IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

REVIEW PETITION (CIVIL) No. ____ OF 2019

IN

W.P.(C) No. 1514 OF 2018

Under Article 137 of the Constitution r/w

Order XLVII of the Supreme Court Rules, 2013

[AGAINST THE IMPUGNED ORDER DT. 08.04.2019 IN W.P(C) NO. 1514 OF 2018 & CONNECTED CASES]

M.G. DEVASAHAYAM & ORS. ...PETITIONERS

Versus

ELECTION COMMISSION OF INDIA ...RESPONDENTS

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

WITH

I.A. No. _____ of 2019

(Application for filing Additional Documents)

WITH

I.A. No. _____ of 2019

(Application seeking Permission to have the present Review Petition heard in Open Court)

ADVOCATE FOR THE PETITIONERS:

Mr. Goutham Shivshankar

INDEX

S.No.	Particulars	PAGE No.		Remarks
		Part I (Contents of the Paper book)	Part II (Contents of file alone)	
(i)	(ii)	(iii)	(iv)	(v)
1.	Court-fee	A	A	
2.	Listing Proforma	A1-A2	A1-A2	
3.	Impugned Order dated 08.04.2019 passed by this Hon'ble Court in Writ Petition (C) 1514 of 2018	1-13		
4.	Review Petition along with Affidavit	14-38		
5.	Application for permission to file Additional Documents	39-45		
6.	**ANNEXURE-P-1** A true copy of RTI response dt. 03.04.2019	46-50		
7.	**ANNEXURE-P-2** A true typed copy of a note prepared by Dr. S.K.Nath dt. 17.04.2019	-51-		
8.	**ANNEXURE-P-3** A true typed copy of the article that appeared in 'The Wire' dt. 18.04.2019	52-55		
9.	**ANNEXURE-P-4** A true typed copy of the news report in "Guwahati Plus" dt. 23.04.2019.	56-57		

10.	**ANNEXURE-P-5** A true typed copy of the news report in "The Quint" dt. 23.04.2019	58-63		
11.	**ANNEXURE-P-6** A true typed copy of the news report in "Business Today" dt. 23.04.2019	64-65		
12.	**ANNEXURE-P-7** A true typed copy of the news report in "WebIndia123" dt. 23.04.2019	66-67		
13.	**ANNEXURE-P-8** A true typed copy of the news report in "The Hindu" dt. 23.04.2019	68-		
14.	**ANNEXURE-P-9** A true typed copy of the news report in "Odisha TV" dt. 23.04.2019	69-70		
15.	**ANNEXURE-P-10** A true typed copy of the news report in "Indian Express" dt. 23.04.2019	71-74		
16.	**ANNEXURE-P-11** A true typed copy of the news report in "Times of India" dt. 24.04.2019	75-77		
17.	**ANNEXURE-P-12** A true typed copy of the news report in "The New Indian Express" dt. 24.04.2019	78-81		
18.	**ANNEXURE-P-13** A true typed copy of the news report in "Herald Goa" dt. 24.04.2019	82-85		

19.	**ANNEXURE-P-14** A true typed copy of the news report in "Ummid.com " dt. 24.04.2019	86-89		
20.	**ANNEXURE-P-15** A true typed copy of the news report in "News18.com " dt. 25.04.2019	90-92		
21.	**ANNEXURE-P-16** A true typed copy of the news report in "Uniindia" dt. 25.04.2019	93-94		
22.	**ANNEXURE-P-17** A true typed copy of the news report in "The Deccan Chronicle " dt. 25.04.2019	95-96		
23.	**ANNEXURE-P-18** A true typed copy of the news report in "News18.com " dt. 25.04.2019	97-100		
24.	**ANNEXURE-P-19** A true typed copy of the news report in "New Indian Express " dt. 26.04.2019	101-103		
25.	**ANNEXURE-P-20** A true typed copy of the news report in "First Post " dt. 26.04.2019	104-105		
26.	Application for Listing Review Petition in Open Court	106-108		
27.	Filing Memo	109		

A1

PROFORMA FOR FIRST LISTING

SECTION XI

The case pertains to (Please tick/check the correct box):

☐	Central Act (Title)	: (i)	Constitution of India
☐	Section	:	Articles 137,14, 19, 21, 32, 324
☐	Central Rule (Title)	: N/A	
☐	Rule No(s)	: N/A	
☐	State Act (Title)	: N/A	
☐	Section	: N/A	
☐	State Rule (Title)	: N/A	
☐	Rule No(s)	: N/A	
☐	Impugned Interim Order (Date)	: N/A	
☐	Impugned Final Order/Decree (Date)	: 08.04.2019 by Hon'ble Supreme Court, in WP(C) 1514 of 2018.	
☐	High Court (Name)	: N/A (Hon'ble Supreme Court)	
☐	Names of Judges	: N/A (Hon'ble Chief Justice Ranjan Gogoi with Hon'ble Justice Deepak Gupta and Hon'ble Justice Sanjeev Khanna)	
☐	Tribunal/Authority (Name)	: N/A	

1.	Nature of matter	:	Review Petition (Civil)
2.(a)	Petitioner/Appellant No.1	:	M.G. DEVASAHAYAM
(b)	e-mail ID	:	deva1940@gmail.com
(c)	Mobile phone number	:	+91 99401 74446
3.(a)	Respondent No.1	:	ELECTION COMMISSION OF INDIA through its Sr. Principal Secretary
(b)	e-mail ID	:	N/A
(c)	Mobile phone number	:	N/A

A2

4.(a)	Main category classification	:	08
(b)	Sub classification	:	0810 (Letter Petition & PILs) (Election Commission Matters)
5.	Not to be listed before	:	Hon'ble Mr. Justice Nageswar Rao (AOR is on the list of advocates not able to act before that Hon'ble Judge)
6.	(a) Similar Disposed of Matter with Citation if Any and Case Details	:	*Writ Petition (Civil) 1514 of 218, WP (C) 273 of 2019, WP (C) 215 of 2019.*
	(b) Similar Pending Matter with Citation if Any and Case Details	:	N/A.

7. **Criminal Matters:**

(a)	Whether accused/convict has surrendered	:	N/A
(b)	FIR No. Date	:	N/A
(c)	Police Station	:	N/A
(d)	Sentence Awarded	:	N/A
(e)	Sentence Undergone	:	N/A

8. **Land Acquisition Matters:**

(a)	Date of Section 4 Notification	:	N/A
(b)	Date of Section 6 Notification	:	N/A
(c)	Date of Section 17 Notification	:	N/A

9. **Tax Matters:**

	State the tax effect	:	N/A

A3

10.	Special Category (first Petitioner /Appellant only)	:	☐ Senior Citizen > 65 Years ☐ SC/ST ☐ Woman/Child ☐ Disabled **N/A** ☐ Legal Aid Case ☐ In custody
11.	Vehicle Number (in case of Motor Accident Claim matters)	:	N/A

AOR FOR PETITIONER(S)
(GOUTHAM SHIVSHANKAR)
REGISTRATION NO. 2698
Mob (+91) 70425 16008
contact@gouthams.com

DATE: 30.04.2019

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 273 OF 2019

N CHANDRABABU NAIDU & ORS. PETITIONER(S)

VERSUS

UNION OF INDIA & ANR. RESPONDENT(S)

WITH

WRIT PETITION (C) No. 1514 OF 2018
WRIT PETITION (C) No. 23 OF 2019
WRIT PETITION (C) No. 215 OF 2019 AND
WRIT PETITION (C) No. 385 OF 2019

O R D E R

Writ Petition (C) No. 273/2019:

This writ petition has been filed seeking the following reliefs:

"A. Issue a writ of mandamus or any other appropriate writ, order or direction thereby quashing and setting aside Guideline No.16.6 of the Manual on Electronic Voting Machine and VVPAT as framed and issued by the Election Commission of India; and

B. Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing that minimum of 50% randomized VVPAT paper slip verification of EVM shall be conducted in every General and Bye Election in each Assembly Segment of a Parliamentary Constituency, in case of Election to the House of the People; and in each Assembly Constituency, in case of an election to a State Legislative Assembly; and

C. Pass such other order or direction as it deems fit in the facts of the present case and in the interest of justice."

Guideline No. 16.6 of the Manual on Electronic Voting Machine and VVPAT in respect of which the first prayer has been made would require to be specifically noticed to appreciate the issues involved in the writ petition. We, therefore, deem it appropriate to extract Guideline No. 16.6, which reads as follows:

"16.6. Mandatory Verification of VVPAT Paper Slips:

Mandatory verification of VVPAT paper slips of randomly selected 01 (one) polling station shall be conducted in all future General and Bye Elections to the House of the People and State Legislative Assemblies, in addition to the provisions of Rule 56D of the Conduct of Elections Rules,1961, after the completion of the last round of counting of votes recorded in the EVMs, as under:

a) In case of General and Bye elections to State legislative Assemblies, verification of VVPAT paper slips of randomly selected 01 (one) polling station per Assembly Constituency.

b) In case of General and Bye elections to the House of the People, verification of VVPAT paper slips of randomly selected 01 (one) polling station of each Assembly Segment of the Parliamentary Constituency concerned.

For this mandatory verification of VVPAT paper slips, the following procedure shall be followed.

16.6.1.The verification of VVPAT paper

3

slips of randomly selected 01 (one) polling station for each Assembly Constituency/Segment shall be taken up after the completion of the last round of counting of votes recorded in the EVMs.

16.6.2. The random selection of 01 (one) polling station per Assembly Constituency/Segment shall be done by Draw of lots, by the Returning Officer concerned, in the presence of candidates/their agents and the General Observer appointed by the Commission for that Constituency.

16.6.3. The draw of lots must be conducted immediately after the completion of the last round of counting of votes recorded in the EVMs (Control Units) in the designated Counting Hall for the particular Assembly Constituency/Assembly Segment.

16.6.4. A written intimation regarding the conduct of draw of lots for the random selection of 01 (one) polling station for verification of VVPAT Slips shall be given by the Returning Officer to the Candidates/their election agents well in advance.

16.6.5. The following procedure shall be followed for the conduct of draw of lots:

a) White colour paper cards of postcard size shall be used for conducting the draw of lots.

b) Total number of such paper cards should be equal to total number of polling stations in the Assembly Constituency.

c) The paper cards shall have pre-printed Assembly Constituency/ Assembly Segment number, AC/AS name and date of polling on the

top, and the polling station number in the centre. Each digit of the polling station number shall be atleast 1" x 1"(1 inch by 1 inch) size and printed in black ink.

d) The paper cards to be used for draw of lots should be four-folded in such a way that polling station number is not visible.

e) Each paper card shall be shown to the candidates/their agents before folding and dropping in the container.

f) The paper cards shall be kept in the big container and must be shaken before picking up 01 (one) slip by the Returning Officer.

16.6.6. The verification of VVPAT paper slips shall be done in a 'VVPAT Counting Booth' (VCB), specially prepared for this purpose inside the Counting Hall. The booth shall be enclosed in a wire mesh just like a bank cashier's cabin so that no VVPAT paper slip can be accessed by any unauthorized person. One of the Counting tables in the Counting Hall can be converted into the VCB and can be used for normal counting of round-wise EVM votes before the count of VVPAT slips as per random selection after the completion of round-wise EVM counting.

16.6.7. The Verification count of the VVPAT paper slips of the randomly selected 01 (one) polling station shall be conducted strictly in accordance with the instructions

5

of the Commission on counting of printed paper slips.

16.6.8. The Returning Officer and Assistant Returning Officer, as the case may be, shall personally supervise the counting of VVPAT paper slips at this booth. The General Observer concerned shall ensure close and careful observation of the entire exercise and ensure strict compliance of the Commission's instructions.

16.6.9. The above process shall be fully videographed.

16.6.10. After completion of the above process, the Returning Officer shall give a certificate in the annexed format (Annexure-30)."

The petitioners, who are 21 in number, are representatives of 21 political parties, who claim to represent about 70-75% of the total population of the country and also to represent the entire opposition in the Lok Sabha. The thrust of the petition is that, to maintain the purity of the electoral process and to ensure foolproof result of the mandate expressed by the voters in the forthcoming General Elections of the Lok Sabha as well as to some Assembly seats in different States it is necessary to increase the percentage of verification of VVPAT paper trails to atleast 50% of the EVMs to be used in the forthcoming elections.

The Election Commission of India has not

6

responded very favourably to the prayers made in the writ petition, as noticed above.

Very broadly, the Election Commission of India ("ECI") contends that a query had been posed to the Indian Statistical Institute ("ISI"), namely, "what would be the reasonable sample size of Polling Stations where VVPAT slips verification is required to be carried out to achieve the object of establishing the credibility and integrity of the electoral process".

According to the ECI, the said query was posed to an Expert Body, namely, ISI. In response, the ISI had submitted an elaborate report, the crux of which is that verification of VVPAT paper trail of 479 (randomly selected) Electronic Voting Machines ("EVMs") would generate over 99% accuracy in the election results. It is also pointed out that as per Guideline No. 16.6 i.e. verification of VVPAT paper trails of one Assembly Constituency or Assembly Segment in a Parliamentary Constituency would involve verification of VVPAT paper trail of 4125 EVMs instead of 479 EVMs which is eight times more than what has been reported by the ISI. Additionally, the ECI has pointed out infrastructure difficulties, including manpower availability, at this

point of time, in increasing the number of EVMs for verification. According to the Election Commission of India, the sample verification of the VVPAT paper trail of one EVM is done by a team of three Officers under the direct supervision of the Returning Officer and the Election Observer of the constituency. The process takes about an hour. If what the petitioner asks for i.e. verification of VVPAT paper trail of 50% of the EVMs, the declaration of result of election could be delayed by 5-6 days.

In a situation where the ECI, a constitutional body, is satisfied on the integrity of the EVMs and which is further fortified by the sample verification of VVPAT paper trail of one EVM per Assembly Constituency or Assembly Segment in a Parliamentary Constituency, the exercise sought for by the petitioner would be a futile exercise, which the Court should not order, it is contended.

We have heard learned counsel for the parties and we have also interacted with Mr. Jain, Deputy Election Commissioner, who is personally present in Court.

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.

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 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.

With the aforesaid directions, the Writ Petition shall stand closed.

Writ Petition (C) No. 23/2019:

We express our reluctance to go into the issues regarding the integrity of the EVMs which have been raised at a belated stage. The petition was filed in the month of December, 2018 raising various technical issues which are not possible to be gone into at this stage.

10

With the aforesaid observations, the writ petition shall stand closed.

Writ Petition (C) No. 385/2019:

We are of the view that the present practice of recounting of votes in terms of Rule 56-C of the Conduct of Election Rules, 1961 shall continue.

With the aforesaid observation, the writ petition shall stand closed.

Writ Petition (C) No. 1514/2018 and Writ Petition (C) No. 215/2019:

The writ petitions shall stand disposed of in terms of the observations made in the connected writ petitions i.e. Writ Petition (C) No.273/2019 etc.

.....CJI.
(RANJAN GOGOI)

.....J
(DEEPAK GUPTA)

.....J.
(SANJIV KHANNA)

NEW DELHI,
APRIL 8, 2019.

ITEM NO.48 + 14 COURT NO.1 SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 273/2019

N CHANDRABABU NAIDU & ORS. Petitioner(s)

VERSUS

UNION OF INDIA & ANR. Respondent(s)

(FOR ADMISSION)

WITH
W.P.(C) No. 1514/2018 (PIL-W)

W.P.(C) No. 23/2019 (PIL-W)
(FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 3873/2019 and FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 46959/2019)

W.P.(C) No. 215/2019 (PIL-W)
(FOR ADMISSION)

W.P.(C) No. 385/2019 (PIL-W)
(FOR ADMISSION and IA No. 46187/2019-EXEMPTION FROM FILING O.T.)

Date : 08-04-2019 These petitions were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s)
WP 273/2019 Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Saif Mahmood, Adv.
Mr. Varun K. Chopra, Adv.
Mr. Amit Bhandari, Adv.
Mr. Avishkar Singhvi, Adv.
Ms. Madhavi Khanna, Adv.
Mr. Anish Dayal, Adv.
Mr. Sumant De, Adv.
Mr. Mayank Mikhail Mukherjee, Adv.
Mr. Vivek Agarwal, Adv.
Mr. Arjun Singh Bhati, AOR
Mr. L. Nidhiram Sharma, Adv.
Mr. Azeem Samuel, Adv.
Mr. Chandy Oomen, Adv.
Mr. Zulfikar Menon, Adv.

