form 17C (Part II) after conclusion of counting. As per the law enacted by the Parliament in its legislative wisdom, the Answering Respondent has been mandated to provide Form 17C (Part I) to polling agents of the candidates only under Rule 49S of the Conduct of Elections Rules, 1961 and not in any other manner. Further, Part II of the Form 17C is signed by the Counting Supervisor and counter-signed by the Returning Officer as mandated under Rule 56C of Conduct of Election Rules, 1961. The aforesaid provisions i.e. Rules 49S and 56C of Conduct of Elections Rules, 1961 (hereinafter 'CER, 1961') are reproduced below for ease of reference:



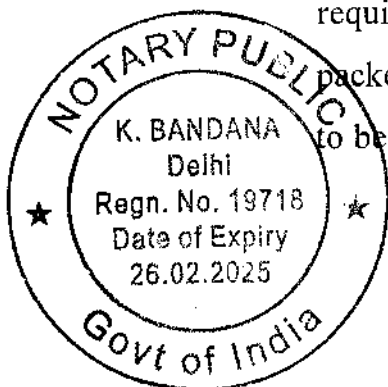
(c) corresponding entries made in a result sheet in Form 20 and the particulars so entered in the result sheet announced."

A flow-chart depicting the use and storage of Form 17C in the electoral process is marked and annexed herewith as ANNEXURE-R/4 (from pages 129)

20. It is submitted that there is no legal mandate to provide the Form 17C to any person other than the candidate or his agent. The Petitioner is trying to create an entitlement when none exists in the law by way of filing an application in the middle of the election period. It is respectfully reiterated that for credible multiple practical reasons, the result – as per the statutory mandate, is declared on the basis of the data contained in Form 17C at the time as prescribed under the statutory rule regime in existence.

All election papers are sealed after close of polls as per Rule 49U and the same are transmitted to the Returning Officer as per Rule 49V of Conduct of Elections Rules, 1961 for safe custody only:

21. It is submitted that as per the laid down law, after the close of poll, all election papers relating to the election are required to be sealed by the Presiding Officer in separate packets as per the provisions of Rule 49U and the same are to be transmitted to Returning Officer as per Rule 49V. The



“Rule 49S. Account of votes recorded.— (1) *The presiding officer shall at the close of the poll prepare an account of votes recorded in Form 17C and enclose it in a separate cover with the words ‘Account of Votes Recorded’ superscribed thereon.*

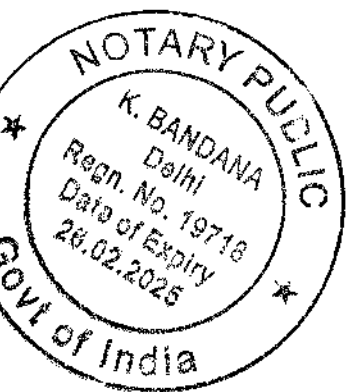
2) *The presiding officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form 17C after obtaining a receipt from the said polling agent therefor and shall attest it as a true copy.”*

“Rule 56C. Counting of votes.— (1) *After the returning officer is satisfied that a voting machine has in fact not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked “Result” provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.*

(2) *As the votes polled by each candidate are displayed on the control unit, the returning officer shall have,—*

(a) *the number of such votes recorded separately in respect of each candidate in Part II on Form 17C;*

(b) *Part II of Form 17C completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and*



Rules 49U and 49V are reproduced below for ease of reference:-

"49U. Sealing of other packets.—(1) *The presiding officer shall then make into separate packet,—*

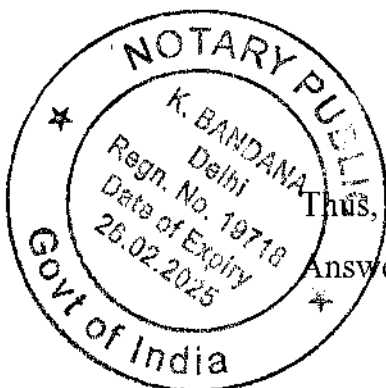
- (a) *the marked copy of the electoral roll;*
- (b) *the register of voters in Form 17A;*
- (c) *the cover containing the tendered ballot papers and the list in Form 17B;*
- (d) *the list of challenged votes; and*
- (e) *any other papers directed by the Election Commission to be kept in a sealed packet.*

(2) *Each packet shall be sealed with the seal of the presiding officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon."*

"49V. Transmission of voting machines, etc., to the returning officer.—(1) *The presiding officer shall then deliver or cause to be delivered to the returning officer at such place as the returning officer may direct,—*

- (a) *the voting machine;*
- (b) *the account of votes recorded in Form 17C;*
- (c) *the sealed packets referred to in rule 49U; and*
- (d) *all other papers used at the poll".*

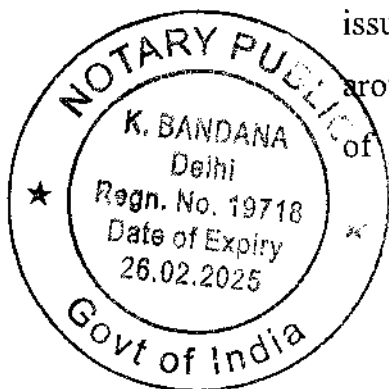
Thus, as per watertight mandate under law, the Answering Respondent is required to provide Form 17C



(Part I) to polling agents of the candidates only under Rule 49S of the Conduct of Elections Rules, 1961 and not to anyone else. Therefore, nowhere in the law is there any mandate to share the information apart from candidate or his agent.

Purpose, Process and Consequence of sharing Voter Turnout data from Non-Statutory Voter Turnout App and Statutory Form 17C are distinct:

22. The Voter Turnout Disclosure method can be divided into two parts - (i) *firstly*, as per statutory mandate, the statutory Form 17C is furnished to polling agents and (ii) *secondly*, as per voluntary non-statutory disclosures, the Answering Respondent discloses voter turnout data through its app, website and various Press Releases.
23. It is submitted that purpose of the aforesaid two methods of disclosing the voter turnout information from Non-Statutory Voter Turnout App is different. While the statutory mandate is to furnish the information in the statutory Forms only to the candidate or his agents (statutory claimant), the Answering Respondent as a measure of voluntary and non-statutory disclosure, publishes the information in the Voter Turnout app continuously, at intervals of two hours on poll day, to reflect live turnout data. The Answering Respondent issues two press notes on the date of poll, the last being at around 23:45 hours after waiting for the maximum number of polling parties to return. Next day scrutiny of polling

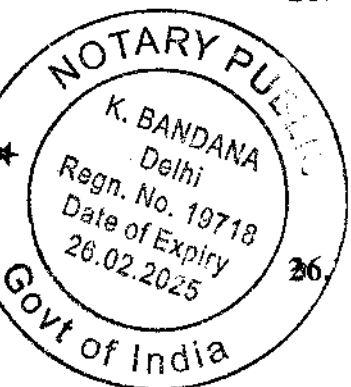


station level records is conducted before candidates. Voter turnout App continuously keeps reflecting data on live basis. On the other hand, Form 17C is given to agents of candidates after the close of poll on polling day itself as per the statutory requirement and the information in the Form 17C gets set in stone.

24. To further clarify / describe the backend processes adopted by the Answering Respondent for publishing voluntary non-statutory voter turnout data, it is submitted that the institutional memory of the Answering Respondent reflects that the curiosity of the public, stakeholders and Press with regard to voter turnout trends and, thereafter, round wise results and result trends, at large, has always been an expectation. Previously, before the IT platform developed by the Answering Respondent came into vogue, such information used to be gleaned in a decentralized manner from returning polling parties, polling agents, sector magistrates and such sources and, then, Press and TV channels used to do their own backend evaluations to project larger trends.

25. The Answering Respondent in the year 2014, took a decision of developing a broad method and framework for collating such information at national level as a facilitative measure, through the use of IT platforms.

26. The core framework of this general public disclosure, which was and is indisputably non-statutory, was facilitative. The



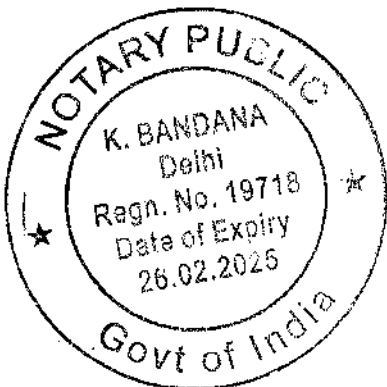
framework cannot supplant the statutory disclosures and the data contained therein (Form 17 A, Form 17C and such like) which, by law, have timelines and authorized capacities, operating as embargo to their public disclosures. The facilitative framework had to balance between the speed of the disclosure to the public vis-a-vis a pin point accuracy and, therefore, in time escalated ladder on the polling day, the broad trends were given the speed priority with clear disclaimers with regard to their accuracy and with the fact that they are liable to change. Nevertheless, systems were developed, in a non-statutory framework, encouraging the Chief Electoral Officers and District Election Officers to ensure and improve both speed of data collation, as well as accuracy.

27. It is submitted that the aforementioned IT platform, therefore, is not constitutive of the data capture. It simply is reflective of the data capture taking place through various non-statutory sources, as is explained below, fed by data operators and then collated on the IT platform, to be publicly disclosed. Further, a time pattern of two-hour disclosure has also been stabilized on the day of poll which basically time slot data disclosures as follows:-

Upto 9:00 AM,

at 9:30 AM,

Upto 11:00 AM, at 11:30 AM,



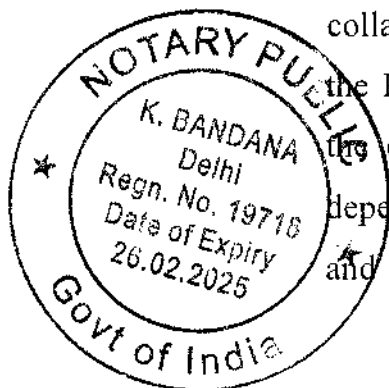
Upto 1:00 PM, at 1:30 PM,

Upto 3:00 PM, at 3:30 PM,

Upto 5:00 PM, at 5:30 PM.

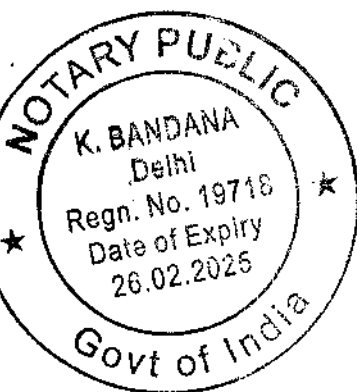
Thereafter, there is a data collation and data disclosure at 7:00 PM and thereafter, it continues through the night, for reasons as explained hereinbelow in the subsequent paragraphs.

28. It is humbly submitted that a "Sector Magistrate" is responsible for 8 to 10 polling stations and carries the core statutory responsibility of reserve EVMs and other legal requirements to deal with possible technical or other disruptions in polling stations under his command. The Sector Magistrate has been given an additional "non-statutory" responsibility to collect the voter turnout data, in percentage, from the polling stations under his control. It may be noted that the statutory regime of not allowing any outside device, including the mobile phones within the polling stations, automatically results in an orally reported and heard data trend given by the Presiding Officer and so noted by the Sector Officer, who has to move in the remaining polling station. Thereafter, Sector Magistrate collates the data he has so heard and noted and transmits to the ROs team at the assembly segment level. Once again the data transmission can be oral or by WhatsApp/SMS, depending upon connectivity. The data is therefore noted and then the feeding begins. The Returning Officer



generally has provisions for 8 to 10 data feeders, who start feeding this data in the ENCORE system of the ECI. At this stage, speed is given higher weightage and therefore, minimum filters of cross checks are in play with the understanding that given the all India volume of data that would be fed in, minor errors, factual, logical or human, can be broadly absorbed in wider trend. Hence when this data is released on the day of the poll, the disclosure about its tentative and non-statutory nature becomes relevant and important, both as having nexus to the modality of the capture, as well as a general industry standard for such circumstances.

29. It is therefore, most humbly submitted that turnout disclosures on the day of poll in voter turnout app is updated in percentage terms. At 7:00 PM, the Commission, keeping in view the Press publication time, issues a press release giving percentages as collated at that particular point of time. It is pertinent to mention here that voting continues at many polling stations for such voters who have reached before prescribed time of close of poll, which is generally kept at 18:00 hours. Though, the APP continues to have data updation and is visible to public at large, the Commission has started issuing a press note at 23:30 - 23:45 hours giving state wise voter turnout percentage. Many polling parties from various polling stations return after close of poll quite late and sometimes, on the next day depending upon the distance and inaccessibility of terrain. Many such parties



trek long hours and even get airlifted the next day. In many cases, re-polls also take place generally on 3 days after poll. The escalatory variation, thus, is inbuilt into the situation.

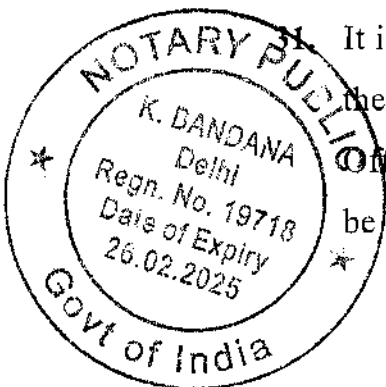
To illustrate, a chart for phase 1 to 5 disclosures at 7:00 – 08:00 PM and at 11:00 PM - 12:00 AM is annexed herewith as ANNEXURE – R/5 (from pages 130)

30. It is further submitted that when the poll actually closes at the respective polling stations as per Rule 43 of Conduct of Election Rules, 1961 a copy of Form 17C, marked as true, is given to the polling agent present at the polling station. It is pertinent to note that the polling station has no wherewithal to directly upload the said form. Further, it has to be understood that the legal stacking up of the credibility of the data is layered as below-

- a. The data contained in Form 17C
- b. The votes cast and recorded in the EVMs
- c. The comparison between the votes recorded in the EVM and paper slips of VVPAT.

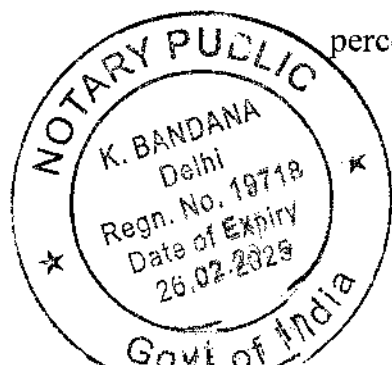
There exist a legal hierarchy/forensic rules, as to which will prevail.

It is further submitted that when the polling parties return at the close of the poll to collection centre at Returning Officer's / Assistant Returning Officer's locations, it has to be appreciated that the core election material such as EVM,

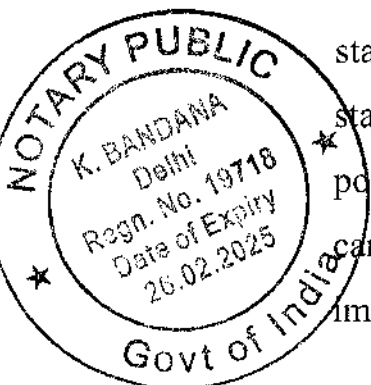


statutory forms, other papers (used and unused), seals, etc have to be very carefully accounted for and are to be deposited back. This is the statutory priority. Given the volume of arrival at the level of checking, before the deposit, the responsibility of giving the non-statutory facilitative disclosure of the close of poll data is carried out in parallel. Various CEOs have designed their own non-statutory forms and trained their respective polling teams to note down, in parallel, the end of poll voter turnout data when the EVM is closed and sealed. These non-statutory formats are deposited by the polling parties to the IT teams who then continue to update the data throughout the night as the teams arrive. Once again, no foolproof checking method with various formats is in play as that would delay the data capture itself. However, training and persuasion has been resulting in a higher consistency of data capture both in terms of speed and accuracy. Nevertheless, it is trite to state that the disclosures are at best, provisional and designed to be only facilitative for enhanced transparency.

A chart showing the trend of release of data on poll day (Day P) , P+1 day and gap of number of days in releasing final data since 2019 general elections and in Legislative elections conducted thereafter is annexed as ANNEXURE – R/6 (from pages 131 to 136) which would reveal that there has always been a gap, and will remain so, in percentage of data at day P, P+1 and P+ 6/7.



32. It is further submitted that as has been explained above, the legal regime with regard to Form 17C is peculiar that while it authorizes the polling agent at the close of the poll to get a copy of Form 17C, a general disclosure of the nature as sought by the Petitioner is not provided in the statutory framework. The Rules do not permit giving of the copy of Form 17C to any other entity. The contention of the petitioner creates a situation where any member of the public or the elector at the Polling Station can demand a copy of Form 17C on the argument that it partakes into a character of a public document. The rule position w.r.t. Form 17C is very clear. After the end of poll, when the polling party submits the same to the RO, RO [under Rule 49V(2) of Conduct of Election Rules, 1961] has to ensure that along with the EVM and other materials, said Form 17C in original is safely stored in Strong Room. Once again the legal framework has a direct and intelligent nexus to the end of poll process which concludes by depositing all the vital physical election vectors such as forms, envelopes, seals, EVMs and such like, as a complete priority. If an additional responsibility and wherewithal is to be created to scan any Form, before going to the Strong Room, the statutory priority would be at risk. The load for the non-statutory and facilitative work that can be placed on the polling parties or at the RO Reception Centre, has to be carefully judged on both the grounds of legal impermissibility and practical undesirability.

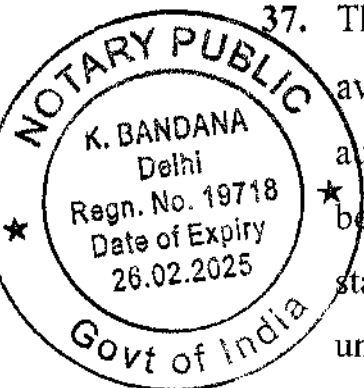


33. It is further submitted that the data disclosure by the Answering Respondent transitions after the close of poll phase and enters what is called the “end of poll” phase on Day 2 what can be called P+1 (i.e. Poll Day + 1). This phase corresponds to what is defined as “scrutiny of papers”. This takes place by the RO and his team on P+1. At this stage, the data disclosure framework shifts to accuracy of data being captured. The portal is opened and as the scrutiny of the polling stations takes place, the data is fed. It is once again noted that the Answering Respondent is giving/ disclosing data that is beyond Form 7C and contains details such as male, female, third gender and such like gleaned from other non-statutory forms as PS 5. This establishes the point that the data being captured is outside the statutory framework and, does not have one to one relation with any particular statutory format. At best, it has intersections with the data that is also going in with the statutory formats.
34. It is therefore most humbly submitted, at the cost of repetition, that this entire disclosure framework comes with the rider of possibility of human, logical and mathematical error and therefore, comes with the disclaimer and proceeds with its own speed, depending on capacity of the various ROs and given the distance and other criteria in several constituencies of the country.

A chart indicating the “close of poll” data in Phase 1 to 5 as finalized, and the variation and deviation in percentage,

as finally revealed, is annexed as ANNEXURE - R/7 from pages 137

35. It is submitted that the higher pedestal of Form 17A flows from the guarantee of the secrecy of vote. Further, Form 17C is designed to be immutable paper trail which ensconces the EVM and concludes the poll. The form is co-shared with its content, contemporary to the point of time, to the election agent and, becomes relevant at the day of counting in terms of Part II.
36. It is submitted that a wholesome disclosure of Form 17C is amenable to mischief and vitiation of entire electoral space. At the moment, the original Form 17C is only available in the Strong Room and a copy only with the polling agents whose signature it bears. Therefore, there is a one-to one relationship between each Form 17C and its possessor. It is submitted that indiscriminate disclosure, public posting on the website increases the possibility of the images being morphed, including the counting results which then can create widespread public discomfort and mistrust in the entire electoral processes.
37. Therefore, the relief claimed, by virtue of a disclosure available to the polling agent, on the understanding that it automatically classifies Form 17C as having no fetters for being generally released on the public domain, is outside the statutory scheme. Further, if Form 17C is seen as an unfettered document then, hypothetically at the end of poll,



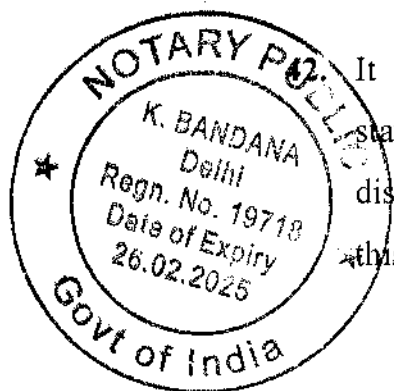
the polling station can be overwhelmed by a large number of public demanding a copy of Form 17C on the argument that it is being given to the polling agent.

38. The statutory scheme of conduct of elections is such that each RO is responsible to conduct elections by exercising statutory functions assigned to him. Thus, each constituency forms a unit from where a candidate acquires the right to contest by following statutory prescribed process and thus, also the right to participate in an election process to ensure fullest transparency, also get copy of Form 17C. Therefore, there is a spatial linkage between RO of the constituencies and candidates and fullest possible disclosure, including sharing of data under Form 17C, is ensured which further forms the basis of candidates' satisfaction in counting process.
39. The above narration of the statutory scheme clearly indicates that Form 17C partakes into a document available for wider public disclosure posterior to the counting. The simple reading and, what has been continuously interpreted by the Commission, is that Part I and Part II of Form 17C are non-segregable from the perspective of Election Commission. The relationship between Part I and Part II completes the election process, and only thereafter, the electoral scheme makes the forms in its entirety available for public inspection. The limited disclosure to a counting agent underwrites the design of the election steps and process contained in the statutory scheme.

40. It is further submitted that the consequence of variance of information furnished in the statutory Forms, in case of a given booth and the circumstances which had prevailed there – may lead to a decision for a re-poll. It may also become a subject matter of an election petition. The candidates as well as the voters have the statutory remedy of filing an election petition under Section 80 of the Representation of the People Act, 1951 if they have any cause of action relating to any variance in statutory forms mentioned above. However, no such consequence flows from a mismatch of information furnished in a voluntary non-statutory disclosure method such as that published in the Voter Turnout App. It is also relevant to mention that it is the vote recorded and reflected in the EVMs which forms the basis of declaration of results and not the data reflected in the voter turnout app.

41. It is further submitted that for overall integrity of the electoral process and its transparency, several Forms containing facts pertaining to Electoral Roll, EVM and close of poll- are co-shared with the relevant stakeholders - being the political party and the candidate or his agents contemporary to the point of time as the particular electoral step / process unfolds.

It is further submitted at the cost of repetition that the statutory claimant with whom Form 17C is shared / disclosed with are the candidates through their agents and this Rule framework has held the field for the last 60 years.

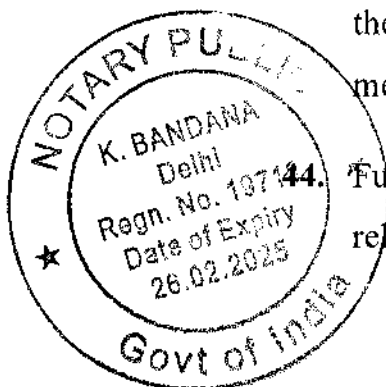


Any change in the same will require amendment to the statutory framework itself. Accordingly, the Answering Respondent has retained its policy of *suo-motu* disclosure and is always attempting to bring time efficiency and data capture efficiency. The Answering Respondent is always in favor of highest form of disclosures and transparency within the statutory framework, and in fact has gone much beyond.

The grounds raised in the present application are baseless and have been responded to by the Commission:

43. It is pertinent to mention that in the main petition filed in the year 2019, the Petitioner had alleged that there were variations in the voter turnout data given by the Commission. As mentioned above, the voters and the candidates have a statutory remedy to challenge the election in their concerned constituency, by way of filing an election petition. However, the Petitioner in the present application has failed to mention a single instance where such candidates or voters had filed an election petition on the basis of the allegations raised by the Petitioner with respect to the General Elections to the Lok Sabha, 2019. This indicates that the allegation of discrepancies in voter turnout data made by the Petitioner in the main petition as well as the present application is misleading, false and based on mere suspicion.

Further, it is submitted that the Petitioner has specifically relied on the voter turnout data published by the Answering



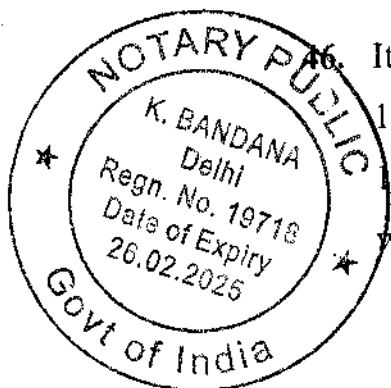
Respondent with respect to the first two phases of the ongoing General Elections to the Lok Sabha, 2024 and has alleged that there was an increase of ~5-6% in the voter turnout data released on the day of polling and in the subsequent press releases for each of the two-phases. In this regard, it is submitted that the aforesaid allegation is misleading and is unsubstantiated.

45. It is submitted that the Answering Respondent in the Press Note No. ECI/PN/56/2024 dated 19.04.2024, annexed as ANNEXURE - R/8 (from pages 138 to 143), issued on the date of poll of the first phase of the election, it was mentioned that:

“Tentative figure of voter turnout across 21 States/UTs reported is over 60% at 7 PM [...] The voting percentage is likely to go upwards when reports from all polling stations are obtained as polling is scheduled till 6 PM in many constituencies. Also, voters reaching the Polling stations till the end of polling hour are allowed to cast their vote. Final figures will be known tomorrow after the scrutiny of form 17A”.

(emphasis supplied)

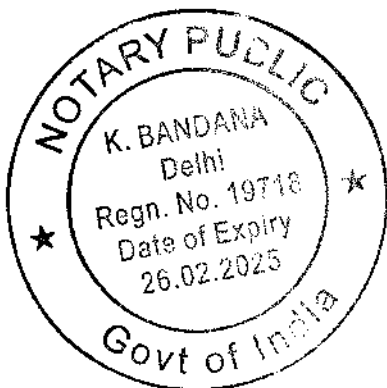
46. It is also pertinent to mention that on the same day i.e., 19.04.2024, the reported turnout had risen to 63.5% by 11 pm and this updated data was also in public domain and was reported by various media outlets including the Times



of India. Thus, the allegation of the Petitioner that the initial turnout on the aforesaid date was around 60% which was sharply increased to 66% *vide* Press Note No. ECI/PN/62/2024 dated 30.04.2024 issued by the Answering Respondent is misleading and has been made with *mala fide* intention. True copy of the article "*Turnout touches 64% in Ph 1 of LS polls, against 66% in '19*" as published by the Times of India on 20.04.2024 is annexed as ANNEXURE-R/9 (from pages 144. True copy of the Press Note No. ECI/PN/62/2024 dated 30.04.2024 issued by the Answering Respondent is annexed as ANNEXURE-R/10 (from pages 145 to 165).

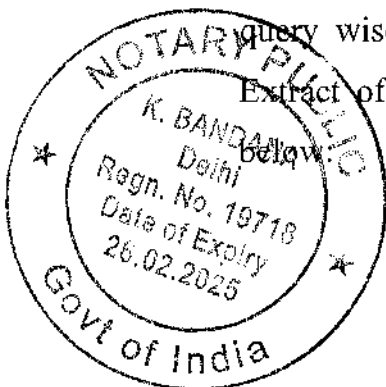
47. It is also apposite to mention that in the Press Note No. ECI/PN/74/2024 dated 07.05.2024, annexed at pg. 166-178 ANNEXURE - R/11, the Answering Respondent published the tentative voter turnout data with respect to the polling in the third phase held on 07.05.2024. In this Press Note, it was mentioned that:

"The voter turnout figures which are approximate as of 8 pm will continue to be further updated on VTR App on continuous basis as various polling parties formally close the poll and hand over Form 17 C to the polling agents of candidates at each of the polling station. As per statutory requirements, voter turnout is to be recorded at every polling station in absolute numbers in Form 17C, which prevails. As an embedded measure of transparency,



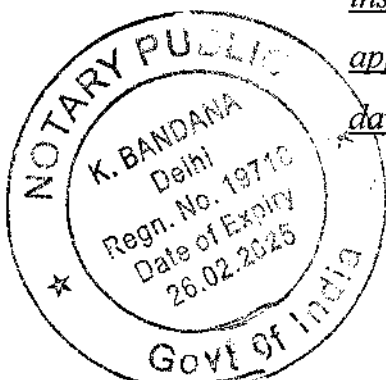
the copies of Form 17C, duly signed by Presiding Officer and all present polling agents, are invariably shared with all present polling agents of contesting candidates. Thus, booth wise data of actual number of votes polled is always available with the candidates, which is statutory requirement."

48. Similarly, the Answering Respondent in the Press Note No. ECI/PN/61/2024 dated 26.04.2024, annexed at pg. 179-184, ANNEXURE - R/12, issued with respect to the polling in the second phase of the election clearly mentioned that the data mentioned was the "approximate voter turnout of 60.96% as of 7 PM".
49. It is further submitted that the main ground for filing the present IA are the letters written by the leaders of opposition parties, wherein apprehension of variance in the initial voter turnout data and the later data published in the press note dated 30.04.2024 has been raised. In this regard, it is stated that the Commission has taken cognizance of this apprehension and written a letter allaying all such fears and bringing the relevant legal position regarding recording of voter turnout data on record. The said letter contains the query wise reply to the six questions raised in the letter. Extract of the relevant portion of the same is reproduced below:



"It is incorrect assertion about any delay and denied upfront. The Commission, on its own motion and to facilitate public at large, has created "Voter Turnout App" which is available in public domain for anybody to download where voter turnout of every PC (to the level of assembly segments/constituency), every State and every Phase of election are displayed live. The "Voter Turnout App" displays estimated approximate voter turnout on poll day every two hours (9:30 am, 11:30 am, 1:30 pm, 3:30 pm, 5:30 pm), then it displays live updation of estimated approximate voter turnout from 7:00 pm onwards till mid-night, as further reports are received from the field. The "Voter Turnout App" is largely a public facilitation measure and may be subject to usu issues of technical functionality at times."

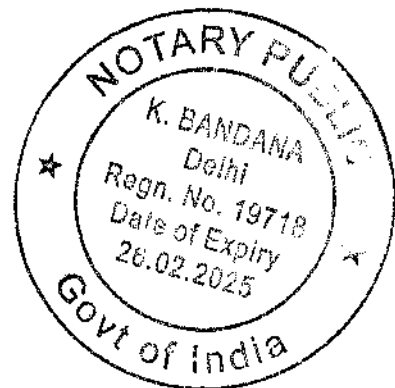
"Normally, after arrival of parties and scrutiny of documents by returning officers, in presence of all candidates and observes, about poll day proceedings, complaints and concerns, the returning officers proceed to update polling station wise exact voter turnout data. After complete data entry, the returning officers publish that data which is instantly visible on voter turnout app updating approximate data published till mid-night of poll day. This process takes P+1 or P+2 days depending



on constituencies and arrival schedule of polling parties due to geographical and weather conditions (known to all candidates). This data may further gets updated for any constituency where repoll is being conducted, on conclusion of repoll and arrival of parties which is normally on P+4 days. Thus, there is no delay in publication of data for a constituency or a State on voter turnout application. Issuance of press note on 30th April 2024 was nothing but presenting the data already displayed and available in App live. It is thus not a delay."

"Nothing has changed this time in the reporting system and hence no justification is required to be given. In fact, "Voter Turnout App" has been improved with new features, like display of phase wise total voter turnout apart from Assembly segment wise, PC wise and State/UT wise voter turnout, so as to make more user friendly."

"It may be noted that the Commission is not legally bound to publish any voter turnout data at aggregate level of a constituency, a State or in a phase of election because voter turnout is recorded at polling station level in statutory Form 17C which is prepared by the Presiding Officer and signed by polling agents of candidates present. Copies of Form 17C are shared with polling agents present immediately, as the strongest measure of

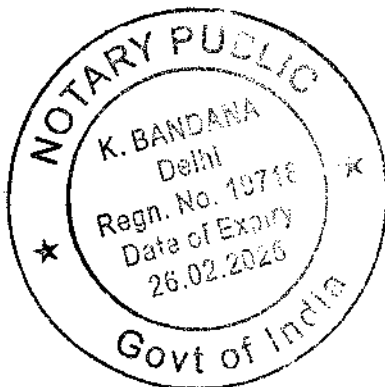


transparency. So, candidates are aware and in possession of exact voter turnout data in absolute numbers even before it is known to ECI."

"While preparing Form 17C, final voter count data as recorded in EVM are also entered in Form 17C which is signed by all polling agents and copy provided. It is clarified that EVM has nothing to do with voter turnout data sharing. EVM follows very strong and transparent administrative safeguards, well known to political parties and candidates."

"It is very clear that such allegations are being made even without understanding content and intent of law on the subject and without appreciating the system already put in place by the Commission to provide voter turnout details without any delay, leave aside 24 hours delay mentioned. Needless to add that Table in Annexure I will reveal that it has been the consistent practice followed by the Commission.

"The very premise that voter turnout data was released late is devoid of facts as it has always been available on the Voter turnout APP. Commission has not changed the design or periodicity of displaying voter turnout data in any manner. Needless to add that polling station wise data of electors and voters is given to agent of the candidate



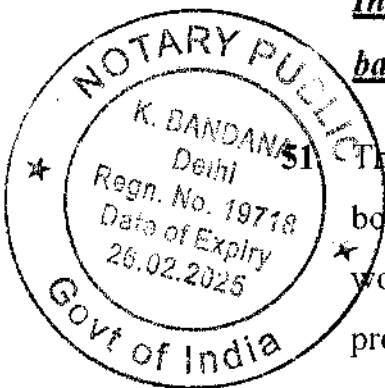
on the day of poll itself at close of poll. The table at Annexure 1 as gleaned from the press conferences held or press notes released after polls, showing factual matrix of release of data across various elections, would testify that there is no unusual delay than what is required to collect data from large number of polling stations. As the table 1, cumulatively in a time series sense, will confirm that this is the general time run, which is required for this purpose”.

(Emphasis supplied)

50. It is pertinent to mention that the Petitioner herein has instituted this application by making the said communications made by the opposition leaders/ political parties as the main ground for seeking the reliefs herein. It is submitted that once the Answering Respondent has responded to the allegations made above by way of issuing the aforesaid letter dated 10.05.2024, which was immediately put in public domain, the grounds for filing the present IA no longer survive.

Incessant suspicions on electoral processes without any basis:

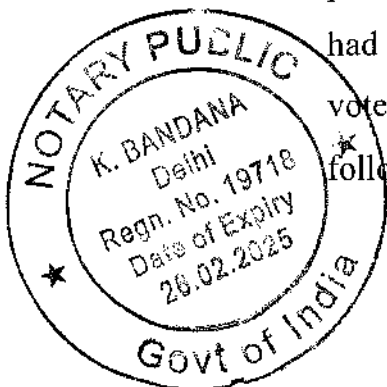
The Commission recognizes that being a constitutional body, it shall always remain subject to public scrutiny and works continuously towards transparency in electoral processes. It is a matter of fact that during various stages of



such processes, such as preparation & revision of electoral rolls, management of EVMs, counting of votes, etc., the Commission has procedures in place which allows the political parties, candidates, their agents and representatives to be part of such processes in order to allay any fears of murkiness and opaqueness.

52. It is humbly submitted that baseless suspicions had led to the filing of a Writ Petition, being *Samvidhan Bachao Turst vs. ECI & Ors.* [W.P.(C) No. 1228/2023] wherein this Hon'ble Court examined the meticulous process of preparing the roll filed by the Commission with fullest possible transparency and disposed of the petition *vide* Order dated 12.02.2024 after taking on record the submissions made by the Commission and expressing satisfaction with the same.

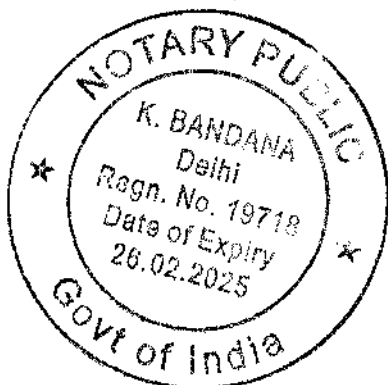
53. However, continuous attempts are made to create doubts about the electoral processes which demotivates the voters. The Petitioner herein had earlier filed a petition titled *Association for Democratic Reforms vs. Election Commission of India & Anr.* [W.P.(C) No. 434/2023, reported as 2024 INSC 341] wherein aspersions were cast over the EVM VVPAT system. However, this Hon'ble Court *vide* judgment dated 26.04.2024 dismissed the petition. While dismissing the petition, this Hon'ble Court had painstakingly perused the entire process of recording of votes in various statutory forms and had observed as follows:



“48. As per instructions issued by the ECI, the presiding officer is periodically required to check the total number of votes cast as recorded in the control unit with the data as recorded in Form 17A.

49. As per Rule 49S, at the close of the poll, the presiding officer is required to prepare an account of votes recorded in Form 17C. This is a detailed form, which in Part I, requires the presiding officer to mention the total number of electors assigned to the polling station, the total number of voters as entered in the register for voters, that is, Form 17A, the total number of voters who had decided not to vote even after recording their details in Form 17A (Rule 49O scenario), and the total number of voters not allowed to vote (Rule 49M scenario). The form also requires to give details of the total number of votes recorded per voting machine. This total number recorded in the voting machine should tally with the total number of voters entered in Form 17A minus the number of voters deciding not to vote and the number of voters not allowed to vote. The details of the paper seals supplied for use, paper seals used, unused paper seals returned to the returning officer etc. are also recorded and entered after the close of the poll.

50. Under Rule 49S of the 1961 Rules, at the time of close of the poll, the presiding officer furnishes attested true copy of the account of votes recorded



in Part I of Form 17C to the polling agents of the candidates. He also retains a receipt of the same from the polling agent.

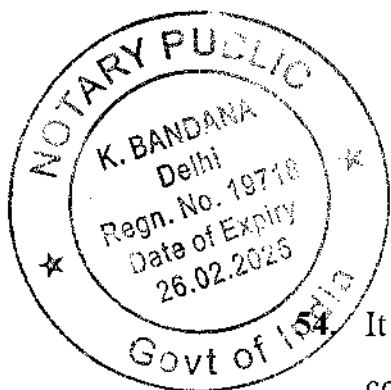
51. Before start of counting of votes, the serial number of the EVMs and the paper seals affixed on the EVMs are verified with details mentioned in Form 17C and are shown to the counting agents. The total votes displayed by pressing the 'TOTAL' button on the control unit is also tallied with the total votes polled as per Form 17C.

52. The counting is done in the presence of the polling agents/candidates by pressing the 'RESULT' button on the control unit. The total votes polled and the total votes polled by each candidate is thereupon displayed on the display panel.

[...]

56. As per the ECI guidelines, in case there is any mismatch between the total number of votes recorded in the control unit and Form 17C on account of non-clearance of mock poll data or VVPAT slips, in terms of Rule 56D(4)(b) of the 1961 Rules etc., the printed VVPAT slips of the respective polling stations are counted and considered if the winning margin is equal to or less than total votes polled in such polling stations."

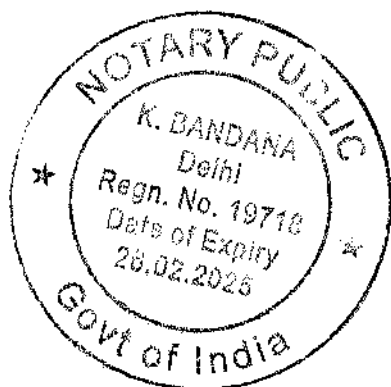
It is also apposite to refer to the relevant observations in the concurring judgment dated 26.04.2024 delivered in the



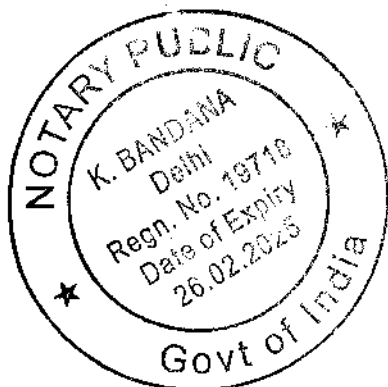
aforesaid case wherein his Lordship was pleased to observe that:

“[...] 5. It is of immediate relevance to note that in recent years, a trend has been fast developing of certain vested interest groups endeavouring to undermine the achievements and accomplishments of the nation, earned through the hard work and dedication of its sincere workforce. There seems to be a concerted effort to discredit, diminish, and weaken the progress of this great nation on every possible frontier. Any such effort, or rather attempt, has to be nipped in the bud. No Constitutional court, far less this Court, would allow such attempt to succeed as long as it (the court) has a say in the matter. I have serious doubt as regards the bona fides of the petitioning association when it seeks a reversion to the old order. Irrespective of the fact that in the past efforts of the petitioning association in bringing about electoral reforms have borne fruit, the suggestion put forth appeared inexplicable. Question of reverting to the “paper ballot system”, on facts and in the circumstances, does not and cannot arise. It is only improvements in the EVMs or even a better system that people would look forward to in the ensuing years.

[...]



7. *Conducting elections in India is a difficult task, is an understatement; rather, it is a humongous task and presents a novel challenge, not seen elsewhere in the world. India is home to more than 140 crore people and there are 97 crore eligible voters for the 2024 General Elections, which is more than 10% of the world population. These voters represent the largest electorate in the world. The Representation of the People Act, 1951 which, to my mind, amidst the vast legislative landscape of the nation is the most important enactment after the Constitution of India, is also the most effective instrument to uphold democratic and republican ideals, which are the hallmarks of our preambular promise. The RoP Act, which has established the legal framework for conducting elections, ensures that each and every citizen has a fair and equal opportunity to exercise his/her right of vote and to participate in the democratic process for electing his/her governor. The duties, functions and obligations to be performed/discharged by the ECI are ordained by the RoP Act, which are paramount and nonnegotiable. Being a complete code in itself, the RoP Act reinforces the rule of law and upholds the principles of justice, fairness and transparency. The larger the electorate, greater are the challenges associated with the elections. As it is, the ECI has an onerous responsibility to shoulder and there is*



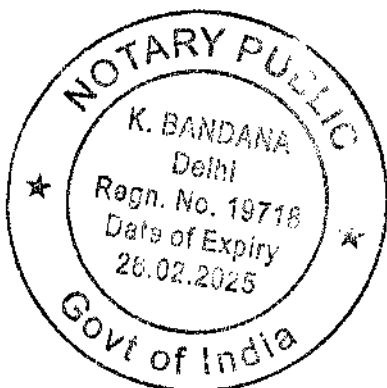
absolutely no margin for error. Periodical challenges to electoral processes, which gain momentum particularly when General Elections are imminent, require the ECI as of necessity to raise robust, valid and effective defence to spurn such challenges failing which any adverse judgment by a court is bound to undermine the authority and prestige of the ECI and bring disrepute to it.

[...]

18. The Republic has prided itself in conducting free and fair elections for the past 70 years, the credit wherefor can largely be attributed to the ECI and the trust reposed in it by the public. While rational scepticism of the status quo is desirable in a healthy democracy, this Court cannot allow the entire process of the underway General Elections to be called into question and upended on mere apprehension and speculation of the petitioners. The petitioners have neither been able to demonstrate how the use of EVMs in elections violates the principle of free and fair elections; nor have they been able to establish a fundamental right to 100% VVPAT slips tallying with the votes cast.

[...]

21. The first is the very issue of maintainability of writ petitions of the nature presented before us. Should mere suspicion of infringement of a right be

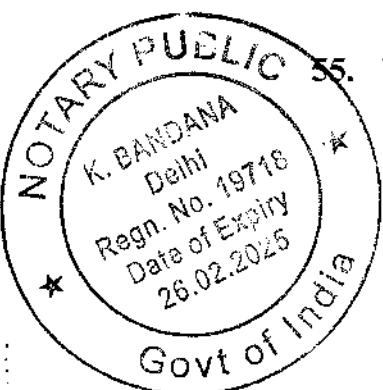


considered adequate ground to invoke the writ jurisdiction? In my

opinion, the answer should be 'NO'.

22. A writ petition ought not to be entertained if the plea is based on the mere suspicion that a right could be infringed. Suspicion that a right could be infringed and a real threat of infringement of a right are distinct and different.

23. To succeed in a claim under Article 32 or 226, one must demonstrate either mala fide, or arbitrariness, or breach of a law in the impugned State action. Though a writ of right, it is not a writ of course. The writ jurisdiction under Article 32/226 of the Constitution of India being special and extraordinary, it should not be exercised casually or lightly on the mere asking of a litigant based on suspicions and conjectures, unless there is credible/trustworthy material on record to suggest that adverse action affecting a right is reasonably imminent or there is a real threat to the rule of law being abrogated. It must be shown, at least prima facie, that there is a real potential threat to a right, which is guaranteed by law to the person concerned."



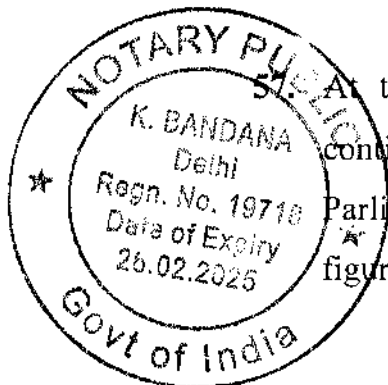
55. Thus, in the aforesaid judgment, this Hon'ble Court had observed that the credibility or trustworthiness of a

Constitutional authority cannot be questioned merely on the basis of suspicion, apprehension and conjectures.

56. In this context it is pertinent to note that the present IA for Direction has also, admittedly, been filed on apprehensions which are noted in the following places in the IA for Direction:

- i) Para 5 on Page 6: "It is submitted that the inordinate delay in the release of final voter turnout data, coupled with the unusually high revision (of over 5%) in the ECI's press note of April 30, 2024, and the absence of disaggregated constituency and polling station figures in absolute numbers, has raised concerns and *public suspicion regarding the correctness of the said data*";
- ii) Para 7 on Page 7: "The ECI not releasing absolute number of votes polled, coupled with the unreasonable delay in release of votes polled data, *has led to apprehensions in the mind of the electorate* about the sharp increase between initial data and data released on 30.04.2024. These *apprehensions* must be addressed and put to rest."

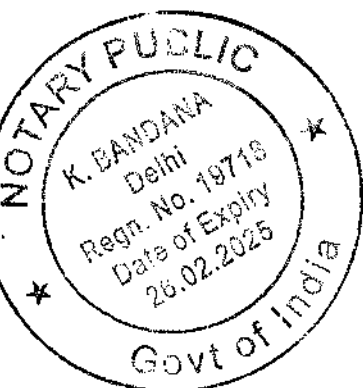
At the outset it may be stated that voter turnout APP continuously provides Assembly Constituency, Parliamentary Constituency and State wise voter turnout figures in percentage. Electors' data has also been released



constituency wise. Hence the averment that constituency wise data is not available is misleading.

58. It is most humbly submitted that the Petitioner has not approached this Hon'ble Court with clean hands as can be seen from Para 13 at Page 11 of the IA for Direction where the Petitioner has quoted an excerpt of a media interaction of a former Chief Election Commissioner while intentionally concealing his observation that "*the non-disclosure of the number of voters by the EC in not unacceptable*" as can be seen from the words : "**(delete because he said not unacceptable).**" It is submitted that this raises the serious issue of the Petitioner misusing the process of law that when the Petitioner seeks to rely upon the excerpts from the interview of a former CEC, it seeks to change the said excerpt because the actual content is going contrary to the allegation and prayer made by the petitioner in the present application.

59. It is pertinent to mention that aspersion over the polling process and secrecy of voting was recently raised on mere suspicion and apprehensions in another petition titled as *Agnostos Theos vs. Election Commission of India & Ors.* [W.P.(C). No. 330/2024] filed before this Hon'ble Court. However, the Hon'ble Court dismissed the petition *vide* order dated 17.05.2024 by holding that there was no merit in the same. It is relevant to mention herein that as per the reporting of the proceedings by LiveLaw for the aforesaid matter, it was observed by the Hon'ble Court that in the

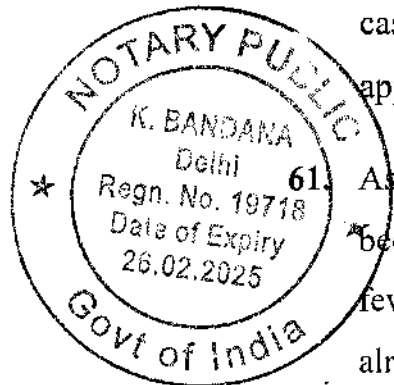


previous case of *Association for Democratic Reforms vs. Election Commission of India* [W.P.(C) No. 434/2024 reported as 2024 INSC 341], the Hon'ble Court had already dealt with the entire process of recording of votes and thus, the issue raised was already dealt with by the Hon'ble Court. True copy of the order dated 17.05.2024 passed by the Hon'ble Supreme Court in *Agnostos Theos vs. Election Commission of India & Ors.* [W.P. (C) No. 330/2024] is annexed as ANNEXURE - R/13 from pages 185

True copy of the article titled "*Polling Officer Doesn't Know Who Has Voted For Whom*": *Supreme Court Dismisses Plea raising Doubts About Secrecy in Voting Process*" published by LiveLaw on 17.05.2024 is annexed as ANNEXURE -R/14 from pages 186 to 188.

60. It is submitted that since this Hon'ble Court has examined the process of recording of data and their dissemination by way of the statutory forms prescribed under Conduct of Election Rules, 1961 in the aforesaid case of *Association for Democratic Reforms vs. Election Commission of India* [W.P.(C) No. 434/2024 reported as 2024 INSC 341] and did not express any dissatisfaction with the same, the doubts casted over the same process by way of the present application has no merit and ought to be rejected.

As mentioned above, the present Interim Application has been filed based on the unsubstantiated allegations raised by few political leaders/ parties to which the Commission has already given detailed reply. However, the Petitioner herein



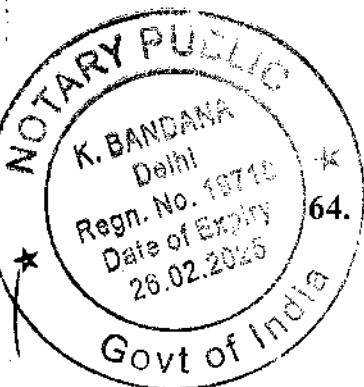
is casting aspersion on the electoral process based on speculations and apprehensions.

Changing the procedure in the last two phases of the elections by a PIL will amount to interference in election process and will be in teeth of Article 329(b) of the Constitution:

62. It is most humbly submitted that the Petitioner has sought reliefs which will essentially change the procedure followed by the Answering Respondent and will amount to interference in election process and therefore, the present Interim Application is not maintainable in view of express bar of Article 329(b) of the Constitution.

63. It is most humbly submitted that Article 329(b) of the Constitution bars judicial interference in electoral process from the date of issue of notification of election and till the declaration of results. This position has been affirmed by this Hon'ble Court in a catena of judgments including *N.P. Ponnuswami vs. Returning Officer, Namakkal Constituency & Ors.* [1952 AIR SC 64], *Mohinder Singh Gill vs. Chief Election Commissioner* [(1978) 1 SCC 405], and *Manda Jaganath vs. K.S. Rathnam & Ors.* [(2004) 7 SCC 492]. It is pertinent to mention that allowing the reliefs sought in the present Interim Application in the middle of the Lok Sabha Elections will be in teeth of Article 329(b).

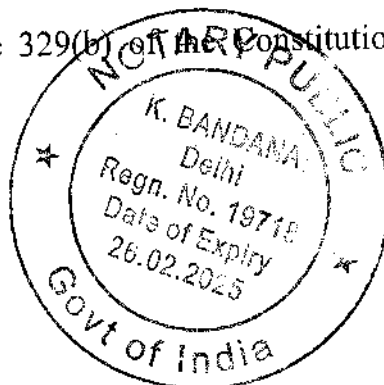
64. It is most humbly submitted that the above noted judgments given by this Hon'ble Court have inspired and informed the



Hon'ble High Courts to enforce the bar provided under Article 329(b) of the Constitution of India which has played a key role in the achievement of smooth conduct of elections over past seven decades. In this context a few judgments given by the Hon'ble High Courts are also noted below.

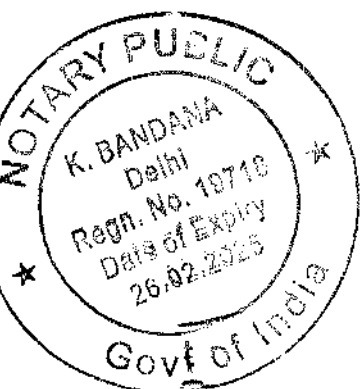
65. In *Atul Kumar & Anr. Vs. Election Commission of Bharat & Anr [PIL No. 17/2022]*, the Lucknow Bench of the Hon'ble Allahabad High Court, while dismissing a PIL questioning the legality of the election schedule, had held that "*Public Interest Litigation is not an exception to Article 329 of the Constitution of India*". In this context it is pertinent to note that the present petition is also a public interest litigation. A true copy of the judgment of the Lucknow Bench of the Hon'ble Allahabad High Court in *Atul Kumar & Anr. Vs. Election Commission of Bharat & Anr [PIL No. 17/2022]*, is annexed as ANNEXURE - R/15 from pages 189 to 191.

66. It is further submitted that in *Satta Panchayat Iyakkam v. Chief Election Commissioner [2016 SCC OnLine Mad 6867]*, the Hon'ble Madras High Court dealt with a PIL filed wherein again the schedule of election was question, however, the Hon'ble Court dismissed the PIL in view of the bar of Article 329(b) of the Constitution and held as follows:



"10. The main question arises for consideration is whether the Writ Petitions filed under the guise of Public Interest Litigation are maintainable in view of the bar in Article 329(b) of the Constitution of India, before culmination of the Election process. Article 329 of the Constitution of India takes away the jurisdiction of the Courts in certain matters relating to Election, which are governed by Part XV of the Constitution. Clause (b) of Article 329 excludes the jurisdiction of the Courts to entertain any matter relating to Election. The question as to whether the word "Election" in Article 329(b) of the Constitution would embrace the whole procedure of Election or whether it is not confined to the final result, came up for consideration before the Constitutional Bench of the Hon'ble Supreme Court in N.P. Ponnuswami's case. In the said case, the Hon'ble Supreme Court has interpreted Article 329(b) of the Constitution of India and held that the word "Election" in the said provision would include the entire process of Election commencing with the issue of notification and terminating with the declaration of election of a candidate and that a petition under Article 226 of the Constitution of India challenging the validity of any of the facts forming any part of that process would be barred."

A true copy of the judgment of the Hon'ble Madras High Court in *Satta Panchayat Iyakkam v. Chief Election*



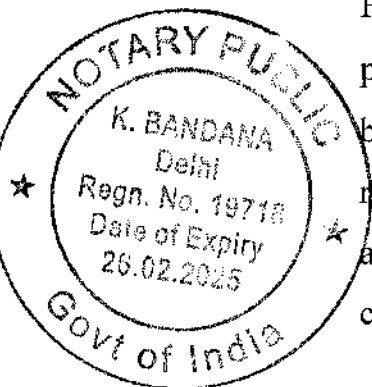
Commissioner [2016 SCC OnLine Mad 6867] is annexed as ANNEXURE - R/16 from pages 192 to 199.

67. In *Chief Election Commissioner Election Commission of India New Delhi v. Dr. Alladi P. Raj Kumar [1994 SCC OnLine AP 272]*, the Hon'ble Andhra Pradesh High Court dealt with a PIL to countermand and rescind the election in certain district of Andhra Pradesh. On the maintainability of the PIL, the Hon'ble Court held as follows:

"Obviously, if a petition under Article 226 cannot be filed in view of the bar created by Article 329(b), a petition filed in public interest which, incidentally, is also filed under Article 226 will not be maintainable."

A true copy of the judgment of the Hon'ble Andhra Pradesh High Court in *Chief Election Commissioner Election Commission of India New Delhi v. Dr. Alladi P. Raj Kumar [1994 SCC OnLine AP 272]* is annexed as ANNEXURE - R/17 from pages 200 to 219.

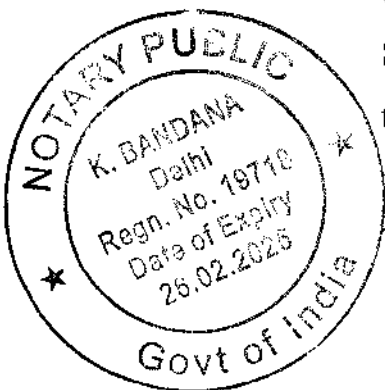
68. It is pertinent to consider the possible confusion that may arise in the minds of the voters due to publishing of Form 17C in public domain. It is submitted that the aforesaid Form takes into account the votes recorded inside the polling station and not the votes casted by way of postal ballots. The number of postal ballot votes recorded with respect to any constituency may vary from a few hundred to a few thousand. It is further submitted that in any electoral contest, the margin of victory may be very close. In such



cases, disclosure of Form 17C in public domain may cause confusion in the minds of the voters with regard to the total votes polled as the latter figure would include the number of votes polled as per Form 17C as well as the votes received through postal ballots. However, such difference may not be easily understood by the voters and may be used by persons with motivated interests to cast aspersion on the whole electoral process.

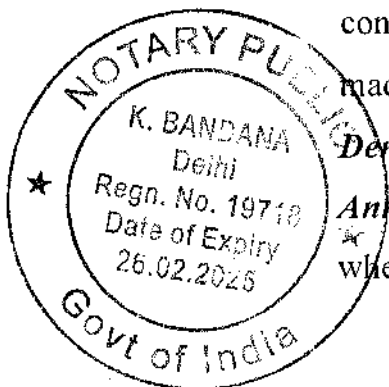
69. It is submitted that if the reliefs sought by the Petitioner is allowed, it will not only be in teeth of the aforesaid legal position but will also cause chaos in the election machinery which is already in motion for the ongoing General Elections to the Lok Sabha, 2024. It is submitted that for the conduct of elections, requisition of staff is undertaken under Section 159 of the Representation of the People Act, 1951. As mentioned in the aforesaid provision, such staff are requisitioned from local authorities, universities, banks and other institutions of the State. Such officials are trained through a rigorous process running into months.

70. It is submitted that practical difficulties may arise in granting the reliefs sought by the Petitioner and such consequent practical difficulties have to be seen in light of the enormity of the election process. In the ensuing Lok Sabha Elections, 2024, the Commission has set up more than 10 lakh polling stations across the 543 constituencies to facilitate the exercise of voting by almost 97 crore voters. The Commission has deployed nearly 1.5 crore personnel,



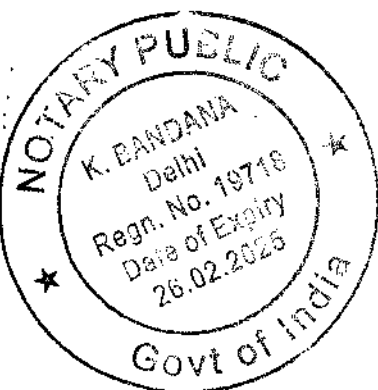
mostly on deputation basis, to ensure the smooth conduct of free and fair elections. The election personnel have to face various challenges in their duties which include movement across difficult geographic terrains, creating facilities for smooth voting and ensuring peaceful voting even in areas facing law and order problems. The massive training of such staff deployed for election duty is very meticulous and conducted over a period of time, elaborating and dividing each step of the process amongst the individuals. Thus, any change in the process or addition of any step to this process of polling would require human resource training. Now, any change at the close of the election period will cause hardship and confusion in the electoral process as no time is left for providing adequate training to the polling parties which will be on duty for the last two phases of the election.

71. Furthermore, it is submitted that apart from the aforesaid difficulties pertaining to the training of the polling staff, there will be logistical deficiencies which are to be taken into consideration. For instance, there are various polling stations in remote areas which suffer from issues of internet access, availability of electricity and lack of required technology for scanning and uploading of data. In this context, it is pertinent to take refuge in the observations made in the concurrent judgment in *Association for Democratic Reforms vs. Election Commission of India & Anr.* [W.P.(C) No. 434/2023, reported as 2024 INSC 341] where his Lordship was pleased to observe as under:



“8. [...] The EVMs are carried to the remotest areas of this country, occasionally on the backs of horses and other animals; voting booths have been set up in far-off villages at the foothills of the Himalayan mountains as well as the delta of the Sundarbans which are only accessible through boats. These challenges are unique to India, and the election process has to be considered in this context”.

72. Furthermore, if it is assumed without prejudice that Form 17C is to be uploaded, the most critical aspect would be as to the location from which Form 17C should be scanned and uploaded. There are no scanners at the polling stations. Further no internet facility is allowed at the polling stations to ensure there remains no doubt on connectivity with EVMs, even though by design that is not possible. If it is to be done centrally after aggregation by ARO or RO at Sub-Divisional or District head quarter, it violates the extant legal design of straight away keeping Form 17C in strong room after giving a copy to the agent of the candidate as per Rule 49S of the Conduct of Elections Rules, 1961. Further, there may be instances where the polling staff may not be so accustomed with technological aspects or may not be apt in scanning and uploading of data. Lastly, the data sought to be uploaded on ECI's website would require creation of a dedicated portal and the training of the polling staff to use such platforms. These aspects though may seem manageable, require planning and scheduling of training

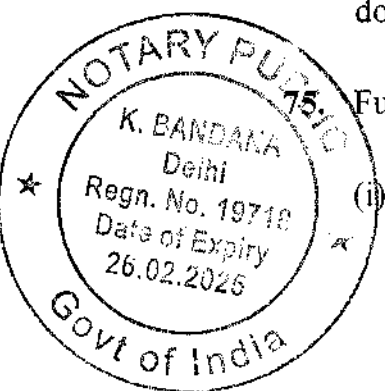


that must be done in advance. For a level-playing field, the rules of the process must be set in advance with all parties in the know and cannot be changed in the middle of the process. It is emphasized here that the purpose of Article 329(b) is to ensure that the election process remains consistent and is not interfered with while it is ongoing.

73. Thus, it is submitted that by way of the present Interim Application, the Petitioner has attempted to evade the mandate of Article 329(b) of the Constitution.
74. It is further humbly submitted that the Petitioner has admitted in the aforesaid IA for Direction (Para 8 at Page 8) that under the existing rules a copy of Form 17C is provided to the polling agents, however "*there may be instances that polling agents may not be available*". In this context, it is pertinent to note that taking signature of Polling Agents on Form 17C is a statutory requirement, however, if a provision is made for making the same available on website, then polling agents may not remain at polling stations towards the close of poll leading to further difficulty in discharge of statutory duty and the absence of signature of any polling agent on Form 17C may itself become a ground to challenge the veracity of the Form 17C and create further doubt and suspicion on the sanctity of the electoral process.

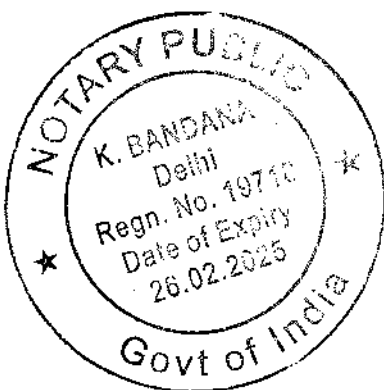
Further, the Answering Respondent submits the following:

- (ii) The Answering Respondent reiterates that a colorable use of PIL route is in play to derail the



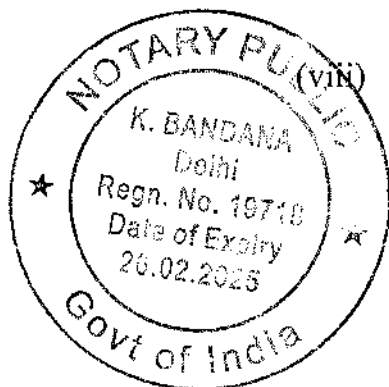
ongoing election process and that is in continuation of the previous conduct of the Petitioner;

- (ii) The statutory design of Representation of the People Act, 1950 and 1951 read with Electoral Registration Rules, 1960 and Conduct of Election Rules, 1961 is built upon transparency of every step of the electoral process through disclosures to the stakeholders and to the public at large;
- (iii) That the Answering Respondent in different litigations, whether challenging the electoral roll, the EVMs and now, the issue of release of facilitative data has brought out in detail such built-in intersections with the stakeholders;
- (iv) That the design of the electoral steps is legally sequential and each step concludes itself with available information to stakeholders an opportunity to challenge and finally, if required, to seek the route of judicial remedy;
- (v) That on the day of the poll, details of approximately 97 crores on the Electoral Roll has been shared with the political parties after publication of the final roll on 05.01.2024. The meticulous process of preparing the roll with fullest possible transparency has been filed by the Commission before the Hon'ble Court. The Hon'ble Court in the matter of *Samvidhan Bachao Turst vs. ECI & Ors.* [W.P.(C) No.



1228/2023] had already examined the allegations pertaining to the process of revision and preparation of electoral roll and disposed of the petition *vide* order dated 12.02.2024 after taking on record the submissions made by the Commission and expressed satisfaction with the same.

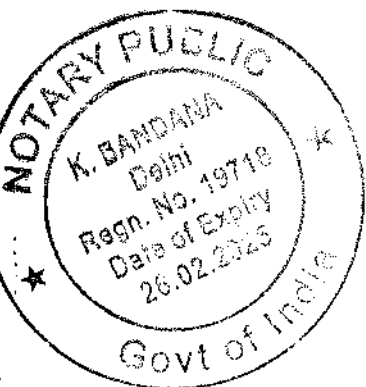
- (vi) Similarly, details of 5.5 million EVMs have also been shared with the political parties and candidates know the exact serial number of the EVM being used at each of the Polling Station in the constituency. Suspicion on EVMs were also raised during the current electoral cycle and this Hon'ble Court after detailed submissions and hearing the Commission's Officer, disposed of the W.P. (C) No. 434/2023 *vide* Judgment dated 26.04.2024;
- (vii) It is recalled that the present writ petition has been pending before this Hon'ble Court since 2019 and through the present interim application, it again came up in the middle of the ongoing General Elections to the Lok Sabha, 2024 and similar design was also used by the same Petitioner in W.P. (C) No. 434/2023;



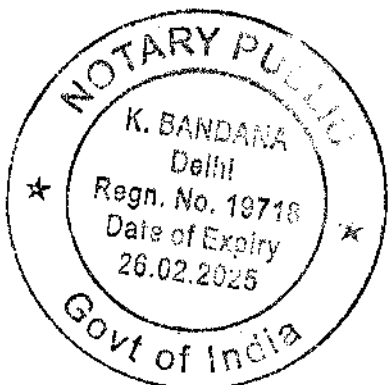
(viii) That the entire electoral space managed by the Commission is primarily persuasive as neither electoral registration is compulsory nor is the act of voting. Therefore, disclosures and participative

framework is the only reliable tool available to the Commission to create in the mind of the new voter and to retain in the mind of the previous voter their faith in the electoral steps.

- (ix) That the data trend over the years has validated this approach of the Commission, especially its granularity where there is great deal of familiarity and control to the elector, to the potential candidate and to the political party as well as the election machinery. The data pyramid is based upon the small data set of 1500 voters to a particular polling station and it slowly adds up to Assembly Constituency wise, Parliamentary Constituency wise facts, which have statutory reliability and verifiability.
- (x) That the scenario being conjured by the Petitioner is misplaced and respondent expresses concern that it hides a concerted intent to bring disrepute to the electoral space in India.
- (xi) That the Petitioner is deliberately confusing the non-statutory facilitative data disclosure on the date of the poll with the statutory forms in which the data is captured, whose disclosure in terms of who can claim and at what stage are they to be disclosed, is very much part of the embedded design of the statute which serves to create a credible framework.



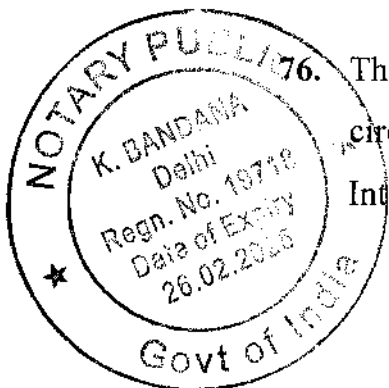
- (xii) The factual basis of the grievance, namely, the alleged delay and variance in the data has also been conclusively dealt with in the preceding paragraphs and shown that there is neither delay nor difference in percentages of voter turnout data, more than what is inbuilt into the process, scale and magnitude in play.
- (xiii) While the Commission categorically resists, both on the normative ground as explained above, as well as on the ground of legality, practicality and the logistics involved of uploading Form 17C after the conclusion of the poll, yet, it would like to assure the Court that it is completely committed to ensuring its own voluntary scheme of public disclosure of data on poll day both with speed and with accuracy.
- (xiv) That under no circumstance would the Commission like to contribute to any misapprehension in the minds of the public at large that there is hesitation in disclosing the statutory data contained in Form 17C. It simply is asserting the value that the extant of the statutory scheme has. It has a direct nexus to the other aspects of the credibility of the electoral steps and process, including disputes in election. Therefore, the Commission has designed parallel and non-statutory methods to collate the data which keeps intersecting with the information in various statutory formats. However, it does not *ipso facto*



create a circumstance for making such formats publicly disclosable *en masse* in the time frame that the petitioners are asking for.

- (xv) That the tenor, language, design of the public messaging including tweets and social media posts made by the Petitioner during many stages of hearing of the case(s) in this Hon'ble Court should be taken note of in persuasion of the Commission's concern that there is a design, a pattern, selection of timing that is in play and the petitioners are not approaching the Hon'ble courts with clean hands and to misuse the forum of the Court with an agenda to perpetually keep creating doubt in the mind of voters based on conspiracy theory. It is also pertinent to state that the petitioners have not been able to prove the assertions in none of the cases, either on purity of electoral roll or EVMs. However, the design and pattern in play is to spread doubts and damage is done by the time truth of robustness of all meticulously planned and executed process, perhaps unparalleled in any other exercise of this magnitude, with fullest level of transparency and involvement of political parties, candidates, media, and public scrutiny, comes out.

Thus, in view of the aforementioned facts and circumstances, it is humbly prayed that the aforementioned Interim Application be dismissed by this Hon'ble Court.



77. Therefore, the Answering Respondent craves leave of this Hon'ble Court to file further additional affidavit, if so required or deemed fit besides making detailed submissions at the time of hearing.
78. Hence, it is prayed that this Hon'ble Court may be pleased to record the above position in so far as Answering Respondent (i.e. Respondent No. 1/Election Commission of India) is concerned and pass such order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and, thus, render justice.

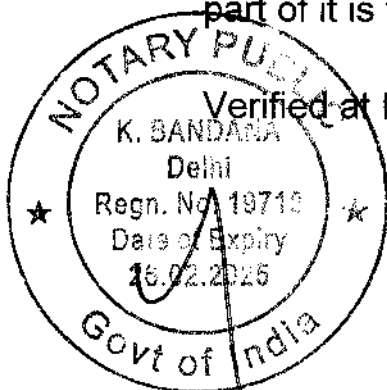
Prateek Kumar
AOR-3140
IDENTIFIED

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 May, 2024.

22 MAY 2024



ATTESTED
NOTARY PUBLIC DELHI
Govt. of India
Mob.: 9654768498

V. V. Pandey

DEPONENT

डा. विजय कुमार पाण्डेय
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निर्वाचक (विधि) / Director (Law)
भारत निर्वाचन आयोग
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2024 INSC 341

IN THE SUPREME COURT OF INDIA
EXTRA-ORDINARY ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 434 OF 2023

ASSOCIATION FOR DEMOCRATIC REFORMS PETITIONER

VERSUS

ELECTION COMMISSION OF INDIA
AND ANOTHER RESPONDENTS

WITH

WRIT PETITION (CIVIL) NO. 184 OF 2024

AND

WRIT PETITION (CIVIL) NO. _____ OF 2024
(DIARY NO. 35782 OF 2023)

J U D G M E N T

SANJIV KHANNA, J.

Delay in refiling is condoned.

2. At the outset, we take on record that the counsel for the petitioners, in unison, have stated that the petitioners do not attribute any motive or malice to the Election Commission of India¹, or for that matter contend that the Electronic Voting Machines² have been tutored or configured to favour or disfavour a candidate or political party. However, due to

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babita pandey
Date: 2024.04.26
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Reason:

¹ For short, 'ECI'.

² For short, 'EVMs'

possibility of manipulating the EVMs there is suspicion and, therefore, this Court should step in to instil confidence in the voters³ and the people. Voters have the right to know that the franchise exercised by them has been correctly recorded and counted.

3. On a pointed question put by the Court, it was argued, without prejudice and in the alternative, on behalf of the petitioner – Association for Democratic Reforms, that the Court should direct:
 - a) return to the paper ballot system; or
 - b) that the printed slip from the Voter Verifiable Paper Audit Trail machine⁴ be given to the voter to verify, and put in the ballot box, for counting; and/or
 - c) that there should be 100% counting of the VVPAT slips in addition to electronic counting by the control unit.

4. Other arguments raised relate to — the alleged modification of the VVPAT in the year 2017, whereby the glass window on the VVPAT was made translucent/tinted instead of transparent, depriving the voter from knowing whether the vote cast by him was actually registered and counted; Rule 49MA of the Conduct of Election Rules, 1961⁵ is draconian, arbitrary, and contrary to law as reference to Section 177 of the Indian Penal Code, 1860⁶ in the written declaration under Rule 49MA

³ 'Voters' and 'Electors' is used interchangeably.

⁴ For short, 'VVPAT'.

⁵ For short, '1961 Rules'.

⁶ For short, 'IPC'.

is wrong and misconceived; and lastly, the voters' right to know that the vote as cast is duly registered, being a paramount and indelible fundamental right, any administrative reason and ground raised by the ECI objecting to 100% counting of the VVPAT paper trail should be rejected.

5. Paper ballots were the norm, till EVMs were projected as a viable alternative in 1980s. EVMs were first used in an assembly bye-election in Kerala in 1982. All through the 1980s and early 1990s, the use of EVMs for elections was discussed and debated by politicians and experts in the domain of technology and electoral process, and after due deliberations and review, the EVMs were accepted and embraced. In view of the legal challenge⁷ regarding use of EVMs without legislative approval, the Parliament *vide* Act 1 of 1989 amended the Representation of the People Act, 1951⁸ allowing the use of EVMs. They were used in the General Elections in 2004 and have been used in each and every General and other election thereafter.
6. ECI maintains that the EVMs have been a huge success in ensuring free, fair and transparent elections across the nation in all elections. They restrict human intervention, checkmate electoral fraud and malpractices like stuffing and smudging of votes, and deter the errors and mischiefs faced in manual counting of ballot papers. While earlier it was

⁷ See *A.C. Jose v. Sivan Pillai and others*, (1984) 2 SCC 656.