12

WP 1514/2018	Mr. Kapil Sibal, Sr. Adv. Mr. Sanjay Hegde, Sr. Adv. Mr. Prasanna S., Adv. Mr. Nizam Pasha, Adv. Mr. Pranjal Kishore, Adv. Mr. Shantanu singh, Adv. Mr. Goutham Shivshankar, AOR
WP 23/2019	Mr. Sunil Ahya, In-person
WP 215/2019	Mr. Sanjay Hegde, Sr. Adv. Mr. Pranjal Kishore, Adv. Mr. Aakarsh Kamra, AOR
WP 385/2019	Mr. Rana Mukherjee, Sr. Adv. Mr. Runamoni Bhuyan, AOR Mr. S. Chatterjee, Adv. Mr. Piyush Sachdev, Adv. Mr. Rajkumar Thorat, Adv.
For Respondent(s) E.C.I.	Mr. C.A. Sundaram, Sr. Adv. Mr. Arvind P. Datar, Sr. Adv. Mr. Amit Sharma, AOR Mr. Dipesh Sinha, Adv. Ms. Ayiala Imti, Adv. Mr. Prateek Kumar, Adv. Mr. Neelesh Singh Rao, Adv. Mr. Sudeep Jain, Dy. Election Commissioner Mr. K.K. Venugopal, A.G. Mr. Tushar Mehta, S.G. Mr. Rajat Nair, Adv. Mr. Sachin Sharma, Adv. Mr. Ankur Talwar, Adv. Mr. A.K. Sharma, AOR

UPON hearing the counsel the Court made the following

O R D E R

Writ Petition (C) No. 273/2019, Writ Petition (C) No. 23/2019 and Writ Petition (C) No. 385/2019:

The writ petitions stand closed in terms of the signed order.

Pending applications, if any, stand disposed of.

13.

Writ Petition (C) No. 1514/2018 and Writ Petition (C) No. 215/2019:

The writ petitions shall stand disposed of in terms of the observations made in the connected writ petitions i.e. Writ Petition (C) No.273/2019 etc.

Pending applications, if any, stand disposed of.

(SUSHIL KUMAR RAKHEJA)
AR CUM PS

(ANAND PRAKASH)
BRANCH OFFICER

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
REVIEW PETITION (CIVIL) No. ___ OF 2019
IN
WRIT PETITION (CIVIL) NO. 1514 OF 2018

(Under Article 137 of the Constitution r/w
Order XLVII of Supreme Court Rules, 2013)

BETWEEN

1. Mr. M.G. Devasahayam
   s/o Maria Gnanaprahasam,
   r/o House No: 21,
   Adhimoolam Street,
   Ponnappanadar Nagar,
   Nagercoil,
   Tamil Nadu - 629 004.

2. Mr. Kalarickal Pranchu Fabian
   s/o Kalarickal Joseph Francis,
   r/o C 45 IFS Apartments
   Mayur Vihar Phase 1,
   Delhi - 110092

3. Mr. Thomas Franco Rajendra Dev
   s/o M.Devasahayam,
   C 15/2, SAF Games Village,
   Koyambedu,
   Chennai,
   Tamil Nadu - 600 017

...Petitioners

Versus

Election Commission of India
Through
Sr. Principal Secretary
NirvachanSadan, Ashoka Road,
New Delhi -110001

...Respondent

15

Review Petition Under Article 137 of the Constitution

R/w Order XLVII of the Supreme Court Rules 2013

TO

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS OTHER COMPANION JUSTICES OF THE HON'BLE THE SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF THE PETITIONERS ABOVENAMED

MOST RESPECTFULLY SHOWETH:

1. This Review Petition is filed against the Common Order dt. 08.04.2019 passed by this Hon'ble Court in W.P.(Civil) 1514 of 2018 ("captioned Writ Petition") and connected cases led by W.P.(C) 273 of 2019 titled *N.Chandrababu Naidu v. Union of India & Anr* (hereinafter, "*Chandababu Naidu*"), disposing of all the connected cases including the Captioned Writ Petition.

2. The Captioned Writ Petition was filed in public interest praying *inter alia* for directions from this Hon'ble Court to the Respondent Election Commission of India to count and cross-verify the Voter Verifiable Paper Audit Trails ("VVPATs") atleast in randomly chosen 30% of all polling stations within each constituency. The captioned Writ Petition contended that such cross-verification and counting of VVPAT slips is essential in the interests of 'Democracy Principles' and the principle that elections must not only be free and fair, but also be seen to be free and fair. The Captioned Writ Petition also challenged as manifestly arbitrary, irrational, unreasonable and, *inter alia*, in violation of Article 14 of the Constitution of India, the Respondent's decision to confine such a cross-verification exercise approximately to to a statistically insignificant

number of only one polling station in each constituency, independent of the number of polling stations in such a constituency. The captioned Writ Petition, in support of the grounds and reliefs claimed therein, relied on the opinion of Dr. S.K. Nath, who inter alia is a former Director General of the Central Statistics Organisation, as to the statistically significant percentage of polling stations in each assembly segment to be randomly selected for VVPAT-cross verification of the EVM counts.

3. Petitioners are citizens of India who are public spirited persons as is demonstrated from the body of work that they have undertaken over the years. Petitioner No.1 is a former civil servant and an Armed Forces personnel. He has also undertaken officiating duties as a returning officer, district electoral officer and as an observer in connection with assembly and parliamentary elections while he was in service in the 1970s and 1980s. More recently, he has organised and campaigned under the name of Forum for Electoral Integrity, which deals with various issues relating to tackling and containing factors that undermine or tend to undermine the fairness and integrity of Indian elections. Several former election commissioners are also associated with the Forum. Petitioner No.2 is a former Indian Foreign Service officer who retired as India's ambassador to Italy and Permanent Representative to UN in Rome. He has written and spoken about a number of governance issues, including issues relating to elections, since his retirement.He is currently Professor at Indian Society of International Law, New Delhi. Petitioner No.3 is a retired Banker, noted trade unionist and was until recently the General Secretary of All India Bank Officers Confederation, a trade union of more than 3 lakh Bank Officers across the country.

4. This Hon'ble Court vide the Impugned Order disposed of the captioned Writ Petition *inter alia* directing the Respondent Election Commission to merely increase the number of polling stations from one (1) to five (5) per assembly segment without considering the pleadings, averments and the supporting material in the captioned Writ Petition, and the rejoinder filed by the Petitioners to the two separate Counter-Affidavits filed by the Election Commission on 26.02.2019 and 29.03.2019. Such failure to consider the relevant pleadings, averments and the very basis of the captioned Writ Petition constitutes gross miscarriage of justice which ought to be corrected and a grave error on the face of the record and this Review Petition is preferred *inter alia* on that ground.
5. Further, there have been several reports of EVM malfunctions and several instances of mismatch between EVM and VVPAT counts in the first three phases of the General Elections currently underway, completely altering the basis of the Impugned Order. This Review Petition is also preferred on that ground of discovery of new material evidence and relevant facts which were not available at the time with the Petitioners on or before the date of the Impugned Order.

BACKGROUND & FACTS IN BRIEF

6. The Petitioners are citizens of India who had preferred the captioned Article 32 Petition, in the nature of public interest litigation.
7. India is the largest electoral democracy in the world with more than Nine hundred million registered voters. The constitutional mandate of superintendence direction and control of elections to parliament and state

legislative assemblies is vested with the sole Respondent, the Election Commission of India, under Article 324 of the Constitution of India.

8. The Respondent has used electronic voting machines (hereinafter, 'EVMs') for recording storing and counting of votes in the General elections and state assembly elections since the year 2000.

9. The use of EVMs is of recent vintage, only brought about by the technological advance in the last two or three decades. While India has embraced it, there are several countries which have considered the use of EVMs and rejected the same for good reason. For instance, in a landmark decision of the Federal Constitutional Court of Germany pronounced on 09.03.2009, which was annexed 'ANNEXURE-P-4' at Pg 45 in the captioned Writ Petition it was held that the manner in which the machines deployed were being used violated the public nature of elections as envisaged in the German Constitution which prescribed that all essential steps and procedures of an election are subject to the possibility of public scrutiny/examinibility unless other constitutional interests justify otherwise. It was further held that when EVMs are deployed, it must be possible for the citizen to check the essential steps in the election act and in ascertainment of the results reliably without special expert knowledge.

10. Some of the issues relating to the constitutionality, legality and suitability of EVMs for the conduct of elections in India was examined by this Hon'ble Court in *Subramanian Swamy v. Election Commission of India* [(2013) 10 SCC 500] (hereinafter "*Swamy*"). A true copy of the said judgement was annexed as Annexed-P-5 in the captioned Writ Petition, at Pg. 119.

11. In Swamy, a direction was sought to the ECI to implement paper trails, called the Voter Verifiable Paper Audit Trails (hereainfter VVPATs), *inter alia*, in order for the voter to satisfy himself that what was recorded as her vote was indeed her vote and for the sanctity of the elections in general, given that the presence of audit trail is necessary for detection of EVM fraud if any.

12. In *Swamy*, *inter alia*, this Hon'ble Court held that

"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."

13. In the captioned Writ Petition, it was submitted that the main purpose behind the introduction of VVPATs is to bring in accuracy, verifiability and transparency in the casting and counting of votes. With VVPATs, voters can verify and satisfy themselves that their vote has been accurately recorded against the candidate they voted for; and that it automatically follows that it is only when the paper slips as verified by the voters are counted that the true purpose behind introduction of VVPATs is served. Without counting of VVPAT paper slips in a significant percentage of polling stations in each constituency, the objectives of verifiability and transparency in the democratic process would remain unrealized.

14. The Petitioners in the captioned Writ Petition sought to not only effectively enforce the directions of this Hon'ble Court in *Swamy*, but also to apprise this Hon'ble Court of the relevant developments in the last five years since the decision in *Swamy* was rendered and sought appropriate directions for processual changes that strengthen the spirit of the directions of this Hon'ble Court in *Swamy* in furtherance of the principles of democracy that elections must not only be free and fair but also be *seen* to be free and fair.

15. Accordingly, EVMs with VVPATs were used in all polling stations in select State Assembly Elections only from 2017 onwards, and the Election Commission has planned to conduct all future Assembly Elections and the 2019 Parliamentary Elections only with VVPAT EVMs.

16. In the Assembly Elections for the States of Gujarat and Himachal Pradesh, the Respondent had mandated the counting of VVPAT slips for only one polling station per Assembly Constituency. This worked out to just 182 out of 44,597 polling stations (or 0.4% of the EVMs) in Gujarat and to just 68 out of 7516 polling stations (or 0.9% of the EVMs) in Himachal Pradesh. Petitioners crave liberty to file additional documents and a detailed report in relation to the use of VVPATs in Himachal Pradesh and Gujarat elections at a later stage. The Respondent followed a similarly sparse and weak sampling method in cross-verifying mandatory samples of VVPATs vide a circular in February 2018 for the elections of the state assemblies of Meghalaya, Nagaland and Tripura. A copy of the

said circular was also annexed to the captioned Writ Petition (Annexure-P-7, Pg. 134).

17. The Petitioners and their representatives had a history of engagement and communications with the Respondent Commission on the issue of how reasonable sampling size for cross-verifying EVM counts with VVPATs is crucial to give effect to the directions in *Swamy* and to protect the sanctity of the process of elections, which not only need to be free and fair but also need to be *seen* to be free and fair.

18. In their communications to the Respondent Commission as well as in the captioned Writ Petition, the Petitioners had relied on notes and opinions given by Dr. S.K. Nath, *inter alia* a former Director-General of the Central Statistics Organisation on why the Election Commission's decision to cross-verify only one (1) randomly chosen polling station from all polling stations in an assembly constituency was woefully inadequate and statisticially insignificant and that for a 98% confidence level of less than 2% margin of error, the percentage of randomly chosen polling stations for cross verification must atleast by 30% in an assembly segment with 200 polling stations.

19. Dr. S.K. Nath's opinion (Annexure P-14 and P-15 in the captioned Writ Petition, Pgs 228 - 239) had been obtained after perusing the presentation of Dr. Abhay Bhat and Dr. Rajeeva Karandikar (Annexure P-13 in the Writ Petition, Pg 205) who had been engaged by the Respondent Commission to opinion on the issue of the reasonable sample size. In the said presentation Dr. Bhat and Dr. Karandikar had opined, based on several flawed and fallacious assumptions, that choosing a mere 479 VVPATs across the length and breadth of the country was sufficient as a

reasonable sample size. Dr. Nath's opinions had also pointed out the flawed assumptions in that opinion.

20. It is after such communication received no favourable consideration by the Respondent Commission did the Petitioners file the captioned Writ Petition on which this Hon'ble Court was pleased to issue notice on 07.01.2019. The Sole Respondent filed its counter-affidavit on 26.02.2019 without responding specifically to any averments and contentions in the Writ Petition but only citing the previously decided cases relating to the subject matter of EVMs and VVPATs. The Petitioners thereafter filed a rejoinder to the Counter-Affidavit on 26.03.2019 distinguishing the captioned Writ Petition from all the other caes which had been decided, inter alia, pointing out that

a) the captioned Writ Petition emphasised the principles of democracy, voter verifiability, structural due process and the principle of elections must not only be fair but also be seen to be fair and not on the tamperability of EVMs per se;

b) the captioned Writ Petition was filed after a history of engagement with the ECI on the issue, unlike previous Petitioners;

c) the captioned Writ Petition had supporting material and expert opinion that formed the basis of its prayers, unlike the earlier cases; and that

d) the captioned Writ Petition had been filed after the Election Commission had taken a definitive view on the issue of the sample size for VVPAT cross verification, unlike several of the other cases decided by this Hon'ble Court.

21. Thereafter, W.P.(Civil) 273 of 2019 (*N.Chandrababu Naidu & Ors. V. Union of India & Anr*) was filed by 21 political parties seeking 50% random selection of polling stations for VVPAT counting. This Petition was made a lead petition in the batch of matters and vide Order passed on 25.03.2019, it was observed as under:

> Pursuant to the aforesaid order, Shri Sudeep Jain, Deputy Election Commissioner is personally present. On being asked,Shri Jain has submitted that the Election Commission is of the view that to maintain purity of the process of election, it is not necessary to extend the present arrangement of physical verification of VVPAT in more than one Polling Station per Assembly Constituency or Assembly Segment in a Parliamentary Constituency.
>
> Shri Jain has further submitted that the Election Commission is fully satisfied with the purity of the election process that can be maintained with the aforesaid arrangement.
>
> The Election Commission shall indicate the above in the form of an affidavit of the Deputy Election Commissioner, who is personally present in Court today, indicating the basis of its satisfaction. In the said affidavit, the Election Commission shall also indicate whether any insurmountable difficulty will be caused if the sample survey of VVPAT is to be extended under Court's orders to higher level and the time that may be taken in making such arrangements if the Court is to pass such orders. The aforesaid affidavit will be filed on or before 28.03.2019by 4:00 P.M. The matter be taken up on 01.04.2019 at 10:30 A.M.

22. Pursuant to the same, the Respondent Commission filed a Counter-Affidavit dt. 29.03.2019 including as annexure a report prepared by the Head of the Delhi Centre of Indian Statistical Institute (ISI) Dr. Abhay Bhat, which repeated the opinion that recommended choosing a mere 479 EVMs across the length and breadth of the country for VVPAT tallying.

23. The Petitioners thereafter also filed a Rejoinder also to that Counter-Affidavit, the relevant portions are extracted hereinbelow and may be treated as the averments in this Petition.

> **"NON COMPLIANCE WITH THE ORDER OF THIS HON'BLE COURT DT. 25.03.2019**
>
> 8. This Hon'ble Court, after a brief interaction with Mr. Sudeep Jain, the Dy Election Commissioner, directed the Election Commission to file an affidavit detailing the basis for its satisfaction that cross-verifying EVM counts with VVPAT slips in only one randomly chosen polling

station in each assembly segment is a sufficient safeguard for a free and fair election.

9. However, the Counter-Affidavit filed on 29.03.2019 does not indicate any meetings of the Election Commission or the minutes thereof in which material in relation to cross-verification sample sizes have been considered and approved by the Commission and as such does not indicate any *basis* of the satisfaction of the commission and therefore not in adherence to the Order of this Hon'ble Court dt. 25.03.2019.

FACTS SUPPRESSED IN THE COUNTER-AFFIDAVIT DT. 22.02.2019 FILED ON 26.02.2019 IN THE CAPTIONED WRIT PETITION

10. It is pertinent to point out that in the earlier Counter-Affidavit filed on behalf of the ECI in the captioned writ petition, the communication dt. 10.08.2018 seeking the opinion and expertise of the Indian Statistical Institute in relation to the sample size required to do the VVPAT- cross-verification of the EVM counts has been suppressed. The said communication was in the exclusive knowledge of theRespondent Commission and the suppression of that material fact in the proceedings of the Writ Petition that squarely deals with that subject matter, without any explanation manifestly demonstrates *suppressio veri* on the part of the Respondent Commission. The said communication is noted in the list of dates filed in the later Counter-Affidavit filed on 25.03.2019.
11. However, even in the later Counter-Affidavit filed on 25.03.2019, the communication of the Commission to the Indian Statistical Institute has not been annexed. However, the report dt. 22.03.2019 (hereinafter, "Bhat Report", annexed as ANNEXURE-C/33 in the Counter-Affidavit dt. 25.03.2019) of the Head of the Indian Statistical Institute (ISI), Delhi Centre prepared along with Prof. Rajeeva Kharandikar of the Chennai Mathematical Institute (CMI) and Dr. Ghosh, the Deputy Director General of the Central Statistics Organisation (Social Statistics Division) is annexed and that Report in the appendix refers to the letter dt. 10.08.2018 written by a Director in the Respondent Commission to the ISI. It is not clear if the said communication is pursuant to any resolution or a studied decision taken by the Commission.

FALLACIES& INCORRECT ASSUMPTIONS IN THE BHAT REPORT

12. The Bhat Report has *inter alia* concluded that randomly choosing 479 polling stations for the VVPAT cross verification across the length and breadth of the country is sufficient to say with 99.99996% confidence that not more than 2% of all EVMs used in the General Election are faulty/defective. This *ex facie* irrational conclusion is based on a series of fallacies and incorrect assumptions that have punctuated the Bhat Report.

13. It is pertinent to point out that the methodology and the conclusions of the Report were already known to the Petitioners because of the presentation that was done by Dr. Bhat and others (in their personal capacity, to the best of the Petitioners' knowledge), that had been annexed to the captioned Writ Petition. The said presentation also included the very same conclusions and the *magic number* of 479. Several of the incorrect assumptions and fallacies were noticed and responded to in the reports of Dr. S.K. Nath, the expert opinion annexed as ANNEXURE-P-14 and ANNEXURE-P-15 in the captioned Writ Petition. Neither of the two Counter-Affidavits of the ECI assail the credentials or the contents of the said the reports of Dr. S. K. Nath, who is a former Director General of the Central Statistics Organisation. More importantly, neither of the two Counter-Affidavits assail the contentions in the Nath Report as to the completely incorrect assumptions behind the Bhat Committee conclusions.
14. The principal fallacy in the Bhat Report is that it considers the entire general election as one homogenous event.
15. This assumption can be seen in Page 314 and 315 of the said Report where it says "*Since the Statistical Unit of Study is the EVM, the population will consist of all EVMs being used in a particular set of elections for which the counting is done at the same time.*"
16. However, an "election" in the case of general elections is an election to each of the 543 parliamentary constituencies and in the case of assembly elections, each assembly constituency. In the forthcoming general elections for example, there are 543 events spread over a six week period.
17. The reason for not taking the election in each constituency as a separate event is ostensibly sought to be explained in the Pg 333 of the said Report, wherein it enlists the assumptions of the exercise:

"*There is no difference between the EVMs used in one constituency to another. Further,*

All EVMS have similar design.

They all go through the same tests before they are despatched as well as in the field.

The order in which candidates appear is based on their names, alphabetically arranged and not on their party, resulting in different buttons on the EVM being assigned to a political party in different constituencies.

There is no systematic bias in allotting particular EVM machines to particular states, constituencies or booths. In fact allotment to a constituency and then to a booth is done through a two stage randomisation."

18. It is clear that theBhat Committee has put the cart before the proverbial horse. The BhatCommittee and the Report, in

designing the process, makes the very same assumptions that it ought to build safeguards against – i.e. bias and tampering. It is not unlike trying to build an earth-quake resistant building assuming that earthquakes do not occur.

19. Further the assumption that all the EVMs are fully similar to each other at all times is completely irrational and unreasonable. The EVMs in different constituencies have different functional number of buttons for example, because the number of candidates could vary from constituency to constituency. The symbols and candidate names fed in also vary. EVM in each constituency follows a different data entry path distinct from EVMs in other constituencies. If at all there is any homogeneity, it can only be between EVMs in the same constituency.
20. Further, the thrust of this batch of petitions is not about auditing the defect-free-ness of EVMs, but the integrity of the Electoral Process - in each constituency. Election to each constituency is a separate event and the election in each constituency has to been seen to be free and fair.
21. As an analogy, it is well known that when ballot papers were in use electoral irregularities occurred in some states and not in all states. The hypothetical argument that all ballot papers are identical and hence the risk of irregularities is uniformly spread would be a patently unconvincing and therefore it is submitted that a similar argument advanced in the case of EVMs ought to be outrightly rejected.
22. The entire exercise undertaken by the Bhat committee is therefore vitiated.
23. Further, the table used in Page 324 used by the Bhat Committee is revealing. The assumption is that because the entire election is one event, 479 randomly selected sample VVPATs are sufficient to declare the entire election as a whole to be defect-free and bias-free with > 99.99% confidence level. As one can see however, if the population is brought to a constituency or assembly segment level consisting of 500 – 1000 polling stations, the requisite selection of sample still hovers around the 300 - 400 mark, which is actually the sample range being sought by the Petitioners in this batch of Writ Petitions.
24. Further, the Bhat Report recommendation of 479 randomly chosen polling stations for VVPAT cross verification does not have give any actionable insights in the case of mismatches. For example, it is not clear the course of action would be if there are four or five polling stations in which the counts of EVM and VVPAT do not match. Because the sample is drawn at random from across the country, such an outcome would call into question the election to all 543 constituencies as a whole. On the other hand, if sampling is done constituency or assembly segment-wise, any mismatches thrown are actionable for such localized treatment of the constituency or the assembly segment as the case may be.

25. As mentioned earlier, this basic assumption was questioned by Dr. S.K Nath, whose engagement has been acknowledged in the Bhat Report. Dr. S.K. Nath's report (as against Dr. Bhat and Dr. Kharandikar's findings) had been annexed to the W.P. In WP(C) 1514 of 2018 (*MG Devasahayam & Ors. V. Union of India*) as ANNEXURE-P-14 (Pg. 228 of the petition). This report has not been replied to by the Election Commission in either of the Counter-Affidavits.

ASSERTIONS AS TO THE INCREASE IN TIME TAKEN FOR COUNTING THE PAPER SLIPS

26. The contentions in the Counter-Affidavit in Para 5.19 that it would take 6 additional days to count if VVPAT cross verification is ordered in randomly chosen 50% of the polling stations is totally fallacious.
27. It is common knowledge that the counting happens in upto14 tables in parallel, and even by the ECI's own conservative estimates, the additional time would be much less. This is because the ECI says at Pg 34 of the Counter-Affidavit dt 25.03.2019 that it would take about 1 hour for slips related to one VVPAT to be counted.
28. Taking the average number of polling stations in an assembly segment to be 250 (as assumed by ECI in its counter-Affidavit), 100% counting at the rate of 1 hour per polling station and 14 polling stations in parallel, the time taken would be 250/14 = **17.85 hours per assembly segment**. With 30% sampling as is the relief claimed in the captined writ petition, the additional time incurred in counting VVPATs would be less than 6 hours.
29. The Respondent Commission has effectively based its calculations on the mistaken assumption that counting of VVPATs in an assembly segment has to necessarily happen one after another. No reason has been advanced for that assumption. It is further well known that even in the case of ballot papers in the years prior to EVM introduction, the time taken to count rarely exceeded 16 hours from the opening of the postal ballots at 8 AM.
30. With sufficient parallelism, the time taken to cross-verify EVMs and VVPAT can further come down and in several small constituencies & with less than 250 segments, it would take even less time. And in any case, the urgency to declare results cannot prevail over the overarching principle that the elections should be both free and fair and *seen to* be free and fair.

INCORRECT ASSERTION IN RELATION TO PREVIOUS EXPERIENCE OF EVM & VVPAT MATCH

31. The assertions in the Counter-Affidavit dt. 25.03.2019 in relation to the previous experience of EVM-VVPAT tallying and the exact matches are incorrect. There are several cases where there has been a mismatch the VVPAT tally has been

taken as the final tally of votes. A selection of media reports that show such cases of mismatch are as follows.

a. A true copy of the news report titled "100% Match Between EVMs and Paper Trail Slips on Random Vote Count, Says EC Official" dt. 19.12.2017 as it appeared on the website http://www.news18.com/ (last accessed on 03.04.2019) is annexed herewith and marked as ANNEXURE-R-3.

b. A true copy of the Press-Release by the Election Commission of India dt. 15.05.2018 as reported by the news agency, ANI in relation to the election in Hubli Dharward Assembly constituency in the state of Karnataka(last accessed on 03.04.2019) is annexed herewith and marked as ANNEXURE-R-4.

c. A true copy of the news report titled "#MadhyaPradeshElections2018: What explains the delay in counting?" dt. 12.12.2018 as it appeared on the news website newslaundry.com (last accessed on 03.04.2019) is annexed herewith and marked as ANNEXURE-R-5.

24. Thereafter, this Hon'ble Court was pleased to pass the Impugned Order in the batch of Writ Petitions including the captioned Writ Petition. Gross miscarriage of justice has been occasioned owing to the Impugned Order which has been passed with error apparent on the face of the record inasmuch as several of the contentions, averments, pleadings and the relevant material in support thereof has not been considered by this Hon'ble Court in arriving at the said Order.

25. Further, the Impugned Order has been passed after the Respondent Commission made a manifestly and patently incorrect statement that the Report had been annexed is an "ISI Report" suggesting as if that the due process had been followed in engaging the Indian Statistical Institute and that the Institute has submitted the report after duly considering it in their respective governing council or sub-committee as the case may be. However, material available with the Petitioners, which was obtained only on the morning of 07.04.2019, i.e. one day before the day of the

Impugned Order clearly indicates that there was no institutional engagement of the ISI but at best only engagement of Dr. Abhay Bhat in his private capacity. The said document is annexed herewith vide a separate Application for placing Additional Documents accompanying this Review Petition.

26. This Hon'ble Court's Order passed on the basis of satisfaction of the due diligence having been undertaken by the Respondent Commission, on the claim of having engaged a responsible institution, is clearly errorneous and has been obtained on the basis of error apparent on the face of the record which ought to be remedied in the present Review proceedings.

27. Further, a fresh opinion has also been obtained from Dr. S. K. Nath on the efficacy of the sampling as suggested in the Impugned Order. i.e, an increase from One (1) polling station per assembly segment to 5, which reinforces that even the increase is too marginal for a reasonable confidence level and margin of error in satisfying oneself of a clean election and counting process in any given constituency. The same is annexed herewith vide a separate Application for placing Additional Documents accompanying this Review Petition.

28. Further, several news reports and new material that has emerged following the date of the Impugned Order as the country went for the first three of the six phases of elections in the General Elections that belie several of the assumptions and assertions of the Respondent Commission. The same is annexed herewith vide a separate Application for placing Additional Documents accompanying this Review Petition.

29. These reports *inter alia* indicate

a) That the assumption of all EVMs being uniform and where there are no constituency-wise differences in malfunctioning but totally random, has been clearly belied by reports of malfunctions having being linked to the whether and heat, which clearly changes from one constituency to another.

b) That the assertion that the EVM and VVPAT counts have always matched everytime they have been tallied has been clearly belied based on reports where they have not tallied with each other and necessitating a more rigorous tallying percentage.

c) That this Hon'ble Court's mandate of 5 per assembly segment is also woefully statistically insignificant has been noted in detail in the article titled "A Hitchhiker's Guide to Electronic Voting Machines and VVPATs" in The Wire, an online news journal, on 18th April, 2019 by "Antar Bandyopadhyay, Krishanu Maulik and Rahul Roy" all of whom work at the work at the Theoretical Statistics and Mathematics Division of the Indian Statistical Institute. The Petitioners agree with the assertions and the contentions in the said article may be considered to be averments in this instant Review Petition.

C.GROUNDS

30. This Review Petition is filed on the following grounds which are taken both alternatively and cumulatively.

A. BECAUSE gross miscarriage of justice has been occasioned and an error apparent on the face of the record committted inasmuch as the Impugned Order has been passed without considering that the selection

of sample size of a mere five (5) polling stations from every assembly segment, where each assembly segment can have an average of 200 - 250 polling stations is wholly unreasonable, manifestly arbitrary, irrational and unconstitutional for being in violation of Article 14 of the Constitution. Similarly, a sample size of one polling station per constituency is also statistically minsicule and such a sampling and sample testing exercise is similarly wholly unreasonable, manifestly arbitrary, irrational and unconstitutional.

B. BECAUSE gross miscarriage of justice has been occasioned and error apparent on the face of the record committed inasmuch as the Impugned Order does not consider any of the relevant averments, pleadings and contentions, including Dr. Nath's opinion as to the percentage of polling stations that ought to be selected for random sampling for VVPAT cross verification to achieve a reasonable statistical significance.

C. BECAUSE error apparent on the face of the record has been occasioned because the Impugned Order has been passed owing to the patently incorrect portrayal of the Respondent Commission that the Report annexed in the Counter-Affidavit dt 29.03.2019 was one of "Indian Statistical Institute," even as in reality, it was prepared and signed by the head of the Delhi Centre of the Indian Statistical Institute in his personal/private capacity, along with others who he had engaged therefor.

D. BECAUSE error apparent on the face of the record has been occasioned because the Impugned Order has been passed having on account of the manifestly and patently incorrect claims of the Respondent Commission

that every time that the VVPAT tally of EVMs had been done, there has been a 100% match. It is submitted that the material filed along with the Rejoinder to the 29.03.2019 counter-Affidavit clearly indicated several reports that contradicted that claim. It is submitted that the error ought to be reviewed in the present proceedings inasmuch as the Commission's claims on the same have been taken on face value despite a contradictory pleading being on record and without a finding of fact on the said issue.

E. BECAUSE error apparent on the face of the record has been committted inasmuch as the Impugned Order has been passed without considering that the free and fair elections to offices and positions of political power are a sine qua non of a modern democracy and the preambular promise of democracy in India's Constitution is one of its basic features, which cannot be derogated or suspended even by a Constitutional Amendment, let alone a law, or let alone, as in this case, a simple circular by the Respondent or a Rule in the Conduct of Election Rules, 1961; and therefore constitutues sufficient reason to allow the instant Petition.

F. BECAUSE error apparent on the face of the record has been committted inasmuch as the Impugned Order has been passed without considering that free and fair elections in India are realised in India through the right to vote and universal adult suffrage, which is a composite right including within it the fundamental right to freedom of speech under Article 19(1)(a) of the Constitution, constitutional right under Article 326 of the Constitution read with Articles 14, 15 and 325 of the Constitution and

also statutory rights under Sections 16 – 19 of the RP Act 1950 and Section 62 of the Representation of Peoples Act 1951.

G. BECAUSE the Impugned Order has been passed without considering that the violation of the right to free and fair elections is a violation of fundamental rights in Article 19(1)(a) read with Article 14 and 21 of the Constitution of India and the same constitutes sufficient cause to allow this Review Petition.

H. BECAUSE the Impugned Order has been passed without considering that the confidence of the voters in the integrity of the election process and the duty of the body tasked with conducting elections to conduct elections that are seen to be free and fair is an insegragable part and aspect of the right to free and fair elections and that the same constitutes sufficient reason to maintain this Review Petition.

I. BECAUSE error apparent on the face of the record has been committted inasmuch as the Impugned Order has been passed without considering that fundamental rights jurisprudence in India has progressed from a culture of authority to a culture of justification and it is no longer sufficient for the Respondent to take umbrage under the formal independence of the constitution of the commission, but to justify to the people of this Republic and this Hon'ble Court as to why the harms or the costs of the additional layer of confidence building measure, viz. more VVPATs being selected for mandatory cross-verificartion, disproportionately outweigh the clear benefit of added confidence in the integrity of the process of the election and its results.

J. BECAUSE the Impugned Order has been passed without considering that a rational verification exercise that has in mind the should strive to achieve a 95 to 99% statistical confidence level in the sanctity of the electoral results in each and every electoral constituency and that can be achieved, by all indications, only by a mandatory VVPAT cross-verification and tallying of the counts in atleast 30% of all the EVMs used in each and every constituency.

K. BECAUSE the Impugned Order has been passed without considering the submission an accurate recording and counting of the democratic will of the electorate, to the satisfaction of the electorate, is indispensable to the democratic process. The exercise of the right to vote must take place in a manner that is in consonance with the highest principles of integrity and fairness as enshrined in the Constitution of India.

L. BECAUSE the Impugned Order has been passed without considering the submission that the Respondent is bound to act in aid of the Hon'ble Supreme Court under Article 144 of the Constitution and that the mandatory verification of the VVPAT of a miniscule sample that achieves only 60% statistical confidence level is clearly contrary to the spirit of the Hon'ble Supreme Court's orders in *Swamy* and is therefore a violation of the mandate of Article 144.

31. The Petitioners crave liberty to add and/or urge other grounds at a later stage in the proceedings.

32. This Review Petition has been filed bona-fide and with no oblique motive.

33. This Review Petition is the first such Review Petition in the captioned Writ Petition and that no other proceeding of any nature whatsoever for similar relief has been filed before this Hon'ble Court or any other Court.

D. PRAYERS

In the premises, this Hon'ble Court may be pleased to issue appropriate declarations, writs, orders and directions as set out below:

a) Allow the Review Petition of the Petitioner against the order dated 08.04.2019 passed by this Hon'ble Court in W.P(Civil) 1514 of 2018.

b) Pass any other order or direction that this Hon'ble Court may deem just and proper in the facts and circumstances of this case.

AND FOR THIS ACT OF KINDNESS , THE PETITIONERS SHALL, AS IN DUTY BOUND , EVER PRAY

DRAWN ON: 27.04.2019

DRAWN BY: Mr. PRASANNA S, Advocate.

FILED ON: 30.04.2019

FILED BY:

GOUTHAM SHIVSHANKAR
Advocate-on-Record
For the Petitioners,
Code No: 2698.