⁸ For short, 'RP Act'.

apprehended that the introduction of EVMs will lead to hardship and disenfranchisement, independent studies showcase that EVMs have led to increase in voter participation.⁹ Yet, it is also true that time and again use of EVMs has been objected to and questioned, not by one but by all political parties and others. There have been several litigations in this Court and the High Courts, albeit the challenge to the use of EVMs has been rejected recording good grounds and reasons.

7. We deem it appropriate to begin this decision by referring to some of the earlier case laws and judgments of this Court on the efficacy and use of EVMs in the elections in this country.
8. This Court in ***Subramanian Swamy v. Election Commission of India***,¹⁰ held that a paper trail was an indispensable requirement of free and fair elections. The relevant portion of the judgment is reproduced below:

“28. From the materials placed by both the sides, we are satisfied that the ‘paper trail’ is an indispensable requirement of free and fair elections. The confidence of the voters in the EVMs can be achieved only with the introduction of the “paper trail”. EVMs with Vvpat system ensure the accuracy of the voting system. With an intent to have fullest transparency in the system and to restore the confidence of the voters, it is necessary to set up EVMs with Vvpat system because vote is nothing but an act of expression which has immense importance in a democratic system.

29. In the light of the above discussion and taking notice of the pragmatic and reasonable approach of ECI and considering the fact that in general elections all over India, ECI has to handle one million (ten lakh) polling booths, we permit ECI to introduce Vvpat in gradual stages or geographical-wise in the

⁹ Legal History of EVMs and VVPATs, Edition 1, January 2024, p.654.

¹⁰ (2013) 10 SCC 500.

ensuing general elections. The area, State or actual booth(s) are to be decided by ECI and ECI is free to implement the same in a phased manner. We appreciate the efforts and good gesture made by ECI in introducing the same. For implementation of such a system (Vvpat) in a phased manner, the Government of India is directed to provide required financial assistance for procurement of units of Vvpat.”

Accordingly, to ensure full transparency and confidence of voters, this Court recommended that EVMs be set up with VVPATs. Amendment to the 1961 Rules was notified on 14.08.2013 to introduce the VVPAT mechanism.

9. In ***N. Chandrababu Naidu and Others v. Union of India and Another***,¹¹ the petitioners prayed that 50% randomised VVPAT slip verification be conducted in every General and Bye Elections instead of one EVM per assembly constituency or assembly segment in a parliamentary constituency. This Court held as under:

“9. At the very outset the Court would like to observe that neither the satisfaction of the Election Commission nor the system in vogue today, as stated above, is being doubted by the Court insofar as fairness and integrity is concerned. It is possible and we are certain that the system ensures accurate electoral results. But that is not all. If the number of machines which are subjected to verification of paper trail can be increased to a reasonable number, it would lead to greater satisfaction amongst not only the political parties but the entire electorate of the country. This is what the Court should endeavour and the exercise, therefore, should be to find a viable number of machines that should be subjected to the verification of Vvpat paper trails keeping in mind the infrastructure and the manpower difficulties pointed out by the Deputy Election Commissioner. In this regard, the proximity to the election schedule announced by the ECI must be kept in mind.

10. Having considered the matter, we are of the view that if the number of EVMs in respect of which Vvpat paper slips is to be subjected to physical scrutiny is increased from 1 to 5, the additional manpower that would be required would not be difficult

¹¹(2019) 15 SCC 377.

for the ECI to provide nor would the declaration of the result be substantially delayed. In fact, if the said number is increased to 5, the process of verification can be done by the same team of polling staff and supervisors/officials. It is, therefore, our considered view that having regard to the totality of the facts of the case and need to generate the greatest degree of satisfaction in all with regard to the full accuracy of the election results, the number of EVMs that would now be subjected to verification so far as Vvpat paper trail is concerned would be 5 per Assembly Constituency or Assembly Segments in a Parliamentary Constituency instead of what is provided by Guideline No. 16.6, namely, one machine per Assembly Constituency or Assembly Segment in a Parliamentary Constituency. We also direct that the random selection of the machines that would be subjected to the process of Vvpat paper trail verification as explained to us by Mr Jain, Deputy Commissioner of the Election Commission, in terms of the guidelines in force, shall apply to the Vvpat paper trail verification of the 5 EVMs covered by the present order.”

Accordingly, instead of one EVM per assembly constituency or assembly segment in a parliamentary constituency, as stipulated under the erstwhile Guideline 16.6 of the Manual on EVM and VVPAT, it was held that five EVMs per assembly constituency or assembly segment in a parliamentary constituency would be subject to VVPAT verification.

10. This Court *vide* order dated 22.11.2018 dismissed Writ Petition (Civil) No. 1332/2018 titled ***Nyaya Bhoomi and Another v. Election Commission of India***, seeking return to the ballot paper system instead of EVMs.
11. This Court *vide* order dated 21.05.2019 dismissed Writ Petition (Civil) No. 692/2019 titled ***Tech for All v. Election Commission of India***, seeking 100% verification of VVPATs against the EVM outcomes, as the issue had already been decided in ***N. Chandrababu Naidu*** (supra).

12. Even earlier, this Court *vide* order dated 30.10.2017 in ***Prakash Joshi v. Election Commission of India***¹², had rejected a similar prayer with regard to modification of the procedure for counting of votes by use of EVMs, leaving it to the discretion of the ECI. It was observed that this Court was not inclined to enter into the said arena.

13. This Court *vide* order dated 30.09.2022 dismissed Special Leave Petition (Civil) No. 16870/2022 titled ***Madhya Pradesh Jan Vikash Party v. Election Commission of India*** regarding use of EVMs with costs. This Court observed that:

“The election process under the representation of the People Act, 1951 is monitored by a Constitutional Authority like Election Commission. Electronic Voting Machines (EVM) process has been utilized in our Country for decades now but periodically issues are sought to be raised. This is one such endeavor in the abstract.”

14. Recently, this Court *vide* order dated 22.09.2023 dismissed Writ Petition (Civil) No. 826/2023 titled ***Sunil Ahya v. Election Commission of India*** seeking independent audit of the source code of EVMs. This Court observed that:

“The Election Commission is a constitutional entity entrusted under Article 324 of the Constitution with superintendence and control over the conduct of the elections. The petitioner has placed no actionable material on the record of the Court to indicate that the Election Commission has acted in breach of its constitutional mandate. Ultimately, the manner in which the source code should be audited and the way the audit should be dealt with bears on sensitive issues pertaining to the integrity of the elections which are conducted under the superintendence of the Election Commission. On such a policy issue, we are not inclined to issue a direction as sought by the petitioner. There is no material before this Court, at this stage, to indicate that the

¹² 2017 SCC OnLine SC 1734.

Election Commission is not taking suitable steps to fulfill its mandate.”

15. This Court in ***Kamal Nath v. Election Commission of India and Others***¹³, observed that it was without doubt that over the last several decades ECI has built the reputation of an impartial body and a constitutional authority which strives to hold fair election in which the people of this country participate with great trust and faith. The challenge to the EVMs and prayer for conducting VVPAT verification on random basis for 10% of the votes was rejected.

16. We could have dismissed the present writ petitions by merely relying upon the past precedents and decisions of this Court which, in our opinion, are clear and lucid, and as repeated challenges based on suspicion and doubt, without any cogent material and data, are execrable and undesirable. However, we would like to put on record the procedure and safeguards adopted by the ECI to ensure free and fair elections and the integrity of the electoral process. For this purpose, we shall refer to and take on record the features of EVMs.¹⁴ Lastly, we would give two directions, and take on record suggestion(s) for consideration of the ECI.

17. The EVM consists of three units, namely, the ballot unit, the control unit, and the VVPAT. The ballot unit acts as a keyboard or a keypad. The

¹³ (2019) 2 SCC 260.

¹⁴ In view of the issue raised, we are not dealing with the post counting handling of EVMs.

ballot unit consists of 16 keys/buttons one of which the voter has to press when he exercises his choice to vote for any candidate. The keys are political party and candidate agnostic. The serial numbers, names of the candidates and the symbols of the political parties/candidates are physically pasted on the ballot unit so as to enable the voter to identify the corresponding key/button against the respective candidate and the symbol. The control unit, which is also called the master unit, remains with the polling/presiding officer. Before the ballot unit can be used by a voter, the polling/presiding officer is required to press the 'BALLOT' button on the control unit, thereby enabling the voter to cast his vote on the ballot unit. As soon as the voter presses the 'blue button' and casts his/her vote on the ballot unit, an LED against the candidate button glows red and the control unit sends the command to the VVPAT. The VVPAT then prints the VVPAT slip comprising of the serial number, candidate name and the symbol. The VVPAT slip, after being printed, is displayed through the glass window which is illuminated for 7 seconds to enable the voter to know and verify the serial number, the candidate and the symbol for whom they have voted. The VVPAT slip then gets cut from the roll and falls into the box/compartiment attached to the VVPAT. The fall sensor in the VVPAT then sends a confirmation to the control unit. The control unit records the vote.

18. The control unit, as explained below in some detail, has burnt memory, which is agnostic and does not have the names of the candidates and

symbols allotted to the candidates or political parties. As noted earlier, the polling/presiding officer has to activate the EVM by pressing the 'BALLOT' button on the control unit. The data stored in the control unit, upon the vote being cast, records and counts the button or the key pressed on the ballot unit. The data, therefore, records the total number of votes as cast by the voters, and the key or the button number on the ballot unit pressed by the voters for casting their vote. After the vote is cast and the control unit has recorded the vote, a loud beep sound confirms the registration of the vote.

19. The EVMs are manufactured and supplied to the ECI by two public sector undertakings, namely, Bharat Electronics Limited¹⁵ (which functions under the Ministry of Defence), and Electronic Corporation of India Limited¹⁶ (which functions under the Department of Atomic Energy).¹⁷ The EVMs in use after 2013 are referred to as 'M3' EVMs. The EVM setup is designed in a rudimentary fashion and the EVM units are standalone and non-networked, that is, they are unconnectable to any other third-party machine or input source. In case any unauthorised attempt is made to access the microcontroller or memory of the EVM, the Unauthorised Access Detection Mechanism (UADM) disables it permanently. The advanced encryption techniques and strong mutual authentication or reception capability rules out the deciphering of

¹⁵ For short, 'BEL'.

¹⁶ For short, 'ECIL'.

¹⁷ Collectively referred to as the 'manufacturers'.

communication between the EVM units and any unauthorised interaction with the EVM.

20. The programme loaded in the EVM¹⁸ is key hashed and burnt into a One Time Programmable microcontroller chip at the time of manufacturing, thus dispelling any possibility of tampering. It is pertinent to note that all the three units of the EVM – ballot unit, control unit and VVPAT, have microcontrollers in which the respective firmware is burnt. The burnt programme/code is unalterable and cannot be modified after the EVM is delivered/supplied by the manufacturer to ECI. Every key press of the control unit is dynamically coded, thus making it impossible to decode the signal flowing among the units of the EVM *inter se*. Further, each key press is recorded with date and time stamp on a real time basis.
21. As mentioned earlier, the firmware of the control unit is agnostic to any candidate name or political party symbol. The control unit only recognises the button/key pressed on the ballot unit. The control unit has a capacity to store up to 2000 vote entries.
22. Apart from the burnt one-time programmable memory, the VVPAT has a flash memory of 4 megabytes. The flash memory of the VVPAT is designed to solely store and recognise a bitmap format file. The VVPAT can store a maximum of 1024 bitmap files containing the symbol, the serial number and name of the candidate. One candidate's name,

¹⁸ EVM here refers to the ballot unit, the control unit and the VVPAT unit.

symbol, and serial number is packed into a single bitmap file of 4 kilobytes. The VVPAT does not store or read any other software or firmware.¹⁹

23. The VVPAT flash memory is empty and does not contain any symbol or name related details at the time of supply/delivery to the ECI. VVPATs in this form/state are stored in warehouses. The control units and ballot units are also stored and secured in the warehouses.
24. Five to six months before national or state elections are to be held, the required quantity of the EVMs are taken out from the warehouses and stored in the designated strong rooms. The EVMs, after they are put in the strong room, are subjected to First Level Check²⁰ by engineers of the manufacturers in the presence of the representatives of the recognised political parties. The FLC is carried out at the district level under the supervision of the District Election Officer.
25. During the FLC, 100% or all machines are checked by casting of vote in each of the 16 buttons on the ballot unit 6 times. Further, 5% of the machines are randomly selected by the representatives of the recognised political parties for a higher mock poll by them. Out of the 5%

¹⁹ It is apposite to note the difference between firmware and software. Firmware is a form of microcode or instructions embedded into hardware devices to help them operate effectively. Firmware size is usually small and ranges in size of a few kilobytes. Software on the other hand, is installed onto a device and used for interaction, such as browsing the internet, computing, word processing and many more complex tasks. Software usually runs on the top of operating systems and are usually large in size between few hundred kilobytes to gigabytes. Software is upgradable or updatable, and its memory is usually accessible and designed for user interactions. The ECI submits that the VVPATs do not have software as they only have firmware.

²⁰ For short, 'FLC'.

EVMs; 1200 votes are cast in 1% EVMs, 1000 votes are cast in 2% EVMs and 500 votes are cast in 2% EVMs. The voting result indicated in the control unit is tallied with the VVPAT slip count. A list of 'FLC OK' EVMs is prepared and shared with all the recognised political parties.

26. After check and verification that the EVM is working properly, the control unit of each EVM is sealed with a pink paper seal which is signed by the representatives of the political parties. Thereafter, the plastic cabinet of the EVMs cannot be opened. There is no access to any of the EVM components. Till this stage the VVPAT flash memory is empty and it does not have any data or symbols.
27. 10% of the 'FLC OK' EVMs are taken out for training and awareness purpose in the presence of the recognised political parties. The list of the training and awareness units is also shared with the political parties. These training and awareness units are stored separately in a designated warehouse. EVM demonstration centres are set up at the District Election Office, and at the Returning Officer Headquarter/ Revenue Sub-Division Offices. Mobile demonstration vans are also deployed to cover all polling locations. The EVMs used for training and awareness are thereafter not mingled and are taken back to the designated warehouse.
28. To dispel any scenario of bias or prior knowledge, the verified EVMs undergo a two-stage randomization process. It is submitted that not even

the manufacturer of the EVMs would be able to know the allotment of a particular machine for a particular state or constituency. The randomization process is conducted without any human intervention by the EVM Management System software application. The first randomization is conducted to allocate the EVMs Assembly constituency/segment-wise. The second randomization is conducted to allocate the machines polling station wise and for the reserve pool. The randomization process is done in the presence of the representatives of the political parties/candidates and the Central Observers deputed by the ECI. The list of EVMs containing serial number as randomly allocated constituency wise and then to a particular polling station are provided to the representatives of the political parties/candidates.

29. It is important to reiterate that till this stage, particulars of the candidates or the political parties are not loaded or stored in the VVPAT. The flash memory of the VVPAT is blank/empty. The control unit being agnostic to any political party or candidate, only recognises the push button on the ballot unit. It is programmed to compute the number of times all and a particular button/key has been pressed.
30. About 10 to 15 days prior to the date of polling, the symbol loading process is undertaken by using the symbol loading units. The symbols are loaded in the flash memory of the VVPATs in the form of a bitmap file, comprising the symbol of the political party/candidate, serial number and name of the candidate. A laptop/PC with the symbol loading

application is used to create a bitmap file comprising the serial number, the candidate name and the symbol. This file is loaded on VVPAT units by using the symbol loading units. Authorised engineers of the manufacturers and the District Election Officer are involved in the symbol loading process. The whole process takes place in the presence of the candidates or their representatives and a monitor/TV screen displays the symbol loading process.

31. It is at this stage that the specific button/key on the ballot unit is allocated to each candidate. The sequence/location of button/key allocated to a candidate of a political party is done in alphabetical order on the basis of the name of the candidate, first for the National and State recognised political parties, followed by other State registered parties, and then for independent candidates. Thus, the sequence/location of the button/key on the ballot unit and the consequent allotment for the purposes of the VVPAT varies from constituency to constituency. For example, candidate or political party 'A' may be allocated button '1' in one parliamentary constituency, whereas button '1' may be allocated to political party 'B' in another constituency.
32. There are 16 buttons/keys on each ballot unit. In case there are more than 15 candidates (one button is for NOTA), more than one ballot units are attached to the control unit. A total of 24 ballot units can be connected to a control unit to make a single EVM set. Therefore, a maximum of 384 candidates (including NOTA) can be catered by the EVM.

33. The advantages of the EVM-VVPAT mechanism are noted below:

- It runs on battery/power-packs and does not require any external power supply.
- Voting is done by pressing a button thereby negating a scenario of invalid vote akin to an invalid paper ballot.
- It does not permit more than 4 votes per minute, thereby deterring and disincentivising booth capturing.
- After the pressing of 'CLOSE' button on the control unit, there is no possibility of voting.
- It ensures quick, error-free and mischief-free counting of votes.
- Voter is instantly able to verify the recording of their vote through the beep sound. Further, the VVPAT slip helps verify that the vote casted is recorded correctly.
- By pressing the 'TOTAL' button on the control unit at any time, the total number of votes polled up to the time of pressing the button is displayed, without indicating the candidate-wise result of votes.
- The original program, which is political party and candidate agnostic, is ported on to the microcontroller of the EVM²¹ during the manufacturing at the factory. This process is done way before the elections and it is impossible to know the serial number of any

²¹ The EVM, as earlier observed and we clarify here, means the ballot unit, the control unit and the VVPAT unit.

candidate in advance. Thus, it is not possible to pre-program the EVM in a spurious manner.

34. After the symbol loading process is completed, all or 100% of the EVMs, including the VVPATs, are checked by casting one vote by pressing each candidate button, including NOTA. A higher mock poll is also conducted in 5% randomly selected units wherein 1000 votes are cast, and the electronic result is tallied with the VVPAT slip count. The candidates or their representatives are also allowed to choose the 5% EVMs and conduct a mock poll. Once the symbol loading process or the candidate setting is completed, and the mock polls are conducted, the ballot unit of the EVM is also sealed with the thread or plain paper seals. The symbol loaded VVPATs are sealed with address tags. The paper seals and address tags bear the signatures of the representatives of the political parties/candidates.
35. Thus, it is clear that till the symbol loading into the VVPAT is done by using the symbol loading unit, the EVM is blank and has no data/particulars of political parties or candidates. One cannot ascertain and know which button/key in the ballot unit will be allocated to a particular candidate or a political party.
36. It has been highlighted before us by the ECI that the symbol loading process conducted by using symbol loading unit in the VVPAT cannot be equated with the uploading of the software. A bitmap file comprising

of the serial number, name of the candidate and the symbol allocated to the particular candidate is uploaded in the symbol loading process. The symbol loading process undertaken by using the symbol loading unit cannot alter or modify the programme/firmware in the VVPAT which has been burnt/loaded in the memory. The control unit and the ballot unit are not subjected to the symbol loading process and not touched. The burnt/loaded firmware in the control unit and the ballot unit is and remains candidate and political party agnostic. The control unit acts and functions as the calculator, computing the total votes cast on the basis of the number of times the key/button on the ballot unit are pressed, and the number of times a specific key/button on the ballot unit is pressed.

37. On the polling date, one and a half hours before the start of polling, the presiding officer/polling officer takes out the EVMs and conducts a mock poll of 50 votes. The votes are counted electronically. The VVPAT paper slips are also counted and tallied with electronic votes. Each EVM unit is thereupon again sealed with a paper seal of a different colour. Paper seals are also signed by the candidates or their representatives.
38. The paper seals used from time to time at different stages have a serial number. They also have security features and cannot be replicated. As paper seals are used at different stages, they are given different colours.

39. The polled EVM²² units are sealed and stored in the strong room in the presence of the candidates or their representatives. The candidates or their representatives are also allowed to put their seals on the lock of the strong room. The strong room is guarded by minimum one platoon of armed security and has CCTV coverage. The candidates or their representatives are allowed to stay and watch the strong room and in case where the entrance to the strong room is not visible, CCTV display facility is provided.
40. The VVPAT paper slips are in a roll form of 1500 slips. The control unit can store up to 2000 votes. In view of the restriction on the number of VVPAT paper slips, each EVM can be used for casting of up to 1500 votes and not more. The control unit is configured in a way that each vote would take about 15 seconds. Thus, in one minute only four votes can be cast. This prevents and checks bogus voting.
41. As explained earlier and to recapitulate, after each vote is cast by pressing the button on the ballot unit, the VVPAT glass window illuminates and the name, serial number, and symbol of the candidate voted is displayed for 7 seconds to the voter. The display of VVPAT slip informs and assures the voter that the vote as cast has been recorded. Thereafter, the VVPAT printer cuts the slip from the roll and the VVPAT slip drops in the box compartment of the VVPAT. The fall sensor in the

²² The EVM, as earlier observed and we clarify here, means the ballot unit, the control unit and the VVPAT unit.

VVPAT printer drop box senses and chronicles the fall of the slip in the drop box, and thereupon the control unit records the button/key pressed on the ballot unit. The burnt memory, as noticed above, which records this data is agnostic to the candidates/political parties. The control unit records the serial number of the button/key pressed on the ballot unit by each voter. The presiding officer by pressing the 'TOTAL' key on the control unit can ascertain the total number of votes recorded in the control unit. However, the breakup of votes cast in favour of each candidate is not known. On the counting day, in the presence of the candidates/their representatives, the 'RESULT' key on the control unit is pressed. The control unit displays the number of times each button/key was pressed in the ballot unit on the polling day, thus depicting the result. EVMs are standalone machines which cannot be connected to internet. The EVMs do not have any ports so as to enable a person to have access to the burnt memory.

42. It flows from the above discussion that the possibility to hack or tamper with the agnostic firmware in the burnt memory to tutor/favour results is unfounded. Accordingly, the suspicion that the EVMs can be configured/manipulated for repeated or wrong recording of vote(s) to favour a particular candidate should be rejected. At this stage we would refer to other checks and protocols to ensure and ascertain the legitimacy and integrity of the EVMs and the election process.

43. Part IV, Chapter II of the 1961 Rules, which relates to voting by EVMs, lays down details of preparation of the voting machine by the returning officer, arrangements at the polling station, admission to the polling stations, and preparation of voting machine for poll. The three units of the EVM have to bear the serial number of the unit, name of the constituency, serial number and name of the polling station(s), and the date of poll. Before the commencement of the poll, the presiding officer has to demonstrate to the polling agent and other persons present that no vote has already been recorded in the control unit, the three units bear the label as prescribed and the drop box of the VVPAT printer is empty. Paper seal is thereupon used for securing the control unit. The presiding officer affixes his own signature on the paper seal and also obtains the signatures of the polling agents who are desirous of affixing the same. The VVPAT and the ballot unit are put in the voting compartment and are connected with the control unit in the manner directed.
44. Before permitting any elector to vote, the polling officer is required to record the electoral roll number of the elector as mentioned in the electoral rolls, signature or thumb impression of the elector, name of the elector and the document produced by the elector in proof of their identification. These particulars are recorded in Form 17A prescribed under Rule 49L of the 1961 Rules. The format prescribed in terms of Form 17A is as under:

Sl.No.	Sl.No. of elector in the electoral roll	Details of the document produced by the elector in proof of his/her identification	Signature/Thumb impression of elector	Remarks
(1)	(2)	(3)	(4)	(5)
1.				
2.				

Form 17A is required to be signed by the presiding officer.

45. Every elector is permitted to vote in secrecy in the voting compartment of the polling station. They are required to press the blue button or key on the ballot unit against the name and symbol of the candidate/political party they intend to vote. In terms of the proviso to Rule 49M(3), the elector is entitled to view through the transparent window of the printer of VVPAT, kept along with the ballot unit inside the voting compartment, the printed paper slip showing the serial number, the name and the symbol of the candidate for whom he has voted. Thereupon, the paper slip gets cut and drops into the drop box attached to the VVPAT. No elector is permitted to enter the voting compartment when another voter is inside.
46. Rule 49O deals with the scenario where an elector, even after entering her/his details in Form 17A and having put signature or thumb impression thereon, does not vote. The presiding officer is then required to make a remark in Form 17A and take the signature or thumb impression of the elector against such remark.
47. Rule 49M(6) deals with the scenario where the elector who has been permitted to vote under Rule 49L or Rule 49P refuses, even after the warning by the presiding officer, to observe the procedure of voting laid

down in Rule 49(M)(3). In such a case, the presiding officer, or the polling officer under the direction of the presiding officer, shall not allow such elector to vote. Rule 49M(7) lays down that in such a scenario, a remark to that effect shall be made against the elector's name in Form 17A by the presiding officer under his signature.

48. As per instructions issued by the ECI, the presiding officer is periodically required to check the total number of votes cast as recorded in the control unit with the data as recorded in Form 17A.
49. As per Rule 49S, at the close of the poll, the presiding officer is required to prepare an account of votes recorded in Form 17C. This is a detailed form, which in Part I, requires the presiding officer to mention the total number of electors assigned to the polling station, the total number of voters as entered in the register for voters, that is, Form 17A, the total number of voters who had decided not to vote even after recording their details in Form 17A (Rule 49O scenario), and the total number of voters not allowed to vote (Rule 49M scenario). The form also requires to give details of the total number of votes recorded per voting machine. This total number recorded in the voting machine should tally with the total number of voters entered in Form 17A *minus* the number of voters deciding not to vote and the number of voters not allowed to vote. The details of the paper seals supplied for use, paper seals used, unused paper seals returned to the returning officer etc. are also recorded and entered after the close of the poll.

50. Under Rule 49S of the 1961 Rules, at the time of close of the poll, the presiding officer furnishes attested true copy of the account of votes recorded in Part I of Form 17C to the polling agents of the candidates. He also retains a receipt of the same from the polling agent.
51. Before start of counting of votes, the serial number of the EVMs and the paper seals affixed on the EVMs are verified with details mentioned in Form 17C and are shown to the counting agents. The total votes displayed by pressing the 'TOTAL' button on the control unit is also tallied with the total votes polled as per Form 17C.
52. The counting is done in the presence of the polling agents/candidates by pressing the 'RESULT' button on the control unit. The total votes polled and the total votes polled by each candidate is thereupon displayed on the display panel.
53. In terms of the directions issued by this Court in ***N. Chandrababu Naidu*** (supra), the VVPAT slips of five polling stations per assembly constituency/assembly segment of the parliamentary constituency, are randomly selected and counted. The results are then tallied with the electronic results of the control unit.
54. It may be relevant here to also refer to Rule 56D of the 1961 Rules, which reads as under:

“56-D. *Scrutiny of paper trail.*—(1) Where printer for paper trail is used, after the entries made in the result sheet are announced,

any candidate, or in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to count the printed paper slips in the drop box of the printer in respect of any polling station or polling stations.

(2) On such application being made, the returning officer shall, subject to such general or special guidelines, as may be issued by the Election Commission, decide the matter and may allow the application in whole or in part or may reject in whole, if it appears to him to be frivolous or unreasonable.

(3) Every decision of the returning officer under sub-rule (2) shall be in writing and shall contain the reasons therefor.

(4) If the returning officer decides under sub-rule (2) to allow counting of the paper slips either wholly or in part or parts, he shall—

(a) do the counting in the manner as may be directed by the Election Commission;

(b) if there is discrepancy between the votes displayed on the control unit and the counting of the paper slips, amend the result sheet in Form 20 as per the paper slips count;

(c) announce the amendments so made by him; and

(d) complete and sign the result sheet.”

55. Any candidate, or in his absence an election agent or counting agent, as per the said Rule, can apply in writing to the returning officer to count the printed paper slips in the drop box in respect of any polling station(s). The returning officer, subject to any general or special guidelines issued by the ECI, has to decide the matter and can allow the application in whole or in part, or may reject the application in full if it appears to be frivolous or unreasonable. Every decision of the returning officer is to be in writing and has to contain reasons. If the returning officer decides to allow counting of paper slips, either wholly or in part, he has to do so in the manner prescribed in sub-rule (4) to Rule 56D of the 1961 Rules.

56. As per the ECI guidelines, in case there is any mismatch between the total number of votes recorded in the control unit and Form 17C on account of non-clearance of mock poll data or VVPAT slips, in terms of Rule 56D(4)(b) of the 1961 Rules etc., the printed VVPAT slips of the respective polling stations are counted and considered if the winning margin is equal to or less than total votes polled in such polling stations.
57. At this stage, we would refer to the data on the performance of the EVMs. More than 118 crore electors have cast their votes since EVMs have been introduced. In 2019, about 61.4 crore voters had cast their votes in 10.35 lakh polling stations. 23.3 lakh ballot units, 16.35 lakh control units and 17.40 lakhs VVPAT units were used in the 2019 General Elections. For the purpose of the 2024 General Elections, 10.48 lakh polling stations have been established to enable 97 crore registered voters to cast their votes. 21.60 lakh ballot units, 16.80 lakh control units and 17.7 lakh VVPAT units have been made ready for being used.
58. ECI has conducted random VVPAT verification of 5 polling booths per assembly segment/constituency for 41,629 EVMs-VVPATs. Further, more than 4 crore VVPAT slips have been tallied with the electronic counts of their control units. Not even a single case of mismatch, (except one which we will refer to subsequently), or wrong recording of votes has been detected. Returning officers have allowed VVPAT slip recounting

under Rule 56D in 100 cases since 2017. The VVPAT slip count matched with the electronic count recorded in the control unit in all cases.²³

59. In the 2019 Lok Sabha Elections, 20,687 VVPAT slips were physically counted, and except in one case, no discrepancy or mismatch was noticed.
60. The discrepancy during mandatory verification of VVPAT slips happened in polling station No. 63, Mydukur Assembly Constituency, Andhra Pradesh during the 2019 Lok Sabha Elections. On verification, it was found that the discrepancy had arisen on account of failure of the presiding officer to delete the mock poll data.²⁴ While it is not possible to rule out human errors, paragraph 14.5 of Chapter 14 of the Manual on EVM and VVPATs deals with such situations and lays down the protocol which is to be followed.
61. During the course of hearing, our attention was drawn to Rule 49MA which permits an elector to raise a complaint regarding the mismatch between the name and symbol of the candidate shown on paper slip generated by the VVPAT and the vote cast on the ballot unit. Such elector is required to make a written declaration to the presiding officer.
- There have been 26 such cases in which the electors have complained

²³ The above figures are updated on the basis of the response given by the ECI to the queries raised by the Court on 16.04.2024. The figures given in the counter affidavit filed by the ECI are as follows: 38,156 randomly selected VVPATs have been physically counted and they have tallied with the electronic count of their control unit. Not even a single case of mismatch or transfer of vote meant for candidate A to candidate B has been detected. Counting of VVPAT slips under Rule 56D has been allowed in 61 cases but there is not even a single case of mismatch.

²⁴ The said discrepancy was duly rectified in terms of the protocol laid down in the Manual on EVM and VVPAT.

under Rule 49MA. There is not even a single case in which any mismatch or defect was found.

62. The EVMs have been subjected to test by technical experts committee from time to time. These committees have approved and did not find any fault with the EVMs. The M3 EVMs currently in use are designed by engineers of BHEL and ECIL. These designs are vetted by the technical experts committee.
63. Our attention was drawn to the query of the Parliamentary Committee on Government Assurances regarding the data on discrepancy between the EVM and VVPAT counts in 2019 Lok Sabha Elections. Reliance is placed on a news report published in *The Wire* to submit that the ECI failed to submit the requisite information and revert back to the parliamentary committee despite multiple reminders. The ECI has explained that a reply regarding the said query was sent to the Parliamentary Committee on 05.07.2019.
64. Reliance was placed on a news report of *The Quint* to contend that there were discrepancies in 2019 Lok Sabha Elections, viz. the electronic votes recorded in the control unit and the total votes polled/voter turnout. The ECI has explained that the report referred to in the Quint is with reference to the live voter turnout data uploaded on the website of the ECI during 2019 Lok Sabha Elections. The voter turnout data is dynamic in nature and is uploaded by the ECI on real time approximation by taking inputs from the presiding officers of the polling stations. Inaccuracies

were found in the real-time inputs given by the presiding officers. However, there was no mismatch of the data of votes recorded in the EVMs and the data of total votes recorded in Form 17C. The data in the EVM and Form 17C matched and accordingly the results were declared in Form 20.

65. On a question being put by the Court, it was stated that a minimum of 50% of the polling stations are equipped with CCTV cameras. Data from the CCTV cameras is stored and retained at least for a period of 45 days from the date of announcement of the polling results. Similarly, the EVMs are retained in the strong room along with seals etc. as affixed after counting of the votes. The candidates have the right to challenge the poll result by filing an election petition within 45 days from the date of election of the returned candidate. The ECI guidelines/protocol stipulate that confirmation regarding the filing status of election petitions must be obtained from the relevant High Courts. If challenge is made, the EVMs are retained in the strong room along with the seals etc. for a longer period. In cases where no election petitions are filed, the strongrooms are opened and the EVMs are shifted to the warehouse.
66. The ECI has also in its counter affidavit stated that the EVMs have been continuously used in different elections since the year 2000. The electoral outcome had been divergent, favouring or disfavours different political parties. Details of the political parties with maximum number of seats since 2004 is tabulated as under:

PARTY WITH MAXIMUM NUMBER OF SEATS IN LEGISLATIVE ASSEMBLY ELECTION SINCE 2004										
Andhra Pradesh	2004 INC	2009 INC	2014 TDP	2019 YSRCP		Meghalaya	2008 INC	2013 INC	2018 INC	2023 NPEP
Arunachal Pradesh	2004 INC	2009 INC	2014 INC	2019 BJP		Mizoram	2008 INC	2013 INC	2018 MNF	2023 ZPM
Assam	2006 INC	2011 INC	2016 BJP	2021 BJP		Nagaland	2008 NPF	2013 NPF	2018 NPF	2023 NDPP
Bihar	2005 RJD	2010 JD(U)	2015 RJD	2020 RJD		Odisha	2004 BJD	2009 BJD	2014 BJD	2019 BJD
Chhattisgarh	2008 BJP	2013 BJP	2018 INC	2023 BJP		Punjab	2007 SAD	2012 SAD	2017 INC	2022 AAP
Goa	2007 INC	2012 BJP	2017 INC	2022 BJP		Rajasthan	2008 INC	2013 BJP	2018 INC	2023 BJP
Gujarat	2007 BJP	2012 BJP	2017 BJP	2022 BJP		Sikkim	2004 SDF	2009 SDF	2014 SDF	2019 SKM
Haryana	2005 INC	2009 INC	2014 BJP	2019 BJP		Tamil Nadu	2006 DMK	2011 AIADMK	2016 AIADMK	2021 DMK
Himachal Pradesh	2007 BJP	2012 INC	2017 BJP	2022 INC		Telangana	2014 TRS	2018 TRS	2023 INC	
Jammu & Kashmir	2008 JKNC	2014 JKPDP				Tripura	2008 CIP(M)	2013 CIP(M)	2018 BJP	2023 BJP
Jharkhand	2005 BJP	2009 BJP & JMM	2014 BJP	2019 JMM		Uttarakhand	2007 BJP	2012 INC	2017 BJP	2022 BJP
Karnataka	2004 BJP	2008 BJP	2013 INC	2018 BJP	2023 INC	Uttar Pradesh	2007 BSP	2012 SP	2017 BJP	2022 BJP
Kerala	2006 CPI(M)	2011 CPI(M)	2016 CPI(M)	2021 CPI(M)		West Bengal	2006 CPI(M)	2011 TMC	2016 TMC	2021 TMC
Madhya Pradesh	2008 BJP	2013 BJP	2018 INC	2023 BJP		NCT of Delhi	2008 INC	2013 BJP	2015 AAP	2020 AAP
Maharashtra	2004 NCP	2009 INC	2014 BJP	2019 BJP		Puducherry	2006 INC	2011 AINRC	2016 INC	2021 AINRC
Manipur	2007 INC	2012 INC	2017 INC	2022 BJP						

67. We have referred to the data, after elucidating the mechanics and the safeguards embedded in the EVMs to check and obviate wrongdoing, and to evaluate the efficacy and performance of the EVMs. We acknowledge the right of voters to question the working of EVMs, which are but an electronic device that has a direct impact on election results. However, it is also necessary to exercise care and caution when we raise aspersions on the integrity of the electoral process. Repeated and persistent doubts and despair, even without supporting evidence, can have the contrarian impact of creating distrust. This can reduce citizen participation and confidence in elections, essential for a healthy and robust democracy. Unfounded challenges may actually reveal perceptions and predispositions, whereas this Court, as an arbiter and adjudicator of disputes and challenges, must render decisions on facts based on evidence and data. This is the reason why we had re-listed the matters for directions and clarifications on 24.04.2024, when specific points/questions raised were answered by the ECI. The petitioners were also heard.
68. The counsel for the petitioners, on 24.04.2024, drew our attention to a Wikipedia article which states that firmware is a software which provides low-level control of computing device hardware etc. It also states that programmable firmware memory can be reprogrammed via a procedure sometimes called flashing. This is stoutly denied by the officer of the ECI, who states that this would require the EVMs to be re-engineered by the

manufacturers. It is submitted that the microcontroller used in the EVM has one-time programmable memory, that is, it is unalterable once burned. It is only the VVPAT which has a flash memory component for the purpose of storing the bitmap file. To us, it is apparent that a number of safeguards and protocols with stringent checks have been put in place. Data and figures do not indicate artifice and deceit. Reprogramming by flashing, even if we assume is remotely possible, is inhibited by the strict control and checks put in place and noticed above. Imagination and suppositions should not lead us to hypothesize a wrong doing without any basis or facts. The credibility of the ECI and integrity of the electoral process earned over years cannot be chaffed and over-ridden by baroque contemplations and speculations.