36

IN THE SUPREME COURT OF INDIA

REVIEW PETITION NO.____OF 2019

IN

WRIT PETITION (C) NO. 1514 OF 2018

IN THE MATTER OF:

M.G. Devasahayam & Ors. ...Petitioners

Versus

Election Commission of India. ...Respondent

CERTIFICATE

Certified that this Review is the first application for review and is based on the grounds admissible under the rules. The present application confined only to the pleadings before this Hon'ble Court as well as the Court below whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Review Petition except as indicated therein as new and material evidence that has been discovered subsequent to the date of the Impugned Order. A separate Application for placing such additional documents has been preferred along with this Review Petition. It is further certified that the copies of the documents/ Annexures attached are necessary for consideration of this Hon'ble Court. This certificate is given on the basis of the instructions given by the Petitioner whose affidavit is filed in support of the Review Petition.

Filed by:

(Goutham Shivshankar)

Advocate for the petitioner

New Delhi

30.04.2019

IN THE SUPREME COURT OF INDIA

39

REVIEW PETITION (CIVIL) NO. ____OF 2019

IN

WRIT PETITION(C) NO. 1514 OF 2018

[ARISING OUT OF ORDER PASSED BY THIS HON'BLE COURT IN W.P(C) NO. 1514 OF 2018 DATED 08.04.2019]

IN THE MATTER OF:

M.G. Devasahayam & Ors. ....Petitioners

Versus

Election Commission of India ...Respondent

APPLICATION FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS

TO

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

THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner has filed the above mentioned Review Petition under Article 137 of the Constitution R/w Order XLVII of the Supreme Court Rules 2013 challenging the Impugned Order passed by this Hon'ble Court in WP(C) No. 1514 of 2018 dated 08.04.2019. The Petitioner craves leave of this Hon'ble Court to treat the application as part and parcel of the above mentioned Review

Petition, the facts of which are not being repeated herein for the sake of brevity.

2. That the Petitioner has filed the requisite annexures along with the WP(C) No. 1514 of 2018 which was decided by this Hon'ble Court on 08.04.2019.

3. That the Petitioners received a document just on the previous day to 08.04.2019, the day of the Impugned Order, the response of the Indian Statistical Institute to an RTI Application dated 13.03.2019, wherein one Applicant Dr. Krishanu Malik, Kolkata had sought information from the Indian Statistical Institute with respect to the certified copy of the communication from the ECI to ISI requesting a report on VVPAT. Further a certified copy of the office order of ISI forming a committee to prepare the report was sought. In addition the name and designation of the members of the committee, Number and times the committee has met with date and location of the meeting and the certified copies of the proceedings of such meeting were sought. With respect to the first question the RTI was answered by enclosing a copy of the letter dated 10.08.2018. As regards question 2 to 4 it was answered that there was no information held pertaining to such questions and as regards the last question as to the information about the meeting as well as its minutes could not be answered since no such meeting was held.

   A true and correct copy of the letter from the Indian Statistical Institute bearing No. CAF/21-A/62/2018-19/012 ON 3rd April 2019 is

being annexed herewith and marked as **ANNEXURE-P-1(At Pages to)**.

The said document was not available on the record of the captioned Writ Petition because it was received by the Petitioners only on 07.04.2019 and is therefore sought to be placed on record along with the accompanying Review Petition as newly discovered evidence relevant to the adjudication of the instant case.

4. Further, as had been indicated in the accompanying Review Petition, an opinion in the form of a note has been obtained from Dr. S.K. Nath as to the efficacy of sampling five (5) randomly selected polling stations in an assembly segment for cross-verification. A true copy of the note dt. 17.04.2019 is annexed herewith and marked as **ANNEXURE-P-2**(At Pg ____ to ____).

5. Further, an article similarly explaining how the directions in the Impugned Order of choosing five (5) polling stations instead of one makes no significant difference to the confidence level or the margin of error achieved by choosing merely one (1) polling station from an assembly constituency and how both numbers are clearly inadequate to establish with any confidence the fairness of any election in a constituency, titled "A Hitchhiker's Guide to Electronic Voting Machines and VVPATs" has been published in The Wire, an online news journal, on 18th April, 2019 by Antar Bandyopadhyay, Krishanu Maulik and Rahul Roy, all of whom work at the work at the Theoretical Statistics and Mathematics Division of the Indian

Statistical Institute. A true copy of the said article is annexed herewith and marked as **ANNEXURE-P-3** (At Pg___to ___).

6. Further, several news reports have emerged about malfunctioning of EVMs and mismatch of VVPAT-EVM counts. True copies of the same in the format of Publication, Date, State, URL are all annexed and marked as follows.

a) "Guwahati Plus", April 23, 2019; Guwahti, https://www.guwahatiplus.com/daily-news/faulty-evms-at-polling-booths-delays-voting-in-guwahati, , **ANNEXURE-P-4**(At Pg. ___to __)

b) "The Quint", April 23, 2013; Telangana, https://www.thequint.com/elections/election-commission-silent-on-mismatch-in-evm-and-vvpat-vote-count , **ANNEXURE-P-5**(At Pg. ___to __)

c) "Business Today", April 23, 2019: UP, Goa, Kerala https://www.businesstoday.in/lok-sabha-elections-2019/news/lok-sabha-election-2019-evm-snags-reported-up-goa-kerala/story/339555.html, **ANNEXURE-P-6**(At Pg. ___to __)

d) "WebIndia123", April 23, 2019; Karnataka https://news.webindia123.com/news/Articles/India/20190423/3533335.html, **ANNEXURE-P-7**(At Pg. ___to __)

e) "The Hindu", April 23, 2019; Kerala

https://www.thehindu.com/elections/lok-sabha-2019/snake-inside-vvpat-machine-holds-up-polling-in-kannur-kerala/article26918791.ece, **ANNEXURE-P-8**(At Pg. ___to __)

f) "Odisha TV", April 23, 2019; Odisha https://odishatv.in/odisha/evm-vvpat-glitches-polling-adjourned-at-two-booths-in-odisha-366250, **ANNEXURE-P-9**(At Pg. ___to __)

g) "Indian Express", April 23, 2019; U.P, Odisha, Gujarat, Goa, Kerala https://indianexpress.com/elections/lok-sabha-elections-evm-vvpat-malfunction-up-kerala-goa-third-phase-5691022/ , **ANNEXURE-P-10**(At Pg. ___to __)

h) "The Times of India", April 24, 2019; Pune (Maharashtra) https://timesofindia.indiatimes.com/elections/lok-sabha-elections-2019/maharashtra/news/glitches-in-5-evms-in-pune-ls-seat-snags-delay-voting-at-other-places/articleshow/69016489.cms, **ANNEXURE-P-11**(At Pg. ___to __)

i) "The New Indian Express", April 24, 2019; Kerala http://www.newindianexpress.com/states/kerala/2019/apr/24/faulty-evms-vvpats-disrupt-polling-across-kerala-1968153.html, **ANNEXURE-P-12**(At Pg. ___to __)

j) "Herald Goa", April 24, 2019; Goa https://www.heraldgoa.in/Goa/MANDATE-2019/Glitches-in-EVMS-VVPATS-hamper-many-polling-booths/145379.html , **ANNEXURE-P-13**(At Pg. ___to __)

k) "Ummid.com", April 24, 2019; Delhi, https://www.ummid.com/news/2019/april/24.04.2019/about-10000-

evms-malfunctioned-in-first-three-phases.html, **ANNEXURE-P-14**(At Pg. ___to __)

l) "News 18.com", April 25, 2019: Assam https://www.news18.com/news/politics/assam-ex-dgp-spots-vvpat-mismatch-decides-to-not-complain-over-fears-of-facing-prison-2116413.html , **ANNEXURE-P-15**(At Pg. ___to __)

m) "UniIndia", Apr 25 2019; Hyderabad, Karnataka, http://www.uniindia.com/frequent-glitch-in-the-evms-due-to-severe-heat-condition-hampers-polling-in-several-booths-in-hyderabad-karnataka-region/mse/news/1573711.html, **ANNEXURE-P-16**(At Pg. ___to __)

n) "The Deccan Chronicle", Apr 25 2019; Kochi, https://www.deccanchronicle.com/nation/politics/240419/evms-go-out-of-order-voting-delayed.html, **ANNEXURE-P-17**(At Pg. ___to __)

o) "News18.com", April 25, 2019, Assam https://www.news18.com/news/politics/assam-ex-dgp-spots-vvpat-mismatch-decides-to-not-complain-over-fears-of-facing-prison-2116413.html, **ANNEXURE-P-18**(At Pg. ___to __)

p) "The New Indian Express", April 26, 2019; Andhra Pradesh, http://www.newindianexpress.com/states/andhra-pradesh/2019/apr/26/two-officials-in-andhra-pradesh-get-the-boot-over-vvpat-slip-row-1969234.html, **ANNEXURE-P-19**(At Pg. ___to __)

q) "First Post", April 26, 2019 Assam 45

https://www.firstpost.com/india/evm-vvpat-glitches-reported-across-country-as-polling-gets-underway-for-second-phase-of-2019-lok-sabha-election-6470251.html , **ANNEXURE-P-20**(At Pg. ___to __)

7. That the present Application is made bonafide and in the interests of justice.

PRAYER

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

(a) Accept the additional documents marked as **ANNEXURE-P-1 to ANNEXURE-P-20** and take on record the same for the proper adjudication and disposal of the Review Petition; and

(b) PASS such other order as this Hon'ble Court may deem fit to grant under the facts and circumstances of the case.

AND THE PETITIONERS SHALL, AS IN DUTY BOUND, EVER PRAY

DRAWN ON: 27.04.2019

DRAWN BY: Mr. Prasanna S, Advocate.

FILED ON: 30.04.2019

FILED AT: New Delhi

FILED BY:

Goutham Shivshankar
Advocate-on-Record
For the Petitioners,
Code No: 2698.

46

ANNEXURE-P/1

INDIAN STATISTICAL INSTITUTE

Shri Durgam Giri
Senior Administrative Officer &
CPIO

203 BARRACKPORE TRUNK ROAD
KOLKATA 700 108, INDIA
Fax : +(91)(33) 2577 6033
E-mail : g.durgam@gmail.com

No CAF/21-A/62/2018-19/ 012
03 April, 2019

Dr. Krishanu Maulik
13 Ekdalia Place,
Kolkata - 700019

Sub. : Your RTI application dated 13.03.2019, received by this office on 13.03.2019

Dear Sir,

This refers to your RTI application dated 13.03.2019, received by this office on 13.03.2019, the information sought, are furnished below :

Sl. No.	Information sought	Information supplied
1.	Certified copy of the communication from the ECI to ISI requesting a report on VVPAT	Copy enclosed.
2.	Certified copy of the office order of ISI forming a committee to prepare the report.	No information held.
3.	Name and designation of the members of the committee.	
4.	Number of times the committee has met, with date and location of the meeting.	
5.	Certified copies of the proceedings of such meeting.	Not held in this office.

Your RTI application dated 13.03.2019, received by this office on 13.03.2019, is disposed of. The First Appeal, if any, against the reply of the CPIO may be made to the First Appellate Authority within 30 days from the receipt of reply from the CPIO. The name and address of The First Appellate Authority is given below:

Brig J N Pandey
Chief Executive (A&F) & FAA of the Institute
203, B.T. Road, Kolkata – 700 108
Phone: +91 33 2575-2251
e-mail: ceaf@isical.ac.in

Yours sincerely,

(Durgam Giri)
Senior Administrative Officer & CPIO

47

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

No.51/8/VVPAT-ISI/2018-EMS Dated: 1st August, 2018

To,

Prof Bhat,
Head, Indian Statistical Institute (Delhi Centre),
New Delhi

Subject: **Mandatory verification of VVPAT slip count with electronic result during counting of votes in elections to the Parliament and State Legislative Assemblies: Statistical principles - regarding**

Sir,

With reference to the captioned subject and in continuation of the discussion during the meeting with Sh Sudeep Jain, Dy Election Commissioner on 08.08.2018, I am directed to state that the Election Commission of India is Constitutionally mandated with direction, superintendence and control of elections to the Parliament and various State Legislative Assemblies in the country. Over the last two decades, the Commission has successfully conducted various general and bye elections through Electronic Voting Machines (EVMs) based voting and counting. Since 2013, the Commission has also deployed Voter Verifiable Paper Audit Trail (VVPAT) machines along with EVMs for additional verifiability and transparency in the voting process. The Commission is committed to 100% deployment of VVPATs with EVMs at all polling stations in all future elections to the Parliament and State Assemblies.

In order to further enhance the credibility and transparency of the EVM-VVPAT based election process, as also to address the demands of certain political parties regarding VVPAT paper trail counting, the Commission has already decided to undertake VVPAT slip verification of 1 (one) randomly selected polling station in each Assembly Constituency during the counting process. As a consequence of this decision, to date VVPAT slip verification has already been done in respect of 843 polling stations across various States/UTs during the General and Bye election conducted during the last year. It is recorded with satisfaction that the slip verification has matched with the electronic count in all the cases.

However, there are intermittent demands from certain sections of the political firmament to increase the counting of VVPAT slips during every election and the request varies from 25% to 100% slip counting. As can be duly appreciated, there has to be a convincing logical rationale rooted, *inter alia*, in sound statistical foundation for examining

and processing such requests. The Commission, as always, is keen to engage and involve all the stakeholders in the various aspects of election management and adopts a constructive and collaborative approach in resolving and addressing various issues, including the present matter regarding VVPAT slip count.

Since, Indian Statistical Institute is the most notable and reputed national institution devoted to research, teaching and application of statistics and sampling knowledge in the country, the Commission considers it expedient and desirable that your cooperation and expertise is solicited in addressing the matter of VVPAT slip verification, being essentially a statistical issue. Your vast technical resources and domain expertise will be very useful and instrumental in systematically analysing the whole issue and arriving at mathematically sound, statistically robust and practically cogent solutions to the raging debate about the number/percentage of VVPAT slip counts to be undertaken during the elections.

In view of the same, it is requested that your kind convenience may please be conveyed for associating with the Commission and collaborating towards addressing the issues as elaborated above. Any additional information or supplementary material in the matter, if so desired, may please be indicated.

Thanking you,

Yours sincerely,

(NIKHIL KUMAR) 10/12/12
Director

INDIAN STATISTICAL INSTITUTE
203 BARRACKPORE TRUNK ROAD
KOLKATA 700 108

49

OFFICE ORDER NO. D.O./2016/382 DATED 10 JUNE 2016

All programmes other than the regular degree/diploma courses undertaken by the Institute or its scientists involving external agencies will henceforth be taken up by the Cell for Cooperation with Academia, Industry and Research Labs (C-CAIR). The Cell will comprise the following members:

1.	Professor Bhargab B. Bhattacharya	... Chairperson
2.	Professor Ayanendranath Basu	... Vice-Chairperson
3.	Professor Dilip Saha	... Member
4.	Dr. Prasun Das	... Member
5.	Dr. Utpal Garain	... Member
6.	Dr. Ansuman Banerjee	... Member
7.	Dr. Anil K. Ghosh	... Member
8.	Dr. Soumyanetra Munshi	... Member
9.	Head, Delhi Centre or his nominee	... Member
10.	Head, Bangalore Centre or his nominee	... Member
11.	Head, Chennai Centre or his nominee	... Member
12.	Dr. Raghunath Chatterjee	... Convener

Responsibilities

The Committee will be responsible for matters related to the following :

- Initiating collaborations/student exchanges/MoUs with other Universities/Institutes or with any external/government agencies including research labs;
- Reviewing project proposals, and proposals for collaborations submitted by the scientific workers; this will include funding proposals to be sent to government agencies or private organizations. The Cell should consult other relevant committees to decide on related issues;
- Collaborations with Industries;
- Establishing and promoting incubation efforts

The Committee will also be responsible for the following

- Formulating well-defined procedures for submission, review/sanction of all such proposals;
- Formulating a policy for IP-sharing;
- Reviewing the policies on Income Generating/Non-Income Generating/Consultancy projects, associated leave rules, and patents;
- Review the policy for income sharing and usage policy among the Institute, the Department and the Division as applicable;
- Formulating policies of incubation.

Contd. 2/-

50

General Guidelines

All proposals will be submitted to the Chairperson (or Vice-Chairperson), C-CAIR Cell. These will be reviewed by the Committee and recommended to the Director, strictly following the well-laid out procedures, by the C-CAIR Cell. Any deviation has to be forwarded to the Director with specific recommendation and justification. The decision of the Director on such matters will be final.

All policies formulated by the Committee, and any change thereafter, must be sanctioned by the Director.

The existing policies procedures will continue to apply till new policies are formulated.

It is expected that all policies are well-laid out within six months of the issue of this order. Thereafter the different Centres (other than the Head quarter) will form their own Cells, with the Director's approval, Chaired by the Centre Head and with at least one member each from Head quarter and other Centre (from the corresponding C-CAIR Cell). The Cells in the Centres will function in exactly the same way as laid out for the C-CAIR Cell in this order.

This order supersedes the Office Order No. D.O./2015/509 dated 10 August 2015.

S Bandyopadhyay

(Sanghamitra Bandyopadhyay)
Director

Copy to :
All Faculty Members
All Professors-in-Charge/Head, SQC & OR Division
Head of Centres
All Heads of Departments/Sections/Units including outlying centres/branches
Chief Executive (A&F)
Dy. Chief Executive (F)
Director's Office.

ANNEXURE- P/2

51

Note & Table Dt. 17.04.2019 by Dr. S.K. Nath.

Question: The Hon'ble Supreme Court has now ordered that five polling stations be chosen randomly from among all the polling stations in an Assembly Segment for VVPAT cross verification with EVM counts. For varying assembly segment sizes from 50, 100, 150, 200, 250, 300, 400 and 500 polling stations, what is the confidence level and the margin of error that is achieved with such an exercise choosing a random five?

Table showing behavioral pattern of CL or MOE with Sample size=5

Sample Size	Polling booths within a constituency	**Situation-I** How "Margin of Error" behaves with fixed		**Situation-II** How Confidence level behaves with fixed
		95% level of confidence	99% level of confidence	2% margin of error
(1)	(2)	(3)	(4)	(5)
5	50	18.31%	24.06%	16%
5	100	18.71%	24.59%	15%
5	150	18.85%	24.77%	15%
5	200	18.91%	24.85%	15%
5	250	18.95%	**24.90%**	**15%**
5	300	18.98%	24.94%	15%
5	350	18.99%	24.96%	15%
5	400	19.01%	24.98%	15%
5	500	19.03%	25.01%	15%

Software used: http://www.raosoft.com/samplesize.html?nosurvey

thewire.in

A Hitchhiker's Guide to Electronic Voting Machines and VVPATs

Antar Bandyopadhyay, Krishanu Maulik and Rahul Roy

6-7 minutes

In Douglas Adams's irreverent sci-fi classic *The Hitchhiker's Guide to the Galaxy*, the supercomputer Deep Thought, after spending seven-and-a-half million years on it, derives the 'Answer to the Ultimate Question of Life, the Universe and Everything'. It is the number 42.

Deep Thought also clarifies that the answer is meaningless because the people who programmed the computer didn't actually know what the question was.

Closer to home, a few judges of our Supreme Court and many renowned lawyers sought to understand the meaning of the number '479', obtained ostensibly from an Indian Statistical Institute report to the Election Commission of India. The three learned authors of this report spent seven-and-a-half months to come up with this number, which indicates the number of EVMs that should be randomly checked with VVPAT.

On a careful reading of the report, we now understand the question to which the answer is 479.

It is the answer to a question of statistical quality-control. Indeed, this would have been the same answer to the question of how many pencils need to be checked to ensure that in a pencil

53

factory, the weekly production of 15 lakh pencils doesn't have more than 2% defects – or in other words, whether the EVMs when they were produced had manufacturing defects or not.

Before we move to other aspects of this report, we first point out a fundamental flaw in the assumptions on which this report is based. The report considers all the EVMs of India to be a single population, among which defects have to be searched. India does not have a presidential system of elections. Instead, we choose representatives in each constituency to send to Parliament.

In such a model, a voter from a particular constituency has to be satisfied that their representative has legitimately won the elections and the result is not because of machine tampering. Thus, the random checks have to be done among the machines at constituency-level, which constitutes the relevant population.

Once this fact is noted, then following the 'hypergeometric model' of the report, and assuming 1,500 EVM-VVPATs in each constituency with 2% having defects, one comes to a figure of approximately 350 per constituency as the number of EVMs whose VVPATs have to be tallied. This gives an overall number for the country of around 2 lakh of randomly selected EVMs whose VVPATs have to be cross-checked.

However, this number of 350 per constituency, which is arrived at from the hypergeometric model used in the report, is flawed.

Indeed suppose that there are 15 lakh voters in each of two distinct constituencies 'A' and 'B'. Also assume that in constituency A the winning margin is 1.5 lakh votes, while in constituency B the winning margin is 15,000 votes, and this is not an unrealistic scenario, as a perusal of past election data will suggest. It is not rocket science to realise that even a small error

may change the outcome in constituency B, while it will need a larger error to change the outcome in constituency A.

For constituency B, tampering of 7,500 votes is enough to change the outcome, while for constituency A there has to be tampering of 75,000 votes. In percentages terms, an error in the count of 0.5% of the electorate of constituency B is enough to change the outcome, whereas in constituency A the percentage required is 5%.

Thus the number of samples to be checked for constituency B has to be much larger than that for constituency A. Indeed the sample size has to depend on the size of the winning margin. A 'one size fits all' cannot be a solution as is done in the said report where a uniform 2% error is used.

A quick calculation, assuming there are 1,500 EVMs in the constituencies (each EVM on an average handles 1000 votes), it will be enough to check 150 VVPATs for the constituency 'A', while to obtain a precision given in the report, it will be required to check about 950 VVPATs for the constituency 'B'.

The report also proceeds to give a sequential scheme of checking in case of mismatch between the VVPAT and the EVM counts. If there is only one mismatch in the 479 randomly selected EVMs, the report suggests that an extra 128 EVMs be randomly selected and their VVPATs checked for mismatches. If there are two mismatches in the original 479 and the additional 128, then another extra 110 are to be selected and their VVPATs tallied to check for mismatches, etc.

Again, clearly, if there is a mismatch in an EVM used in a particular constituency, in the random choice of the EVMs for the additional checks, the chosen machines may come from completely different constituencies. This hardly makes any

55

sense.

There is one more fallacy of checking a fixed number (1 or 5) of EVM-VVPATs for each assembly segment of a parliamentary constituency. For example, each parliamentary constituency in UP has five assembly segments and hence, assuming five VVPATs are to be verified per assembly segment, we need to check 25 machines.

On the other hand, Mizoram has one parliamentary constituency with 40 assembly segments, leading to checking of 200 of them. Given the objection of the ECI about the difficult terrain, checking 200 machines in Mizoram should have been a bigger concern than checking only five in UP. An even more interesting conundrum arises in the five parliamentary seats in the union territories without any assembly.

Recall what professor P.C. Mahalanobis said to the 125th meeting of the American Statistical Association, about the difficulty of applying "Statistics as a Key Technology" to the official systems in India. The Father of Indian Statistics lamented: "The very idea of having crosschecks is frightening as conflicting results arising from independent checks would be 'confusing' and must be resisted and is being resisted even today."

How correct and contextual Mahalanobis sounds, even 54 years later.

Antar Bandyopadhyay, Krishanu Maulik and Rahul Roy work at the Theoretical Statistics and Mathematics Division of the Indian Statistical Institute. The views expressed here are personal.

56

ANNEXURE-P/4

guwahatiplus.com

Alleged EVMs malfunction at Polling Booths, delays voting in Guwahati

G Plus News | April 23, 2019 08:42 hrs

2 minutes

Alleged EVMs malfunction at Polling Booths, delays voting in Guwahati

Guwahati: The general election for the Gauhati LS Seat has only just begun and reports of Electronic Voting Machines (EVMs) alleged malfunctioning are flying in from multiple corners of Guwahati.

Instances have been reported wherein EVMs were reportedly not working and as a result, polling was delayed at several booths.

At one of the poll booths at Narangi LP school, people had to wait for more than an hour to cast their vote. Another delau was reported at voting centre no.155, Dreamland School due to an EVM malfunction claims voters at the voting centres.

According to locals at the polling centre, it is a discouraging signal for voters, as the electoral officials showed lack of preparedness and people might not necessarily return even though an EVM has been replaced or repaired.

EVMs have faced their fair share of controversy in India. There have been claims that the machines are vulnerable to being hacked and have security issues. It's one of the reasons that the Voter Verifiable Paper Audit Trail (VVPAT) was brought into the picture. It allows voters to verify that their vote was registered correctly.

- Guwahati

ANNEXURE-P/5

58

thequint.com

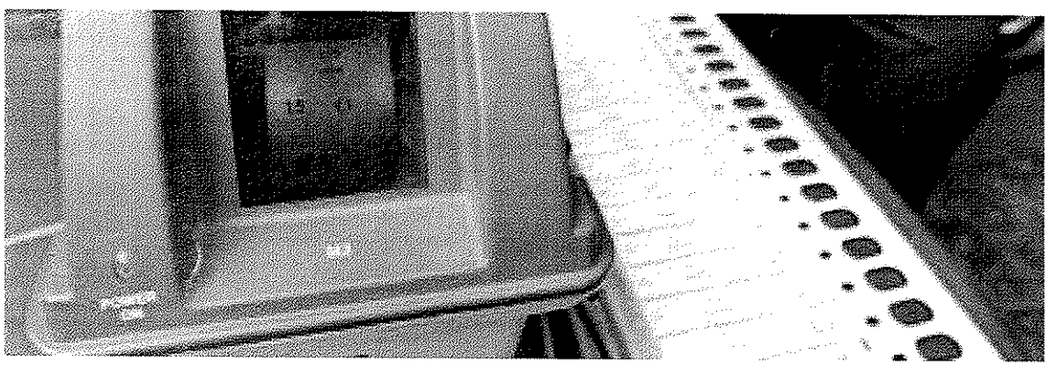
EC Silent on EVM and VVPAT Vote Count Mismatch in Telangana

Poonam Agarwal2 DAYS AGOElections5 min read

7-8 minutes

EC Silent on EVM and VVPAT Vote Count Mismatch in Telangana

10.2k ENGAGEMENT



Why EC is not explaining the reason behind the discrepancies in the number of votes counted in EVM and VVPAT in Telangana Elections? (Photo: IANS)

The Election Commission of India (EC) is using Voter Verifiable Paper Audit Trail (VVPAT) in polling booths to counter the controversy over the tampering of Electronic Voting Machines (EVM). On the Supreme Court's order, the EC has been randomly verifying 5 VVPATs per constituency in the Lok Sabha elections.

This was being done to restore voter confidence, but the petitions filed in the Telangana High Court have raised further concerns.

59

The petitions say that during the Telangana Assembly elections in December 2018, the vote count of a few VVPATs did not tally with that of the EVMs.

Dasoju Sravan Kumar and DK Aruna, members of the Congress Party, filed petitions in the Telangana High Court pointing out the discrepancies in the VVPAT and EVM vote count. Kumar contested from Khairatabad constituency and Aruna from Gadwal constituency.

The petition filed by Aruna says,

> "On the date of counting, ie, 11.12.2018, when VVPAT printed slips are (sic) counted as part of random checking, it was noticed by the Election agent of the petitioner, Mr Banala Krishna Murthy, that there were discrepancies and variance in terms of secured votes through EVM and printed slips of VVPATs."

When Aruna's polling agent discovered the discrepancy in the count, he requested the election agent to count VVPATs of all polling booths in Gadwal Assembly constituency, but the Returning Officer did not allow it.

On the same day, a specific request mandated under the Conduct of Elections Rules, 1961 was submitted to the Returning Officer by Aruna, but so far, no decision has been taken on the request.

A similar problem was cited by Kumar in his petition, where he says:

> *"...when VVPAT printed slips are counted as part of random checking, it was noticed by the election agent of the petitioner, Mr Chamkura Sudhakar Reddy, that there were discrepancies and variance in terms of secured votes through EVM and printed slips of VVPATs."*

60

Here too, the Returning Officer refused to count VVPATs of all polling booths despite the petitioner's request.

Possible Reasons For Mismatch In EVMs and VVPATs

1. Malfunction and Tampering

There can be no difference between the number of votes recorded by the EVMs and the VVPAT vote count because every time a voter presses the EVM button to vote, a printed slip containing the party symbol blinks on the VVPAT machine to assure the voter that the vote has gone to his/her choice of candidate.

VVPATs have been introduced to bring in transparency in the entire procedure. Now, when one vote on EVM means one printed slip in the VVPAT, then how did a mismatch happen in the above-mentioned Telangana constituencies?

> "One of the reasons for the mismatch is malfunctioning and tampering of EVMs. The number of votes in the EVM cannot change until and unless someone tries to tamper with it. Hence, it is important that at least 50% of VVPATs are counted in the Lok Sabha Elections to achieve 99% accuracy in the vote count."
>
> Ravi Shankar Jhandhyala - Petitioner's lawyer

Recently, the Supreme Court has ordered the EC to count 5 VVPATs per constituency in the Lok Sabha Elections. And if there are any discrepancies in the number of votes in VVPATs and EVMs then the VVPAT count will prevail.

Experts say, counting 5 VVPATs per constituency is as good as not counting them because EC has declared that 10.35 lakh polling stations have been set up in the Lok Sabha elections –

which translates to 2,000 polling stations per constituency. Will counting just 5 out of 2,000 VVPATs per constituency bring about any transparency?

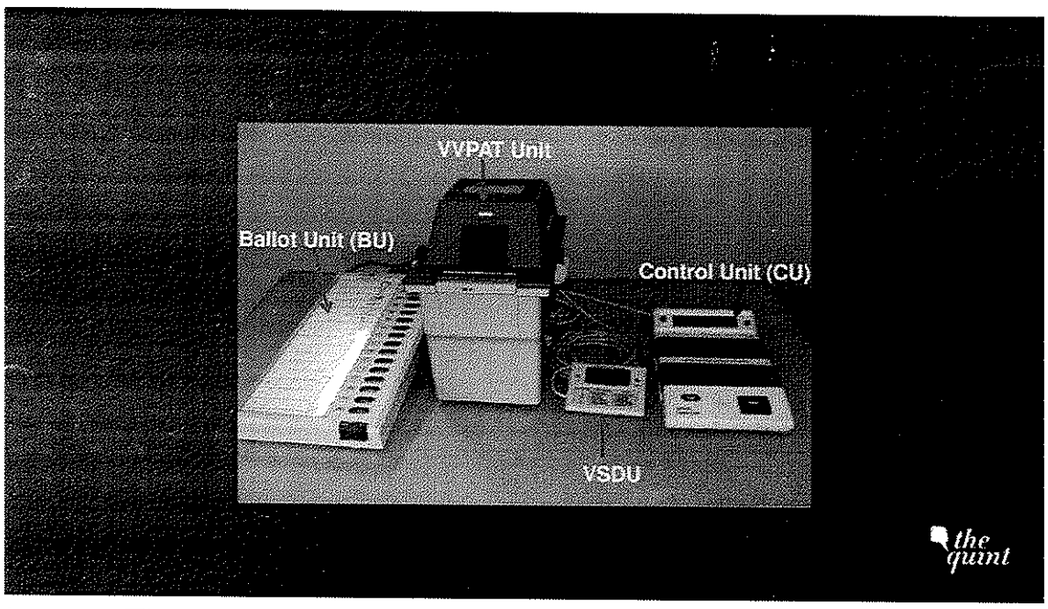


Image: The Quint

Some EC officers argue that mismatch might happen because of human error and not tampering.

> "Before the polling starts, a mock poll is carried out by the Presiding Officer of the booth. During the mock poll, a minimum of 50 votes are cast just to check whether the EVM and VVPAT are not malfunctioning. There could be a human error that the election officer on duty forgot to delete the mock poll from EVM or VVPAT."
>
> -Senior EC officer

But experts are not buying this explanation because after the mock poll is over, mock votes are deleted from EVMs and printed slips are removed from the VVPATs by the presiding officer in the presence of the polling agents of contestants from various political parties.

If mock votes were the reason behind the discrepancies in the

VVPAT and EVM count then the polling agent of the contestant would have been aware of it.

Secondly, why didn't the election agent clarify the reason behind the mismatch in the vote count on counting day, when repeated questions were raised by the polling agent of the petitioners?

Thirdly, why didn't the Returning Officer act or reply to the petitioner's request to count VVPATs of all polling booths in that particular constituency?

Fourthly, why didn't the EC upload the number of votes counted in the VVPAT in the Telangana Assembly elections to maintain transparency?

Interestingly, till date the EC has not uploaded any data revealing the vote counted via VVPATs.

The petitioner Aruna has also mentioned in the petition that on the counting day, 10 EVMs of 10 polling stations malfunctioned because of which technicians were called in for assistance. Aruna claims that her polling agent was not permitted to be present when technical experts were recovering the votes from EVMs.

Aruna submitted an application to the Returning Officer requesting the VVPAT slips be counted in the concerned polling stations. But the Returning Officer neither allowed nor rejected the request of the petitioner.

> **The Quint** has earlier reported on the mismatch in the number of votes polled and number of votes counted in the EVMs during the Madhya Pradesh Assembly elections which was held simultaneously with the Telangana Assembly elections.

In a likely response to the report, the EC removed the data regarding the number of votes polled only to upload a new data

set a month later. And this time the two data sets matched. **The Quint** reached out to the EC but did not receive any response.

Now, with the mismatch in the EVMs and VVPAT vote count, EC has lot more to answer.

The Quint has written a set of questions to the EC related to the discrepancies in the votes counted in EVMs and VVPATs. This article will be updated if and when we receive a response.

Follow our Elections section for more stories.

Also Read

Also Read

Also Watch

Video Player is loading.

Current Time 0:00

Duration 0:00

Remaining Time -0:00

Beginning of dialog window. Escape will cancel and close the window.

ANNEXURE – P/6

64

businesstoday.in

Lok Sabha Election 2019: EVM snags reported in UP, Goa, Kerala

3-4 minutes

As 13 states and 2 Union Territories vote today, multiple cases of EVM malfunctioning are being reported. The EVM-VVPAT machine came under heavy criticism by Opposition parties in the first two phases of polling. In Phase 3 too, instances of EVM glitches have been reported from Uttar Pradesh, Goa, Kerala and Bihar.