69. The test for determining the scope of unenumerated rights is based on tracing them to specific provision of Part III of the Constitution or to the core values which the Constitution espouses. While we acknowledge the fundamental right of voters to ensure their vote is accurately recorded and counted, the same cannot be equated with the right to 100% counting of VVPAT slips, or a right to physical access to the VVPAT slips, which the voter should be permitted to put in the drop box. These are two separate aspects – the former is the right itself and the latter is a plea to protect or how to secure the right. The voters' right can be protected and safeguarded by adopting several measures. This Court in ***Subramanian Swamy*** (supra) had directed gradual introduction

of VVPATs to guarantee utmost transparency and integrity in the system. This direction was made to safeguard the right of the voters to know that the vote has been correctly recorded in the EVM. The direction has been implemented. The voter can see the VVPAT slip through the glass window and this assures the voter that his vote as cast has been recorded and will be counted. In ***N. Chandrababu Naidu*** (supra), the direction for counting the VVPAT paper trail in 5 EVMs per assembly constituency or assembly segment in a parliamentary constituency was issued, primarily as a precautionary measure rather than a justification or necessity. This decision was aimed at ensuring the highest level of confidence in the accuracy of election results. Giving physical access to VVPAT slips to voters is problematic and impractical. It will lead to misuse, malpractices and disputes. This is not a case where fundamental right to franchise exists only as a parchment, rather, the entire electoral process protocol, and the checks as well as empirical data, ensure its meaningful exercise.

70. VVPAT slip is made of a 9.9 cm x 5.6 cm thermal paper coated with chemical to ensure print retention for about 5 years. It is very soft and sticky, which makes the counting process tedious and slow. The counting process is undertaken through the following steps: the verification of unique ID of the VVPAT, opening of the VVPAT drop box, taking out the paper slips, counting the total number of slips, matching the number of slips with the total votes polled as per Form 17C,

segregation of candidate-wise VVPAT slips, making candidate-wise bundles of 25 slips and counting of bundles and leftover slips. There are instances of recounting and reverification of the slips till the candidate-wise tallying is done. Thus, the counting process, it is stated, takes about five hours. The counting is done by a team of three officers under CCTV coverage and under direct supervision of the supervising officer and the ECI observer of the constituency. Candidates/agents can remain present. We are not inclined to modify the aforesaid directions to increase the number of VVPAT undergoing slip count for several reasons. First, it will increase the time for counting and delay declaration of results. The manpower required would have to be doubled. Manual counting is prone to human errors and may lead to deliberate mischief. Manual intervention in counting can also create multiple charges of manipulation of results. Further, the data and the results do not indicate any need to increase the number of VVPAT units subjected to manual counting.

71. During the course of hearing, it was suggested that instead of physically counting the VVPAT slips, they can be counted by a counting machine. This suggestion, including the suggestion that barcoding of the symbols loaded in the VVPATs may be helpful in machine counting, may be examined by the ECI. These are technical aspects, which will require evaluation and study, and hence we would refrain from making any comment either way.

72. We must reject as foible and unsound the submission to return to the ballot paper system. The weakness of the ballot paper system is well known and documented. In the Indian context, keeping in view the vast size of the Indian electorate of nearly 97 crore, the number of candidates who contest the elections, the number of polling booths where voting is held, and the problems faced with ballot papers, we would be undoing the electoral reforms by directing reintroduction of the ballot papers. EVMs offer significant advantages. They have effectively eliminated booth capturing by restricting the rate of vote casting to 4 votes per minute, thereby prolonging the time needed and thus check insertion of bogus votes. EVMs have eliminated invalid votes, which were a major issue with paper ballots and had often sparked disputes during the counting process. Furthermore, EVMs reduce paper usage and alleviate logistical challenges. Finally, they provide administrative convenience by expediting the counting process and minimizing errors.
73. ECI has been categorical that the glass window on the VVPAT has not undergone any change. The term used in Rule 49M is 'transparent window'. The tinted glass used on the VVPAT printer is to maintain secrecy and prevent anyone else from viewing the VVPAT slips. The voter in the voting compartment who is viewing the glass from the top can have clear view of the slip for 7 seconds. Marginal tint on the VVPAT glass window, or the fact that the cutting and dropping of the slip from the roll in to the drop box of the printer is not visible, does not violate

Rule 49M. The words 'before such slips get cut' in the proviso to Rule 49M(3) indicate and require that the slip should be cut from the roll after the elector has seen the print through the glass window. Use of glass window prevents damage, smudging, attempt to deface or physically access the VVPAT slip. The rule ensures that the voter is able to see the slip along with the serial number with name of the candidate and the symbol for whom they have voted.

74. Similarly, we would reject the submission that any elector should be liberally permitted as a routine to ask for verification of vote. Rule 49MA permits the elector to raise a complaint if she/he is of the view that the VVPAT paper slip did not depict the correct candidate/political party she/he voted. However, whenever a challenge is made, the voting process must be halted. An overly liberal approach could cause confusion and delay – hindering the election process and dissuading others from casting their votes.²⁵ ECI has stated that only 26 such requests in terms of Rule 49MA were received, and in all cases, the allegation was found to be incorrect.

75. We have conducted an in-detail review of the administrative and technical safeguards of the EVM mechanism. Our discussion aims to address the uncertainties and provide assurance regarding the integrity of the electoral process. A voting mechanism must uphold and adhere to

²⁵ However, we refrain from making any comments on the application of Section 177 of the Indian Penal Code, 1860.

the principles of security, accountability, and accuracy. An overcomplex voting system may engender doubt and uncertainty, thereby easing the chances of manipulation. In our considered opinion, the EVMs are simple, secure and user-friendly. The voters, candidates and their representatives, and the officials of the ECI are aware of the nitty-gritty of the EVM system. They also check and ensure righteousness and integrity. Moreover, the incorporation of the VVPAT system fortifies the principle of vote verifiability, thereby enhancing the overall accountability of the electoral process.

76. Nevertheless, not because we have any doubt, but to only further strengthen the integrity of the election process, we are inclined to issue the following directions:

(a) On completion of the symbol loading process in the VVPATs undertaken on or after 01.05.2024, the symbol loading units shall be sealed and secured in a container. The candidates or their representatives shall sign the seal. The sealed containers, containing the symbol loading units, shall be kept in the strong room along with the EVMs at least for a period of 45 days post the declaration of results. They shall be opened, examined and dealt with as in the case of EVMs.

(b) The burnt memory/microcontroller in 5% of the EVMs, that is, the control unit, ballot unit and the VVPAT, per assembly constituency/assembly segment of a parliamentary constituency shall be checked and verified by the team of engineers from the manufacturers

of the EVMs, post the announcement of the results, for any tampering or modification, on a written request made by candidates who are at SI.No.2 or SI.No.3, behind the highest polled candidate. Such candidates or their representatives shall identify the EVMs by the polling station or serial number. All the candidates and their representatives shall have an option to remain present at the time of verification. Such a request should be made within a period of 7 days from the date of declaration of the result. The District Election Officer, in consultation with the team of engineers, shall certify the authenticity/intactness of the burnt memory/microcontroller after the verification process is conducted. The actual cost or expenses for the said verification will be notified by the ECI, and the candidate making the said request will pay for such expenses. The expenses will be refunded, in case the EVM is found to be tampered.

77. The writ petitions and all pending applications, including the applications for intervention, are disposed of in the above terms.

.....J.
(SANJIV KHANNA)

.....J.
(DIPANKAR DATTA)

**NEW DELHI;
APRIL 26, 2024.**

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) NO. 434/2023

ASSOCIATION FOR DEMOCRATIC REFORMS

...PETITIONER

VERSUS

ELECTION COMMISSION OF INDIA & ANOTHER

...RESPONDENTS

With

WRIT PETITION (C)/2024 (@ DIARY NO. 35782/2023)

WRIT PETITION (C) NO. 184/2024

J U D G M E N T

DIPANKAR DATTA, J.

1. I have had the privilege of reading the opinion authored by brother Hon'ble Khanna, J. His Lordship, in my opinion, has dealt with the legal and techno-legal issues arising in connection with the challenge to the process of polling of votes through Electronic Voting Machines¹ mounted by the writ

¹ EVMs

petitioners and the several intervenors with unmatched finesse and admirable clarity. I do not recollect any previous decision of this Court having explained the working of the EVMs in such great detail with lucidity and dexterity. The reasons assigned by His Lordship for negating the challenge, without doubt, are cogent and valid. The twin directions in the penultimate paragraph, notwithstanding that the electoral process for constituting the 18th Lok Sabha is in full swing, are in the nature of forward-looking measures to strengthen the electoral system by bringing in more transparency. Such directions do not have the effect of retarding, interrupting, protracting or stalling the counting of votes, and is a course of action that seems to be perfectly permissible in the light of the Constitution Bench decision of this Court in ***Election Commission of India v Ashok Kumar***².

2. Though His Lordship's opinion has my whole-hearted concurrence, I have thought of penning a few words to express my own views, keeping in mind the customary challenges that are laid before this Court whenever an election is reasonably imminent, by way of emphasis. Hon'ble Khanna, J. and I are speaking through different judgments, but our voices are not too different.

3. I have heard senior counsel/counsel for the three petitioners suspect, without however attributing any malice to the Election Commission of India³ (in which vests the superintendence, direction and control of

² (2000) 8 SCC 216

³ ECI

elections per Article 324 of the Constitution of India⁴), the efficacy of exercise of the right of franchise through the EVMs which, according to them, are not entirely reliable and open to manipulation, and that completely tallying the Voter Verifiable Paper Audit Trail⁵ slips with the votes cast on the ballot unit is the plausible solution to ensure a taint-free election. I have also heard counsel for the petitioning association in the lead matter rely on certain reports to persuade the Court hold that casting of votes through EVMs is not fool-proof and that voting through electronic means has been discontinued by a European nation in compliance with a judicial verdict. He was also heard to suggest, when called upon by the Court regarding the nature of relief the petitioning association seeks, that the electoral process in India should return to the “paper ballot system” upon discontinuance of voting through the EVMs.

4. I place on record that although such a suggestion was subsequently withdrawn by counsel in course of the proceedings that ensued following listing of the writ petitions “For Directions” on 24 April, 2024 to seek clarifications from the ECI on certain points, nothing much turns on it. The withdrawal was more of an attempt to erase the impression we, the Judges forming the Bench, were urged to form by senior counsel for the ECI while arguing that the petitioning association’s utter lack of *bona fides* (in invoking this Court’s writ jurisdiction under Article 32 of the Constitution) is completely exposed thereby. I have no hesitation to accept the submission of senior counsel for the ECI that reverting to the “paper ballot system” of

⁴ Constitution

⁵ VVPAT

the bygone era, as suggested, reveals the real intention of the petitioning association to discredit the system of voting through the EVMs and thereby derail the electoral process that is underway, by creating unnecessary doubts in the minds of the electorate.

5. It is of immediate relevance to note that in recent years, a trend has been fast developing of certain vested interest groups endeavouring to undermine the achievements and accomplishments of the nation, earned through the hard work and dedication of its sincere workforce. There seems to be a concerted effort to discredit, diminish, and weaken the progress of this great nation on every possible frontier. Any such effort, or rather attempt, has to be nipped in the bud. No Constitutional court, far less this Court, would allow such attempt to succeed as long as it (the court) has a say in the matter. I have serious doubt as regards the *bona fides* of the petitioning association when it seeks a reversion to the old order. Irrespective of the fact that in the past efforts of the petitioning association in bringing about electoral reforms have borne fruit, the suggestion put forth appeared inexplicable. Question of reverting to the "paper ballot system", on facts and in the circumstances, does not and cannot arise. It is only improvements in the EVMs or even a better system that people would look forward to in the ensuing years.

6. At the same time, one cannot be oblivious that in a society pledged to uphold the rule of law, none - howsoever high or low - is above the law. Everyone is subject to the law fully and completely, and authorities within the meaning of State in Article 12 of the Constitution are no exception. Concepts of unfettered discretion or unaccountable action has no place in

the matter of governance; hence, neither can the ECI nor can any other authority claim to possess arbitrary power over the interests of an individual voter and seek cover from the sunlight of judicial scrutiny if, indeed, a valid cause is set up for interference. After all, "let right be done" is also the motto of our nation like any other civilised State. That the sanctity of the electoral process has to be secured at any cost has never been in doubt.

7. Conducting elections in India is a difficult task, is an understatement; rather, it is a humongous task and presents a novel challenge, not seen elsewhere in the world. India is home to more than 140 crore people and there are 97 crore eligible voters for the 2024 General Elections, which is more than 10% of the world population. These voters represent the largest electorate in the world. The Representation of the People Act, 1951⁶ which, to my mind, amidst the vast legislative landscape of the nation is the most important enactment after the Constitution of India, is also the most effective instrument to uphold democratic and republican ideals, which are the hallmarks of our preambular promise. The RoP Act, which has established the legal framework for conducting elections, ensures that each and every citizen has a fair and equal opportunity to exercise his/her right of vote and to participate in the democratic process for electing his/her governor. The duties, functions and obligations to be performed/discharged by the ECI are ordained by the RoP Act, which are paramount and non-negotiable. Being a complete code in itself, the RoP Act reinforces the rule of law and upholds the principles of justice, fairness and transparency. The

⁶ RoP Act

larger the electorate, greater are the challenges associated with the elections. As it is, the ECI has an onerous responsibility to shoulder and there is absolutely no margin for error. Periodical challenges to electoral processes, which gain momentum particularly when General Elections are imminent, require the ECI as of necessity to raise robust, valid and effective defence to spurn such challenges failing which any adverse judgment by a court is bound to undermine the authority and prestige of the ECI and bring disrepute to it.

8. The 2024 General Elections, which are proposed to be conducted in 7 (seven) phases and presently underway, will entail an estimated expenditure of around Rs. 10,00,00,00,00,000 (Rupees One lakh crore); more than 10 lakh polling booths are required to be setup to facilitate the voting process. The EVMs are carried to the remotest areas of this country, occasionally on the backs of horses and other animals; voting booths have been set up in far-off villages at the foothills of the Himalayan mountains as well as the delta of the Sundarbans which are only accessible through boats. These challenges are unique to India, and the election process has to be considered in this context.

9. Taking an example, West Bengal is the 13th largest state in terms of area, spread over 88,752 sq. km. The density of population of the state is 1028 persons/sq. km. Even a small state like West Bengal is more densely populated than most European nations. This being the scenario, any comparison of the nature which was sought to be drawn on behalf of the petitioning association with a particular European nation, may not be adequately representative since the demographic and logistical challenges

in the conduct of elections in each country are unique to it. Also, it was not demonstrated before the Court that the machines put to use in the electoral system of such nation are similar and what was said by its court applies *ex proprio vigore* to India.

10. Electronic voting is not something which is prevalent only in India. Multiple countries use electronic voting in varying degrees in their national elections. However, use of EVMs in elections in India are not without its checks and balances. Reasonable measures to ensure transparency, such as tallying 5% VVPAT slips with votes polled, are already in place after the decision of this Court in ***N. Chandrababu Naidu v. Union of India***⁷. This measure, as has been noticed by Hon'ble Khanna, J., was undertaken out of abundant caution and not as an admission of a flaw in the process.

11. The exercise of tallying 5% VVPAT slips with votes cast by the electors has not, till date, resulted in any mismatch. This assertion of the ECI has not been proved to be incorrect by the petitioners by referring to any credible material or data. So long no mismatch is detected even after tallying 5% of VVPAT slips, as directed in ***N. Chandrababu Naidu*** (supra), it would defy the sense of logic and reason of a prudent man to issue a Mandamus to the ECI to arrange for tallying 100% VVPAT slips on the specious ground of the petitioners' apprehension that the EVMs could be manipulated.

12. The petitioning association has relied on the Report titled '*An inquiry into India's Election System: Is the Indian EVM and VVPAT system fit for*

⁷ (2019) 15 SCC 377

democratic elections?' submitted by the Citizens' Commission on Elections⁸, to emphasize the vulnerabilities of the current electronic voting system. The CCE Report, on a bare reading, appears to be the culmination of inputs given by domain experts. For whatever such report is worth and though counsel claimed that the efficacy of the voting system through EVMs has been doubted, the CCE Report itself concludes, *inter alia*, that no hacking of any EVM has been detected; what it observes is that there is no guarantee that the EVMs cannot be hacked. This, in essence captures the underlying weakness in the petitioning association's entire case, inasmuch as the only grounds for the reliefs sought lie in the realm of apprehension and suspicion. *In arguendo*, even if the CCE Report is taken on face value and it is believed that the EVM-VVPAT system can be hacked, can it be said that there is absence of a redressal mechanism for the same? Should there be hacking, resulting in violation of a right of an elector in any manner, and if there be proof adequate enough to upturn an election result, the law already has in place a remedy, i.e., an election petition under section 80 of the RoP Act. Such an election petition can be filed not just by an aggrieved candidate, but also by a voter, within 45 (forty-five) days from the date of declaration of the result of election. Since there is already a remedy in law to allay the fears that have been expressed by the petitioners, if and when a discrepancy in the results arises, the Courts are not powerless to uphold the sanctity of the democratic process by appropriate intervention.

⁸ CCE Report

13. The petitioning association has also attempted to highlight a public trust deficit with respect to the current voting system by relying on a survey conducted by the Centre for the Study of Developing Societies – Lokniti, which concluded that a majority of the Indian population did not trust the EVMs. It is a private report and I find little reason to trust such a report. Over the years, more and more voters have participated in the election process. Had the voters any doubt regarding the efficacy of the EVMs, I wonder whether the voting percentage would have seen such increase. EVMs have stood the test of time and the increased voting percentage is sufficient reason for us to hold that the voters have reposed faith in the current system and that the report to the contrary, which has been relied on, merits outright rejection.

14. Next, the petitioners submit that their right to be informed under Article 19(1)(a) vis-à-vis the electoral process have two facets. First, a voter has a right to know that the vote is recorded as cast; and, secondly that the vote as cast is counted. These facets need to be dealt with separately.

15. A citizen's right 'to freedom of speech and expression' under Article 19(1) is not absolute; the State by virtue of Article 19(2) can place reasonable restrictions on these rights. There can be no doubt that the electorate has a right to be informed if the votes, as cast, are accurately recorded. The dispute, in the present writ proceedings, centres around the modality of delivering the information. The petitioners have characterised the present procedure, wherein the voter after pressing the 'blue button' and casting his/her vote can see his VVPAT slip for 7 seconds through an

illuminated glass window, as inadequate for the voter to verify if his/her vote, as cast, is recorded.

16. To buttress their submission, the petitioners have relied on the proviso to Rule 49M (3) of the Conduct of Election Rules, 1961⁹. The petitioners urge that the ECI is not following the statutory mandate provided in the Election Rules. I am *ad idem* with the interpretation of the relevant rule placed by Hon'ble Khanna, J. The ordainment of Rule 49M (3) is that the VVPAT slip should be momentarily visible to the voter; and it is not the requirement of the rule that the VVPAT slip or its copy has to be handed over to the voter. Recording of the vote cast signifying the choice of the voter and its projection on the VVPAT slip, *albeit* for 7 (seven) seconds, is fulfilment of the voter's right of being informed that his/her vote has been duly recorded. In my considered view, as long as there is no allegation of statutory breach, there can be no substitution of the Court's view for the view of the ECI that the light in the VVPAT would be on for 7 (seven) seconds and not more.

17. We now address the second facet of the argument based on the right guaranteed by Article 19(1)(a) – the voter's right to know that his/her vote, as recorded, has been counted. To deal with this contention, a question comes to my mind – did this right not exist when the "paper ballot system", which the petitioning association wishes to be reverted to, was in vogue? Then, voters would simply drop their paper ballots into a box, for it to be safely ferried away to the counting stations, whereafter the same were

⁹ Election Rules

counted by election officials far away from the voter's scrutiny, with no way of knowing whether the vote cast by the voter was indeed counted or had not fallen victim to human error and missed from being counted. In the present far more technologically advanced system of the EVM – VVPAT, every voter who enters the polling booth has his/her name recorded, along with an affixation of signature in the Register of Voters maintained by the Presiding Officer, as provided by Form 17A of the Election Rules. Thereafter, the voter presses the desired button on the ballot unit to cast his/her vote, sees a visual confirmation of the same on the transparent VVPAT screen and hears a loud beep. At the end of the voting process, the Presiding Officer is required to record in Form 17C, not just the total number of voters as per the Register of Voters, but also the total number of votes recorded per voting machine as well as those staying away from the voting process despite affixing signature on the register. The total votes polled as per Form 17C is then again tallied with the total votes recorded by the control unit. Rule 56D(4) also provides that if there is any mismatch between these two totals, the printed VVPAT slips of the polling station would be counted. Furthermore, if a voter is aggrieved by a mismatch in the candidate voted for in the ballot unit *vis-a-vis* that recorded in the VVPAT, Rule 49M allows the voter to approach the Presiding Officer. Upon the conclusion of polling, there exists yet another remedy under Rule 56-D, for a candidate to apply for a count of the VVPAT slips, should any discrepancy be suspected. Thus, it is manifest that there is in place a stringent system of checks and balances, to prevent any possibility of a miscount of votes, and for the voter to know that his/her vote has been counted. There can be no doubt that

such a system, which is distinctly more satisfactory compared to the system of the yester-years, suitably satisfies the voter's right under Article 19(1)(a) to know that his/her vote has been counted as recorded.

18. The Republic has prided itself in conducting free and fair elections for the past 70 years, the credit wherefor can largely be attributed to the ECI and the trust reposed in it by the public. While rational scepticism of the *status quo* is desirable in a healthy democracy, this Court cannot allow the entire process of the underway General Elections to be called into question and upended on mere apprehension and speculation of the petitioners. The petitioners have neither been able to demonstrate how the use of EVMs in elections violates the principle of free and fair elections; nor have they been able to establish a fundamental right to 100% VVPAT slips tallying with the votes cast.

19. In view of the foregoing discussion, the petitioners' apprehensions are misplaced. Reverting to the paper ballot system, rejecting inevitable march of technological advancement, and burdening the ECI with the onerous task of 100% VVPAT slips tallying would be a folly when the challenges faced in conducting the elections are of such gargantuan scale.

20. There are two other ancillary issues, to add to the issues already covered in detail by Hon'ble Khanna, J.

21. The first is the very issue of maintainability of writ petitions of the nature presented before us. Should mere suspicion of infringement of a right be considered adequate ground to invoke the writ jurisdiction? In my opinion, the answer should be 'NO'.

22. A writ petition ought not to be entertained if the plea is based on the mere suspicion that a right could be infringed. Suspicion that a right could be infringed and a real threat of infringement of a right are distinct and different.

23. To succeed in a claim under Article 32 or 226, one must demonstrate either *mala fide*, or arbitrariness, or breach of a law in the impugned State action. Though a writ of right, it is not a writ of course. The writ jurisdiction under Article 32/226 of the Constitution of India being special and extraordinary, it should not be exercised casually or lightly on the mere asking of a litigant based on suspicions and conjectures, unless there is credible/trustworthy material on record to suggest that adverse action affecting a right is reasonably imminent or there is a real threat to the rule of law being abrogated. It must be shown, at least *prima facie*, that there is a real potential threat to a right, which is guaranteed by law to the person concerned.

24. I am not oblivious of two decisions rendered by this Court on the aforesaid issue.

25. A Constitution Bench of this Court in ***D.A.V. College, Bhatinda v. State of Punjab***¹⁰ held thus:

“5. [...] a petition under Article 32 in which petitioners make out a *prima facie* case that their fundamental rights are either threatened or violated will be entertained by this Court and that it is not necessary for any person who considers himself to be aggrieved to wait till the actual threat has taken place.”

¹⁰ (1971) 2 SCC 261

26. In ***Adi Saiva Sivachariyargal Nala Sangam v. State of Tamil Nadu***¹¹ a Bench of two Hon'ble Judges of this Court held:

"12. [...] The institution of a writ proceeding need not await actual prejudice and adverse effect and consequence. An apprehension of such harm, if the same is well founded, can furnish a cause of action for moving the Court."

27. While a writ petition may be instituted, if there is a genuine and looming threat of a right being trampled upon, what is, however, clear from the aforesaid decisions is that such threat or apprehension has to be well founded and cannot be based merely on assumptions and presumptions as is found in the present set of writ petitions.

28. The mere suspicion that there may be a mismatch in votes cast through EVMs, thereby giving rise to a demand for a 100% VVPAT slips verification, is not a sufficient ground for the present set of writ petitions to be considered maintainable. To maintain these writ petitions, it ought to have been shown that there exists a tangible threat of infringement; however, that has also not been substantiated. Thus, without any evidence of malice, arbitrariness, breach of law, or a genuine threat to invasion of rights, the writ petitions could have been dismissed as not maintainable. But, considering the seriousness of the concerns that the Court *suo motu* had expressed to which responses were received from the official of the ECI as well as its senior counsel, the necessity was felt to issue the twin directions in the greater public interest and to sub-serve the demands of justice.

¹¹ (2016) 2 SCC 725

29. Finally, I wish to touch upon one other issue of importance.

30. It is pertinent to reiterate that the doctrine of *res judicata* is applicable to writ petitions under Article 32 and Article 226 as well. The inclusion of the term "public right" in Explanation VI of Section 11 of the Civil Procedure Code, 1908 aims to avoid redundant legal disputes concerning public rights. Given this clarification, there is no room for debate regarding the application of Section 11 to matters of public interest litigation presented through writ petitions.

31. In ***Daryao and others v. State of U.P. and others***¹², a Constitution Bench of this Court emphasized that the rule of *res judicata* is founded on significant public policy considerations rather than being a mere technicality. It was clarified that petitioners seeking to challenge a decision must present new grounds distinct from those previously raised in order to escape the bar of *res judicata*. The Bench articulated this as follows:

"31. [...] We are satisfied that a change in the form of attack against the impugned statute would make no difference to the true legal position that the writ petition in the High Court and the present writ petition are directed against the same statute and the grounds raised by the petitioner in that behalf are substantially the same."

32. Another Constitution Bench of this Court in ***Direct Recruit Class II Engineering Officers' Association. v. State of Maharashtra and others***¹³ followed the aforesaid dictum to hold that the principles of *res judicata* are not foreign to writ petitions. A reference may be made to the following paragraph:

¹² (1962) 1 SCR 574

¹³ (1990) 2 SCC 715

35. [...] *It is well established that the principles of res judicata are applicable to writ petitions. The relief prayed for on behalf of the petitioner in the present case is the same as he would have, in the event of his success, obtained in the earlier writ petition before the High Court. The petitioner in reply contended that since the special leave petition before this Court was dismissed in limine without giving any reason, the order cannot be relied upon for a plea of res judicata. The answer is that it is not the order of this Court dismissing the special leave petition which is being relied upon; the plea of res judicata has been pressed on the basis of the High Court's judgment which became final after the dismissal of the special leave petition. In similar situation a Constitution Bench of this Court in Daryao v. State of U.P. [(1962) 1 SCR 574 : AIR 1961 SC 1457] held that where the High Court dismisses a writ petition under Article 226 of the Constitution after hearing the matter on the merits, a subsequent petition in the Supreme Court under Article 32 on the same facts and for the same reliefs filed by the same parties will be barred by the general principle of res judicata. The binding character of judgments of courts of competent jurisdiction is in essence a part of the rule of law on which the administration of justice, so much emphasised by the Constitution, is founded and a judgment of the High Court under Article 226 passed after a hearing on the merits must bind the parties till set aside in appeal as provided by the Constitution and cannot be permitted to be circumvented by a petition under Article 32. An attempted change in the form of the petition or the grounds cannot be allowed to defeat the plea [...]*”.

33. No doubt, *res judicata* bars parties from re-litigating issues that have been conclusively settled. It is true that this principle is not rigid in cases of substantial public interest and Constitutional Courts are empowered to adopt a flexible approach in such cases, acknowledging their far-reaching public interest ramifications.

34. However, this standard is applicable only when substantial evidence is presented to validate the irreversible harm or detriment to the public good resulting from the action impugned. The Court must come to the conclusion that the petition is not just an old wine in a new bottle, but rather raises substantial grounds not previously addressed in litigation. Only under

these circumstances may it consider such a petition; otherwise, it is within its authority to dismiss it at the threshold.

35. This issue at hand of doubting the efficacy of the EVMs has been previously raised before this Court and it is imperative that such issue is concluded definitively now. Going forward, unless substantial evidence is presented against the EVMs, the current system will have to persist with enhancements. Regressive measures to revert to paper ballots or any alternative to the EVMs that does not adequately safeguard the interests of Indian citizens have to be eschewed.

36. I also wish to observe that while maintaining a balanced perspective is crucial in evaluating systems or institutions, blindly distrusting any aspect of the system can breed unwarranted scepticism and impede progress. Instead, a critical yet constructive approach, guided by evidence and reason, should be followed to make room for meaningful improvements and to ensure the system's credibility and effectiveness.

37. Be it the citizens, the judiciary, the elected representatives, or even the electoral machinery, democracy is all about striving to build harmony and trust between all its pillars through open dialogue, transparency in processes, and continuous improvement of the system by active participation in democratic practices. Our approach should be guided by evidence and reason to allow space for meaningful improvements. By nurturing a culture of trust and collaboration, we can strengthen the foundations of our democracy and ensure that the voices and choices of all

citizens are valued and respected. With each pillar fortified, our democracy stands robust and resilient.

38. I conclude with the hope and trust that the system in vogue shall not fail the electorate and the mandate of the voting public shall be truly reflected in the votes cast and counted.

.....J
(DIPANKAR DATTA)

**New Delhi;
26th April, 2024.**



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EVMs give extra votes to BJP's lotus
during mock polls in Kasaragod, claim
LDF & UDF agents

George Poikayil

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03:53 PM IST

Topic | Kasaragod

Kasaragod: At least four electronic voting machines (EVM) erroneously registered votes in favour of BJP during mock polling in Kasaragod on Wednesday, April 17, alleged agents of LDF and UDF candidates.

Kasaragod Lok Sabha constituency's LDF candidate and CPM leader M V Balakrishnan filed a complaint with District Collector Inbasekar K, designated as the District Election Officer, to look into the errors.

UDF candidate Rajmohan Unnithan's agent Muhammed Nasar Cherkalam Abdulla urged the assistant returning officer (ARO) in Kasaragod Lok Sabha constituency to change the erring machines. BJP's M L Ashwini is the NDA candidate in Kasaragod.

Nasar Cherkalam said the BJP's lotus was getting extra votes during the commissioning of the machines for the polling stations in Kasaragod Assembly Constituency. He also pointed out that the

Congress's 'hand' symbol was smaller than other symbols on the voting machines and asked the officials to change it.

Kasaragod Lok Sabha constituency's voting machines have 10 options, including NOTA (none of the above).

In the first round of mock polls, all 190 EVMs were tested by casting votes against each of the 10 options. BJP's lotus was the first option.

The officials tested 20 machines at a time. When all 10 options on the EVMs were pressed one time each, the Voter Verifiable Paper Audit Trail (VVPAT) gave two votes to the BJP in four machines.

When the BJP's lotus was not pressed, the same four erroneous VVPAT units gave one vote to the party, said Nasar Cherkalam. "When we raised the issue, the assistant returning Officer said the VVPAT slips with erroneous votes had the message 'not to be counted'," said Unnithan's election agent.

But if there is a dispute during counting, the BJP's agents would insist on counting these erroneous votes, said Nasar Cherkalam. "That's why we asked for the replacement of these machines," he said.

He said the errors automatically disappeared when the EVMs were tested for the third time. "But we cannot be sure that the errors would reappear in the fourth or fifth test," he said.

"However, what we found strange was that neither the CPM's hammer, sickle and star symbol nor the Congress's hand symbol got extra votes during the mock trial. Only BJP's lotus got extra votes," said Nasar Cherkalam.

“Report submitted to collector”

Assistant Returning Officer Binumon P said that the glitch happened in four machines when the power was turned on. In all machines, the first VVPAT slip would have the message ‘not to be counted’. But in these four machines, the slips also had the party symbol of the first candidate in the voting machine, he said. “The technical engineers said it was not a mistake. I have given a report to the Collector,” said Binumon.

UDF and LDF agents said the lotus symbol stopped appearing in the third round of test. In the next round, 1,000 votes were cast on the machines that showed error in the first two rounds. “They worked fine in the third round,” said Nasar Cherkalam.

Kasaragod Assembly constituency has 190 booths for the Lok Sabha election. In all 228 Ballot units, 228 control units and 247 VVPAT units were tested during the mock polling which started at 10 am on Wednesday and ended at 1 am on Thursday. Of the 228 machines, six machines had technical glitches. They were kept aside for engineers to fix.



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THE TABULATED CHART REPRODUCING THE PRAYERS MADE IN THE MAIN WRIT PETITION ON THE ONE SIDE AND MADE IN THE PRESENT I.A. ON THE OTHER SIDE

<p>Prayers made in W.P. (C) No. 1382/ 2019 titled <i>Association for Democratic Reforms & Anr. vs. Election Commission of India & Anr.</i></p>	<p>Prayers made in Interim Application No. 115592/ 2024 filed by the Petitioner in W.P.(C) 1382/ 2019.</p>
<p>a. Issue an appropriate writ, order or direction directing the Respondent No. 1 to conduct actual and accurate reconciliation of data before the declaration of the final result of any election.</p> <p>b. Issue an appropriate writ, order or direction directing the Respondent No. 1 to provide the following information in the public domain for the 2019 Lok Sabha elections and for all future elections: (i) statutory forms 17C, Form 20, Form 21C, Form 21D & Form 21 E.</p> <p>c. Issue an appropriate writ, order or direction directing the Respondent No.</p>	<p>a) Direct the Election Commission of India to immediately upload on its website scanned legible copies of Form 17C Part-I (Account of Votes Recorded) of all polling stations after close of polling of each phase in the on-going 2024 Lok Sabha elections;</p> <p>b) Direct the Election Commission of India to provide tabulated polling station-wise data in absolute figures of the number of votes polled as recorded in Form 17C Part- I after each phase of polling in the on-going 2024 Lok Sabha elections and also a tabulation of constituency wise figures of voter turnout in absolute</p>

<p><i>1 to investigate the discrepancies which had taken place in the 17th Lok Sabha election results.</i></p> <p><i>d. Issue an appropriate writ, order or direction directing the Respondent No. 1 to formulate a robust procedure for all future elections for the investigation of all discrepancies in election data.</i></p> <p><i>e. Pass such other and/or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."</i></p>	<p><i>numbers in the on-going 2024 Lok Sabha elections;</i></p> <p><i>c) Direct the Election Commission of India to upload on its website scanned legible copies of Form 17C Part- II which contains the candidate-wise Result of Counting after the compilation of results of the 2024 Lok Sabha elections;</i></p> <p><i>d) Pass such other order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant case.</i></p>
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P. Kumar

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Use and Storage of Form 17C in the Electoral Process

Supply to the Polling Party

- Sufficient quantity of Form 17C is provided to the Polling Party in Statutory Booklet No. 2 along with other polling material on the day of dispersal.

Preparation of Form 17C on the Day of Poll

- After close of Poll, under rule 49S, the Presiding Officer prepares account of votes recorded in Part-I of Form 17C.
- Form 17C is stored in unsealed envelope and packed in a packet superscribed as EVM Papers.
- A true attested copy of Form 17C is also supplied to every Polling Agent present at the Polling Station.

Storage after Poll

- The unsealed envelope containing account of votes recorded (Form 17C) is stored in Polled EVM Strong Room.
- This Strong Room is sealed in the presence of General Observer, Returning Officer, Candidate and their agents and kept under CCTV surveillance 24X7 .

On the day of Counting

- On the day of Counting, the Strong Room is opened in the presence of General Observer, RO, Candidates and their agents and Control Unit (CU) along with the respective Form 17C is brought to the respective Counting Table.
- When Counting through CU is done, the total polled votes on the display of CU is tallied with the total votes polled mentioned in Form 17C.
- The candidate wise result shown by the CU is noted in Part-II of Form 17C. This Part-II of Form 17C is signed by the Counting Supervisor and Counting Agents present at the Counting Table.
- Copies of this duly prepared Part-II of Form 17C are also supplied to the Counting Agents.

Storage after Counting

- After Counting, Form 17C is stored in a sealed trunk along with other election papers and kept under the custody of District Election Officer.
- The election record is kept in safe custody after completion of Election as per rule rule 92, 93 & 94 of Conduct of Election Rules 1961 or disposal of election petition/Court case, if any.