In response to reports of EVM glitches, Akhilesh Yadav tweeted, "EVMs across India malfunctioning or voting for the BJP. DMs say poll officials untrained to operate EVMs. 350+ being replaced. This is criminal negligence for a polling exercise that costs 50,000 crs."

Here's a lowdown of the instances of EVM glitches:

Uttar Pradesh: More than 300 EVMs were not working, claimed Azam Khan's son. In an interview to Aaj Tak, Abdullah Azam Khan said, "More than 300 EVMs are not working and the district magistrate is doing this on purpose. Police are scaring people by going inside their homes. I even heard that some people have been asked to keep their rifles ready. All this is being done to scare away voters."

More than 50 polling booths reported EVM malfunction early morning in the state's Rohilkhand region. Twenty-seven of these were reported from Badaun, 14 in Bareilly, 11 in Moradabad, 7 in

Sambhal and 5 each on Pilibhit and Aonla.

A problem with a VVPAT machine was also reported from a booth in Firozabad that delayed polling for 45 minutes.

Goa: In South Goa, the Election Commission had to replace EVMs at a booth in Cuncolim after it was found that the machine was adding votes to BJP's tally during a mandatory mock poll exercise. The matter was raised by Aam Aadmi Party's South Goa Lok Sabha seat candidate Elvis Gomes. Gomes said that during the mock poll in which 9 votes were cast for each candidate, the BJP candidate received 17 votes, Congress received 9, AAP received 8 and 1 went to independent candidates.

The Goa Chief Electoral Officer said, "Entire set of EVMs has been replaced for AC 34, PS No 31 as per report from DEO South Goa."

Also read: *Lok Sabha Election 2019 Phase 3 Live Updates: EVM glitches in UP, Kerala, Goa; Sunny Deol joins BJP*

Kerala: At a polling booth in Wayanad, the EVM machine was not registering the vote. NDA candidate Thushar Vellappally wrote to the EC and said, "Let me draw your kind attention to an important matter. It is reported from booth number 79 - CMS Higher Secondary School, Arappatta in Mooppanad Panchayat that the voting machine is damaged. A vote is not being cast even after pressing twice."

In Phase 3, Goa, Gujarat, Kerala, Dadra and Nagar Haveli and Daman and Diu along with Karnataka, Maharashtra, Uttar Pradesh, Chhattisgarh, Odisha, West Bengal, Assam and Bihar are going to the polls.

Also read: *Lok Sabha Election 2019: Phase 3 voting FAQs; PM*

news.webindia123.com

Glitches in EVMs, VVPATs delay Karnataka polling

2-3 minutes

Glitches in Electronic Voting Machines (EVMs) and Voter Verifiable Paper Audit Trail (VVPATs) in many polling stations delayed or held up voting initially in Karnataka's remaining 14 Lok Sabha seats, said an official on Tuesday.
"Though there are reports from some booths about glitches in EVMs or VVPATs, they have been rectified or replaced to begin or resume voting," joint chief electoral officer A.V. Surya Sen told IANS here.

Voting was underway in all the 14 parliamentary constituencies across the western and northern parts of the state since 7 a.m. under tight security.

According to information received from the presiding and assistant returning officers in the respective constituencies, polling could not begin in one of the booths in Bagalkot seat due to an EVM malfunctioning.

Similarly, a glitch in a VVPAT held up voting in booth number 106 at Hubbali in Dharwad seat in the state's northwest region for about 30 minutes.

"We have enough spare EVMs and VVPATs in every assembly segment of the parliamentary seats to replace faulty machines or printers to ensure voting is not held up. Technical personnel are at every booth to assist the presiding officers to rectify or replace

the ballot or controlling units," said Sen.

EVMs and VVPATs malfunction were also reported from Belgaum, Bellary (ST), Bidar, Bijapur (SC) Chikkodi, Davanagere, Gulbarga (SC), Koppal and Raichur (ST).

67

"We have 25 per cent redundancy in every constituency to minimise delays due to glitches. Complaints of malfunctioning of EVMs or VVPATs account for 0.25 per cent of their total in operation," state Chief Electoral Officer Sanjiv Kumar told IANS.

There are 28,022 polling stations across the two regions, including 216 all-women ('sakhi') and 39 ethnic booths for gender and tribal empowerment.

--IANS fb/in

(299 Words)

2019-04-23-10:14:06 (IANS)

ANNEXURE-P/8

68

thehindu.com

Snake inside VVPAT machine holds up polling in Kannur, Kerala

PTI Kannur, April 23, 2019 12:19 IST Updated: April 24, 2019 15:38 IST

1 minute

An unusual "visitor" in a polling booth in the Kannur Lok Sabha constituency, held up voting for a brief while on Tuesday.

A small snake was found inside a VVPAT machine in a booth at Mayyil Kandakkai in the constitutency, which is witnessing heavy polling, triggering panic among officials and voters. However, the reptile was soon removed and voting resumed.

The Kannur constituency, where sitting MP P.K. Sreemathy (CPI-M-LDF), K. Sudhakaran (Cong-UDF) and C.K. Padmanabhan (BJP-NDA) are trying their luck, is witnessing brisk polling since the morning.

69

odishatv.in

EVM, VVPAT glitches: Polling adjourned at two booths in Odisha

2-3 minutes

Cuttack: Voting at two booths in separate places was adjourned during the conduct of the third phase polls in Odisha today following glitches in EVM and VVPAT machines.

According to sources, VVPAT machine of polling station no-196 of 87 Baramba constituency was changed after it developed some error. However, while replacing the VVPAT machine, the one meant for Lok Sabha constituency was mistakenly attached to the control unit and ballot unit meant for Assembly constituency, sources said.

The mistake came to fore after a voter complained about improper display of votes in VVPAT which were not in accordance to his vote.

The poll officials present at the booth confirmed about the error after conducting test vote as per provisions of Rule 49 MA of Conduct of Election Rules 1961 and established that the mistake was due to 'wrong pairing' of the machines.

Polling has been adjourned immediately and sources said the State Chief Electoral Officer has recommended the Election Commission of India for fresh poll in the booth in accordance with section 58 (B) of RP Act,1951.

In another incident, polling in booth no 183 under Deogarh

70

Assembly constituency was also adjourned following technical snags in pairing of EVMs and VVPAT machines. Recommendations have also been made for repoll in the booth.

This apart, several other incidents of disruption in polling were also reported from other places in the State. Polling was disrupted at booth no 180 of Jubilee Town area, booth no 1 at Kalinga panchayat in Khurda, booth no – 222 of Kamasasan village under Brahmagiri Assembly constituency.

Following incidents of snags, enraged locals created disturbances in several places of the State. Alleging fault in EVM, villagers smashed two voting machines inside booth no 75 at Balabhadrapur under Satyabadi constituency of Puri. Similarly, clash erupted over booth rigging allegations between supporters of two political parties outside booth no 1 at Kalinga panchayat in Khurda.

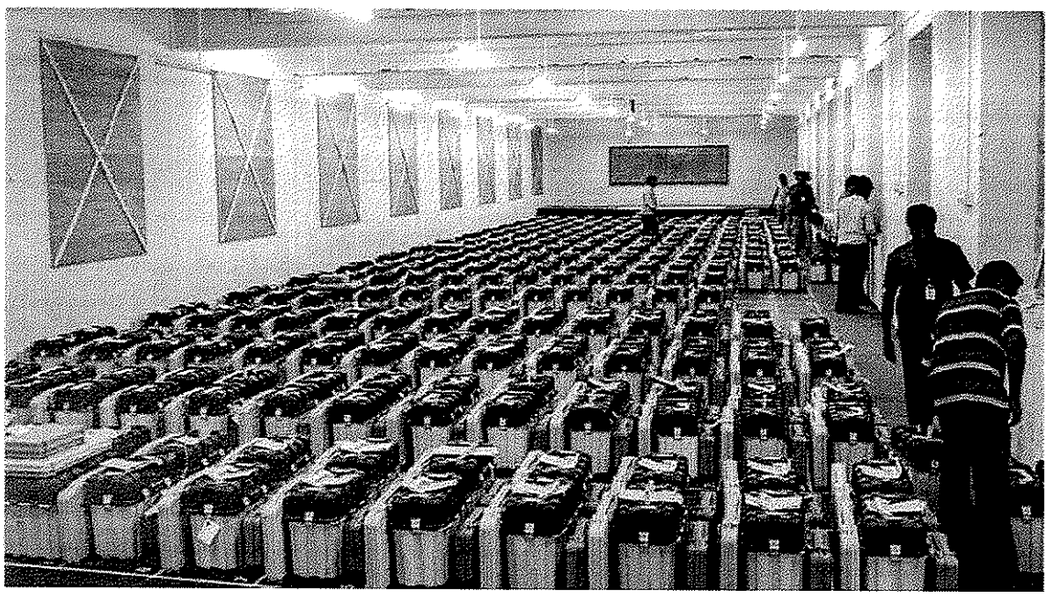
ANNEXURE - P-10

71

indianexpress.com

Lok Sabha elections: EVM, VVPAT malfunction reported from UP, Kerala, Goa in third phase

5-7 minutes



EVM malfunction was reported from UP, Goa, Gujarat, Kerala and Odisha. (PTI)

Complaints of EVM malfunctioning were reported from several states during the third phase of the Lok Sabha elections on Tuesday. Even as voters turned up in large numbers to cast their votes in 116 seats, EVM glitches were reported from Kerala, Uttar Pradesh and Goa. BJP president Amit Shah, Congress chief Rahul Gandhi and several Union ministers are in the fray in this phase. Lok Sabha Elections 2019 Phase 3 LIVE UPDATES

1. Uttar Pradesh

72

Samajwadi Party chief Akhilesh Yadav Tuesday alleged that EVMs were "malfunctioning or voting for the BJP" across the country and termed it a "criminal negligence". "EVMs across India malfunctioning or voting for the BJP. DMs say poll officials untrained to operate EVMs. 350+ being replaced. This is criminal negligence for a polling exercise that costs Rs 50,000 crs. "Should we believe DMs @ECISVEEP, or is something far more sinister afoot?" Yadav said in a tweet tagging the Election Commission.

Talking to reporters after casting his vote in Saifai (Etawah), Yadav said the EC should take cognisance of reports of malfunctioning of EVMs in Rampur and Badaun also.

"I have come to know that a state minister is trying to influence polling in Badaun, where his daughter is contesting. Officers are saying that EVMs are not running for lack of proper training of officials. Is this the digital India being promised by the government?" he said.

2. Kerala

Glitches in EVMs in some polling booths were reported in the initial hours of voting in Cherthala in Alappuzha district and Kovalam in the state capital, reported PTI. However, state Chief Electoral Officer Teeka Ram Meena dismissed the reports of widespread technical issues in the voting machines and said only isolated cases were reported. "The technical glitches of the sensitive voting machines is nothing new... there were rains in many places last night and the issues could have been due to that," he said.

73

In the evening, a 21-year-old man was booked by police after he allegedly made a false complaint about a voting machine in a booth where he cast his vote. After casting his vote at a booth in Thiruvananthapuram Lok Sabha constituency, Babu complained to polling officials that the VVPAT machine showed his vote was not registered in favour of his preferred candidate. However, after a test voting was held in the presence of the presiding officer and polling agents, the complaint was found to be false.

However, Babu was later baild out. He voted from booth no 151 in Vattiyoorkavu, Thiruvananthapuram.

3. Gujarat

There were complaints of technical glitches in EVMs at some booths in Gujarat, an election official was quoted as saying by PTI. State additional chief electoral officer Ashok Manek said some EVMs were replaced after complaints of technical problems.

"The EVM machines malfunctioned in some parts of the state. We quickly replaced them and the voting process was not affected," he said. A detailed report on faulty EVMs will be released after the polling ends in the evening, he added.

4. Goa

Aam Aadmi Party chief Arvind Kejriwal alleged that there have been several instances of faulty electronic voting machines in Goa during polling for the third phase. In a series of tweets, Kejriwal tagged reports of alleged faulty electronic voting machines. Tagging a news report which claimed that "faulty EVM in a booth at Kizhakke Nalpathu near Cherthala was replaced after it was found that all votes were getting registered to BJP",

74

Kejriwal said, "Absolutely shocking. All faulty EVMs deliver votes to BJP".

In another instance, he shared party's Goa convenor Elvis Gomes' tweet, "Election of shame? Mock poll with 9 votes for each of 6 candidates in booth no 31 in 34 AC in Goa. Total count BJP gets 17, Cong 9 , Aap 8. Ind 1 . Robbery." Replying to Gomes' tweet, he said, "Faulty EVM in Goa also transfers others votes to BJP. Are these really faulty or programmed in this fashion?"

Following the complaints at some polling booths, the faulty machines were replaced, an election official said.

5. Odisha

A few technical glitches in EVMs were reported from Odisha as well. VVPAT of polling station No. 196 of 87-Badamba assembly constituency was changed after commencement of actual poll, due to some error, Chief Electoral Officer (Odisha) was quoted as saying by ANI. 134 votes had been polled in the machine by then. Concerned Sector Officer reached booth with replacement VVPAT, the official added.

Further elaborating on the issue, the CEO said that VVPAT meant for parliamentary constituency was mistakenly attached to Control&Ballot Unit meant for assembly constituency during replacement. "Error was detected after 22 votes were polled. Polling adjourned immediately; recommendation to be made to ECI for fresh poll," he said.

-With PTI inputs

Follow the Lok Sabha Elections 2019 **real-time on IndianExpress.com/elections. Check the** Lok Sabha election

ANNEXURE-P-11

75

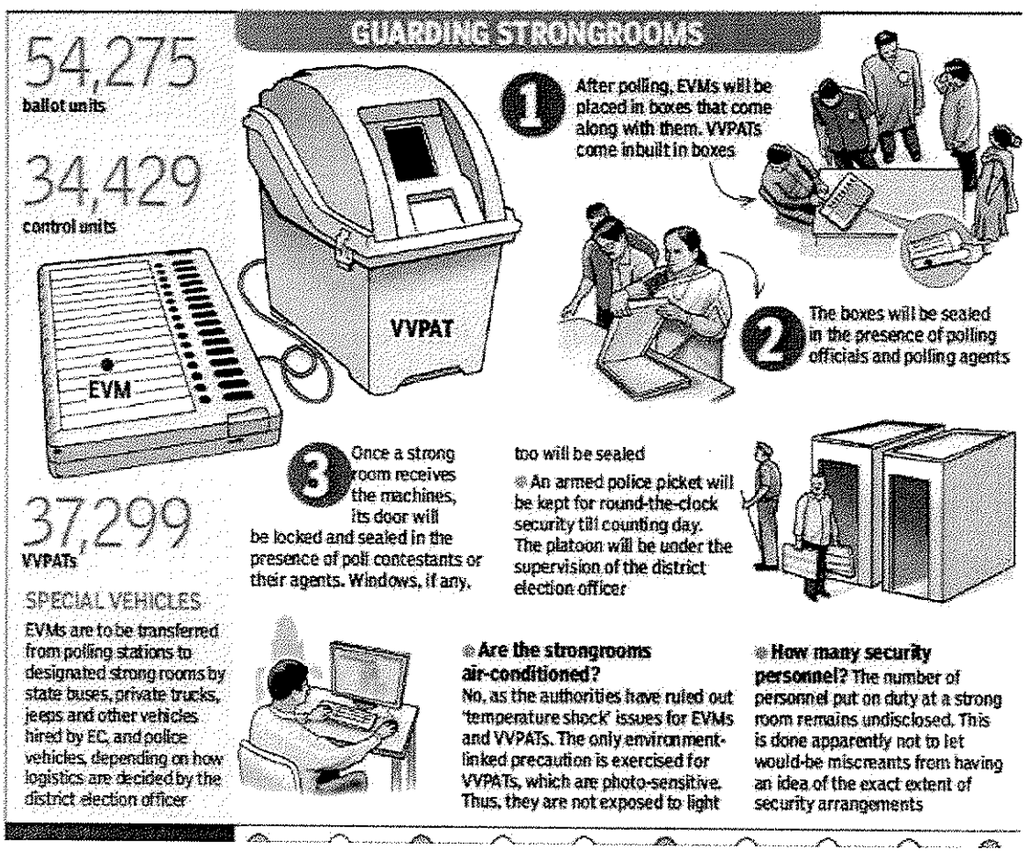
timesofindia.indiatimes.com

Glitches in five EVMs in Pune Lok Sabha seat, snags delay voting at other places - Times of India

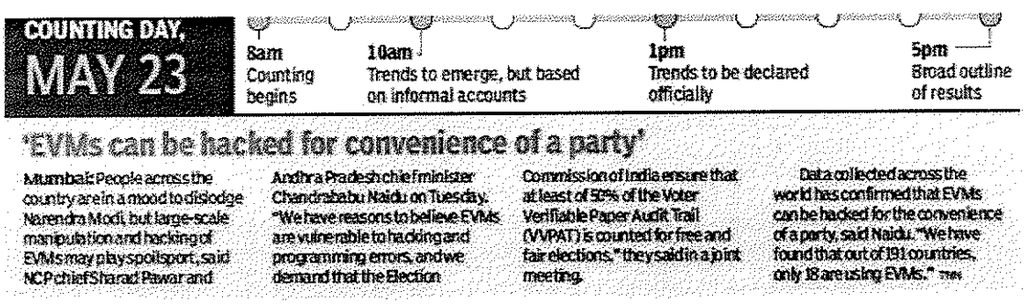
TNN | Updated: Apr 24, 2019, 6:39 IST

3-4 minutes

PUNE: Only five electronic voting machines (EVMs) malfunctioned in the Pune Lok Sabha constituency on Tuesday, while faulty EVMs and Voter-Verified Paper Audit Trail (VVPAT) units delayed voting by at least 30 minutes at several polling stations in Madha, Ahmednagar, Sangli, Kolhapur and Aurangabad constituencies.