P. Kumar

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Voter Turnout App Statistics

Phase	7-8 PM	23-24 hours Close of Poll (COP)
1	60.00	64.0*
2	60.96	64.7*
3	61.45	64.4
4	62.84	67.25
5	57.47	60.09

*As reported in news papers

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A CHART SHOWING THE TREND OF RELEASE OF DATA ON POLL DAY (DAY P) , P+1 DAY AND GAP OF NUMBER OF DAYS IN RELEASING FINAL DATA SINCE 2019 GENERAL ELECTIONS AND IN LEGISLATIVE ELECTIONS CONDUCTED THEREAFTER

* VTR – Voter Turnout

Lok Sabha Election 2019	Poll Day Voter turnout % as given by Press Conference	Updated VTR* was always higher than poll day VTR given after gap of many days
Phase 1 April 11, 2019	11.4.19, day of poll of first phase - overall voter turnout figure was not given	April 13, 2019 – 69.43% for phase 1 as reported in press note issued by PIB April 18, 2019- Was given as 69.4 % (In PC after 7 days) Revised on May 6, 2019 as 69.5% (In PC) Further, revised on May 19, 2019 as 69.61% (In PC)
Phase 2 April 18, 2019	66%	Revised on April 23, 2019 as 69.43% (In PC after ~ 5 days)
Phase 3 April 23, 2019	66%	Revised on April 29, 2019 as 68.4% (In in PC after ~ 6 days)

Phase 4 April 29, 2019	64%	Revised on May 6, 2019 as 65.51% (In PC after ~7 days)
Phase 5 May 6, 2019	62.56%	Revised on May 12, 2019 as 64.16% (In PC after ~6 days)
Phase 6 May 12, 2019	63.3%	Revised on May 19, 2019 as 64.4% (In PC after ~ 6 days)
Phase 7 May 19, 2019	61%	-
Assembly Election	Poll Day Voter turnout % (as per Press Note on ECI website)	Final State VTR as reported in Index Cards
Bihar 2020	Press Note not available	57.3%
Delhi 2020	Press Note not available	62.5%
Assam, 2021	Phase 1- 72.14 %; Phase 2- 73.03% Phase 3- 78.94%	82.4%
Kerala, 2021	69.95%	76.0

Puducherry 2021	77.9%	83.4%
TN 2021	64.92%	73.6%
WB 2021	Phase 1- 79.79% Phase 2- 80.43% Phase 3- 77.68% Phase 4: 76.16% Phase 5: 78.36% Phase 6- 79.09% Phase 7: 75.06% Phase 8- 76.07%	82.3%
Punjab 2022	Press Note not available	72.2%
Goa 2022	75.29%	81.9%
Manipur 2022	Press Note not available	90.3%
UP 2022	Phase 2- 60.44%	61%
UK 2022	59.37%	65.4%
Gujarat 2022	Press Note not available	64.8%
HP 2022	Press Note not available	75.8%
Meghalaya 2023	Not mentioned in press note	86.8%

Nagaland 2023	Not mentioned in press note	88.1%
Tripura 2023	80%	89.8%
Karnataka 2023	65.69%	73.8%
Chhattisgarh 2023	Phase 1- 60.92% Phase 2- 67.34 %	76.8%
MP 2023	71.11 %	77.7%
Rajasthan 2023	68.24%	75.3%
Telangana 2023	63.94%	72%
Mizoram 2023	69.78%	82.3%
Elections 2024	Poll Day VTR %	Updated Voter Turnout %
Phase 1, April 19, 2024	60% (7 pm) as reported in ECI press note 64% (12 midnight, as reported in some newspapers)	66.14 % as reported in ECI press Note

Phase 2 April 26, 2024	60.96% (7 pm) as reported in ECI press note 64.7% (12 midnight, as reported in some papers	66.71% as reported in ECI press Note
Phase 3 May 7, 2024	61.45% as of 8PM on 07.05.2024 64.4% as of 11:40 PM on 07.05.2024 as reported in ECI press note	65.68% (10 pm on 08.05.2024) as reported in ECI press Note 65.68% as reported in ECI press note on 11.05.2024
Phase 4, May 13, 2024	62.84% as of 8 PM on 13.05.2024 as reported in ECI press note 67.25 % as of 11:45 PM on 13.05.2024 as reported in press note	69.16% as reported in ECI press note on 17.05.2024

Phase 5, May 20, 2024	57.47% as of 7:45 PM on 20.05.2024 as reported in ECI press note 60.09% as of 11:30 PM on 20.05.2024 as reported in ECI press note	-
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A CHART INDICATING THE “CLOSE OF POLL” DATA IN PHASE 1 to 5 AS FINALIZED, AND THE VARIATION AND DEVIATION IN PERCENTAGE, AS FINALLY REVEALED

Voter Turnout App Statistics

Phase	7-8 PM	23-24 Hours Close of Poll (COP)	End of Poll (EOP)	Difference (EOP – COP)
1	60.00	64.0*	66.14	2.14%
2	60.96	64.7*	66.71	2.01 %
3	61.45	64.4	65.68	1.28 %
4	62.84	67.25	69.16	1.91 %
5	57.47	60.09	62.20	2.11%

- Published in news papers

P. Kumar

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ELECTION COMMISSION OF INDIA*Nirvachan Sadan, Ashoka Road, New Delhi-110001*

No. ECI/PN/56/2024

19.04.2024

PRESS NOTE**High turnout in Phase 1 of Lok Sabha Elections 2024 despite heat wave****Polling remains largely peaceful across 21 States/UTs****Polling completed for 10 States/UTs including most of North east****56 villages in Bastar, Shompen tribe of Great Nicobar voted first time****Large number of first-time voters participated enthusiastically**

Polling for the first phase of the General Elections 2024 recorded high voter turnout despite the heat wave. Polling remains largely peaceful with voters from various walks participating enthusiastically in a dazzling display of civic responsibility and pride. In phase 1 of General Elections 2024, polling has been completed for 10 States/UTs to elect 18th Lok Sabha along with polling for State Legislative Assemblies of Sikkim and Arunachal Pradesh. The Commission thanked voters of phase 1 and entire election machinery.

Tentative figure of voter turnout across 21 States/UTs reported is over 60% at 7 PM. State wise figures are placed at Annexure A. The voting percentage is likely to go upwards when reports from all polling stations are obtained as polling is scheduled till 6 PM in many Constituencies. Also, voters reaching the Polling stations till the end of polling hour are allowed to cast their vote. Final figures will be known tomorrow after the scrutiny of form 17A.



The Commission led by CEC Shri Rajiv Kumar and ECs Shri Gyanesh Kumar and Shri Sukhbir Singh Sandhu constantly monitored the progress of polling in Phase 1 across the constituencies from ECI Headquarters in Nirvachan Sadan. A state-of-the-art control room was set up at the HQ for the purpose. Similar control rooms were created at State/District level also.



Control room at ECI HQ



Control room, West Bengal

Against the backdrop of a largely peaceful and conducive environment, the nation's diverse electorate painted vivid pictures of democracy in action. From bustling city centres to remote villages, the polling stations witnessed a colourful convergence of voters spanning generations and backgrounds. Polling was seamless, based on meticulous planning and execution by the Commission and its officials in the field.





With Commissions focus to facilitate voting in tribal hinterland, Communities in Left Wing Extremist (LWE) affected areas in Chhattisgarh, embraced the power of the ballot over bullet, choosing the path of peace and democracy. 56 villages in Bastar cast their vote in a polling booth set up in their own village for the first time in a Lok Sabha Election. Voters were seen to benefit from the medical facilities at the Model Polling station in PC-163 in Bijapur. In another instance from Gadchiroli-Chimur, Maharashtra, the local tribal dialect was used at Hemalkasa Booth containing all relevant information. In Bodh Gaya in Bihar, Buddhist monks were seen posing with a smile and their fingers inked in a proud display.





In Andaman and Nicobar Islands, voters belonging to the tribal communities came out in large numbers. Shompen tribe of Great Nicobar made history by casting their votes for the first time in #GeneralElections2024. In Mizoram, an elderly couple reaffirmed their vow to vote together. In Arunachal Pradesh, an elderly woman trekked to the Polling Station on her own volition despite having the home voting facility.



Voters braved the heat in most parts of the country while at others voters waited patiently in pouring rain. The Assured Minimum Facilities guaranteed by the ECI at every polling station were of immense support to them.



Model Polling Station in Nagaland

Voters came in colourful attire, reflecting the rich tapestry of Indian culture and proudly flaunted their selfies with inked fingers, symbolizing the accomplishment of their civic duty.



In a seven phase General Elections 2024, 102 Parliamentary Constituencies across 21 States/UTs went to polls today. States including Uttarakhand, Arunachal Pradesh, Sikkim, Meghalaya, Nagaland, Mizoram, Tamil Nadu and the Union Territories of Puducherry, Andaman and Nicobar Islands and Lakshadweep completed their voting process. The Election Commission, is working strenuously to ensure a smooth, transparent, and inclusive electoral process in the subsequent phases of General Elections 2024.



Estimated Poll Turnout (Phase - 1) at 07:00 PM		
Sl. No.	State	Latest Updated Poll %
1	AndamanNicobar	56.87
2	ArunachalPradesh	65.46
3	Assam	71.38
4	Bihar	47.49
5	Chattisgarh	63.41
6	JammuKashmir	65.08
7	Lakshwdeep	59.02
8	MadhyaPradesh	63.33
9	Maharashtra	55.29
10	Manipur	68.62
11	Meghalaya	70.26
12	Mizoram	54.18
13	Nagaland	56.77
14	Puducherry	73.25
15	Rajasthan	50.95
16	Sikkim	68.06
17	TamilNadu	62.19
18	Tripura	79.90
19	UttarPradesh	57.61
20	Uttarakhand	53.64
21	WestBengal	77.57



Anuj Chandak

Joint Director

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Turnout touches 64% in Ph 1 of LS polls, against 66% in '19

A First: Polling Booths In 56 Bastar Villages

Bharti.Jain@timesgroup.com

New Delhi: The first phase of polling for the 2024 general election — covering the largest chunk of 102 Lok Sabha seats across 21 states and UTs — witnessed an encouraging turnout of 63.5% (as of 11pm), while remaining largely smooth and peaceful even in vulnerable areas like the Naxal-hit Bastar region and West Bengal that witnessed violence in the run-up. Incidents of violence were reported in Manipur.

The overall turnout for these seats in 2019 was 66%, barring

ring delimited seats in Assam and Outer Manipur; a few assembly segments of which went to the polls in the first phase this time.

Defying summer heat almost all over the country and rain in J&K's Udhampur, people came out in large numbers despite talk of a low-key campaign. Sources said the turnout is expected to go up further, with long queues seen at many polling stations well after polling hours. As per rule, all voters who are queued up at the polling station when polling time ends are allowed to cast their vote.

"Election Commission has worked extremely hard over the past couple of years to make a smooth and peaceful Lok Sabha election a reality. The first phase turnout is very encouraging and should enthuse voters to come out in even higher



A voter flaunts her inked finger at a polling station in Kalamati village in West Bengal's Cooch Behar on Friday

HIGHEST TURNOUTS (% 7pm)

Tripura (1 seat)	Sikkim (1)
81.5	80
(81.9% in 2019)	(84.8%)

LOWEST TURNOUTS (in %)

Bihar (4)	Utkhand (5)
48.8	55.9
(53.6%)	(61.6%)

DETAILS OF ALL STATES | P 20

CHHATTISGARH

67.6% (66.2% in 2019)

Barring an accidental grenade blast in which a CRPF jawan was killed & a Maoist IED explosion that injured an officer, polling peaceful in Bastar

her numbers in the remaining phases," a senior EC functionary told TOI.

West Bengal, which has a history of poll violence and clashes between rival party workers, saw peaceful polling barring stray altercations in Cooch Behar. EC said none of these incidents had any effect on polling, as evident from the 79.4% turnout recorded across the three parliamentary constituencies of Alipurduars, Co-

och Behar and Jalpaiguri.

Tripura too saw incident-free polling with the voter turnout touching 81.5% and Sikkim logged 80%, while other states where turnouts soared beyond 70% included Manipur; Puducherry (78.3%), Meghalaya (74.5%) and Assam (73.4%). Udhampur saw polling of 67.9% despite rain and terror threats.

In Bastar constituency of Chhattisgarh, voters defied

threats from Left-wing extremists to clock a 67% turnout. As many as 56 villages in Bastar had polling booths set up for the first time in a Lok Sabha election. Like all turnouts put out on Friday, the one in Bastar remains tentative and is expected to go up further as polling parties return from interior areas and submit their reports.

► Turnout to go up, P 22

Dated: 20.04.2024

P. Kumar

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ELECTION COMMISSION OF INDIA*Nirvachan Sadan, Ashoka Road, New Delhi-110001*

No. ECI/PN/62/2024

30.04.2024

PRESS NOTE**Voter turnout of 66.14% in phase 1 and 66.71% in phase 2 recorded in General Elections 2024****ECI publishes Voter turnout data for Phase 1 and Phase 2**

In the ongoing General Elections 2024, voter turnout of 66.14% has been recorded in phase 1 for 102 PCs and 66.71% in phase 2 for 88 PCs that went for polls in the two phases. The gender wise voter turnout figures for the two phases are given below:

Phase	Male Turnout	Female turnout	Third gender turnout	Overall turnout
Phase 1	66.22%	66.07%	31.32%	66.14%
Phase 2	66.99%	66.42%	23.86%	66.71%

2. State wise and PC wise voter turnout data for Phase 1 is given at Table 1 and 2 and for Phase 2 is given at Table 3 &4 respectively. Blank Cell indicates no registered electors in that category. PC and AC wise data is also updated regularly on the voter turnout app as updated in IT system by Returning Officers through Form 17C. Copy of Form 17C are also provided for every Polling Station in a Constituency to all candidates through their polling agents. Actual data of Form 17 C shall prevail which is already shared with candidates. Final turnout will only be available post-counting with counting of postal ballots and its addition to total vote count. Postal Ballots include Postal Ballots given to service voters, absentee voters (85+, PwD, Essential Services etc.) and Voters on Election Duty. Daily account of such Postal ballots received, as per Statutory provisions, are given to all candidates.

3. Additionally, for ready reference of various stakeholders including media persons, State and PC wise overall voter turnout data for General Elections 2019 is also placed at Table 5 and 6 respectively.

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PHASE – I

TABLE 1: STATE-WISE & GENDER-WISE VOTER TURNOUT at Polling Stations

Sl. No.	State/UT	No. of PCs	VOTER Turnout (%)			
			Male	Female	Others	Total
1	Andaman & Nicobar Islands	1	64.41	63.77	50.00	64.10
2	Arunachal Pradesh	2	75.62	79.67	40.00	77.68
3	Assam	5	77.69	78.81	20.33	78.25
4	Bihar	4	49.59	48.90	3.92	49.26
5	Chhattisgarh	1	68.97	67.68	40.38	68.29
6	Jammu and Kashmir	1	67.41	69.21	38.46	68.27
7	Lakshadweep	1	82.88	85.47		84.16
8	Madhya Pradesh	6	68.58	66.91	39.04	67.75
9	Maharashtra	5	65.77	61.60	16.14	63.71
10	Manipur	2	75.15	76.98	47.15	76.10
11	Meghalaya	2	74.35	78.80	100.00	76.60
12	Mizoram	1	58.15	55.67		56.87
13	Nagaland	1	57.55	57.90		57.72
14	Puducherry	1	78.64	79.13	69.54	78.90
15	Rajasthan	12	58.53	56.67	53.95	57.65
16	Sikkim	1	79.93	79.84	66.67	79.88
17	Tamil Nadu	39	69.59	69.86	32.08	69.72
18	Tripura	1	81.79	81.16	62.50	81.48
19	Uttar Pradesh	8	62.52	59.53	12.42	61.11
20	Uttarakhand	5	55.96	58.58	29.49	57.22
21	West Bengal	3	81.25	82.59	42.59	81.91
Above 21 States [102 PCs]		102	66.22	66.07	31.32	66.14

PHASE – I

TABLE 2: PC-WISE & GENDER-WISE VOTER TURNOUT at polling stations

Sl. No.	State/UT	PC	VOTER Turnout (%)			
			Male	Female	Others	Total
1	Andaman & Nicobar Islands	Andaman & Nicobar Islands	64.41	63.77	50.00	64.10
2	Arunachal Pradesh	Arunachal East	81.13	85.54	0.00	83.31
3	Arunachal Pradesh	Arunachal West	71.41	75.62	50.00	73.60
4	Assam	Dibrugarh	76.96	76.55	22.86	76.75
5	Assam	Jorhat	79.79	79.98	40.00	79.89
6	Assam	Kaziranga	78.29	80.38	18.18	79.33
7	Assam	Lakhimpur	75.65	77.18	11.76	76.42
8	Assam	Sonitpur	77.44	79.48	21.21	78.46
9	Bihar	Aurangabad	51.22	49.41	5.88	50.35
10	Bihar	Gaya	53.89	51.55	15.00	52.76
11	Bihar	Jamui	50.11	52.50	1.96	51.25
12	Bihar	Nawada	43.70	42.61	2.67	43.17

13	Chhattisgarh	BASTAR	68.97	67.68	40.38	68.29
14	Jammu and Kashmir	UDHAMPUR	67.41	69.21	38.46	68.27
15	Lakshadweep	Lakshadweep	82.88	85.47		84.16
16	Madhya Pradesh	BALAGHAT	73.42	73.48	56.25	73.45
17	Madhya Pradesh	CHHINDWARA	81.23	78.40	80.00	79.83
18	Madhya Pradesh	JABALPUR	63.32	58.60	26.32	61.00
19	Madhya Pradesh	MANDLA	73.65	72.03	53.85	72.84
20	Madhya Pradesh	SHAHDOL	65.41	63.93	52.38	64.68
21	Madhya Pradesh	SIDHI	56.83	56.16	14.29	56.50
22	Maharashtra	Bhandara Gondiya	68.85	65.24	42.86	67.04
23	Maharashtra	Chandrapur	69.61	65.38	22.92	67.55
24	Maharashtra	Gadchiroli - Chimur	73.07	70.68	50.00	71.88
25	Maharashtra	Nagpur	56.50	52.15	12.56	54.32
26	Maharashtra	Ramtek	63.79	58.13	11.54	61.01
27	Manipur	Inner Manipur	79.05	81.18	50.23	80.15
28	Manipur	Outer Manipur	68.25	69.38	27.27	68.83
29	Meghalaya	Shillong	70.94	76.50	100.00	73.78
30	Meghalaya	Tura	79.96	82.81	100.00	81.37
31	Mizoram	MIZORAM	58.15	55.67		56.87
32	Nagaland	Nagaland	57.55	57.90		57.72
33	Puducherry	PUDUCHERRY	78.64	79.13	69.54	78.90
34	Rajasthan	ALWAR	60.98	59.06	34.78	60.07
35	Rajasthan	BHARATPUR	54.20	51.21	47.62	52.80
36	Rajasthan	BIKANER	57.25	50.63	56.25	54.11
37	Rajasthan	CHURU	63.51	63.71	68.75	63.61
38	Rajasthan	DAUSA	57.18	54.09	50.00	55.72
39	Rajasthan	GANGANAGAR	67.85	65.22	66.15	66.59
40	Rajasthan	JAIPUR	65.75	60.79	45.00	63.38
41	Rajasthan	JAIPUR RURAL	57.81	55.47	87.50	56.70
42	Rajasthan	JHUNJHUNU	51.92	54.03	53.85	52.93
43	Rajasthan	KARALI-DHOLPUR	51.25	47.66	43.75	49.59
44	Rajasthan	NAGOUR	57.42	57.02	58.33	57.23
45	Rajasthan	SIKAR	56.26	58.92	57.14	57.53
46	Sikkim	Sikkim	79.93	79.84	66.67	79.88
47	Tamil Nadu	ARAKKONAM	75.46	72.99	32.73	74.19
48	Tamil Nadu	ARANI	76.21	75.34	37.50	75.76
49	Tamil Nadu	CHENNAI CENTRAL	55.53	52.45	29.67	53.96
50	Tamil Nadu	CHENNAI NORTH	61.79	58.53	27.44	60.11
51	Tamil Nadu	CHENNAI SOUTH	55.16	53.22	20.47	54.17
52	Tamil Nadu	CHIDAMBARAM	73.90	78.81	31.40	76.37
53	Tamil Nadu	COIMBATORE	65.24	64.55	33.86	64.89
54	Tamil Nadu	CUDDALORE	71.68	73.45	43.26	72.57
55	Tamil Nadu	DHARMAPURI	80.92	81.48	50.28	81.20
56	Tamil Nadu	DINDIGUL	71.64	70.68	25.23	71.14
57	Tamil Nadu	ERODE	71.40	69.84	47.28	70.59
58	Tamil Nadu	KALLAKURICHI	77.37	81.02	27.63	79.21
59	Tamil Nadu	KANCHEEPURAM	74.05	69.44	27.39	71.68
60	Tamil Nadu	KANNIYAKUMARI	62.86	68.02	29.37	65.44

61	Tamil Nadu	KARUR	78.01	79.35	62.22	78.70
62	Tamil Nadu	KRISHNAGIRI	72.11	70.90	25.90	71.50
63	Tamil Nadu	MADURAI	62.54	61.57	27.27	62.04
64	Tamil Nadu	MAYILADUTHURAI	69.15	70.99	29.17	70.09
65	Tamil Nadu	NAGAPATTINAM	70.52	73.31	30.49	71.94
66	Tamil Nadu	NAMAKKAL	78.17	78.26	48.73	78.21
67	Tamil Nadu	NILGIRIS	72.31	69.69	39.78	70.95
68	Tamil Nadu	PERAMBALUR	75.91	78.87	42.07	77.43
69	Tamil Nadu	POLLACHI	71.16	69.72	30.07	70.41
70	Tamil Nadu	RAMANATHAPURAM	63.66	72.64	25.32	68.19
71	Tamil Nadu	SALEM	79.16	77.17	47.30	78.16
72	Tamil Nadu	SIVAGANGA	60.13	68.24	15.87	64.26
73	Tamil Nadu	SRIPERUMBUDUR	61.85	58.69	12.59	60.25
74	Tamil Nadu	TENKASI	66.23	69.02	31.16	67.65
75	Tamil Nadu	THANJAVUR	66.30	70.13	28.13	68.27
76	Tamil Nadu	THENI	69.19	70.49	26.94	69.84
77	Tamil Nadu	THOOTHUKKUDI	66.17	67.58	40.28	66.88
78	Tamil Nadu	TIRUCHIRAPPALLI	67.64	67.39	41.42	67.51
79	Tamil Nadu	TIRUNELVELI	63.53	64.64	37.75	64.10
80	Tamil Nadu	TIRUPPUR	71.73	69.56	37.25	70.62
81	Tamil Nadu	TIRUVALLUR	70.67	66.59	23.64	68.59
82	Tamil Nadu	TIRUVANNAMALAI	74.05	74.42	32.23	74.24
83	Tamil Nadu	VELLORE	74.14	72.96	47.89	73.53
84	Tamil Nadu	VILUPPURAM	76.46	76.58	45.00	76.52
85	Tamil Nadu	VIRUDHUNAGAR	70.04	70.40	27.32	70.22
86	Tripura	Tripura West	81.79	81.16	62.50	81.48
87	Uttar Pradesh	Bijnor	59.91	57.40	8.33	58.73
88	Uttar Pradesh	Kairana	63.93	60.78	14.58	62.46
89	Uttar Pradesh	Moradabad	63.72	60.45	16.87	62.18
90	Uttar Pradesh	Muzaffarnagar	61.10	56.88	13.29	59.13
91	Uttar Pradesh	Nagina	60.03	61.56	8.33	60.75
92	Uttar Pradesh	Pilibhit	64.75	61.22	12.50	63.11
93	Uttar Pradesh	Rampur	58.07	53.36	10.63	55.85
94	Uttar Pradesh	Saharanpur	67.86	64.22	14.46	66.14
95	Uttarakhand	Almora	44.54	53.12	40.00	48.74
96	Uttarakhand	Garhwal	48.33	56.69	50.00	52.42
97	Uttarakhand	Haridwar	64.46	62.51	27.67	63.53
98	Uttarakhand	Nainital-Udhamsingh Nagar	62.63	62.29	35.85	62.47
99	Uttarakhand	Tehri Garhwal	52.37	55.26	22.58	53.76
100	West Bengal	Alipurduars	78.71	80.81	37.10	79.76
101	West Bengal	Coochbehar	80.96	83.45	48.48	82.16
102	West Bengal	Jalpaiguri	83.92	83.40	53.85	83.66
All 102 PCs			66.22	66.07	31.32	66.14

TABLE 3: STATE-WISE & GENDER-WISE VOTER TURNOUT AT POLLING STATIONS

Sl. No.	State/UT	No. of PCs	VOTER Turnout (%)			
			Male	Female	Others	Total
1	Assam	5	81.16	81.18	16.47	81.17
2	Bihar	5	56.41	62.73	1.96	59.45
3	Chhattisgarh	3	77.07	75.44	45.00	76.24
4	Jammu and Kashmir	1	71.76	72.71	39.29	72.22
5	Karnataka	14	69.48	69.65	21.75	69.56
6	Kerala	20	70.63	71.88	40.87	71.27
7	Madhya Pradesh	6	61.54	55.37	46.45	58.59
8	Maharashtra	8	65.59	59.63	24.54	62.71
9	Manipur	1	85.31	84.40	0.00	84.85
10	Rajasthan	13	65.71	64.30	52.16	65.03
11	Tripura	1	80.77	79.95	30.77	80.36
12	Uttar Pradesh	8	56.71	53.43	13.02	55.19
13	West Bengal	3	75.22	77.99	33.81	76.58
Above 13 States [88 PCs]		88	66.99	66.42	23.86	66.71

PHASE –II

TABLE 4: PC-WISE & GENDER-WISE VOTER TURNOUT AT POLLING STATIONS

Sl. No.	State/UT	PC	VOTER Turnout (%)			
			Male	Female	Others	Total
1	Assam	Darrang-Udalguri	82.39	81.62	24.24	82.01
2	Assam	Diphu	75.45	76.03	26.32	75.74
3	Assam	Karimganj	80.58	80.38	0.00	80.48
4	Assam	Nagaon	84.41	85.54	10.98	84.97
5	Assam	Silchar	79.17	78.92	25.00	79.05
6	Bihar	Banka	51.05	58.31	0.00	54.48
7	Bihar	Bhagalpur	53.11	53.93	3.67	53.50
8	Bihar	Katihar	58.87	69.07	0.00	63.76
9	Bihar	Kishanganj	58.89	67.06	1.52	62.84
10	Bihar	Purnia	60.44	65.89	1.37	63.08
11	Chhattisgarh	KANKER	76.84	75.64	55.56	76.23
12	Chhattisgarh	MAHASAMUND	75.82	74.24	35.29	75.02
13	Chhattisgarh	RAJNANDGAON	78.44	76.41	62.50	77.42
14	Jammu and Kashmir	JAMMU	71.76	72.71	39.29	72.22
15	Karnataka	Bangalore central	53.31	54.87	18.20	54.06
16	Karnataka	Bangalore North	53.52	55.45	18.54	54.45
17	Karnataka	Bangalore Rural	67.60	69.03	19.38	68.30
18	Karnataka	Bangalore South	52.24	54.17	12.50	53.17
19	Karnataka	Chamarajanagar	77.73	75.93	28.97	76.82
20	Karnataka	Chikkballapur	77.92	76.11	30.83	77.00
21	Karnataka	Chitradurga	74.39	72.22	37.50	73.30

22	Karnataka	Dakshina Kannada	76.90	78.19	24.68	77.56
23	Karnataka	Hassan	77.97	77.39	23.26	77.68
24	Karnataka	Kolar	79.75	76.84	32.23	78.27
25	Karnataka	Mandya	82.24	81.12	26.19	81.67
26	Karnataka	Mysore	71.38	69.90	20.65	70.62
27	Karnataka	Tumkur	79.35	76.80	25.68	78.05
28	Karnataka	Udupi Chikmagalur	77.40	76.91	18.92	77.15
29	Kerala	Alappuzha	75.50	74.63	22.22	75.05
30	Kerala	Alathur	73.44	73.40	41.67	73.42
31	Kerala	Attingal	68.73	70.14	37.14	69.48
32	Kerala	Chalakydy	72.57	71.35	38.10	71.94
33	Kerala	Ernakulam	70.34	66.36	26.67	68.29
34	Kerala	Idukki	69.19	63.98	66.67	66.55
35	Kerala	Kannur	75.07	79.15	50.00	77.21
36	Kerala	Kasaragod	73.20	78.70	35.71	76.04
37	Kerala	Kollam	67.15	69.05	36.84	68.15
38	Kerala	Kottayam	68.85	62.56	40.00	65.61
39	Kerala	Kozhikode	74.64	76.35	46.15	75.52
40	Kerala	Malappuram	69.62	76.33	33.33	72.95
41	Kerala	Mavelikkara	66.19	65.73	33.33	65.95
42	Kerala	Palakkad	72.63	74.46	69.23	73.57
43	Kerala	Pathanamthitta	64.82	62.05	66.67	63.37
44	Kerala	Ponnani	64.14	74.46	55.56	69.34
45	Kerala	Thiruvananthapuram	67.78	65.25	49.15	66.47
46	Kerala	Thrissur	71.87	73.84	30.00	72.90
47	Kerala	Vadakara	74.47	82.05	18.18	78.41
48	Kerala	Wayanad	72.24	74.87	20.00	73.57
49	Madhya Pradesh	DAMOH	60.97	51.55	35.29	56.48
50	Madhya Pradesh	HOSHANGABAD	71.73	62.39	56.60	67.21
51	Madhya Pradesh	KHAJURAHO	59.68	53.97	38.24	56.97
52	Madhya Pradesh	REWA	50.71	48.02	64.29	49.43
53	Madhya Pradesh	SATNA	63.22	60.53	50.00	61.94
54	Madhya Pradesh	TIKAMGARH	63.33	56.34	35.48	60.00
55	Maharashtra	Wardha	68.35	61.21	64.29	64.85
56	Maharashtra	Akola	64.87	58.50	24.44	61.79
57	Maharashtra	Amravati	66.93	60.24	23.53	63.67
58	Maharashtra	Buldhana	64.67	59.12	41.67	62.03
59	Maharashtra	Hingoli	66.37	60.46	36.00	63.54
60	Maharashtra	Nanded	63.50	58.23	14.08	60.94
61	Maharashtra	Parbhani	65.01	59.29	12.12	62.26
62	Maharashtra	Yavatmal- Washim	65.41	60.15	35.94	62.87
63	Manipur	Outer Manipur	85.31	84.40	0.00	84.85
64	Rajasthan	AJMER	61.17	58.08	59.26	59.65
65	Rajasthan	BANSWARA	72.05	75.75	40.91	73.88
66	Rajasthan	BARMER	76.54	75.24	22.22	75.93
67	Rajasthan	BHILWARA	60.83	59.90	55.56	60.37
68	Rajasthan	CHITTORGARH	70.33	66.86	59.26	68.61
69	Rajasthan	JALORE	62.48	63.35	28.57	62.89

70	Rajasthan	JHALAWAR-BARAN	72.95	66.29	61.54	69.71
71	Rajasthan	JODHPUR	66.03	62.33	65.96	64.27
72	Rajasthan	KOTA	73.47	68.92	57.89	71.26
73	Rajasthan	PALI	57.13	57.25	47.37	57.19
74	Rajasthan	RAJSAMAND	57.63	59.18	48.00	58.39
75	Rajasthan	TONK-SAWAI MADHOPUR	58.73	54.22	50.00	56.58
76	Rajasthan	UDAIPUR	65.36	68.01	31.58	66.66
77	Tripura	Tripura East	80.77	79.95	30.77	80.36
78	Uttar Pradesh	Aligarh	58.47	55.18	27.68	56.93
79	Uttar Pradesh	Amroha	65.18	63.90	5.45	64.58
80	Uttar Pradesh	Baghpat	58.69	53.16	10.81	56.16
81	Uttar Pradesh	Bulandshahr	56.89	55.91	22.45	56.42
82	Uttar Pradesh	Gautam Buddha Nagar	55.09	51.90	9.24	53.63
83	Uttar Pradesh	Ghaziabad	50.93	48.60	9.04	49.88
84	Uttar Pradesh	Mathura	52.30	46.09	7.69	49.41
85	Uttar Pradesh	Meerut	61.10	56.44	12.86	58.94
86	West Bengal	Balurghat	77.26	81.01	28.40	79.09
87	West Bengal	Darjeeling	75.55	73.97	29.27	74.76
88	West Bengal	Raiganj	73.15	79.42	40.91	76.18
All 88 PCs			66.99	66.42	23.86	66.71

Table 5:

General Election to Lok Sabha - 2019
State-wise Voter Turnout

Sl. No.	State / UT	No. of PCs	VTR - ALL
1	Andaman & Nicobar Islands	1	65.12
2	Andhra Pradesh	25	80.38
3	Arunachal Pradesh	2	82.11
4	Assam	14	81.60
5	Bihar	40	57.33
6	Chandigarh	1	70.61
7	Chhattisgarh	11	71.64
8	Dadra & Nagar Haveli	1	79.58
9	Daman & Diu	1	71.85
10	Goa	2	75.14
11	Gujarat	26	64.51
12	Haryana	10	70.34
13	Himachal Pradesh	4	72.42
14	Jammu & Kashmir	6	44.97
15	Jharkhand	14	66.80
16	Karnataka	28	68.81
17	Kerala	20	77.84
18	Lakshadweep	1	85.21
19	Madhya Pradesh	29	71.20
20	Maharashtra	48	61.02
21	Manipur	2	82.69
22	Meghalaya	2	71.43
23	Mizoram	1	63.14
24	Nagaland	1	83.00
25	NCT OF Delhi	7	60.60
26	Odisha	21	73.29
27	Puducherry	1	81.25
28	Punjab	13	65.94
29	Rajasthan	25	66.34
30	Sikkim	1	81.41
31	Tamil Nadu	39	72.44
32	Telangana	17	62.77
33	Tripura	2	82.40
34	Uttar Pradesh	80	59.21
35	Uttarakhand	5	61.88
36	West Bengal	42	81.76
	All India	543	67.40

General Election to Lok Sabha - 2019

PC-wise Voter Turnout

Sl. No.	State / UT	PC NAME	VTR - ALL
1	Andaman & Nicobar Islands	Andaman & Nicobar Islands	65.12
2	Andhra Pradesh	Amalapuram	84.64
3	Andhra Pradesh	Anakapalli	81.54
4	Andhra Pradesh	Anantapur	81.01
5	Andhra Pradesh	Aruku	74.29
6	Andhra Pradesh	Bapatla	86.47
7	Andhra Pradesh	Chittoor	84.24
8	Andhra Pradesh	Eluru	83.53
9	Andhra Pradesh	Guntur	79.22
10	Andhra Pradesh	Hindupur	84.91
11	Andhra Pradesh	Kadapa	78.68
12	Andhra Pradesh	Kakinada	79.08
13	Andhra Pradesh	Kurnool	75.69
14	Andhra Pradesh	Machilipatnam	84.54
15	Andhra Pradesh	Nandyal	81.07
16	Andhra Pradesh	Narasaraopet	86.25
17	Andhra Pradesh	Narsapuram	81.90
18	Andhra Pradesh	Nellore	77.06
19	Andhra Pradesh	Ongole	86.35
20	Andhra Pradesh	Rajahmundry	81.50
21	Andhra Pradesh	Rajampet	79.26
22	Andhra Pradesh	Srikakulam	74.93
23	Andhra Pradesh	Tirupati	79.76
24	Andhra Pradesh	Vijayawada	77.30
25	Andhra Pradesh	Visakhapatnam	67.78
26	Andhra Pradesh	Vizianagaram	81.28
27	Arunachal Pradesh	ARUNACHAL EAST	87.03
28	Arunachal Pradesh	ARUNACHAL WEST	78.50
29	Assam	Autonomous District	77.63
30	Assam	Barpeta	86.57
31	Assam	Dhubri	90.66
32	Assam	Dibrugarh	77.30
33	Assam	Gauhati	80.87
34	Assam	Jorhat	77.57
35	Assam	Kaliabor	82.12
36	Assam	Karimganj	79.18
37	Assam	Kokrajhar	83.30
38	Assam	Lakhimpur	75.17

39	Assam	Mangaldoi	83.68
40	Assam	Nowgong	83.23
41	Assam	Silchar	79.51
42	Assam	Tezpur	79.48
43	Bihar	Araria	64.79
44	Bihar	Arrah	51.81
45	Bihar	Aurangabad	53.67
46	Bihar	Banka	58.60
47	Bihar	Begusarai	62.63
48	Bihar	Bhagalpur	57.20
49	Bihar	Buxar	53.95
50	Bihar	Darbhanga	58.35
51	Bihar	Gaya (SC)	56.18
52	Bihar	Gopalganj (SC)	55.78
53	Bihar	Hajipur (SC)	55.26
54	Bihar	Jahanabad	51.76
55	Bihar	Jamui (SC)	55.25
56	Bihar	Jhanjharpur	57.35
57	Bihar	Karakat	49.09
58	Bihar	Katihar	67.64
59	Bihar	Khagaria	57.71
60	Bihar	Kishanganj	66.38
61	Bihar	Madhepura	60.89
62	Bihar	Madhubani	53.81
63	Bihar	Maharajganj	53.82
64	Bihar	Munger	54.90
65	Bihar	Muzaffarpur	61.17
66	Bihar	Nalanda	48.79
67	Bihar	Nawada	49.73
68	Bihar	Paschim Champaran	62.02
69	Bihar	Pataliputra	56.03
70	Bihar	Patna Sahib	45.80
71	Bihar	Purnia	65.37
72	Bihar	Purvi Champaran	60.30
73	Bihar	Samastipur (SC)	60.74
74	Bihar	Saran	56.60
75	Bihar	Sasaram (SC)	54.57
76	Bihar	Sheohar	59.60
77	Bihar	Sitamarhi	59.32
78	Bihar	Siwan	54.73
79	Bihar	Supaul	65.72
80	Bihar	Ujjiarpur	60.15
81	Bihar	Vaishali	61.91