76



The authorities at these polling stations had to either replace the faulty units or rectify them on site, triggering delay and angry exchange of words between polling staffers, agents and voters.

An elderly person was detained for trying to break an EVM at a polling station in Ahmednagar. "The 70-year-old voter demanded ballot paper to cast vote. A case will be lodged against him," the police said.

At a polling station in Bhusawal under the Raver Lok Sabha constituency, the authorities had to book a person for creating ruckus over a false VVPAT recording claim.

In Jalna, Balasaheb D Ubale (35) was detained for allegedly clicking photo of EVM while casting vote at the Khadkeshwar village polling station in Ambad taluka.

Pune district collector and returning officer Naval Kishore Ram said, "The malfunctioning EVMs-VVPATs were replaced immediately and there were no major issues. During the mock polls, some EVMs malfunctioned and they were replaced."

A voter complained that the VVPAT machine issued a slip contrary to the button pressed on the EVM at the SSPMS School in Shivajinagar assembly segment. Under the provision of the electoral rules, a mock poll was done for him. The slip turned out to be correct. He was then given a form of declaration by elector under Rule 49 MA of conduct of election rules, whereby he had to go for a test vote under 49 MA of the election rules.

"He was proved wrong. We shall soon decide if an FIR would be registered under Section 177 of the IPC, wherein the person can

77

be held liable for making wrong claims," Ram said.

In Aurangabad, Shiv Sena nominee Chandrakant Khaire reached the Zilla Parishad polling booth at 10am and had to wait to vote after an EVM developed a glitch.

Aurangabad district collector Uday Choudhary confirmed, "During a mock poll, as many as 18 VVPATs, 25 ballot units and 17 control units were found malfunctioning and replaced."

In the Ahmednagar Lok Sabha constituency, a total of 94 VVPATs, 57 ballot units and 25 control units were replaced. In Sangli, five EVMs went out of order. One of them was at the Chinchani polling station, where sitting MP Sanjaykaka Patil had gone to vote. In Kolhapur Lok Sabha constituency, EVM malfunctioning was reported from four polling stations. Malfunctioning of EVMs was also reported from some polling stations in Ahmednagar, Jalna and Raver constituencies. In Madha, the Solapur district administration had to replace 50 VVPAT machines.

#ElectionsWithTimes

ANNEXURE P-12

78

newindianexpress.com

Faulty EVMs, VVPATs disrupt polling across Kerala

By Express News Service

6-7 minutes

KOCHI: Many voters, including Chief Minister Pinarayi Vijayan, had a harrowing time on Tuesday, waiting additional hours for casting votes as the electronic voting machines (EVM) malfunctioned in many constituencies in the state. Many polling booths, from Kasargod to Thiruvananthapuram, reported faulty EVMs causing disruption to voting.

In many polling stations, Voter Verifiable Paper Audit Trail (VVPAT) machines also developed snag resulting in delayed polling. The Chief Minister had to wait for over 30 minutes in queue at Pinarayi RC Amala Basic UP School after the EVM stopped functioning. He accused the election officials of not showing seriousness in preparing the machines for the big occasion.

ALSO READ | Faulty EVMs: After waiting for an hour Cardinal Alenchery leaves without casting his vote

In many places in Kannur, the voters had to return disappointed as they could not cast votes. At booth no 147 in Cheleri Karayaappu, voters complained about VVPAT displaying the symbol different from the one they had pressed in EVM. The glitch was brought to notice after around 70 voters had cast their votes. The polling restarted after installing a new VVPAT

79

machine.

In Kasargod, polling began late in 16 polling booths following malfunctioning of EVM and VVPAT machines. Only three booths reported faulty EVMs in Wayanad, while EVM failures were reported in 90 polling booths in Vadakara, where one booth reported EVM malfunction for four times. In Thrissur, polling was delayed in many booths due to power failure and faulty EVMs. Officials said the delay in receiving standby machines caused further delay in resuming the polling at many places.

FOLLOW OUR FULL ELECTION COVERAGE HERE

Areas, where maximum machines failed, were Arimboor, Kundukadu, Kuriachira, Olakara, Ayanthole and Edavilangu. Disruption in power supply following heavy rain on Monday night resulted in many booths functioning without proper lighting. In Palakkad and Alathur, polling was delayed in a couple of booths. At RVLP school in Kayiliyad, where LDF candidate M B Rajesh was to vote, two EVMs had to be changed as both of them developed a snag causing a delay of two hours for polling to begin.

Chalakudy, Ernakulam and Alappuzha constituencies in central Kerala also reported faulty EVMs and VVPATs while Kottayam alone reported delayed voting in 49 polling booths due to technical glitches in EVMs and VVPATs.Around 20 booths in Kollam district reported faulty EVMs. In Thiruvananthapuram and Pathanamthitta too, polling was delayed after EVMs malfunctioned. While five booths reported faulty EVMs in Pathanamthitta, this was the case with eight booths in Thiruvananthapuram.

80

'219 EVMs developed snag'

T'Puram: Chief Electoral Officer Teekaram Meena said 219 Electronic Voting Machines developed snags across the state. However, compared to the national average, the number was less in Kerala. About 190 Control Units also developed complaints, he said. Expressing satisfaction over the performances of the machines, Meena added that out of 40,000 VVPAT machines, only 500 reported technical snags. "One to three per cent of the machines developed a snag. The national average is four per cent," he said.

Lotus lights up as 'hand' button is pressed: UDF

T'Puram: The UDF workers on Tuesday morning alleged whenever someone pressed the 'hand' symbol of the Congress candidate, the light against the BJP's lotus symbol flashed at the booth no 151 set up at the Madhava Vilasam School, near Chowara, in Kovalam. They said malfunction came to notice after 76 persons polled the votes, forcing the workers to lodge a complaint. The election officials then stopped the polling for about one hour and checked the machine. Later, they clarified there was no such malfunction as alleged. But the officials said some of the buttons in the machine were not working in the morning allegedly due to the moisture in the atmosphere. Later, the officials replaced the machine.

Case against youth for misleading officials

T'Puram: In another incident, the police have registered a case against a 21-year-old youth in Thiruvananthapuram on charges of misleading the officials by raising a complaint that the EVM in

81

which he cast vote recorded the vote for a wrong candidate. The officials inspected the machine and confirmed there was no issue as complained by the youth, who was identified as Abin who cast his vote at booth number 151 in Pattom Kendriya Vidyalaya in Thiruvananthapuram. The police registered the case based on the recommendation of the officials as the allegation he raised remained unproven. However, he was let off by the police upon furnishing the security for the station bail.

In another incident, a voter was arrested for challenging the presiding officer for the anomaly in EVM at Panmana in Kollam district. Shamnad of L K Mansil, Porukara, was arrested after he could not prove his allegations on EVM at a polling booth in Chittoor. "He said VVPAT showed sign of a candidate different from his choice. But he could not prove it," said a police officer. He was later released on bail.

UDF booth agents stabbed

Kasargod: Two booth agents of the UDF were stabbed allegedly by CPM supporters at Thekkil on Tuesday evening. Youth League district secretary and Kasargod block panchayat standing committee member T D Kabeer and UDF booth agent Abdul Khader Mallom were stabbed, said one of the UDF workers.

Snake spotted inside VVPAT machine

Kannur: Polling was held up for some time at booth number 145 at Kandakkai ALP School, near Mayyil, on Tuesday morning after a snake was found inside the VVPAT machine on Tuesday morning. It was during the mock polling that the officers spotted the poisonous snake. The unusual incident caused panic among the voters and officials, delaying the polling for around half an hour. However, the snake was soon removed and voting resumed.

ANNEXURE-P-13

92

heraldgoa.in

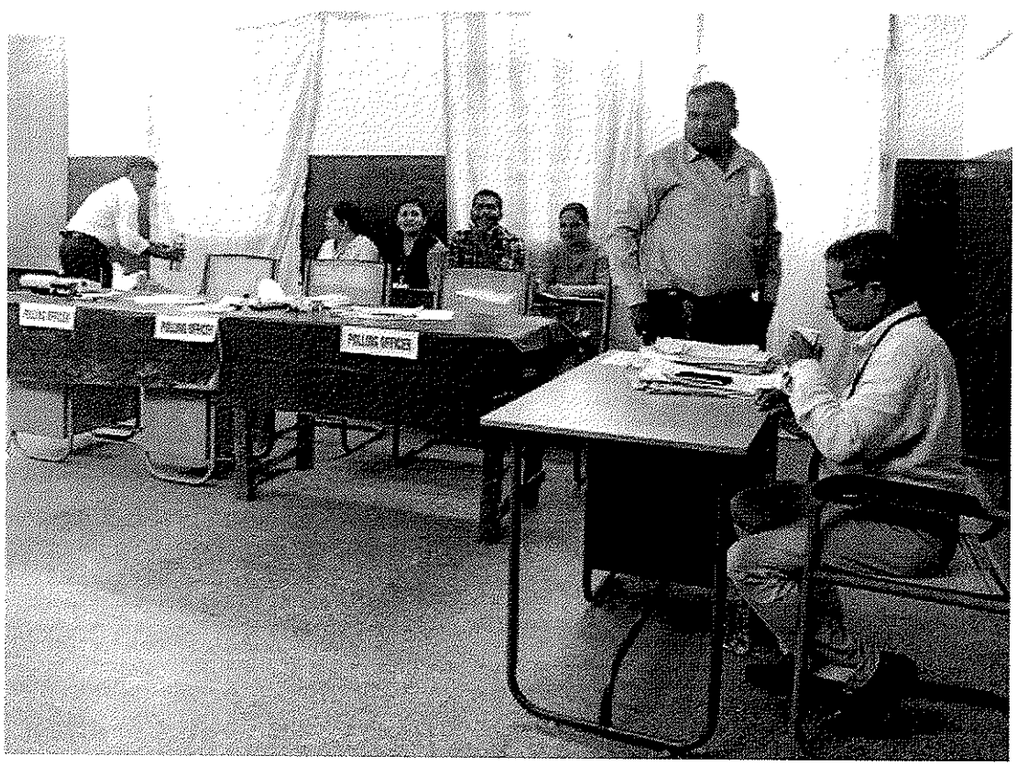
Glitches in EVMS, VVPATS hamper many polling booths

5-7 minutes

1. Home
2. MANDATE 2019
3. Glitches in EVMS, VVPATS hamper many polling booths

24 Apr 2019 06:32am IST

- A-
- A+



As per the reports available from Election office, total 11 Control Unit (CU), 11 ballot unit (BU) and 35 VVPAT were replaced during the polling process

83

PANJIM: Even as polling for two Parliamentary constituencies and three assembly segments in Goa was held on a peaceful note, glitches in electronic voting machines (EVMs) and Voter Verifiable Paper Audit Trail (VVPATs) was reported in many polling booths resulting in initial voting hiccups. Perhaps, for the very first time during any election process in the State, such high numbers of complaints with regards to technical snags in the voting machines were reported.

The polling for two Lok Sabha seats- North Goa Parliamentary constituency and South Goa Parliamentary constituency and three by-elections- Mandrem, Shiroda and Mapusa assembly seat had begun at 7.00am across 1652 polling booths. However, complaints from election officers, voters and candidates started to pour in from various booths thus delaying or holding up voting process initially.

The machines at polling booths at St Cruz (PB-35), Mayem (PB-6), Harvalem, Nerul (PB-35), Corlim (PB-28), Siolim (PB-14 and 9), Mapusa (PB- 12 and 18), Betul, Avdeam (Quepem), Agassaim (PB-26), Taleigao (PB-10), Panjim (PB-29) Cuncolim (PB-31), Taleigao- Dona Paula (PB-16), Mandrem (PB- 28, 44, 9, 10 and 17), Sawantwada-Canacona had to be replaced or rectified following complaints.

As per the reports available from Election office, total 11 Control Unit (CU), 11 ballot unit (BU) and 35 VVPAT were replaced during the polling process.

The complaints including non pressing of some buttons belonging to a particular party or vote registered on the VVPAT

84

recording only in the name of BJP's election symbol, or complete non-functioning of EVMs or breakdown after first vote.

The voters were also found complaining about slow voting process due to non-trained polling staffers. It was also reported that some staffers were also not able to handle the technical issue with the machines, when brought to their notice.

"Though there were reports from some booths about glitches in EVMs or VVPATs, they have been rectified or replaced immediately. The polling process in those booths was extended," Additional Chief Electoral Officer (CEO) Narayan Sawant said.

Total 2000 EVMs and VVPAT were available for State polling. Apart from 1652 polling stations having one EVMs and VVPATs, there were 20 percent spare machines. Also, in by-poll constituencies, one extra machine each was deployed.

The Congress party and Aam Aadmi Party has already filed complaints with the Election authorities pointing to the technical snags in the EVM and VVPAT machines.

"The EVM button was not getting pressed. Probably, they were not connected properly. It was brought to the notice of the election officer, who had to then halt the polling process," a voter from St Cruz Assembly constituency said.

In Corlim-Old Goa, the election officers' infact refused to even explain to the voters, who were standing in queue as why there was delay to begin voting. After much debate, they finally informed about non-functioning of the machines.

The worst case was reported in Toleabhat polling booth in Cuncolim, after AAP South Goa candidate Elvis Gomes brought to the notice of the authorities after majority votes were being allocated to BJP candidates in the mock polling exercise.

85

"In the mock poll with 9 votes for each of six candidates in booth No 31, the total count gave BJP 17, Congress 9, AAP 8 and One to Independent. The mock poll should have shown nine votes for each of the candidates," Gomes said.

Reacting to the allegations CEO Goa replaced the entire set of EVMs at the booth. "Entire set of EVM has been replaced for AC 34, PS No 31 as per report from DEO South Goa," said CEO Goa.

Leader of Opposition Chandrakant Kavlekar also expressed concern over problem in EVMs at Quepem assembly segments. "The machines have reported fault as the votes were found to be getting registered for BJP, even after pressing other party buttons. I will be filing a complaint with Election Commission. This is a foul play by BJP," he said.

The Congress party in the complaint filed before North Goa returning officer, pointed out that the voting machines in Siolim booths were malfunctioning and that the votes were shown in favour of BJP irrespective of who the electors are casting the votes. The complaint was filed by Congress vice president Altinho Gomes. Following chaos that was observed at the Sodiem - Siolim polling booth, the ECI officials changed the EVM machine and said the problem was due to a technical fault. The voters who had cast their votes were allowed to recast them using the new machines.

ummid.com

10,000 EVMs malfunctioned in first three phases, but EC insists they are safe

4-5 minutes

Election Commission has deployed 23.4 lakh EVMs for balloting at 10.5 lakh polling stations across the country

[Polling officials carrying the Electronic Voting Machine (EVMs) and other necessary inputs required for the General Elections-2019, at the distribution centre, at Hyderabad, in Telangana on April 10, 2019.]

New Delhi: In the midst of the election season, questions are being raised by various Opposition parties over the Electronic Voting Machines (EVMs) after about 10,000 of these machines

87

malfunctioned at different places during the first three phases of Lok Sabha polls.

The Election Commission (EC) has deployed 23.4 lakh EVMs for balloting at 10.5 lakh polling stations across the country.

Of these, the actual deployment of EVMs is 20.07 lakh, with the poll panel having kept 2.5 lakh units as buffer for replacements. Further, the EC strong rooms have 0.83 lakh units which are "locked" with previous election petitions, said sources.

Types of EVM Glitches

EC sources said they have noticed three types of malfunctioning in the EVMs -- the paper rolls in the VVPATs getting stuck, keys getting jammed and EVMs and VVPATs (paper trail) suffering lack of synchronisation just as a computer needs to be connected to the printer.

They said two types of machines, M2 and M3, are being used in the Lok Sabha polls. Out of the total 23.4 lakh units, 5.5 lakh are M2 type and 17.9 lakh M3 type. The M3 is an improved version of M2 and is better designed to handle any attempt to tamper with the EVM.

Insisting that the EVMs are tamper proof, the EC sources said the machines have gone through rigorous checks and the representatives of various political parties are involved at all the stages when the machines are used.

"The EC is conducting the national polls with the help of around 10 lakh government staff. Lack of training or mishandling of the machine by some persons could be the reason behind these complaints," the sources said.

Technical Review

88

EC sources said a technical review committee is looking into these issues and has suggested some changes in the specifications of paper rolls which are of certain thickness and have been designed to carry the imprint for five years, but sometimes face problems in humid conditions.

Though the percentage of the units replaced is small, it has given the Opposition a handle to slam the ruling Bharatiya Janata Party (BJP) and question the credibility of the entire process.