82	Bihar	Valmiki Nagar	61.98
83	Chandigarh	CHANDIGARH	70.61
84	Chhattisgarh	BASTAR	66.26
85	Chhattisgarh	BILASPUR	64.48
86	Chhattisgarh	DURG	71.78
87	Chhattisgarh	JANJGIR-CHAMPA	65.81
88	Chhattisgarh	KANKER	74.42
89	Chhattisgarh	KORBA	75.38
90	Chhattisgarh	MAHASAMUND	74.65
91	Chhattisgarh	RAIGARH	77.91
92	Chhattisgarh	RAIPUR	66.16
93	Chhattisgarh	RAJNANDGAON	76.20
94	Chhattisgarh	SARGUJA	77.40
95	Dadra & Nagar Haveli	Dadra And Nagar Haveli	79.58
96	Daman & Diu	Daman & diu	71.85
97	Goa	North Goa	77.05
98	Goa	South Goa	73.31
99	Gujarat	Ahmedabad East	61.76
100	Gujarat	Ahmedabad West	60.81
101	Gujarat	Amreli	55.97
102	Gujarat	Anand	67.04
103	Gujarat	Banaskantha	65.03
104	Gujarat	Bardoli	73.89
105	Gujarat	Bharuch	73.55
106	Gujarat	Bhavnagar	59.05
107	Gujarat	Chhota Udaipur	73.90
108	Gujarat	Dahod	66.57
109	Gujarat	Gandhinagar	66.08
110	Gujarat	Jamnagar	61.03
111	Gujarat	Junagadh	61.31
112	Gujarat	Kachchh	58.71
113	Gujarat	Kheda	61.04
114	Gujarat	Mahesana	65.78
115	Gujarat	Navsari	66.40
116	Gujarat	Panchmahal	62.23
117	Gujarat	Patan	62.45
118	Gujarat	Porbandar	57.21
119	Gujarat	Rajkot	63.49
120	Gujarat	Sabarkantha	67.77
121	Gujarat	Surat	64.58
122	Gujarat	Surendranagar	58.41
123	Gujarat	Vadodara	68.18
124	Gujarat	Valsad	75.48

125	Haryana	Ambala	71.10
126	Haryana	Bhiwani-Mahendragarh	70.48
127	Haryana	Faridabad	64.10
128	Haryana	Gurgaon	67.33
129	Haryana	Hisar	72.43
130	Haryana	Karnal	68.35
131	Haryana	Kurukshetra	74.29
132	Haryana	Rohtak	70.52
133	Haryana	Sirsa	75.99
134	Haryana	Sonipat	71.02
135	Himachal Pradesh	Hamirpur	72.83
136	Himachal Pradesh	Kangra	70.73
137	Himachal Pradesh	Mandi	73.60
138	Himachal Pradesh	Shimla	72.68
139	Jammu & Kashmir	Anantnag	8.98
140	Jammu & Kashmir	Baramulla	34.60
141	Jammu & Kashmir	Jammu	72.50
142	Jammu & Kashmir	Ladakh	71.05
143	Jammu & Kashmir	Srinagar	14.43
144	Jammu & Kashmir	Udhampur	70.15
145	Jharkhand	Chatra	64.97
146	Jharkhand	Dhanbad	60.47
147	Jharkhand	Dumka	73.43
148	Jharkhand	Giridih	67.12
149	Jharkhand	Godda	69.57
150	Jharkhand	Hazaribagh	64.85
151	Jharkhand	Jamshedpur	67.19
152	Jharkhand	Khunti	69.25
153	Jharkhand	Kodarma	66.68
154	Jharkhand	Lohardaga	66.30
155	Jharkhand	Palamau	64.34
156	Jharkhand	Rajmahal	72.05
157	Jharkhand	Ranchi	64.49
158	Jharkhand	Singhbhum	69.26
159	Karnataka	Bagalkot	70.70
160	Karnataka	Bangalore central	54.32
161	Karnataka	Bangalore North	54.76
162	Karnataka	Bangalore Rural	64.98
163	Karnataka	Bangalore South	53.70
164	Karnataka	Belgaum	67.84
165	Karnataka	Bellary	69.76
166	Karnataka	Bidar	63.00
167	Karnataka	Bijapur	61.89

168	Karnataka	Chamarajanagar	75.35
169	Karnataka	Chikkballapur	76.74
170	Karnataka	Chikkodi	75.62
171	Karnataka	Chitradurga	70.80
172	Karnataka	Dakshina Kannada	77.99
173	Karnataka	Davanagere	73.19
174	Karnataka	Dharwad	70.29
175	Karnataka	Gulbarga	61.18
176	Karnataka	Hassan	77.35
177	Karnataka	Haveri	74.21
178	Karnataka	Kolar	77.25
179	Karnataka	Koppal	68.56
180	Karnataka	Mandya	80.59
181	Karnataka	Mysore	69.51
182	Karnataka	Raichur	58.34
183	Karnataka	Shimoga	76.58
184	Karnataka	Tumkur	77.43
185	Karnataka	Udupi Chikmagalur	76.07
186	Karnataka	Uttara Kannada	74.16
187	Kerala	Alappuzha	80.35
188	Kerala	Alathur	80.47
189	Kerala	Attingal	74.48
190	Kerala	Chalakydy	80.51
191	Kerala	Ernakulam	77.64
192	Kerala	Idukki	76.36
193	Kerala	Kannur	83.28
194	Kerala	Kasaragod	80.66
195	Kerala	Kollam	74.73
196	Kerala	Kottayam	75.47
197	Kerala	Kozhikode	81.70
198	Kerala	Malappuram	75.50
199	Kerala	Mavelikkara	74.33
200	Kerala	Palakkad	77.77
201	Kerala	Pathanamthitta	74.30
202	Kerala	Ponnani	74.98
203	Kerala	Thiruvananthapuram	73.74
204	Kerala	Thrissur	77.94
205	Kerala	Vadakara	82.70
206	Kerala	Wayanad	80.37
207	Lakshadweep	Lakshadweep	85.21
208	Madhya Pradesh	BALAGHAT	77.66
209	Madhya Pradesh	BETUL	78.18
210	Madhya Pradesh	BHIND	54.53

211	Madhya Pradesh	BHOPAL	65.74
212	Madhya Pradesh	CHHINDWARA	82.42
213	Madhya Pradesh	DAMOH	65.83
214	Madhya Pradesh	DEWAS	79.51
215	Madhya Pradesh	DHAR	75.26
216	Madhya Pradesh	GUNA	70.34
217	Madhya Pradesh	GWALIOR	59.82
218	Madhya Pradesh	HOSHANGABAD	74.22
219	Madhya Pradesh	INDORE	69.33
220	Madhya Pradesh	JABALPUR	69.46
221	Madhya Pradesh	KHAJURAHO	68.31
222	Madhya Pradesh	KHANDWA	76.90
223	Madhya Pradesh	KHARGONE	77.85
224	Madhya Pradesh	MANDLA	77.79
225	Madhya Pradesh	MANDSOUR	77.89
226	Madhya Pradesh	MORENA	61.96
227	Madhya Pradesh	RAJGARH	74.42
228	Madhya Pradesh	RATLAM	75.70
229	Madhya Pradesh	REWA	60.41
230	Madhya Pradesh	SAGAR	65.54
231	Madhya Pradesh	SATNA	70.71
232	Madhya Pradesh	SHAHDOL	74.77
233	Madhya Pradesh	SIDHI	69.50
234	Madhya Pradesh	TIKAMGARH	66.62
235	Madhya Pradesh	UJJAIN	75.43
236	Madhya Pradesh	VIDISHA	71.83
237	Maharashtra	Ahmadnagar	64.79
238	Maharashtra	Akola	60.06
239	Maharashtra	Amravati	60.76
240	Maharashtra	Aurangabad	63.55
241	Maharashtra	Baramati	61.82
242	Maharashtra	Beed	66.17
243	Maharashtra	Bhandara - gondiya	68.81
244	Maharashtra	Bhiwandi	53.20
245	Maharashtra	Buldhana	63.60
246	Maharashtra	Chandrapur	64.89
247	Maharashtra	Dhule	57.05
248	Maharashtra	Dindori	65.71
249	Maharashtra	Gadchiroli-Chimur	72.33
250	Maharashtra	Hatkanangle	70.60
251	Maharashtra	Hingoli	66.84
252	Maharashtra	Jalgaon	56.55
253	Maharashtra	Jalna	64.75

254	Maharashtra	Kalyan	45.31
255	Maharashtra	Kolhapur	70.86
256	Maharashtra	Latur	62.44
257	Maharashtra	Madha	63.77
258	Maharashtra	Maval	59.59
259	Maharashtra	Mumbai South	51.59
260	Maharashtra	Mumbai North	60.09
261	Maharashtra	Mumbai North central	53.68
262	Maharashtra	Mumbai North East	57.23
263	Maharashtra	Mumbai North West	54.37
264	Maharashtra	Mumbai South central	55.40
265	Maharashtra	Nagpur	54.94
266	Maharashtra	Nanded	65.69
267	Maharashtra	Nandurbar	68.65
268	Maharashtra	Nashik	59.53
269	Maharashtra	Osmanabad	63.76
270	Maharashtra	Palghar	63.76
271	Maharashtra	Parbhani	63.12
272	Maharashtra	Pune	49.89
273	Maharashtra	Raigad	62.17
274	Maharashtra	Ramtek	62.30
275	Maharashtra	Ratnagiri - sindhudurg	61.99
276	Maharashtra	Raver	61.77
277	Maharashtra	Sangli	65.92
278	Maharashtra	Satara	60.47
279	Maharashtra	Shirdi	64.93
280	Maharashtra	Shirur	59.44
281	Maharashtra	Solapur	58.67
282	Maharashtra	Thane	49.39
283	Maharashtra	Wardha	61.53
284	Maharashtra	Yavatmal-Washim	61.31
285	Manipur	Inner manipur	81.12
286	Manipur	Outer manipur	84.14
287	Meghalaya	Shillong	65.48
288	Meghalaya	Tura	81.38
289	Mizoram	MIZORAM	63.14
290	Nagaland	Nagaland	83.00
291	NCT OF Delhi	CHANDNI CHOWK	62.78
292	NCT OF Delhi	EAST DELHI	61.70
293	NCT OF Delhi	NEW DELHI	56.91
294	NCT OF Delhi	NORTH EAST DELHI	63.86
295	NCT OF Delhi	NORTH WEST DELHI	58.97
296	NCT OF Delhi	SOUTH DELHI	58.75

297	NCT OF Delhi	WEST DELHI	60.82
298	Odisha	Aska	65.79
299	Odisha	Balasore	75.69
300	Odisha	Bargarh	78.37
301	Odisha	Berhampur	65.90
302	Odisha	Bhadrak	73.90
303	Odisha	Bhubaneswar	59.17
304	Odisha	Bolangir	74.91
305	Odisha	Cuttack	69.81
306	Odisha	Dhenkanal	75.33
307	Odisha	Jagatsinghpur	74.83
308	Odisha	Jajpur	74.10
309	Odisha	Kalahandi	76.41
310	Odisha	Kandhamal	73.10
311	Odisha	Kendrapara	72.39
312	Odisha	Keonjhar	77.57
313	Odisha	Koraput	75.34
314	Odisha	Mayurbhanj	77.13
315	Odisha	Nabarangpur	79.52
316	Odisha	Puri	72.72
317	Odisha	Sambalpur	76.72
318	Odisha	Sundargarh	71.89
319	Puducherry	Puducherry	81.25
320	Punjab	Amritsar	57.07
321	Punjab	Anandpur Sahib	63.69
322	Punjab	Bathinda	74.16
323	Punjab	Faridkot	63.25
324	Punjab	Fatehgarh Sahib	65.69
325	Punjab	Firozpur	72.47
326	Punjab	Gurdaspur	69.24
327	Punjab	Hoshiarpur	62.08
328	Punjab	Jalandhar	63.04
329	Punjab	Khadoor Sahib	63.96
330	Punjab	Ludhiana	62.20
331	Punjab	Patiala	67.77
332	Punjab	Sangrur	72.40
333	Rajasthan	Ajmer	67.32
334	Rajasthan	Alwar	67.17
335	Rajasthan	Banswara	72.90
336	Rajasthan	Barmer	73.30
337	Rajasthan	BHARATPUR	59.11
338	Rajasthan	Bhilwara	65.64
339	Rajasthan	Bikaner (SC)	59.43

340	Rajasthan	Chittorgarh	72.39
341	Rajasthan	Churu	65.90
342	Rajasthan	Dausa	61.50
343	Rajasthan	Ganganagar	74.77
344	Rajasthan	Jaipur	68.48
345	Rajasthan	Jaipur Rural	65.54
346	Rajasthan	Jalore	65.74
347	Rajasthan	JHALAWAR-BARAN	71.96
348	Rajasthan	Jhunjhunu	62.11
349	Rajasthan	Jodhpur	68.89
350	Rajasthan	KARALI-DHOLPUR	55.18
351	Rajasthan	Kota	70.22
352	Rajasthan	Nagaur	62.32
353	Rajasthan	Pali	62.98
354	Rajasthan	Rajsamand	64.87
355	Rajasthan	Sikar	65.18
356	Rajasthan	TONK-SAWAI MADHOPUR	63.44
357	Rajasthan	Udaipur	70.32
358	Sikkim	Sikkim	81.41
359	Tamil Nadu	Arakkonam	78.65
360	Tamil Nadu	Arani	79.01
361	Tamil Nadu	Chennai central	58.98
362	Tamil Nadu	Chennai North	64.26
363	Tamil Nadu	Chennai South	57.07
364	Tamil Nadu	Chidambaram	77.98
365	Tamil Nadu	Coimbatore	63.86
366	Tamil Nadu	Cuddalore	76.49
367	Tamil Nadu	Dharmapuri	82.41
368	Tamil Nadu	Dindigul	75.29
369	Tamil Nadu	Erode	73.11
370	Tamil Nadu	Kallakurichi	78.81
371	Tamil Nadu	Kancheepuram	75.31
372	Tamil Nadu	Kanniyakumari	69.90
373	Tamil Nadu	Karur	79.55
374	Tamil Nadu	Krishnagiri	75.95
375	Tamil Nadu	Madurai	66.09
376	Tamil Nadu	Mayiladuthurai	73.93
377	Tamil Nadu	Nagapattinam	76.93
378	Tamil Nadu	Namakkal	80.22
379	Tamil Nadu	Nilgiris	74.01
380	Tamil Nadu	Perambalur	79.26
381	Tamil Nadu	Pollachi	71.15
382	Tamil Nadu	Ramanathapuram	68.40

383	Tamil Nadu	Salem	77.91
384	Tamil Nadu	Sivaganga	69.90
385	Tamil Nadu	Sriperumbudur	62.44
386	Tamil Nadu	Tenkasi	71.43
387	Tamil Nadu	Thanjavur	72.55
388	Tamil Nadu	Theni	75.27
389	Tamil Nadu	Thiruvallur	72.33
390	Tamil Nadu	Thoothukkudi	69.48
391	Tamil Nadu	Tiruchirappalli	69.50
392	Tamil Nadu	Tirunelveli	67.22
393	Tamil Nadu	Tiruppur	73.21
394	Tamil Nadu	Tiruvannamalai	78.15
395	Tamil Nadu	Vellore	71.46
396	Tamil Nadu	Viluppuram	78.66
397	Tamil Nadu	Virudhunagar	72.49
398	Telangana	Adilabad	71.42
399	Telangana	Bhongir	74.49
400	Telangana	CHEVELLA	53.25
401	Telangana	Hyderabad	44.84
402	Telangana	Karimnagar	69.52
403	Telangana	Khammam	75.30
404	Telangana	Mahabubabad	69.06
405	Telangana	Mahbubnagar	65.39
406	Telangana	Malkajgiri	49.63
407	Telangana	Medak	71.75
408	Telangana	Nagarkurnool	62.33
409	Telangana	Nalgonda	74.15
410	Telangana	Nizamabad	68.44
411	Telangana	Peddapalle	65.59
412	Telangana	Secundrabad	46.50
413	Telangana	Warangal	63.70
414	Telangana	Zahirabad	69.70
415	Tripura	Tripura East	82.90
416	Tripura	Tripura West	81.93
417	Uttar Pradesh	Agra	59.12
418	Uttar Pradesh	Akbarpur	58.13
419	Uttar Pradesh	Aligarh	61.68
420	Uttar Pradesh	Allahabad	51.83
421	Uttar Pradesh	Ambedkar Nagar	61.08
422	Uttar Pradesh	Amethi	54.08
423	Uttar Pradesh	Amroha	71.05
424	Uttar Pradesh	Aonla	58.97
425	Uttar Pradesh	Azamgarh	57.56

426	Uttar Pradesh	Badaun	57.17
427	Uttar Pradesh	Baghpat	64.68
428	Uttar Pradesh	Bahraich	57.24
429	Uttar Pradesh	Ballia	54.35
430	Uttar Pradesh	Banda	60.80
431	Uttar Pradesh	Bansgaon	55.38
432	Uttar Pradesh	Barabanki	63.61
433	Uttar Pradesh	Bareilly	59.46
434	Uttar Pradesh	Basti	57.19
435	Uttar Pradesh	Bhadohi	53.53
436	Uttar Pradesh	Bijnor	66.22
437	Uttar Pradesh	Bulandshahr	62.92
438	Uttar Pradesh	Chandauli	61.83
439	Uttar Pradesh	Deoria	57.90
440	Uttar Pradesh	Dhaurahra	64.69
441	Uttar Pradesh	Domariyaganj	52.26
442	Uttar Pradesh	Etah	61.70
443	Uttar Pradesh	Etawah	58.52
444	Uttar Pradesh	Faizabad	59.69
445	Uttar Pradesh	Farrukhabad	58.72
446	Uttar Pradesh	Fatehpur	56.79
447	Uttar Pradesh	Fatehpur Sikri	60.42
448	Uttar Pradesh	Firozabad	60.13
449	Uttar Pradesh	Gautam Buddha Nagar	60.49
450	Uttar Pradesh	Ghaziabad	55.89
451	Uttar Pradesh	Ghazipur	58.88
452	Uttar Pradesh	Ghosi	57.31
453	Uttar Pradesh	Gonda	52.20
454	Uttar Pradesh	Gorakhpur	59.81
455	Uttar Pradesh	Hamirpur	62.32
456	Uttar Pradesh	Hardoi	58.54
457	Uttar Pradesh	Hathras	61.76
458	Uttar Pradesh	Jalaun	58.49
459	Uttar Pradesh	Jaunpur	55.77
460	Uttar Pradesh	Jhansi	67.68
461	Uttar Pradesh	Kairana	67.45
462	Uttar Pradesh	Kaiserganj	54.39
463	Uttar Pradesh	Kannauj	60.86
464	Uttar Pradesh	Kanpur	51.65
465	Uttar Pradesh	Kaushambi	54.56
466	Uttar Pradesh	Kheri	64.20
467	Uttar Pradesh	Kushi Nagar	59.79
468	Uttar Pradesh	Lalganj	54.86

469	Uttar Pradesh	Lucknow	54.78
470	Uttar Pradesh	Machhlishahr	56.02
471	Uttar Pradesh	Maharajganj	64.07
472	Uttar Pradesh	Mainpuri	56.77
473	Uttar Pradesh	Mathura	61.08
474	Uttar Pradesh	Meerut	64.29
475	Uttar Pradesh	Mirzapur	60.11
476	Uttar Pradesh	Misrikh	57.17
477	Uttar Pradesh	Mohanlalganj	62.79
478	Uttar Pradesh	Moradabad	65.46
479	Uttar Pradesh	Muzaffarnagar	68.42
480	Uttar Pradesh	Nagina	63.66
481	Uttar Pradesh	Phulpur	48.70
482	Uttar Pradesh	Pilibhit	67.41
483	Uttar Pradesh	Pratapgarh	53.56
484	Uttar Pradesh	Rae Bareli	56.34
485	Uttar Pradesh	Rampur	63.19
486	Uttar Pradesh	Robertsganj	57.37
487	Uttar Pradesh	Saharanpur	70.87
488	Uttar Pradesh	Salempur	55.43
489	Uttar Pradesh	Sambhal	64.73
490	Uttar Pradesh	Sant Kabir Nagar	54.20
491	Uttar Pradesh	Shahjahanpur	56.15
492	Uttar Pradesh	Shrawasti	52.08
493	Uttar Pradesh	Sitapur	63.93
494	Uttar Pradesh	Sultanpur	56.37
495	Uttar Pradesh	Unnao	56.47
496	Uttar Pradesh	Varanasi	57.13
497	Uttarakhand	Almora	52.31
498	Uttarakhand	Garhwal	55.17
499	Uttarakhand	Hardwar	69.18
500	Uttarakhand	Nainital-udhamsingh Nagar	68.97
501	Uttarakhand	Tehri Garhwal	58.87
502	West Bengal	Alipurduars	83.79
503	West Bengal	Arambagh	83.44
504	West Bengal	Asansol	76.62
505	West Bengal	Baharampur	79.41
506	West Bengal	Balurghat	83.69
507	West Bengal	Bangaon	82.64
508	West Bengal	Bankura	83.25
509	West Bengal	Barasat	81.26
510	West Bengal	Bardhaman Durgapur	82.67
511	West Bengal	Bardhaman Purba	84.78

512	West Bengal	Barrackpore	76.91
513	West Bengal	Basirhat	85.43
514	West Bengal	Birbhum	85.34
515	West Bengal	Bishnupur	87.34
516	West Bengal	Bolpur	85.74
517	West Bengal	Cooch behar	84.08
518	West Bengal	Darjeeling	78.80
519	West Bengal	Diamond harbour	81.98
520	West Bengal	Dum dum	76.92
521	West Bengal	Ghatal	82.74
522	West Bengal	Hooghly	82.57
523	West Bengal	Howrah	74.83
524	West Bengal	Jadavpur	79.11
525	West Bengal	Jalpaiguri	86.51
526	West Bengal	Jangipur	80.72
527	West Bengal	Jaynagar	82.29
528	West Bengal	Jhargram	85.71
529	West Bengal	Kanthi	85.83
530	West Bengal	Kolkata Dakshin	69.82
531	West Bengal	Kolkata Uttar	65.83
532	West Bengal	Krishnanagar	83.75
533	West Bengal	Maldaha Dakshin	81.24
534	West Bengal	Maldaha Uttar	80.39
535	West Bengal	Mathurapur	84.86
536	West Bengal	Medinipur	84.24
537	West Bengal	Murshidabad	84.29
538	West Bengal	Purulia	82.38
539	West Bengal	Raiganj	79.82
540	West Bengal	Ranaghat	84.26
541	West Bengal	Srerampur	78.54
542	West Bengal	Tamluk	85.38
543	West Bengal	Uluberia	81.18
All India			67.40

P. Kumar

Anuj Chandak

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Joint Director

//TRUE COPY//

ELECTION COMMISSION OF INDIA*Nirvachan Sadan, Ashoka Road, New Delhi-110001*

No. ECI/PN/74/2024

07.05.2024

Press Note**Peaceful polling across 11 States/UTs in Phase-III of General Elections****Voter Turnout - 61.45% as of 8PM****Polling over in 20 States/UTs and 283 PCs; crosses halfway mark****75 International delegates witness polling in phase 3; commend India's electoral processes**

Polling in the third phase of General Elections 2024 which commenced at 7 am today simultaneously across 93 PCs recorded an approximate voter turnout of 61.45% as of 8 pm. Though polling was till 6 PM, but voters were seen in the queue at many polling stations. Voters from across 11 States/UTs participated enthusiastically to cast their vote at their polling stations, braving hot weather conditions in some areas. Starting with this phase, ECI has commenced a system of SMS alerts, WhatsApp messages, and voice calls from national and state icons, with support from major Telecom Service Providers to encourage voter participation. With the conclusion of Phase-3, polling is now over in 20 States/UTs and 283 PCs for General Elections 2024. A total of 1331 candidates were in the electoral fray in this Phase.



Women voters at the polling stations

Electors Data and Voter Turnout:

Approximate turnout data for each State / 93 PCs having gone to poll in third phase / each of the Assembly constituency falling in each of the PC, is already available on voter turnout App (VTR App) live. Commission has added a new feature in VTR App to show aggregated phase-wise turnout also in addition to State/PC /AC wise figures for the benefit of media and other stakeholders. The VTR App is available at the following link:

https://play.google.com/store/apps/details?id=in.gov.eci.pollturnout&hl=en_IN

<https://apps.apple.com/in/app/voter-turnout-app/id1536366882>

The voter turnout figures which are approximate as of 8 pm will continue to be further updated on VTR App on continuous basis as various polling parties formally close the poll and hand over Form 17 C to the polling agents of candidates at each of the polling station. As per statutory requirements, voter turnout is to be recorded at every polling station in absolute numbers in Form 17C, which prevails. As an embedded measure of transparency, the copies of Form 17C, duly signed by Presiding Officer and all present polling agents, are invariably shared with all present polling agents of contesting candidates. Thus, booth wise data of actual number of votes polled is always available with the candidates, which is a statutory requirement.

As a further measure of enhanced transparency and facilitation of all stakeholders including media, PC wise electors' data for Phase 1, Phase 2 and Phase 3 is also being shared at Annexure A1, A2, and A3 respectively. This will facilitate calculation of number of voters at regular intervals, when aggregate PC wise turnout figures along with figures for respective assembly segments are updated on VTR App.

The state wise approximate voter turnout at 8pm is as below:

Sl. No.	State / UT	No. PCs	Approximate Voter Turnout %
1	Assam	4	75.26
2	Bihar	5	56.55
3	Chhattisgarh	7	66.99
4	Dadra & Nagar Haveli and Daman & Diu	2	65.23
5	Goa	2	74.27
6	Gujarat	25	56.76
7	Karnataka	14	67.76
8	Madhya Pradesh	9	63.09
9	Maharashtra	11	54.77
10	Uttar Pradesh	10	57.34
11	West Bengal	4	73.93
Above 11 States (93 PCs)		93	61.45

Data displayed here are as per the information being filled in the systems by the field officer. This is an approximate trend, as data from some polling stations (PS) takes time and this trend does not include Postal Ballot. Final actual account of votes recorded for each PS is shared in Form 17 C with all Polling agents at close of polls.

In order to further facilitate the stake holders, Commission has decided to update the above table and again release the approximate voter turnout close to 11.30 pm today. Needless to add that same shall continue to be updated by the field level officers as

polling parties keep returning and be available PC wise (along with respective AC segments) live at VTR App.

As per the laid down procedure, scrutiny of election papers takes place one day after the polling day in the presence of Candidates or their authorised polling agents. The decision to conduct repoll, if any, is also taken thereafter. Some polling parties return after polling day depending on the geographical/ logistical conditions. Commission will also, after the scrutiny and depending on the number/ schedule of repoll, publish the updated voter turnout along with gender wise breakup by 11.5.2024. In any case VTR App will continue to display updated turn out figures as usual.



Voters at polling stations

High resolution poll day photos of the biggest election and related logistic exercise of movement of man and material on earth, transit of polling parties, polling stations, enthusiasm of voters can be accessed here: <https://www.eci.gov.in/ge-2024-photogallery>

Smooth and peaceful conduct of elections

The polling was held smoothly and peacefully in all States/UTs across the three phases which covered the entire North eastern part of the country, LWE affected and vulnerable areas in Chhattisgarh, Maharashtra and Madhya Pradesh. The Commission led by CEC Shri Rajiv Kumar along with ECs Shri Gyanesh Kumar and Shri Sukhbir Singh Sandhu kept a regular close watch on each and every aspect of the poll process. Stringent security measures were in place creating a conducive environment for voters to cast their vote without fear or intimidation.



Showcasing India's Democracy to the world

In phase-3, 75 international delegates from 23 countries visited many polling stations in 6 states to witness the poll process. The delegates also witnessed the process of dispatch of polling materials and machines to the polling teams and were appreciative of the magnitude, transparency and most importantly the festive mood of voters.



Delegates from Philippines and Sri Lanka visiting polling station in Bhopal



Delegates from Bhutan, Mongolia and Israel at Goa

Special arrangements were made to mitigate the effects of hot weather conditions including the provision of shamiyana, drinking water, medical kits, fans for convenience of voters. The Commission had made special efforts to facilitate voting amongst the tribal groups with polling stations decorated in tribal culture and local themes. Women tribal voters came out along with children to cast their vote at polling stations. In Chhattisgarh, five generations of a family voted together at a polling station in Sarguja PC in Chhattisgarh.



Polling Booth in Shimoga, Karnataka and ecofriendly PS in Valsad, Gujarat



Pahadi Korwa PVTGs at polling station in Chhattisgarh



Shipping container PS container in Aliabet island, Gujarat

5 generations of voters vote together, Semli PS, Chhattisgarh

Gujarat, Madhya Pradesh, Maharashtra, Assam, West Bengal, Bihar, Dadra and Nagar Haveli and Daman and Diu, Karnataka, Uttar Pradesh, Goa and Chhattisgarh are the States/UTs where polling took place in this phase. Voting in the Anantnag-Rajouri PC in Jammu and Kashmir was rescheduled to Phase-6. Also, Surat PC in Gujarat did not go to polls as the candidate was elected unopposed.

The next phase (phase 4) polling is scheduled on May 13, 2024 in 96 PCs in 10 States/UTs.

Annexures - PC wise electors' data

Annexure-A1

Phase-1: Parliamentary Constituency wise number of Electors		
State Name	PC Name	Electors *
Arunachal Pradesh	Arunachal West	517384
Arunachal Pradesh	Arunachal East	375310
Assam	Sonitpur	1633800
Assam	Lakhimpur	1577234
Assam	Dibrugarh	1659588
Assam	Jorhat	1727121
Assam	Kaziranga	2050126
Bihar	Aurangabad	1871564
Bihar	Gaya	1816815
Bihar	Nawada	2006124
Bihar	Jamui	1907126
Madhya Pradesh	Sidhi	2028451
Madhya Pradesh	Shahdol	1777185
Madhya Pradesh	Jabalpur	1896346
Madhya Pradesh	Balaghat	1873653
Madhya Pradesh	Mandla	2101811
Madhya Pradesh	Chhindwara	1632190
Maharashtra	Nagpur	2223281
Maharashtra	Ramtek	2049085
Maharashtra	Bhandara Gondiya	1827188
Maharashtra	Gadchiroli - Chimur	1617207
Maharashtra	Chandrapur	1837906
Manipur	Inner Manipur	991574
Manipur	Outer Manipur	553078
Meghalaya	Shillong	1400411
Meghalaya	Tura	826156
Mizoram	Mizoram	856364
Nagaland	Nagaland	1317536
Rajasthan	Ganganagar	2102002
Rajasthan	Bikaner	2048399
Rajasthan	Churu	2213187
Rajasthan	Jhunjhunu	2068540
Rajasthan	Sikar	2214900
Rajasthan	Jaipur	2287350
Rajasthan	Jaipur Rural	2184978
Rajasthan	Alwar	2059888
Rajasthan	Bharatpur	2114916
Rajasthan	Karauli-Dholpur	1975352
Rajasthan	Dausa	1899304
Rajasthan	Nagaur	2146725
Sikkim	Sikkim	464140

Tamil Nadu	Tiruvallur	2085991
Tamil Nadu	Chennai North	1496224
Tamil Nadu	Chennai Central	1350161
Tamil Nadu	Chennai South	2023133
Tamil Nadu	Sriperumbudur	2382119
Tamil Nadu	Kancheepuram	1748866
Tamil Nadu	Arakkonam	1562871
Tamil Nadu	Vellore	1528273
Tamil Nadu	Krishnagiri	1623179
Tamil Nadu	Tiruvannamalai	1533099
Tamil Nadu	Arani	1496118
Tamil Nadu	Viluppuram	1503115
Tamil Nadu	Kallakurichi	1568681
Tamil Nadu	Dharmapuri	1524896
Tamil Nadu	Salem	1658681
Tamil Nadu	Namakkal	1452562
Tamil Nadu	Erode	1538778
Tamil Nadu	Nilgiris	1428387
Tamil Nadu	Tiruppur	1608521
Tamil Nadu	Coimbatore	2106124
Tamil Nadu	Pollachi	1597467
Tamil Nadu	Dindigul	1607051
Tamil Nadu	Perambalur	1446352
Tamil Nadu	Cuddalore	1412746
Tamil Nadu	Chidambaram	1519847
Tamil Nadu	Nagapattinam	1345120
Tamil Nadu	Mayiladuthurai	1545568
Tamil Nadu	Thanjavur	1501226
Tamil Nadu	Karur	1429790
Tamil Nadu	Tiruchirappalli	1553985
Tamil Nadu	Sivaganga	1633857
Tamil Nadu	Madurai	1582271
Tamil Nadu	Theni	1622949
Tamil Nadu	Virudhunagar	1501942
Tamil Nadu	Ramanathapuram	1617688
Tamil Nadu	Thoothukkudi	1458430
Tamil Nadu	Tenkasi	1525439
Tamil Nadu	Tirunelveli	1654503
Tamil Nadu	Kanniyakumari	1557915
Tripura	Tripura West	1463526
Uttar Pradesh	Kairana	1722432
Uttar Pradesh	Saharanpur	1855310
Uttar Pradesh	Bijnor	1738307
Uttar Pradesh	Nagina	1644909
Uttar Pradesh	Moradabad	2059578
Uttar Pradesh	Rampur	1731836

Uttar Pradesh	Muzaffarnagar	1817472
Uttar Pradesh	Pilibhit	1831699
West Bengal	Coochbehar	1966893
West Bengal	Alipurduars	1773252
West Bengal	Jalpaiguri	1885963
Chhattisgarh	Bastar	1472207
Uttarakhand	Tehri Garhwal	1577664
Uttarakhand	Haridwar	2035726
Uttarakhand	Almora	1339327
Uttarakhand	Garhwal	1369388
Uttarakhand	Nainital-Udhamsingh Nagar	2015809
Andaman & Nicobar Islands	Andaman & Nicobar Islands	315148
Lakshadweep	Lakshadweep	57784
Puducherry	Puducherry	1023699
Jammu and Kashmir	Udhampur	1623195

** Number of Electors do not include count of Service Electors*

Annexure-A2

Phase-2: Parliamentary Constituency wise number of Electors		
State Name	PC Name	Electors *
Assam	Darrang-Udalguri	2209314
Assam	Nagaon	1817204
Assam	Diphu	901032
Assam	Silchar	1369578
Assam	Karimganj	1412148
Bihar	Kishanganj	1829994
Bihar	Katihar	1833009
Bihar	Purnia	1893698
Bihar	Bhagalpur	1983031
Bihar	Banka	1856566
Karnataka	Udupi Chikmagalur	1585162
Karnataka	Chitradurga	1856876
Karnataka	Tumkur	1661309
Karnataka	Kolar	1726914
Karnataka	Bangalore North	3214496
Karnataka	Bangalore Central	2433751
Karnataka	Bangalore South	2341759
Karnataka	Chikkballapur	1981347
Karnataka	Bangalore Rural	2802580
Karnataka	Hassan	1736610
Karnataka	Dakshina Kannada	1817603
Karnataka	Mandya	1779243
Karnataka	Mysore	2092222
Karnataka	Chamarajanagar	1778310
Kerala	Kasaragod	1452230
Kerala	Kannur	1358368
Kerala	Vadakara	1421883
Kerala	Kozhikode	1429631
Kerala	Wayanad	1462423
Kerala	Malappuram	1479921
Kerala	Ponnani	1470804
Kerala	Palakkad	1398143
Kerala	Alathur	1337496
Kerala	Thrissur	1483055
Kerala	Ernakulam	1324047
Kerala	Chalakydy	1310529
Kerala	Idukki	1250157
Kerala	Kottayam	1254823
Kerala	Pathanamthitta	1429700
Kerala	Alappuzha	1400083

Kerala	Mavelikkara	1331880
Kerala	Kollam	1326648
Kerala	Attingal	1396807
Kerala	Thiruvananthapuram	1430531
Madhya Pradesh	Tikamgarh	1826585
Madhya Pradesh	Damoh	1925314
Madhya Pradesh	Satna	1705260
Madhya Pradesh	Rewa	1852126
Madhya Pradesh	Khajuraho	1997483
Madhya Pradesh	Hoshangabad	1855692
Maharashtra	Buldhana	1782700
Maharashtra	Akola	1890814
Maharashtra	Amravati	1836078
Maharashtra	Wardha	1682771
Maharashtra	Yavatmal- Washim	1940916
Maharashtra	Nanded	1851843
Maharashtra	Hingoli	1817734
Maharashtra	Parbhani	2123056
Manipur	Outer Manipur	484949
Rajasthan	Tonk-Sawai Madhopur	2148128
Rajasthan	Ajmer	1995699
Rajasthan	Pali	2343232
Rajasthan	Jodhpur	2132713
Rajasthan	Barmer	2206237
Rajasthan	Jalore	2297328
Rajasthan	Udaipur	2230971
Rajasthan	Banswara	2200438
Rajasthan	Chittorgarh	2170167
Rajasthan	Rajsamand	2060942
Rajasthan	Bhilwara	2147159
Rajasthan	Kota	2088023
Rajasthan	Jhalawar-Baran	2030525
Tripura	Tripura East	1396761
Uttar Pradesh	Meerut	2000530
Uttar Pradesh	Baghpat	1653146
Uttar Pradesh	Ghaziabad	2945487
Uttar Pradesh	Amroha	1716641
Uttar Pradesh	Gautam Buddha Nagar	2675148
Uttar Pradesh	Bulandshahr	1859462
Uttar Pradesh	Aligarh	1997234
Uttar Pradesh	Mathura	1929550
West Bengal	Darjeeling	1765744
West Bengal	Raiganj	1790245
West Bengal	Balurghat	1561966
Chhattisgarh	Mahasamund	1762477
Chhattisgarh	Rajnandgaon	1868021

Chhattisgarh	Kanker	1654440
Jammu and Kashmir	Jammu	1781545

** Number of Electors do not include count of Service Electors*

Annexure-A3

Phase-3: Parliamentary Constituency wise number of Electors		
State Name	PC Name	Electors *
Assam	Kokrajhar	1484571
Assam	Dhubri	2660827
Assam	Barpeta	1966847
Assam	Guwahati	2036846
Bihar	Jhanjharpur	2003040
Bihar	Supaul	1927207
Bihar	Araria	2018767
Bihar	Madhepura	2071166
Bihar	Khagaria	1840217
Chhattisgarh	Surguja	1819347
Chhattisgarh	Raigarh	1838547
Chhattisgarh	Janjgir-Champa	2056047
Chhattisgarh	Korba	1618864
Chhattisgarh	Bilaspur	2102687
Chhattisgarh	Durg	2090414
Chhattisgarh	Raipur	2375379
Dadra & Nagar Haveli and Daman & Diu	Daman & Diu	134189
Dadra & Nagar Haveli and Daman & Diu	Dadar & Nagar Haveli	283024
Goa	North Goa	580577
Goa	South Goa	598767
Gujarat	Kachchh	1943136
Gujarat	Banaskantha	1961924
Gujarat	Patan	2019916
Gujarat	Mahesana	1770617
Gujarat	Sabarkantha	1976349
Gujarat	Gandhinagar	2182736
Gujarat	Ahmedabad East	2038162
Gujarat	Ahmedabad West	1726987
Gujarat	Surendranagar	2033419
Gujarat	Rajkot	2112273
Gujarat	Porbandar	1768212
Gujarat	Jamnagar	1817864
Gujarat	Junagadh	1795110
Gujarat	Amreli	1732810
Gujarat	Bhavnagar	1916900

Gujarat	Anand	1780182
Gujarat	Kheda	2007404
Gujarat	Panchmahal	1896743
Gujarat	Dahod	1875136
Gujarat	Vadodara	1949573
Gujarat	Chhota Udaipur	1821708
Gujarat	Bharuch	1723353
Gujarat	Bardoli	2048408
Gujarat	Navsari	2223550
Gujarat	Valsad	1859974
Karnataka	Chikkodi	1761694
Karnataka	Belgaum	1923788
Karnataka	Bagalkot	1806183
Karnataka	Bijapur	1946090
Karnataka	Gulbarga	2098202
Karnataka	Raichur	2010103
Karnataka	Bidar	1892962
Karnataka	Koppal	1866397
Karnataka	Bellary	1884040
Karnataka	Haveri	1792774
Karnataka	Dharwad	1831975
Karnataka	Uttara Kannada	1641156
Karnataka	Davanagere	1709244
Karnataka	Shimoga	1752885
Madhya Pradesh	Morena	2006730
Madhya Pradesh	Bhind	1900654
Madhya Pradesh	Gwalior	2154601
Madhya Pradesh	Guna	1889551
Madhya Pradesh	Sagar	1745690
Madhya Pradesh	Vidisha	1945404
Madhya Pradesh	Bhopal	2339411
Madhya Pradesh	Rajgarh	1875211
Madhya Pradesh	Betul	1895331
Maharashtra	Raigad	1668372
Maharashtra	Baramati	2372668
Maharashtra	Osmanabad	1992737
Maharashtra	Latur	1977042
Maharashtra	Solapur	2030119
Maharashtra	Madha	1991454
Maharashtra	Sangli	1868174
Maharashtra	Satara	1889740
Maharashtra	Ratnagiri- Sindhudurg	1451630
Maharashtra	Kolhapur	1936403
Maharashtra	Hatkanangale	1814277
Uttar Pradesh	Sambhal	1898202
Uttar Pradesh	Hathras	1938080

Uttar Pradesh	Agra	2072685
Uttar Pradesh	Fatehpur Sikri	1798823
Uttar Pradesh	Firozabad	1890772
Uttar Pradesh	Mainpuri	1790797
Uttar Pradesh	Etah	1700524
Uttar Pradesh	Badaun	2008758
Uttar Pradesh	Aonla	1891713
Uttar Pradesh	Bareilly	1924434
West Bengal	Maldaha Uttar	1862035
West Bengal	Maldaha Dakshin	1782159
West Bengal	Jangipur	1805360
West Bengal	Murshidabad	1888097

* Number of Electors do not include count of Service Electors

Anuj Chandak

Joint Director

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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. ECI/PN/61/2024

26.04.2024

Press Note

Peaceful polling across 13 States/UTs in phase 2 of General Elections

Voter Turnout 60.96% as of 7PM

Webcasting was in over 1 lakh Polling Stations

Polling is now complete in 14 States/UTs

102 villages in Bastar division witness polling in Lok Sabha election for first time

Polling in the second phase of General Elections 2024 which commenced at 7 AM today simultaneously across 88 PCs recorded an approximate voter turnout of 60.96% as of 7 PM. Voters from across 13 States/UTs participated enthusiastically to cast their vote at their polling station braving the hot weather conditions. From newlyweds to senior citizens, tribals to IT professionals, PwDs, women and youngsters, all were seen in queues waiting to cast their vote. With the conclusion of phase-2, voting has been completed in 14 States/UTs for General Elections 2024.





The polling was held smoothly and peacefully in all States/UTs. The Commission led by CEC Shri Rajiv Kumar along with ECs Shri Gyanesh Kumar and Shri Sukhbir Singh Sandhu constantly monitored the polling process since morning. Stringent security measures were implemented to maintain law and order, creating a conducive environment for voters to cast their vote without fear or intimidation. Webcasting was done in over 1 lakh Polling Stations.



Security personnel Patrolling on horses in Katihar, Bihar

Polling time was extended till 6 PM in many polling stations in Banka, Madhepura, Khagaria and Munger constituencies in Bihar to facilitate voters in hot weather conditions. Special arrangements were made to combat the heat including provision of shamiyana, drinking water, medical kits, fans for convenience of voters.

Polling officials and voters alike came in their traditional attire to celebrate the “Chunav ka Parv”. In Rajasthan, women voters came in their traditional attire braving the heat. In Varuna constituency in Karnataka, Polling staff dressed in traditional attire welcomed the voters.



In phase 2, voters from 46 villages in Bastar and Kanker PCs in Chhattisgarh cast their vote in a polling booth set up in their own village for the first time in a Lok Sabha Election. Thus, including phase 1, overall, 102 new polling stations were set for the first time in these PCs for convenience of villagers.



Newly set up PS in Bastar and Kanker

The Commission had made special efforts to facilitate voting amongst the Particularly Vulnerable Tribal Group (PVTGs), elderly, young and first-time voters, women, and transgenders.



Voters of the Kamar PVTG from Kulhadi Ghat village in Mahasamund PC



PwD voter Vijay Sahu on his motorised tricycle voting in Khajuraho Lok Sabha constituency

Cricketing superstars Anil Kumble, Rahul Dravid and Javagal Srinath among others were seen voting at different Polling Stations in Bangalore. Striking a pose with their inked fingers, they carried the message of importance of participation in the electoral process to the youth.





Voters from Raima Valley, a remote area of Dhalai Assembly segment in Tripura came to polling stations through boats to cast their vote.



94-year-old senior citizen and retired Air Marshal Shri PV Iyer voted within the first hour of the start of polls in Bangalore. Demonstrating an admirable zest for democracy, he appealed to young voters to come out and vote

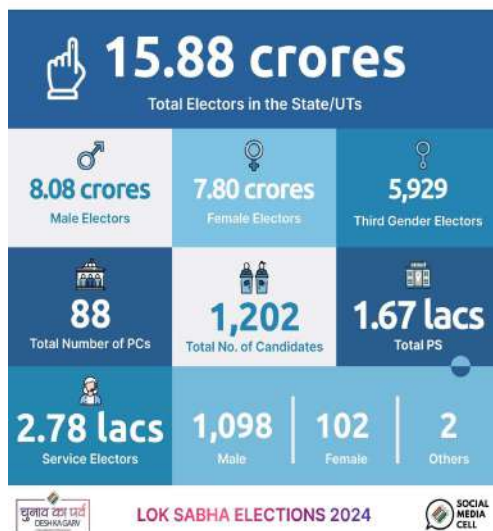


Mr. Dhaniram Noria, a farmer of village Chhitapar under Tendukheda assembly, first voted, then went to his farming work



Voters were assisted to cross the Kadana Backwater voters to reach the Badgama polling station Badgama Chikhli Dungarpur Rajasthan.

Fact at a Glance for State/UTs : 2nd Phase



Anuj Chandak

Anuj Chandak
Joint Director

P. Kumar

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**S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS****Writ Petition(s)(Civil) No(s). 330/2024****AGNOSTOS THEOS****Petitioner(s)****VERSUS****ELECTION COMMISSION OF INDIA & ORS.****Respondent(s)****(FOR ADMISSION)****Date : 17-05-2024 This petition was called on for hearing today.****CORAM :****HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE DIPANKAR DATTA****For Petitioner(s)****Mr. Anuj Saxena, Adv.
Mr. Anuj Ruhela, Adv.
Mr. Shubham Sagar, Adv.
Mr. Mehek Maheshwari, Adv.
Mr. Abhishek Mishra, Adv.
Mr. Prince Gupta, Adv.
Mr. Durgesh Ramchandra Gupta, AOR****For Respondent(s)****UPON hearing the counsel, the Court made the following
O R D E R****There is no merit in the present writ petition and hence, the
same is dismissed.****Pending application(s), if any, shall stand disposed of.****(BABITA PANDEY)
COURT MASTER (SH)****(R.S. NARAYANAN)
ASSISTANT REGISTRAR****//TRUE COPY//**

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'Polling Officer Doesn't Know Who Has Voted For Whom': Supreme Court Dismisses Plea Raising Doubts About Secrecy In Voting Process

Debby Jain

[\(/debby-jain\)](#)

17 May 2024 8:20 PM

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The Supreme Court today dismissed a petition filed against the Election Commission, Union of India and others, raising doubts about secrecy in the voting process.

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A bench of **Justices Sanjiv Khanna and Dipankar Datta**, passed the order, saying that the Court has already dealt with the issue [refer: EVM-VVPAT judgment (<https://www.livelaw.in/top-stories/-supreme-court-rejects-pleas-seeking-100-evm-vvpat-cross-verification-issues-directions-to-seal-symbol-loading-unit-256174>)] and there was no merit in the petition.

During the hearing, **Advocate Anuj Saxena** (for petitioner) was heard submitting, *"when a voter enters polling station, the first polling officer takes the identity slip from the voter and puts it in a sequential order. Voter then approaches second polling officer, who after marking his left index finger with ink, generates a second voter slip and also registers the details of the voter in Register 17A (also in sequential manner). Thereafter, the voter approaches the third polling officer, who activates the EVM and voter casts his vote."*

Also Read - To Punish A Person For Casteist Insults Under SC/ ST Act, Comments Have To Be Made Within Public View: Supreme Court (/top-stories/to-punish-a-person-for-casteist-insults-under-sc-st-act-comments-have-to-be-made-within-public-view-supreme-court-258423?utm_source=internal-artice&utm_medium=also-read)

He claimed that the petitioner's concern related to the micro-controllers data chips inside EVMs.

Hearing the counsel, Justice Khanna remarked, *"Vote is cast in a chamber where nobody can see"*. The judge was supplemented by Justice Datta, who questioned the counsel, *"Where is the question of a polling officer being able to identify that this VVPAT slip belongs to voter A and this belongs to voter B?"*

Also Read - Electricity Act | SEZ Developer Not Ipso Facto A 'Deemed Distribution Licensee', Must Apply For Recognition And Be Scrutinized : Supreme Court (/top-stories/supreme-court-ruling-deemed-distribution-licensee-electricity-act-sez-additional-capital-condition-258421?utm_source=internal-artice&utm_medium=also-read)

Referring to the abovementioned judgement in ADR v. ECI, Justice Khanna said to Saxena: *"You have not read our judgment. The polling officer in the booth is only able to ascertain as to what is the total number of votes cast. He does not know who has voted for whom. After the result button is pressed, when the counting*

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takes place, then the details come out. Not with regard to the breakup of the votes cast. And the parties in whose favor the vote's cast vis-a-vis the button number come up".

Also Read - Belonged To RSS From Childhood To Youth, Ready To Go Back: Justice Chitta Ranjan Dash Bids Farewell To Calcutta High Court (/high-court/calcutta-high-court/i-belonged-to-the-rss-from-childhood-to-youth-ready-to-go-back-justice-chitta-ranjan-dash-bids-farewell-to-calcutta-high-court-258410?utm_source=internal-artice&utm_medium=also-read)

"Without reading the entire judgment and the whole process, you have come", the judge commented before passing the order.

The petition was moved through **Advocate on Record Durgesh Ramchandra Gupta.**

Case Title: Agnostos Theos v. Election Commission of India and Ors., W.P.(C) No. 330/2024

Tags

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P. Kumar

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Allahabad High Court, Lucknow Bench

Court No. - 3

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 17 of 2022

Petitioner :- Atul Kumar And Another

Respondent :- Election Commission Of Bharat Thru. C.E.C. And Another

Counsel for Petitioner :- Rama Kant Dixit, Asok Pande, Shradha Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Narendra Kumar Johari, J.

In the pre-lunch session today, after hearing the parties' counsel we had passed the following order:

“Heard Sri Ashok Pandey and Ms. Shradha Tripathi, learned counsel for the petitioner and Sri O.P. Srivastava, learned Senior Counsel, assisted by Sri Kaushalendra Yadav and Ms. Anupriya Srivastava for the Election Commission of India and Sri Abhinav N. Trivedi, learned counsel for the State through virtual mode.

For the reasons to be recorded, we decline to entertain the writ petition at the instance of the petitioners and the same is accordingly dismissed.”

We now proceed to record the reasons as under:

The present writ petition has questioned the legality of election schedule notified by the Election Commission of India on 8.1.2022 insofar as it relates to the holding of general elections of U.P. State Assembly. The notification is annexed as Annexure-1 to the writ petition.

Sri O.P. Srivastava, learned Senior Counsel assisted by Sri Kaushalendra Yadav and Ms Anupriya Srivastava, learned counsel for the Election Commission of India and Sri Abhinav N. Trivedi, learned counsel for the State, have argued that the present writ petition filed by the petitioners is not maintainable; firstly for the reason that the petitioners in paragraph-3 of the writ petition are espousing a personal interest which they claim to have in the ongoing process of

election and; secondly Article 329 of the Constitution of India bars the justiciability of any such cause relating to the election of a house of State Legislature under writ jurisdiction.

Sri Ashok Pandey, assisted by Ms Shraddha Tripathi, learned counsel for the petitioner in reply to the preliminary objections raised by the learned counsel for opposite parties, is unable to justify as to how a person who is espousing his personal cause can maintain a writ petition in public interest. He, however, laid emphasis that a person having an interwoven cause inclusive of personal interest in the important matters cannot be prevented to approach this Court in public interest for adjudication on questions of public importance, no matter his own interest constitutes a part thereof.

Public Interest Litigation in our humble opinion must remain away from any personal interest and to this extent the objection raised by learned counsel for opposite parties has force.

More relevant is the objection that is raised on the touchstone of Article 329 of the Constitution of India which for ready reference is reproduced hereunder:

"329. Bar to interference by courts in electoral matters:- Notwithstanding anything in this Constitution -

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 327 or Article 328, shall not be called in question in any court;

(b) No election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature."

The rider operating upon the exercise of jurisdiction under Article 226 of the Constitution of India in relation to the matters of election to a State Legislative Assembly has invited the attention of this Court ever since the case of **Ponnuswami (N.P. Ponnuswami v. Returning officer, Namakkal Constituency and others** reported in **1952 AIR 64**). In a catena of judgements rendered by the apex court, it has succinctly been held that justiciability of a cause relating to election pertaining to State Legislative Assembly is permissible only through an election petition.

In the present case, it is not in dispute that a notification under Section 15 of the Representation of the People Act, 1951 has already come to be issued on 8.1.2022 and it is equally not in dispute that the prayer made in the writ petition affects the election process which has already commenced with the issuance of impugned notification.

Public Interest Litigation is not an exception to Article 329 of the Constitution of India, thus, the objection raised on behalf of the opposite parties deserves to be sustained and we also do not find any fruitful purpose to be served in embarking upon merit of the case once the very cause agitated in the writ petition is not justiciable.

Besides the above, we are unable to estimate the magnitude of affected parties as a result of relief sought in the present writ petition which undoubtedly suffers from non-joinder of the necessary parties.

For the reasons recorded above, the writ petition has thus been dismissed.

Order Date :- 20.1.2022

Fahim/-



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2016 SCC OnLine Mad 6867 : (2016) 2 CWC 13

In the High Court of Madras

(BEFORE K. KALYANASUNDARAM AND D. KRISHNAKUMAR, JJ.)

W.P. No. 18159 of 2016

Satta Panchayat Iyakkam (SPI), Represented by its General Secretary, Senthil Arumugam, No. 31, South West Boag Road, T. Nagar, Chennai-600 017 Petitioner

v.

1. The Chief Election Commissioner, Election Commission of India, Nirvachan Sadan, New Delhi - 110 001.
2. The Chief Electoral Officer, Election Commission of India, Secretariat, Chennai-600 009. Tamil Nadu Respondents
For Petitioner: Mr. M. Senthil Arumugam (Party-in-Person)
For Respondents: Mr. Niranjana Rajagopalan for M/s. G.R. Associates for R1 and R2

And

W.P. No. 18196 of 2016

Dalit Pandiyan Petitioner

v.

1. The Chief Election Commissioner, Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi - 110 001.
2. The Chief Electoral Officer, State of Tamil Nadu, Secretariat, Chennai-600 009 Respondents
For Petitioner: Mr. P. Ravi Shankar Rao
For Respondents: Mr. Niranjana Rajagopalan for M/s. G.R. Associates for R1 and R2

W.P. No. 18159 of 2016

And

W.P. No. 18196 of 2016

&

W.M.P. No. 15940 of 2016

Decided on May 18, 2016

Prayer: Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the first respondent to dispose of the representation dated 15.05.2016 expeditiously and pass such other further orders or directions as this Hon'ble court may deem fit and proper in the circumstances of the case.

Prayer: Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to postpone the counting of votes on 19.05.2016, and to count the votes any date after 23.05.2016 in the General Election held in State of Tamil Nadu for the Legislative Assembly on 16.05.2016 to any other date after 23.05.2016.

COMMON ORDER

K. KALYANASUNDARAM, J.

D. KRISHNAKUMAR, J.:— The Writ Petition in W.P. No. 18159 of 2016 has been filed seeking for issuance of a Writ of Mandamus, directing the first respondent to dispose of the representation of the petitioner dated 15.05.2016.

1.2. According to the Writ Petitioner/party-in-person, the General Election to the Tamil Nadu State Legislative Assembly was notified by the Governor of Tamil Nadu on 22.04.2016 and on the same day Election Commission issued a notification, fixing 16th May 2016 as the date on which polling shall be taken in all 234 Constituencies in Tamil Nadu; that the Election Commission tried their best to stop corrupt practice during the Election period in Tamil Nadu and in spite of best efforts by the Election Commission, the voters were bribed almost in all Constituencies; that on complaint, the Election Commission had conducted surprise raids in various Districts and found huge corrupt practices in Karur and Tanjore Districts and decided to postpone the Elections in Aravankurichi Constituency and Tanjore Constituency on 23.05.2016 and decided to announce the results for these Constituencies on 25.05.2016.

1.3. The grievance of the petitioner is that as per the Election Commission's notification, the Election results for 232 Constituencies would be announced on 19.05.2016 and the results of the two Constituencies in which, the Elections were postponed will be announced on 25.05.2016. After announcement of Election results for 232 Constituencies on 19th May 2016, the people would know which political party is going to come to power and it will influence the voters in two Constituencies viz., Aravankurichi and Tanjore and there will not be free and fair Election and to ensure free and fair Election in the two Constituencies, the results for all 232 Constituencies should be announced on the same day. Aggrieved by the notification of the Election Commission dated 14.05.2016 to postpone the Elections in two Assembly Constituencies, the petitioner preferred a representation dated 15.05.2016. It is further alleged that considering the reasons for postponement of Elections, the recognition of political parties involved in corrupt practice have to be cancelled. Aggrieved over the non-consideration of the representation, the petitioner has filed the Writ Petition.

2. The petitioner in W.P. No. 18196 of 2016 has prayed for postponement of counting of votes on 19.05.2016 and to count the votes on the day after 23.05.2016 for the General Election held in State of Tamil Nadu for the Legislative Assembly on 16.05.2016 or to any other date after 23.05.2016. According to the petitioner, originally the respondents fixed 16.05.2016 as date of polling for the Legislative Assembly and 19.05.2016 to count the votes. However, on 14.05.2016, the first respondent postponed the Elections of Aravankurichi and Tanjore Constituencies, fixing the date of polling as 23.05.2016 and date of counting as 25.05.2016, and if the votes polled on 16.05.2016 are counted on 19.05.2016, it will have an adverse impact in the minds of the general public, who will cast their votes on 23.05.2016. Hence, the petitioner sent a representation dated 16.05.2016 by Fax and by E-mail on 17.05.2016. Since the request was not considered, the present Writ Petition has been filed.

3. Mr. Senthil Arumugam/party-in-person in W.P. No. 18159 of 2016 would submit that in view of the corrupt practice happened in the State of Tamil Nadu, during the Assembly Elections in May 2016, the Election Commission found that a sum of Rs. 4.77 Crores seized by the Income Tax Authorities from the house of one Sri. Anbunathan on 22.04.2016 and also seized materials and documents for purchase of articles worth Rs. 1.30 Crore. Further, the Income Tax Department conducted search in the house of K.C. Palanisamy on 10.05.2016, who is a candidate of Dravida Munnetra Kazhagam in Aravankurichi Assembly Constituency and seized Rs. 1.98 Crore, while postponing the Elections to the two Constituencies, decided to count the votes and announce the results on 19.05.2016 for the remaining 232 Constituencies. The decision of the Election Commission is not proper, while postponing the counting in the States of Assam and West Bengal on the premise that the declaration of the results in the States of Assam and West Bengal, though the Elections were over on

11.04.2016 and 05.05.2016, the announcement of the result would affect Elections in the State of Tamil Nadu, Kerala and Puducherry, the same logic has to be followed in the case of postponement of Election to two Constituencies in Tamil Nadu.

4. The petitioner would further contend that after conducting Election in Aravankurichi and Tanjore, the results have to be published, otherwise, it will not ensure free and fair Election in those Constituencies. The petitioner also refers Section 123 of the Representation of People Act, 1951.

5. Mr. P. Ravi Shankar Rao, learned counsel for the petitioner in W.P. No. 18196 of 2016 would submit that in case of tie between the political parties after declaring the result on 19.05.2016, the voters in Aravankurichi and Tanjore Constituencies will not have a free and fair Election and they will be influenced by the political parties. The learned counsel adopted the submissions made by the parties in the other Writ Petition.

6. Mr. Niranjana Rajagopalan, learned counsel for the Election Commission would submit that the Election Commission issued a notification dated 04.03.2016 to conduct Election in the State of Tamil Nadu, and as per the schedule, 21st May 2016 is last date for completion of the Election process, since the term of the present Legislative Assembly would expire on 22.05.2016. The Election process started from the date of issuance of notification and would be in force till the declaration of the results, as per Article 329(b) of the Constitution of India. In view of the bar under Article 329(b) of the Constitution of India, the Writ Petitions are not maintainable and the Election can be challenged only by filing an Election Petition as per Section 100 of the Representation of the People Act, 1951, after declaration of the Election result. It is further submitted that it is the wisdom of the Election Commission to conduct or postpone the Election and the petitioners without any material have come up before this Court making allegations on assumptions and presumptions. It is further submitted that as per Section 73 of the Representation of the People Act, 1951, the Election Commission can count the votes and declare the result barring two Constituencies as per subsequent notification and the Writ Petitions filed under Article 226 of the Constitution of India is not maintainable and prayed for dismissal of the Writ Petitions.

7. At this juncture, it would be useful to refer the relevant provisions of law, the decisions rendered by the Hon'ble Supreme Court to ascertain the scope of Judicial Review in this matter.

(i) Article 329(b) of the Constitution of India, reads as follows:-

"329. Bar to interference by courts in electoral matters:—

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature."

(ii) Sections 15, 73 and 100 of the Representation of Peoples Act, reads as follows:-

"15. Notification for general election to a State Legislative Assembly.—

(1) A general election shall be held for the purpose of constituting a new Legislative Assembly on the expiration of the duration of the existing Assembly or on its dissolution.

(2) For the said purpose, the Governor or Administrator, as the case may be shall by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon all Assembly constituencies in the State to elect members in accordance with the provisions of this Act and of the rules and

orders made thereunder:

Provided that where a general election is held otherwise than on the dissolution of the existing Legislative Assembly, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of that Assembly would expire under the provisions of clause (1), of article 172 or under the provisions of section 5 of the Government of Union Territories Act, 1963 (20 of 1963), as the case may be.

73. Publication of results of general elections to the House of the People and the State Legislative Assemblies.—

Where a general election is held for the purpose of constituting a new House of the People or a new State Legislative Assembly, there shall be notified by the Election Commission in the Official Gazette, as soon as may be after the results of the elections in all the constituencies (other than those in which the poll could not be taken for any reason on the date originally fixed under clause (d) of section 30 or for which the time for completion of the election has been extended under the provisions of section 153) have been declared by the returning officer under the provisions of section 53 or, as the case may be, section 66, the names of the members elected for those constituencies] and upon the issue of such notification that House or Assembly shall be deemed to be duly constituted: Provided that the issue of such notification shall not be deemed—

(a) to preclude—

- (i) the taking of the poll and the completion of the election in any Parliamentary or Assembly constituency or constituencies in which the poll could not be taken for any reason on the date originally fixed under clause (d) of section 30; or*
- (ii) the completion of the election in any Parliamentary or Assembly constituency or constituencies for which time has been extended under the provisions of section 153; or]*

(b) to affect the duration of the House of the People or the State Legislative Assembly, if any, functioning immediately before the issue of the said notification.

100. Grounds for declaring election to be void.—*(1) Subject to the provisions of sub-section (2) if the High Court is of opinion—*

- (a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act or the Government of Union Territories Act, 1963 (20 of 1963); or*
- (b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or*
- (c) that any nomination has been improperly rejected; or*
- (d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—*
 - (i) by the improper acceptance or any nomination, or*
 - (ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent, or*
 - (iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or*
 - (iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act, the High Court shall declare the election of the returned candidate to be void.*

(2) *If in the opinion of the High Court, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice but the High Court is satisfied—*

(a) *that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent], of the candidate or his election agent;*

* * * * *

(c) *that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and*

(d) *that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents, then the High Court may decide that the election of the returned candidate is not void."*

8(a). The Hon'ble Supreme Court in *N.P. Ponnuswamy v. The Returning Officer, Namakkal Constituency* ((1952) 1 SCC 94 : AIR 1952 SC 64), in paragraph 26 observed as follows:-

"26. And now a word as to why negative language was used in Article 329(b). It seems to me that there is an important difference between Article 71(1) and Article 329(b). Article 71(1) had to be in an affirmative form, because it confers special jurisdiction on the Supreme Court which that Court could not have exercised but for this article. Article 329(b), on the other hand, was primarily intended to exclude or oust the jurisdiction of all courts in regard to electoral matters and to lay down the only mode in which an election could be challenged. The negative form was therefore more appropriate, and, that being so, it is not surprising that it was decided to follow the preexisting pattern in which also the negative language had been adopted."

8(b). In the case of *Mohinder Singh Gill v. The Chief Election Commissioner, New Delhi* [AIR 1978 SC 851], it is observed that Article 329(b) is a blanket ban on litigative challenge to electoral steps taken by the Election Commission for carrying forward the process of Election to its culmination in the formal declaration of the result. The compendious expression "Election" commences from the initial notification and culminates in the declaration of the return of a candidate and *in paragraphs 29, 31 & 32*, it is observed as follows:-

"29. Thus, there are two types of decisions, two types of challenges. The first relates to proceedings which interfere with the progress of the election. The second accelerates the completion of the election and acts in furtherance of an election. So, the short question before us, in the light of the illumination derived from Ponnuswami, is as to whether the order for re-poll of the Chief Election Commissioner is 'anything done towards the completion of the election proceeding' and whether the proceedings before the High Court facilitated the election process or halted its progress. The question immediately arises as to whether the relief sought in, the writ petition by the present appellant amounted to calling in question the election. This, in turn, revolves round the point as to whether the cancellation of the poll and the reordering of fresh poll is 'part of election' and challenging it is 'calling it in question."

30.

31. If 'election' bears the larger connotation, if 'calling in question' possesses a semantic sweep in plain English, if policy and principle are tools for interpretation of statutes, language permitting the conclusion is irresistible' even though the argument contra may have emotional impact and ingenious appeal, that the catch-all jurisdiction under Art. 226 cannot consider the correctness, legality or otherwise of the direction for cancellation integrated with re-poll. For, the prima facie purpose

of such a re-poll was to restore a detailed Poll process and to, complete it through the salvatory effort of a repoll. Whether in fact or law, the order is validly made within his powers or violative of natural justice can be examined later by the appointed instrumentality, viz., the Election Tribunal. That aspect will be explained presently. We proceed on the footing that re-poll in one polling station or it many polling stations for good reasons, is lawful. This shows that re-poll in many or all segments, all-pervasive or isolated, can be lawful. We are not considering whether the act was bad for other reasons. We are concerned only to say that if the regular poll, for some reasons, has failed to reach the goal of choosing by plurality the returned candidate and to achieve this object a fresh poll (not a new election) is needed, it may still be a step in the election.- The deliverance of Dunkirk is part of the strategy of counter-attack. Wise or valid, is another matter.

32. On the assumption, but leaving the question of the validity of the direction for re-poll soon for determination by the Election Tribunal, we hold that a writ petition challenging the cancellation coupled with re-poll amounts to calling in question a step in 'election! and is there, fore barred by Art. 329(b). If no re-poll had been directed the legal perspective would have been very different. The mere cancellation would have then thwarted the course of the election and different considerations would have come into play. We need not chase a hypothetical case."

8(c). The Hon'ble Supreme Court in *Election Commission of India v. Ashok Kumar* ((2000) 8 SCC 216), in paragraph 32 observed as follows:-

"32. For convenience sake we would now generally sum up our conclusions by partly restating what the two Constitution Benches have already said and then adding by clarifying what follows therefrom in view of the analysis made by us hereinabove:-

- 1) If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections.*
- 2) Any decision sought and rendered will not amount to calling in question an election if it subserves the progress of the election and facilitates the completion of the election. Anything done towards completing or in furtherance of the election proceedings cannot be described as questioning the election.*
- 3) Subject to the above, the action taken or orders issued by Election Commission are open to judicial review on the well-settled parameters which enable judicial review of decisions of statutory bodies such as on a case of mala fide or arbitrary exercise of power being made out or the statutory body being shown to have acted in breach of law.*
- 4) Without interrupting, obstructing or delaying the progress of the election proceedings, judicial intervention is available if assistance of the Court has been sought for merely to correct or smoothen the progress of the election proceedings, to remove the obstacles therein, or to preserve a vital piece of evidence if the same would be lost or destroyed or rendered irretrievable by the time the results are declared and stage is set for invoking the jurisdiction of the Court.*
- 5) The Court must be very circumspect and act with caution while entertaining any election dispute though not hit by the bar of Article 329(b) but brought to it during the pendency of election proceedings. The Court must guard against*

any attempt at retarding, interrupting, protracting or stalling of the election proceedings. Care has to be taken to see that there is no attempt to utilise the courts indulgence by filing a petition outwardly innocuous but essentially a subterfuge or pretext for achieving an ulterior or hidden end. Needless to say that in the very nature of the things the Court would act with reluctance and shall not act except on a clear and strong case for its intervention having been made out by raising the pleas with particulars and precision and supporting the same by necessary material”.

9. The principles laid down by the Hon'ble Supreme Court, have been followed by the Division Bench of this Court in *Jayaraj v. The Chief Electoral Officer of Tamil Nadu* in W.P. No. 17608 of 2016 dated 06.05.2016 and *P. Dhamayanthi v. The Election Commission of India, New Delhi* in W.P. No. 13665 of 2014, dated 14.05.2014.

10. The main question arises for consideration is whether the Writ Petitions filed under the guise of Public Interest Litigation are maintainable in view of the bar in Article 329(b) of the Constitution of India, before culmination of the Election process. Article 329 of the Constitution of India takes away the jurisdiction of the Courts in certain matters relating to Election, which are governed by Part XV of the Constitution. Clause (b) of Article 329 excludes the jurisdiction of the Courts to entertain any matter relating to Election. The question as to whether the word “Election” in Article 329(b) of the Constitution would embrace the whole procedure of Election or whether it is not confined to the final result, came up for consideration before the Constitutional Bench of the Hon'ble Supreme Court in *N.P. Ponnuswami's case*. In the said case, the Hon'ble Supreme Court has interpreted Article 329(b) of the Constitution of India and held that the word “Election” in the said provision would include the entire process of Election commencing with the issue of notification and terminating with the declaration of election of a candidate and that a petition under Article 226 of the Constitution of India challenging the validity of any of the facts forming any part of that process would be barred.

11. Further, as rightly pointed out by the learned counsel for the Election Commission, the petitioners have not challenged the Election notification and according to the learned counsel, if there is any complaint, the grievance can be looked into only by the Election Commission and the aggrieved party, has to file only Election Petition after completion of the Election process and the same shall not be challenged by way of Writ Petition. Further, the Election Commission has got power to take a decision to postpone the Election according to the ground reality and it cannot be questioned before the Court, at this stage under Article 226 of the Constitution of India.

12. It is also brought to the attention of this Court that under Section 15 of the Representation of People Act, 1951, it is a mandate for the Election Commissioner to complete and declare the Election result before expiry of the existing Assembly or on its dissolution. It is also not in dispute that the term of the present Assembly would come to an end on 22.05.2016. The main allegation of the petitioners is that the political parties have involved in corrupt practice by distributing money to the voters and the Election Commission having found truth in the allegations has postponed the Elections to the remaining Constituencies viz., Aravankurichi and Tanjore. While so, if the counting takes place on 19.05.2016 and results are declared, it will have influence on the voters in the two Constituencies. As rightly pointed out by the learned counsel for the Election Commission, there is no bar for declaration of the results while the Elections are postponed in two Constituencies and the above Writ Petitions have been filed only on assumptions, presumptions and surmises, as the Writ Petitioners have not placed any material before this Court in support of their contentions.

13. In the light of the categorical pronouncement of the decisions cited supra and

our findings interpreting Article 329(b) of the Constitution of India, the prayer sought for in both the Writ Petitions cannot be entertained. Accordingly, these Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

— — —

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P. Kumar

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**1994 SCC OnLine AP 272 : (1995) 1 AP LJ 1 : (1994) 3 ALT 653
(DB)**

In the High Court of Andhra Pradesh at Hyderabad

(BEFORE S.S. AHMAD, C.J. AND P. VENKATARAMA REDDI, J.)

Between

The Chief Election Commissioner Election
Commission of India New Delhi ... Appellant;

Versus

Dr. Alladi P. Raj Kumar Rajya Sabha Member,
Himayatnagar, Hyderabad & others ...
Respondents.

W.A. No. 1473 of 1994

Decided on December 4, 1994


Letters Patent, Clause 15 — Constitution of India, Article 329 — Maintainability of Writ Appeal pending writ petition — Though no specific directions which will have immediate effect on control and superintendence of Election Process have been given, as the learned single Judge with a view to review and scrutinize the decision of the Election Commission set down the case for further hearing the observations made or the views expressed by the learned single Judge would undoubtedly have far reaching repercussions — The order passed by the learned single Judge is a "Judgment" within the meaning of Clause 15 of Letters Patent — Consequently the Writ Appeal is maintainable.

Held :

It is true that the writ petition is still pending and it has not been disposed of finally. It is also true that it is only against a 'Judgment' that an appeal under Clause 15 of the Letters Patent can be filed. But, the views expressed by the learned single Judge regarding the maintainability of the Writ Petition and the amenability of the Election Commission to the supervisory jurisdiction under Article 226 of the Constitution of India are such that could be regarded as a 'Judgment' within the meaning of clause 15 of the Letters Patent.

(Para 17)

It is a judgment because the learned Judge has stretched his jurisdiction to a subject-matter which, if the contention of the appellant is to be accepted, falls beyond the scope of the supervisory jurisdiction of the High Court under Art. 226 of the Constitution of India. It may be that the learned Judge has not yet given any directions which have immediate impact on the control and superintendence of the election process by the Election Commission; nevertheless, the learned Judge did, with a view to review and

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scrutinize the decision of the Election Commission, set down the case for further hearing on the clear assumption that the High Court could exercise such jurisdiction notwithstanding Art. 329 of the Constitution. The observation made or the views expressed by the learned Judge would, undoubtedly have far-reaching repercussions vis-a-vis the functioning and parameters of the authority of the Election Commission of India. Therefore, the order passed by the learned single Judge is a 'Judgment' within the meaning of Clause 15 of the Letters Patent.

(Para 17)

Constitution of India, Articles 21, 226 and 329 (b) – In exercise of the powers under Article 226 read with Article 329 there is no scope to pass any orders even in respect of apprehended threat to personal liberty of the voters – In the guise of exposing the cause of unidentified persons it is not open to the petitioner to invite the intervention of High Court – Even a petition under Article 226 filed in public interest is not maintainable in view of the bar by Article 329 (b) – Writ Petition itself is not enteriainable – High Court cannot in law grant directions regarding method and manner of conducting elections or the postponement or countermanding of polls.

Held :

There is no scope at all to pass any orders either with a view to oversee; the functioning of the Election Commission, or to hold up the election process, because the election process has reached the advanced stage and even the electioneering campaign had almost come to a halt by the; date of passing of the order by the learned single Judge. The question as to what appropriate interim orders could be passed at this belated stage is somewhat academic here, inasmuch as the very maintainability of the writ petitions involved in the instant case.

(Para 24)

In the present case, it may be noticed that the relief sought for is to countermand and rescind the election to the Assembly Constituencies located in the four Districts. Thus, the intervention of the Court is sought for in respect of the very subject-matter which challenge by a specific constitutional provision enshrined in Article 329. The relief sought for squarely falls within the mischief of prohibition laid down in Article 329. as interpreted and expounded by various decisions of the Supreme Court.

(Para 25)

No doubt this Court acts as a sentinel que vive to protect and enforce the fundamental rights more so the right to life and liberty enshrined in Article-21, but in a case of this nature where the postponement or cancellation of poll is sought for on the ground of apprehended threat to personal liberty of the voters in general, this Court cannot do anything which has the effect of postponing or superseding the

election schedule. The question of the alleged infringement of personal liberty in the event of a poll being held is not something which can be divorced from the issue of holding the elections. It would have been a different matter if by an executive action the right of personal liberty of the voters has been interfered with and the individuals concerned make a complaint on that count. But, when the elections are sought to be conducted under the auspices of the Election Commission, the situation giving rise to pre-poll violence or apprehended violence preventing persons from exercising their franchise could be looked into by the Election Commission, and the provisions are not lacking in the Representation of the People Act to take care of such situations and to devise remedial measures. In the guise of espousing the cause on unidentified

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persons on the ground that their liberty might be at stake, it is not open to the petitioner to invite the intervention of this Court contrary to the constitutional scheme under which the Election Commission is vested with all necessary and incidental powers.

(Para 27)

Having regard to the view taken by this court that the writ petition itself is not entertainable and this Court cannot, in law, grant directions regarding the method and manner of conducting elections or the postponement or countermanding of the polls.

(Para 36)

Cases Referred :

1. *Shah Babulal Khimji v. Jayaben*, (1981) 4 SCC 8 : AIR 1981 SC 1786

(Para 18)

2. *Election Commission of India v. Shivaji*, (1988) 1 SCC 277 : AIR 1988 SC 61

(Para 20)

3. *Inderjit Barua v. Election Commission of India*, (1985) 1 SCC 21 : AIR 1984 SC 1911

(Para 21)

4. *Hassan Uzzaman v. Union of India*, (1982) 2 SCC 218

(Para 23)

5. *Election Commission of India v. State of Haryana*, 1984 Supp SCC 104 : AIR 1984 SC 1406

(Para 34)

Advocates who appeared in this case :

Writ Appeal under Clause 15 of the Letters Patent against the Order in W.P.No. 21121 of 1994. dt 2-12-1994 on the file of the High Court.

Mr. C.P. Sarathy & Mrs. C. Jayasree Sarathy counsel for Appellant.

Mr. S. Ramachandra Rao counsel for Respondent No.1

The Advocate General for Respondents 2, 3 &5

Mr. K. Pratap Reddy counsel for interveners Mr. M. Narasimha Reddy and Mr. M. Omkar.

The Order of the Court was delivered by

P. VENKATARAMA REDDI, J.:— This Writ Appeal is directed against the order passed by our learned Brother B. Subhashan Reddy J., in Writ Petition No. 21121 of 1994, dated 02-12-1994. That Writ Petition under Article 226 of the Constitution of India was filed by Dr. Alladi Raj Kumar, a Member of Parliament by way of public interest litigation. The relief sought for in the Writ Petition is as follows:

“To issue an appropriate writ....directing the respondents particularly the 1st respondent to forthwith countermand and rescind the elections to the Legislative Assembly constituencies located in the districts of Warangal, Karimnagar, Nizamabad and Adilabad and save the lives of citizens and enforce the right to life guaranteed under Article 21 of the Constitution to the electorate of the four Districts”

2. The Writ petition was filed on 30-11-1994. It may be noticed that the elections to the Assembly constituencies in the four districts referred to above are scheduled to be held tomorrow i.e. on 05-12-1994. The basis on which the Writ Petition was filed is that there has been widespread and large scale violence in the naxalite infested districts of Adilabad, Karimnagar, Nizamabad and Warangal and a call was given by the naxalites to boycott the polls. The recent incidents of some police personnel having been killed in Warangal district in a land mine blast, the death of nine 'naxalites' in the alleged encounters in Karimnagar district, the burning of a railway coach and a bank have been cited in the affidavit filed in support of the writ petition. It is also stated that due to fear of naxalites, some of the Sarpanchas belonging to the Congress (I) party have resigned from their offices. Reference has been made to certain newspaper reports regarding threats and violence in some of the areas. It is further averred that the life of the Municipal Administration Minister, Sri M. Narasimha


Reddy was in grave danger and he was not in a position to cover even 30% of his constituency for campaigning despite heavy security. It is stated that the same is the case with Sri M. Omkar—a Member of the Legislative Assembly. In short, it is stated that the orgy of violence is of such magnitude that free and fair election is not possible at this juncture in these districts without risking the lives of several innocent people. With regard to the role of the first respondent viz., the Chief Election Commissioner, it is stated in paragraph (8) as follows:

“The first respondent though very famous for his prompt action, is however in the present context in a helpless condition as he is not fed with the correct and accurate information about the law and order situation in the State especially in the naxalite dominated districts of Adilabad, Karimnagar, Nizamabad and Warangal districts.....”

3. By the time the Writ Petition was taken up for hearing on 02.12.1994, a counter-affidavit sworn to by the Inspector General of Police (Law & Order) has been filed on behalf of respondent Nos. 3 and 5 viz., the State Government and the Director General of Police. Inter alia, it is stated in the counter that the acts of violence by left wing extremist group have been going on in the State of Andhra Pradesh for the past 25 years and it is not a new phenomenon and even in the past, there had been several instances of land-mine blasts. It is further stated that the Peoples' War Group - a left wing extremist group, gave the call for poll boycott in the earlier elections also. It is then stated that the poll-related violence attributable to the activities of Peoples War Group are comparatively less in the present elections. It is asserted that the two recent incidents of land mine blasts did not in any way disrupt the life of common man. Then, a reference has been made to the precautionary and preparatory measures that are being taken to maintain law and order especially from the point of view of preventing the attacks and intimidatory tactics on the part of the extremist groups. It is also submitted that armed security officers have been provided to the candidates round the clock. It is stated that the Chief Election Commissioner has appointed 20 observers who are highly placed Government Officials to cover these four districts and all these observers have been provided with transport and adequate security. It is finally submitted that the law and order situation in these four districts is not as alarming as is depicted by the writ petitioner, but is conducive for conduct of peaceful elections in general. It is also stated that the elections are being conducted under the supervision and directions of the first respondent whose instructions are being given effect to scrupulously and the first respondent is being informed of the periodical developments in the State. Sri K. Pratap Reddy, senior

counsel, was permitted to intervene on behalf of Sri M. Narasimha Reddy and Sri M. Omkar regarding whom a reference has been made in the Writ Petition. The learned counsel supported the stand taken by the respondents in the writ Petition and he stated that his clients were not for the postponement of the polls and there was no insuperable hindrance for the conduct of free and fair elections notwithstanding the threats of some extremist groups.

4. On 30.11.1994 when the Writ Petition was first taken up for hearing, the learned Judge had called for a report from

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the Chief Election Commissioner. On 02.12.1994, Sri C.P. Sarathy, the learned counsel appearing for the Chief Election Commissioner, placed before the learned Judge a fax message sent by the Chief Election Commissioner. In that fax message, while taking an objection that the Writ Petition was barred by Article 329(b) of the Constitution of India and that the opinion or decision of the Election Commission in the matter of conduct of elections cannot be reviewed by the Court, the Chief Election Commissioner has stated as follows with regard to the factual position:—

“The Commission is keeping a close watch on the law and order situation and every related developments in the areas concerned. The Commission has obtained two detailed reports from the State Government through the Chief Electoral Officer, Andhra Pradesh. The copies of these reports may be obtained by you from the Chief Electoral Officer for your use. On the basis of the information received so far from the State Government and Chief Electoral Officer of Andhra Pradesh, the Commission is of the view that no postponement of polling in any of the Assembly Constituencies in the State of Andhra Pradesh is required at present. The Commission will however, continue to monitor the situation and take appropriate action at appropriate time.”

5. The reports submitted by the Chief Electoral Officer and Principal Secretary to Government on 29-11-1994 and the report of the Chief Secretary to the Government have been placed before the learned single Judge as well as before us.

6. On 02.12.1994 the learned Judge passed a detailed order, pending admission of the Writ Petition. In his order, the learned Judge, more than once, recognized and emphasized the fact that once the election process is on, the Election Commission is the sole and exclusive authority in the matter of conduct of elections and that “the


Court may not interdict or interfere in the functions of the Election Commission". In the penultimate para, the learned Judge observed thus:

"I am prima facie satisfied that there is a pre-poll violence in some areas. But what is the effect of the same on the elections is to be judged by the Election Commission. If the Election Commission becomes satisfied that on account of some circumstances that have supervened since the original date of polling was fixed, a fair poll cannot be taken, it is the duty of the Commission to fix fresh date for the poll."

7. Here again the learned Judge has not stated anything which impinges on the power and authority of the Election Commission.

8. However, on the basis of the following observations made in the judgment, the learned Judge felt it right and appropriate in exercise of the jurisdiction under Article 226 of the Constitution of India to monitor the prevailing situation and to issue appropriate directions in regard to the postponement of polls or otherwise in the light of the further report of the Election Commission. In paragraph (9) of the judgment it is stated thus:

"But, it is stretching too far to say that this Constitutional Court has got absolutely no say at this juncture only on the ground that the election process had begun and that impliedly under Article 324 and expressly under Article 329(b) of the Constitution, this court is precluded from considering the complaints made in this writ

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petition, that too touching on the aspect of democracy and right to life and liberty which is the deeply cherished fundamental right guaranteed under Article 21 of the Constitution of India."

9. In Paragraph (10) of the judgment it is observed thus:

"...Every citizen enlisted as a voter is entitled to cast his vote according to his choice. No fetters can be placed on the said right. If he is restrained from exercising his franchise either physically or by oppressive methods, the same will be a flagrant violation of the fundamental right enshrined under Article 21 of the Indian Constitution. It is the duty of the Election Commission to see that the said right of the electorate is not fettered, scuttled or frustrated in any manner..."

10. Having referred to some of the laudable steps taken by the Chief Election Commissioner to ensure free and fair election, the learned Judge observed as follows:

“...But, such steps for free, fair and smooth elections are not complete and the same will be effective only when the voter is permitted to exercise his franchise freely without any fetters or threats and as the same concerns the democratic process and the fundamental right under Article 21 of the Constitution, there is no constitutional restraint on this court to direct the Election Commission to take steps to avoid any action which will have the adverse effects on the right to vote by the electorate. The Chief Election Commissioner shall further review the situation at frequent intervals from today till the elections are over and take appropriate decision and before the conduct of elections on 5th December 1994, he shall finally review the situation and record a finding by the time I re-assemble on 4th December, 1994, as to whether the circumstances are conducive to conduct the election or not....”

11. At the close of the judgment, it was brought to the notice of the learned Judge that the Election Commission had further reviewed the law and order situation and the arrangements made for the conduct of poll in these districts on 02.12.1994 and came to the conclusion that free and fair poll was possible as per schedule in all the Assembly constituencies in those districts. It was further stated in the communication placed before the court that the Commission would continue to monitor the position. Adverting to this report, the learned Judge observed that in the light of further monitoring and reviewing of the law and order situation by the Election Commission, a decision has to-be taken by the Court. The learned Judge therefore, directed the Writ Petition to be posted for further hearing and orders on 04.12.1994 at 4.00 p.m.

12. It is against this order, the Chief Election Commissioner has filed the Writ Appeal after we granted the permission to the counsel for the appellant to move a special motion today.

13. We have heard Sri C.P. Sarathy, counsel for the appellant as also Sri S. Ramachandra Rao, counsel for respondent No. 1 (writ petitioner), the Advocate-General for Respondent Nos. 2, 3 and 5 and Sri Pratap Reddy, counsel for the interveners, on the merits of the appeal as on the expiry of two days, the writ petition as also the Writ Appeal, if not decided, will become infructuous.

14. It is the contention of the learned counsel appearing for the appellant-Chief


Court should not have entertained the Writ Petition under Article 276 of the Constitution of India and proceeded further in the matter, that the Writ Petition is not maintainable in view of the bar enacted by Article 329(b) of the Constitution of India, that there was no need to give any directions to the Chief Election Commissioner in view of the categorical statement of the Chief Election Commissioner that he has been regularly and constantly taking stock of the situation obtaining in the abovesaid four districts of Andhra Pradesh and that in any case the Court cannot sit in judgment over the decision or steps taken by the Chief Election Commissioner in this regard. It is further contended by the learned Advocate General and the learned Counsel for the interveners that the writ petitioner is not a voter in any of these four districts and no candidate or elector from those districts has made any complaint before this Court and that the public interest litigation shall not be allowed to be brought out by such person. It is pointed out that elections were peacefully held in almost all the constituencies of some other Telangana districts which are also afflicted with the problem of extremist menace.

15. In reply to these arguments the learned Counsel for the first respondent-writ petitioner conducted that the appeal itself is not maintainable under Clause 15 of the Letters Patent, that Article 329(b) does not come in the way of the writ petitioner inasmuch as he is seeking to enforce the fundamental right guaranteed under Article 21 of the Constitution of India and that having regard to the extraordinary situation prevailing in the extremist-dominated districts, it is eminently a fit case where this Court should step in and issue appropriate directions with regard to the postponement or cancellation of poll. The learned counsel submits that the writ petitioner being a member of Parliament and familiar with the conditions prevailing in the Telangana districts can file the writ petition by way of public interest litigation.

16. In the light of the above arguments, we shall first take up the question whether the appeal is maintainable.

17. It is true that the writ petition is still pending and it has not been disposed of finally. It is also true that it is only against a 'Judgment' that an appeal under Clause 15 of the Letters Patent can be filed. But, we are of the view that the views expressed by the learned single Judge regarding the maintainability of the Writ Petition and the amenability of the Election Commission to the supervisory jurisdiction under Article 226 of the Constitution of India are such that could be regarded as a 'Judgment' within the meaning of clause 15 of the Letters Patent. The various observations extracted above would make it fairly clear that the learned Judge was of the definite view that a constitutional Court exercising jurisdiction under Art. 226 of the

Constitution of India could legitimately subject to the actions and steps taken by the Election Commission with regard to the superintendence and conduct of polls to scrutiny and can issue appropriate directions on the subject matter of holding elections for constituting a new Legislative Assembly. The objection raised, which is in the nature of preliminary objection, on behalf of the appellant has been negated by the learned Judge in terms of the observations he made especially at paragraph (9) of the judgment.

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18. The scope and ambit of the expression “judgment” for the purpose of Clause 15 of the Letters Patent has been succinctly laid down by the Supreme Court in the leading case of *Shah Babulal Khimji v. Jayaben* (1) (1981) 4 SCC 8 : AIR 1981 SC 1786. The following observations at paragraph 113 dealing with preliminary judgment are quite apposite in this context:—

“A preliminary judgment—This kind of a judgment may take two forms—(a) Where the trial judge by an order dismisses the suit without going into the merits of the suit but only on a preliminary objection raised by the defendant or the party opposing on the ground that the suit is not maintainable. Here also, as the suit is finally decided one way or the other the order passed by the trial Judge would be a judgment finally deciding the cause so far as the trial Judge is concerned and therefore appealable to the larger Bench. (b) Another shape which a preliminary judgment may take is that where the trial judge passes an order after hearing the preliminary objections raised by the defendant relating to maintainability of the suit e.g., bar of jurisdiction, res judicata, a manifest defect in the suit, absence of notice under Section 80 and the like, and these objections are decided by the trial Judge against the defendant, the suit is not terminated but continues and has to be tried on merits but the order of the trial Judge rejecting the objections doubtless adversely affects a valuable right of the defendant who, if his objections are valid, is entitled to get the suit dismissed on preliminary grounds. Thus, such an order even though it keeps the suit alive undoubtedly decides an important aspect of the trial which affects a vital right of the defendant and must, therefore, be construed to be a judgment so as to be appealable to a larger Bench.”

19. Applying the above test enunciated by the Supreme Court, it

cannot be doubted that the order under appeal is a judgment. It is a judgment because the learned Judge has stretched his jurisdiction to a subject-matter which, if the contention of the appellant is to be accepted, falls beyond the scope of the supervisory jurisdiction of the High Court under Art. 226 of the Constitution of India. It may be that the learned Judge has not yet given any directions which have immediate impact on the control and superintendence of the election process by the Election Commission; nevertheless, the learned Judge did, with a view to review and scrutinize the decision of the Election Commission, set down the case for further hearing on the clear assumption that the High Court could exercise such jurisdiction notwithstanding Art. 329 of the Constitution. The observation made or the views expressed by the learned Judge would, undoubtedly have far-reaching repercussions vis-a-vis the functioning and parameters of the authority of the Election Commission of India. We are, therefore, of the view that the order passed by the learned single Judge is a 'Judgment' within the meaning of Clause 15 of the Letters Patent.

20. The next aspect which is of foremost importance is whether the view expressed by the learned single Judge regarding the powers of High Court under Article 226 to entertain the writ petition and to issue appropriate directions to the Election Commission in the situation pointed out by the learned Judge, is tenable in law. Article 329(b) lays down an embargo against

impugning an election to the House of Parliament or to the House of Legislature of a State except by way of an Election Petition, as provided for by law. It is settled law that the word 'Election' occurring in Clause (b) must be construed in a wide sense so as to connote the entire process culminating in a candidate being declared elected. It is not merely confined to the actual result of the poll if there is a poll, or a candidate being returned un-opposed when there is no poll (vide the observation of the Supreme Court in *Election Commission of India v. Shivaji* (2) (1988) 1 SCC 277 : AIR 1988 SC 61) Cases after cases say in unequivocal terms that matters relating to the superintendence and conduct of elections fall exclusively within the realm of the Election Commission which has a plenary power to take such steps or decisions as may be needed to facilitate a process of election smooth and fair. It is further ordained in a catena of decisions of Supreme Court that any Court including the High Court has no jurisdiction to interfere with the process of election once commenced. We may in this connection refer to some of the decided cases, in *Election Commission of India v. Shivaji*

(3) (1988) 1 SCC 277 : AIR 1988 SC 61 the challenge was to the notification fixing a calendar of events for election to Legislative Council. The High Court, after entertaining the writ petition, interfered with the election process by postponing the last date for withdrawal and again by staying the poll. The Supreme Court disapproved the course adopted by the High court observing as follows:—

“...The High Court failed to recall to its mind that it was not its concern under Article 226 of the Constitution to rectify any error even if there was an error committed in the process of election at any stage prior to the declaration of the result of the, election notwithstanding the fact that the error in question related to a mandatory provision of the statute relating to the conduct of the election. If there was any such error committed in the course of the election process, the Election Commission had the authority to set it right by virtue of power vested in it under Article 324 of the Constitution as decided in *Mohinder Singh Gill v. Chief Election Commissioner New Delhi*, (1978) 2 SCR 272 ((1978) 1 SCC 405 : AIR 1978 SC 851) and to see that the election process was completed in a fair manner.....

21. It was further observed

“...High Court was in error in thinking that it alone had the exclusive power to protect the democracy.....Sometimes the existence of democracy also depends upon the observance of restraint on the part of constitutional functionaries.....”

22. In *Inderjit Barua v. Election Commission of India* (4) (1985) 1 SCC 21 : AIR 1984 SC 1911 the High Court had issued a direction that unless the revision of electoral rolls was complete, election should not be held. In that case, it was contended that the electoral rolls of 1979 were void and the elections ought not to be conducted on the basis of such invalid electoral rolls. The Supreme Court rejected the contention holding as follows

“.....In the first place, Art. 329(b) of the Constitution bars any challenge to the impugned elections by a writ petition under Article 226 as also on the ground that the electoral rolls on the basis of which the impugned elections were held were invalid. The Petitioners sought to escape from the ban of Art. 329(b) by contending that they are challenging the impugned elections as a

whole and not any individual election and that the ban of Art. 329(b) therefore does not stand in the way of the writ petitions filed by them

challenging the impugned elections. But, we do not think this escape route is open to the petitioners.....”

23. Again at paragraph 4 it was observed:

“.....We may reiterate once again that even if the electoral rolls of 1979 were invalid, that would not affect the validity of the impugned elections nor would a writ petition under Art. 226 of the Constitution be maintainable for challenging the impugned order.

??? to the contention that the Election Commission should be directed to *suo motu* carry out an inquiry for the purpose of determining whether any of the persons whose names were included in the electoral rolls of 1979 or earlier electoral rolls were citizens or not, and to delete their names if they were not found to be citizens, the Supreme Court made the following pertinent observations:

“.....It is entirely for the Election Commission to decide in the exercise of its discretion whether it should carry out any such revision *suo motu* under Rule 25 of the Electoral Registration Rules, 1960. We cannot direct the Election Commission to carry out such revision which under the law it may do on its own. The only direction which we can give to the Election Commission is to carry out revision of the electoral rolls in the Representation of the People Act, 1950 and the Electoral Registration Rules, 1960. But since the Election Commission has stated before us that it will carry out revision of the electoral rolls and that such revision shall, as far as practicable, be intensive revision and where it is not so practicable, it will, be summary or special, we do not think it necessary to give any further directions to the Election Commission.”

24. The above observations of the Supreme Court are of immediate relevance to the facts of the present case as well. It may be recalled that in the instant case the Chief Election Commissioner stated in categorical terms that he was constantly and continuously monitoring the situation on the basis of the reports obtained from various sources, in view of the clarification given by the appellant, it would be inappropriate for this Court either to remind the Election Commission of its duty or to issue an *ad hoc* direction to the Election Commission to record a finding as to whether the circumstances are conducive to conduct the election or not, and to submit the same to the Court.

25. The next case which deserves notice is the decision of the Supreme Court in *Hassan Uzzaman v. Union of India* (5) (1982) 2 SCC 218. In that case, the Supreme Court held that the High Court acted within its jurisdiction in entertaining the writ petition and in issuing the Rule nisi for the reason that the vires of the particular provisions of the Election Law was questioned. At the same time, the Supreme Court

found fault with the interim order passed by the High Court which had the effect of postponing the elections to the State Assembly. That was also a case in which the petition under Article 226 was filed challenging the electoral rolls. The Supreme Court observed:

“.....Secondly, though the High Court did not lack the jurisdiction to entertain the writ petition and to issue appropriate directions therein, no High Court in the

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exercise of its power under Article 226 of the Constitution should pass any orders, interim or otherwise, which has the tendency or effect of postponing an election, which is reasonably imminent and in relation to which its writ jurisdiction is invoked. The imminence of the electoral process is a factor which must guide and govern the passing of orders in the exercise of the High Court's writ jurisdiction. The more imminent such process, the greater ought to be the reluctance of the High Court to do anything, or direct anything to be done, which will postpone that process indefinitely by creating a situation in which, the Government of a State cannot be carried on in accordance with the provisions of the Constitution. India is an oasis of democracy, a fact of contemporary history which demands of the Courts the use of wise statesmanship in the exercise of their extraordinary powers under the Constitution. The High Courts must observe a self-imposed limitation on their power to act under Article 226, by refusing to pass orders or give directions which will inevitably result in an indefinite postponement of election to legislative bodies, which are the very essence of the democratic foundation and functioning of our Constitution.....”

26. Apart from indicating the limitation on the exercise of power under Article 226 of the Constitution from the stand-point of Article 329, the Supreme Court has enunciated the test of imminence of electoral process as a guiding factor in passing orders in exercise of the writ jurisdiction. If that test is adopted, there is no scope at all to pass any orders either with a view to oversee the functioning of the Election Commission, or to hold up the election process, because the election process has reached the advanced stage and even the electioneering campaign had almost come to a halt by the date of passing of the order by the learned single Judge. The question as to what appropriate interim orders could be passed at this belated stage is somewhat academic here, inasmuch as the very maintainability of the writ petition is involved in the instant case.

27. In the present case, it may be noticed that the relief sought for

is to countermand and rescind the election to the Assembly Constituencies located in the four Districts. Thus, the intervention of the Court is sought for in respect of the very subject-matter which has been placed above challenge by a specific constitutional provision enshrined in Article 329. The relief sought for squarely falls within the mischief of prohibition laid down in Article 329, as interpreted and expounded by various decisions of the Supreme Court including the ones which we have referred to earlier.

28. Faced with this difficulty, learned counsel for the 1st respondent urges the plea of infringement of personal liberty guaranteed under Article 21 of the Constitution to counter the argument based on Article 329(b) of the Constitution. We find it difficult to accept this contention. It is indisputable that the right to exercise franchise is a statutory right but not a fundamental right. True, if a person is physically prevented from casting his vote by reason of violence or intimidation, it may in one sense affect the right to personal liberty, but the moment a complaint is made that the right to life or personal liberty is being jeopardized in the process of holding election, it is not open to the High Court to extend its arm of supervisory jurisdiction and

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consider the question whether the election schedule has to be reversed or modified. The reason is obvious. Advisedly that jurisdiction has been vested with the Election Commission to the exclusion of all other authorities including Courts. Otherwise, there is no purpose and meaning in Article 329. If a challenge to the ongoing election process is to be entertained on grounds of this nature, we are afraid that unintended obstacles may be created in the way of election of candidates to the State Legislature or the Parliament, thereby imperilling the very fabric of democracy. We do not, therefore, endorse the view of the learned single Judge that, in order to probe into the complaint of violation of the fundamental right guaranteed under Article 21, the High Court has to necessarily exercise its jurisdiction under Article 226 and grant appropriate directions as to how and when the election should be held. That would amount to ignoring the constitutional mandate of Article 329, and perhaps encroaching on the powers conferred on the Election Commission by the express provisions of the Constitution.

29. No doubt this Court acts as a sentinel *que vive* to protect and enforce the fundamental rights more so the right to life and liberty enshrined in Article 21, but in a case of this nature where the

postponement or cancellation of poll is sought for on the ground of apprehended threat to personal liberty of the voters in general, this Court cannot do anything which has the effect of postponing or superseding the election schedule. The question of the alleged infringement of personal liberty in the event of a poll being held is not something which can be divorced from the issue of holding the elections. It would have been a different matter if by an executive action the right of personal liberty of the voters has been interfered with and the individuals concerned make a complaint on that count. But, when the elections are sought to be conducted under the auspices of the Election Commission, the situation giving rise to pre-poll violence or apprehended violence preventing persons from exercising their franchise could be looked into by the Election Commission, and the provisions are not lacking in the Representation of the People Act to take care of such situations and to devise remedial measures. In the guise of espousing the cause of unidentified persons on the ground that their liberty might be at stake, it is not open to the petitioner to invite the intervention of this Court contrary to the constitutional scheme under which the Election Commission is vested with all necessary and incidental powers.

30. Learned counsel for the first respondent then argued that the Constitutional bar under Article 329(b) would come into play in such events or contingencies that are contemplated by the Representation of the People Act (hereinafter referred to as 'the R.P. Act') as affording the right to question the election by way of an election petition under Section 100 of the Act. That takes us to the question whether the non-postponement of the poll on the ground of violence and coercion would be a relevant ground to question the election in an election petition. We are of the view that it does fall within one of the grounds set out in Section 100 of the R.P. Act 1951. An election can be set aside on the ground of non-compliance of the provisions of the Constitution, or of the R.P. Act or the Rules or Orders made

thereunder, provided, of course, the result of the election has been materially affected. Section 57 provides for adjournment of poll in certain emergencies. If the poll at any Polling Station or place is interrupted or obstructed by any riots or open violence, or if it is not possible to take the poll on account of any natural calamity or any other sufficient cause, the Presiding Officer or the Returning Officer, as the case may be shall announce adjournment of the poll to a date to be notified later. Thereafter, the Returning Officer shall report the


circumstances to the Election Commission and he shall, with the previous approval of the Election Commission, appoint a date on which the poll shall re-commence. Section 58 provides for fresh poll in the case of destruction etc. of ballot-boxes. Here again, the Election Commission is invested with the power to declare the poll at the Polling Station, or the place concerned, to be void, and appoint a date for fresh poll. Section 58-A provides for adjournment of poll, or countermanding of elections on the ground of booth-capturing. If any such situation arises, the Returning Officer shall forthwith report the matter to the Election Commission, and the Election Commission shall, on receipt of report from the Returning Officer and after taking all material circumstances into account, declare the poll at the particular polling Station or place, to be void and appoint a date for taking fresh poll. Where such mal-practices have occurred on a large scale, the election in the entire Constituency could even be countermanded. These provisions contemplate not merely a discretion but a statutory duty to adjourn or countermand the poll or to direct fresh poll. The failure to discharge such duty, undoubtedly, amounts to non-compliance with the provisions of the R.P. Act and the Rules. Thus, the proposition put forward by the learned counsel for the 1st respondent that it is not possible to file an election petition in case the poll is held or proceeded with despite violence or for other compelling reasons, does not merit acceptance. Thus, viewed from any angle, we are of the view that the writ petition under Article 226 is itself not maintainable and it should have been dismissed *in limini*.

31. The question whether a petition filed in public interest is maintainable may now be considered.

32. Obviously, if a petition under Article 226 cannot be filed in view of the bar created by Article 329(b), a petition filed in public interest which, incidentally, is also filed under Article 226 will not be maintainable.

33. Let us, however, proceed further to scrutinize the exact nature of the petition. Petitioner is a member of the Telugu Desam Party and is a sitting Member of Rajya Sabha. He, in his capacity as Member of Parliament (Rajya Sabha), is a representative of the people. He is a voter mentioned in the Electoral Roll of Hyderabad. He does not belong, as he does not say so, to any of the four districts, namely, Adilabad, Nizamabad, Karimnagar and Warangal, where, polling is to take place on 5th December, 1994. He does not say that he had undertaken election work in those districts. He does not say that he had participated in the election meetings or election canvassing or door to door meetings with the voters. It appears that there are six national parties in the election who have set up their candidates. What is the

mood of the voter to what extent have they been motivated for participation in the election or do they suffer from fear psychosis and, therefore, may not exercise their

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franchise or may, if they are under threat, cast their vote under duress, are factors on which petitioner has not elaborated. Obviously, he having not toured those districts during the period when election campaigning was in full swing is unaware of the ground realities and has merely attempted to move the Court on the basis of Press reports so that one can legitimately question whether this is a public interest litigation or a politically motivated petition. If 66.85 lakhs of voters belonging to 44 Assembly Constituencies, as also the candidates, the workers, the polling agents and staff are determined to participate in the election so as to complete the democratic process, the Court will not, merely at the instance of one individual, intervene in the matter and stall the election process.

34. In the instant case there is no executive action by which any person is being deprived of his life and liberty. The right to vote is a statutory right and the election law nor any Notification of the Election Commission makes it compulsory for any one to vote at the election. But the fact remains that elections have to be held in a free and fair manner so that every one may exercise his right to vote without any compulsion or duress. It is a job of the Election Commission, which has been given sufficient powers under the Act as also various provisions of the Constitution to make arrangements for a free poll and if there is any apprehended violence, to adjourn the poll and take other remedial steps. There is, therefore, no infringement of Article 21 involved in the present election process."

35. Lastly, the learned counsel for the 1st respondent, Sri Ramachandra Rao urged that the reports sent up by the State Government officials including the Chief Electoral Officer coupled with the averments in the Counter-affidavit make it clear that incidents of pre-poll violence have been very much there and even the poll-personnel and the officials are afraid to move freely and in a situation gripped by fear psychosis, it is not at all desirable to hold the elections. Here again, we would like to stress that it is for the Election Commission to assess the magnitude and dimensions of the problem created by activities and movements of under-ground extremist groups and to take appropriate decisions and steps as the situation warrants. In fact, the Chief Election Commissioner made it clear that the

Commission was keeping a close watch and it would monitor the situation continuously. In view of such categorical statement by the appellant-which statement has not been doubted by the learned Judge. It was not at all necessary to call upon the appellant to record a finding again as to the situation in the four districts and to report the matter to the Court. We have no reason to think that an independent constitutional functionary such as the Chief Election Commissioner will fail in his duty or he would act in a manner forsaking the safety of the public. While we appreciate the anxiety of our learned brother to contribute in his own way to the purity of democratic process of elections, we are constrained to observe that under the present constitutional scheme, it is not possible for this Court to exercise jurisdiction under Article 226 of the Constitution or otherwise to monitor the functioning of the Election Commission in regard to conduct of polls and perform the functions which are confided to another constitutional authority.

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We may before closing the judgment refer to the Constitution Bench decision of the Supreme Court in *Election Commission of India v. State of Haryana* (6) 1984 Supp SCC 104 : AIR 1984 SC 1406. The question there arose whether the decision taken by the Election Commission to hold the bye-election was proper in view of the Law & Order situation as sought to be projected by the Government of Haryana. This is what the Supreme Court had to say:

“...The difference between the Government of Haryana and the Chief Election Commission centres round the question as to whether the position of law and order in the State of Haryana is such as to make it inexpedient or undesirable to hold the proposed bye-election at this point of time. The Government of Haryana is undoubtedly in the best position to assess the situation of law and order in areas within its jurisdiction and under its control. But the ultimate decision as to whether it is possible and expedient to hold the elections at any given point of time must rest with the Election Commission....”

36. The Supreme Court remarked that the correspondence between the Chief Secretary of Haryana and the Chief Election Commissioner shows that the latter had taken all the relevant facts and circumstances into account while taking the decision to hold the bye-election in accordance with the proposed programme. The Supreme Court then observed:

“.....The situation of law and order in Punjab and to some extent in

Haryana is a fact so notorious that it would be naive to hold that the Election Commission is not aware of it.....We see no doubt that the Election Commission came to its decision after bearing in mind the pros and cons of the whole situation. It had the data before it. It cannot be assumed that it turned a blind eye to it. In these circumstances, it was not in the power of the High Court to decide whether the law and order situation in the State of Punjab and Haryana is such as not to warrant or permit the holding of the bye-election.....”

37. The controversy raised before us is very much similar to the one which the Supreme Court had to decide in the aforementioned case. The observations of the Supreme Court apply with equal force to the case on hand.

38. Having regard to the view taken by us that the writ petition itself is not entertainable and this Court cannot, in law, grant directions regarding the method and manner of conducting elections or the postponement or countermanding of the polls, the order of the learned Single Judge is liable to be set aside and, accordingly, we allow the appeal preferred by the Chief Election Commissioner.

39. We make no order as to costs.

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**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 1382 OF 2019**

IN THE MATTER OF:

Association For Democratic Reforms & Anr. ...PETITIONERS
Versus

Election Commission of India & Anr. ... RESPONDENTS

VAKALATNAMA

I, Amit Kumar, Secretary, Election Commission of India, the Respondent No. 1 in the above Petition/Appeal do hereby appoint and retain **MR. PRATEEK KUMAR**, Advocate of the Supreme Court of India to act and appear for me/ us in the above Petition/ Appeal and on my/ our behalf to conduct and prosecute (or defend) or withdraw the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and application for Review, to file and obtain, return of documents and to deposit and receive money on my/ our behalf in the above Suit/ Petition/ Appeal and application for Review, and to represent me/ us and to take all necessary steps on my/ our behalf in the above matter. I/ We agree to ratify all acts done by the aforesaid Advocate, in pursuance of this authority.

Dated this the 22nd day of May, 2024.

Accepted, Identified, Verified & Certified by

P. Kumar

(PRATEEK KUMAR)
Advocate, Supreme Court
AoR Code: 3140

M

RESPONDENT NO. 1

अमित कुमार / AMIT KUMAR
सचिव / Secretary
भारत निर्वाचन आयोग
Election Commission of India
निर्वाचन सदन/Nirvachan Sadan
अशोक रोड /Ashoka Road
नई दिल्ली-110001 /New Delhi-110001

*NOC
A.E.*

MEMO OF APPEARANCE

To
The Registrar
Supreme Court of India
New Delhi

Sir,

Please enter my appearance for the abovenamed Respondent No. 1 in the above matter.

Yours faithfully,

P. Kumar

Dated: 22.05.2024
D - 413 (Basement), Defence Colony,
New Delhi - 110024
Ph: 011 - 40450446 | 8826209428

(PRATEEK KUMAR)
Advocate for the Respondent No. 1
AOR CODE: 3140