The Congress, Nationalist Congress Party (NCP), Telugu Desam Party (TDP), Aam Aadmi Party (AAP) and Samajwadi Party (SP) have all questioned the credibility of the EVMs.

The charge by various Opposition parties is based on two points -- that the BJP allegedly tampers with the machines to get votes and that the malpractice goes against the basic tenet of democracy and fails to provide a level playing field to all the contestants.

Back to Paper Ballots

The Opposition parties have urged the EC to go back to the old paper ballot system while claiming that the EVMs have been rejected by many developed countries.

"It is the responsibility of the poll panel to clear the doubts in the minds of the voters over the credibility of EVMs. Therefore, we had asked for 50 per cent VVPATs to be matched with the votes polled," Congress spokesperson Abhishek Manu Singhvi said.

"EVMs are developing snags across states," Samajwadi Party leader Neeraj Shekhar said and asked, "Is it mere coincidence?"

89

Congress' Lok Sabha member from Thiruvananthapuram Shashi Tharoor charged that votes polled for other parties were all going to the BJP by default. Tharoor flagged that the Congress key in the EVM in polling station No. 151 in Kovalam was jammed on April 23.

The EC sources said the machines were replaced after the fault was detected.

Former EC official S.K. Mehndiratta, who was involved in the introduction of EVMs, backed the machines, saying the Opposition's charges were not based on evidence. He pointed out that the political parties were part of the testing process.

(The writer can be contacted at amit.a@ians.in)

ANNEXURE-P-15

90

news18.com

Assam Ex-DGP Spots VVPAT Mismatch, Decides to Not Complain Over Fears of Facing Prison

News18.comUpdated:April 25, 2019, 1:31 PM IST

4-5 minutes

Assam Ex-DGP Spots VVPAT Mismatch, Decides to Not Complain Over Fears of Facing Prison

Filer image of Voter Verifiable Paper Audit Trail (VVPAT) with EVM. (Photo courtesy: PIB)

As Assam went to polls in the third phase of the Lok Sabha elections, former Assam DGP Hare Krishna Deka complained of a VVPAT error at the polling booth in Lachitnagar Lower Primary School and said that the VVPAT slip showed a different name than the candidate he voted for.

However, he was admonished that if he lodged a complaint, which later turned out to be false, he could face six months in prison. Deka revealed that this deterred him from filing a complaint.

"The presiding officer told me my vote could not be cancelled. I would have to pay Rs 2 for challenging the discrepancy, after which an inquiry would be initiated on the basis of my complaint. If deemed false, I would face six months' imprisonment or have to pay a fine of Rs 10, 000," he told News18.

91

> Ex-Assam DGP Harekrishna Deka: My polling booth was Lachit Nagar LP School. When I voted,VVPAT displayed someone else's name.I was told I can challenge it but if complaint is found to be false I'll be punished.I don't want to take risk. How do I know how will it be proven? (23.4) pic.twitter.com/glifM4DMA2
>
> — ANI (@ANI) April 23, 2019

Deka, an award winning Sahitya Akedemi poet and critic, said that the stiff fine and prison term compels the voter to not seek remedy in case of an error with the VVPAT machine. " Nobody would initiate criminal proceeding for raising a complain. This intimidation is wrong. It is every citizen's democratic right to cast their vote according to their choice and its sad to see it getting violated," he said.

However, according to a report in the *Times of India*, a senior official at Assam CEO's office blamed the former DGP for not following protocol, as laid down by the EC. "Deka did not bring up his grievance with higher officials in the election department," he was quoted as saying.

According to the EC's manual on the use of EVMs and VVPA, a complaint of wrong printing by VVPAT has to be reported to the presiding officer, who "will take a declaration explaining that if found false he (the complainant) can be penalized". The presiding officer will then record the complaint and allow the complainant to cast a test vote in the presence of the presiding officer and polling agents.

If the complaint is found to be valid, the presiding officer will stop polling and report to the returning officer. "Since the introduction of VVPATs, more than 18 crore voters have cast their votes ... & ONLY 1 (one) complaint received ... which was also FOUND TO BE FALSE," the manual adds.

92

A political slugfest erupted over the use of VVPATs after twenty-one opposition once again approached the Supreme Court on Wednesday, asking it to review the order on counting of voter slips of only five EVM machines in every assembly segment. The parties have once again demanded that at least 50 per cent of VVPAT slips be cross-checked.

Andhra Pradesh Chief Minister N Chandrababu Naidu, who has been at the forefront of this fight, said democracy the review petition has been filed as democracy cannot be left at the mercy of some EVM programmers.

EVM glitches have marred the Lok Sabha election process in the first three phases of voting held till now. While polling in Andhra Pradesh continued till well past midnight on April 11 due to malfunctioning machines, over 300 faulty EVMs had to be replaced in Rampur in UP on Tuesday.

VVPATs are being used for the first time in a Lok Sabha election after they were first used in the Assembly Elections last year.

Naidu said instances of EVMs malfunctioning and selective manipulation of the machines were reported in the polling held on Tuesday in Kerala, Goa and Uttar Pradesh

ANNEXURE-P-16

93

uniindia.com

Frequent glitch in the EVMs due to severe heat condition hampers Polling in several booths in Hyderabad- Karnataka Region

Uniindia News Service

2 minutes

More News

25 Apr 2019 | 6:55 PM

Amaravati, Apr 25 (UNI) Andhra Pradesh Chief Electoral Officer (CEO) Gopal Krishna Dwivedi said that they required more than 21,000 staff during counting of votes on May 23, polled in the General Election in the state.

see more..

25 Apr 2019 | 4:31 PM

Puducherry, Apr 25 (UNI) Dr.

see more..

24 Apr 2019 | 9:28 PM

Thiruvananthapuram, Apr 24 (UNI) Kerala recorded the highest voter turnout in the last four decades, of 77.

see more..

24 Apr 2019 | 7:04 PM

94

Amaravati, Apr 24 (UNI) Andhra Pradesh Chief Secretary L V Subramanyam asked District Collectors and other officials concerned to make foolproof arrangements for the counting of votes to be taken up on May 23.

see more..

24 Apr 2019 | 5:11 PM

Bengaluru, Apr 24 (UNI) The Janata Dal(S) in Karnataka will not field its candidate for the Kundagol and Chincholi Assembly seats, for which by-elections will be held on May 19 as both the seats were won by coalition partner Congress and the party will support its candidate.

see more..

ANNEXURE-P-17

95

deccanchronicle.com

EVMs go out of order, voting delayed

2-3 minutes

Kochi: Voting in several polling booths in the district was delayed for hours in the morning due to malfunctioning of the Electronic Voting Machines.

According to officials, glitches developed in the EVMs when polling started at 7 a.m. However, all of them were replaced and the polling was completed without any delay.

The EVMs developed trouble at Kongarappalli Government Higher Secondary School, Pallipram Asasul Islam Madrassa in Vazhakkulam panchayat, 4 Cent Colony Anganvady at Karumaloor and Kadavanthra St Joseph's English Medium Nursery School.

The EVMs were replaced thrice in booth number 147 at Kalamassery. "When the first machine malfunctioned, they brought another within half an hour but it was out of charge. A third machine was brought which delayed the voting for many hours and many left without voting," a voter of Kalamassery said.

The Voter Verified Paper Audit Trails (VVPATs) also malfunctioned in some booths, including Pookkattupady St George Public School, Pallipram Assassul Islam Madrassa and Ooramana Government High School. The machines went out of order shortly after the voting started. The officials rectified them within one hour and continued the voting.

Glitches were also found in the ballot units at Government High School, Elamakkara, Kothamangalam Devaswom Board High School and Chendamangalam Government LP School during the mock polls which started at 6 a.m. The EVMs were replaced at 7 a.m.

96

Meanwhile, the VVPATs caused confusion among the voters and delayed the voting process in Ernakulam district. The machines were either slow or faulty. Most of the voters were not aware of the functioning of the VVPATs.

The voters were confused as the beeping sound was heard seven seconds after the vote was cast. When the machine beeps, a paper slip displaying the name and symbol of the candidate drops into a sealed box thereby confirming the vote.

Meanwhile, a mobile phone was seized by the presiding officer from a person who allegedly attempted to record the video of the EVM while voting at a polling station at Puthenvelikkara. The phone was handed over to Puthenvelikkara police.

newindianexpress.com

Faulty EVMs, VVPATs disrupt polling across Kerala

By Express News Service

6-7 minutes

KOCHI: Many voters, including Chief Minister Pinarayi Vijayan, had a harrowing time on Tuesday, waiting additional hours for casting votes as the electronic voting machines (EVM) malfunctioned in many constituencies in the state. Many polling booths, from Kasargod to Thiruvananthapuram, reported faulty EVMs causing disruption to voting.

In many polling stations, Voter Verifiable Paper Audit Trail (VVPAT) machines also developed snag resulting in delayed polling. The Chief Minister had to wait for over 30 minutes in queue at Pinarayi RC Amala Basic UP School after the EVM stopped functioning. He accused the election officials of not showing seriousness in preparing the machines for the big occasion.

ALSO READ | Faulty EVMs: After waiting for an hour Cardinal Alenchery leaves without casting his vote

In many places in Kannur, the voters had to return disappointed as they could not cast votes. At booth no 147 in Cheleri Karayaappu, voters complained about VVPAT displaying the symbol different from the one they had pressed in EVM. The glitch was brought to notice after around 70 voters had cast their votes. The polling restarted after installing a new VVPAT

machine.

98

In Kasargod, polling began late in 16 polling booths following malfunctioning of EVM and VVPAT machines. Only three booths reported faulty EVMs in Wayanad, while EVM failures were reported in 90 polling booths in Vadakara, where one booth reported EVM malfunction for four times. In Thrissur, polling was delayed in many booths due to power failure and faulty EVMs. Officials said the delay in receiving standby machines caused further delay in resuming the polling at many places.

FOLLOW OUR FULL ELECTION COVERAGE HERE

Areas, where maximum machines failed, were Arimboor, Kundukadu, Kuriachira, Olakara, Ayanthole and Edavilangu. Disruption in power supply following heavy rain on Monday night resulted in many booths functioning without proper lighting. In Palakkad and Alathur, polling was delayed in a couple of booths. At RVLP school in Kayiliyad, where LDF candidate M B Rajesh was to vote, two EVMs had to be changed as both of them developed a snag causing a delay of two hours for polling to begin.

Chalakudy, Ernakulam and Alappuzha constituencies in central Kerala also reported faulty EVMs and VVPATs while Kottayam alone reported delayed voting in 49 polling booths due to technical glitches in EVMs and VVPATs.Around 20 booths in Kollam district reported faulty EVMs. In Thiruvananthapuram and Pathanamthitta too, polling was delayed after EVMs malfunctioned. While five booths reported faulty EVMs in Pathanamthitta, this was the case with eight booths in Thiruvananthapuram.

99

'219 EVMs developed snag'

T'Puram: Chief Electoral Officer Teekaram Meena said 219 Electronic Voting Machines developed snags across the state. However, compared to the national average, the number was less in Kerala. About 190 Control Units also developed complaints, he said. Expressing satisfaction over the performances of the machines, Meena added that out of 40,000 VVPAT machines, only 500 reported technical snags. "One to three per cent of the machines developed a snag. The national average is four per cent," he said.

Lotus lights up as 'hand' button is pressed: UDF

T'Puram: The UDF workers on Tuesday morning alleged whenever someone pressed the 'hand' symbol of the Congress candidate, the light against the BJP's lotus symbol flashed at the booth no 151 set up at the Madhava Vilasam School, near Chowara, in Kovalam. They said malfunction came to notice after 76 persons polled the votes, forcing the workers to lodge a complaint. The election officials then stopped the polling for about one hour and checked the machine. Later, they clarified there was no such malfunction as alleged. But the officials said some of the buttons in the machine were not working in the morning allegedly due to the moisture in the atmosphere. Later, the officials replaced the machine.

Case against youth for misleading officials

T'Puram: In another incident, the police have registered a case against a 21-year-old youth in Thiruvananthapuram on charges of misleading the officials by raising a complaint that the EVM in

100

which he cast vote recorded the vote for a wrong candidate. The officials inspected the machine and confirmed there was no issue as complained by the youth, who was identified as Abin who cast his vote at booth number 151 in Pattom Kendriya Vidyalaya in Thiruvananthapuram. The police registered the case based on the recommendation of the officials as the allegation he raised remained unproven. However, he was let off by the police upon furnishing the security for the station bail.

In another incident, a voter was arrested for challenging the presiding officer for the anomaly in EVM at Panmana in Kollam district. Shamnad of L K Mansil, Porukara, was arrested after he could not prove his allegations on EVM at a polling booth in Chittoor. "He said VVPAT showed sign of a candidate different from his choice. But he could not prove it," said a police officer. He was later released on bail.

UDF booth agents stabbed

Kasargod: Two booth agents of the UDF were stabbed allegedly by CPM supporters at Thekkil on Tuesday evening. Youth League district secretary and Kasargod block panchayat standing committee member T D Kabeer and UDF booth agent Abdul Khader Mallom were stabbed, said one of the UDF workers.

Snake spotted inside VVPAT machine

Kannur: Polling was held up for some time at booth number 145 at Kandakkai ALP School, near Mayyil, on Tuesday morning after a snake was found inside the VVPAT machine on Tuesday morning. It was during the mock polling that the officers spotted the poisonous snake. The unusual incident caused panic among the voters and officials, delaying the polling for around half an hour. However, the snake was soon removed and voting resumed.

ANNEXURE-P-19

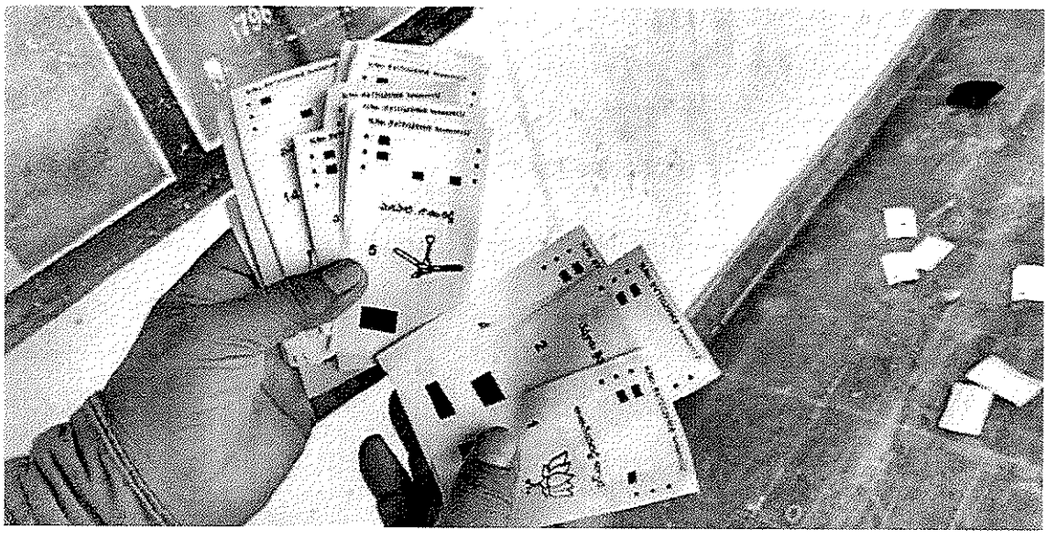
101

newindianexpress.com

Two officials in Andhra Pradesh get the boot over VVPAT slip row

By Express News Service

3-4 minutes



For representational purposes

VIJAYAWADA: The State government on Thursday suspended Returning Officer and the Assistant Returning Officer of Atmakur Assembly constituency in Nellore district for failing to follow the procedure prescribed for storing VVPAT slips after mock polling during commissioning of EVMs and VVPATs.

The action was taken following the direction of the Election Commission of India. After the April 11 elections, at least 200 VVPAT slips related to mock poll conducted during commissioning of EVMs and VVPATS were found on the premises of a government school at Atmakur where commissioning of EVMs and VVPATs was conducted, leading to

a hue and cry by various political parties. "The officials have acted in violation of the ECI directions and their reckless and irresponsible actions affected the credibility and integrity of the election process," the ECI felt and recommended suspension of the two officials from service.

102

FOLLOW OUR ELECTION COVERAGE HERE

On Thursday, the government issued orders suspending S Chinna Ramudu, Returning Officer of Atmakur Assembly constituency and P Vidyasagarudu, Assistant Returning Officer of Atmakur constituency. Both the officials were asked not to leave the headquarters (Atmakur) without obtaining prior permission from the competent authority.

Chief Electoral Officer (CEO) Gopal Krishna Dwivedi has informed that 21,000 odd government employees are required for counting of votes across the State on May 23.

The details of allocation of employees to counting centres will not be revealed until the last minute. He said that they are taking all steps to maintain secrecy over allocation of staff to the counting centres so as to avoid unnecessary doubts.

During an informal interaction with mediapersons in his chambers at the Interim Government Complex in Velagapudi on Thursday, the CEO said that after selecting the required staff for counting, they will organise randomisation procedure twice. Stating that counting of votes polled through EVMs will be commenced after counting of postal ballots and service votes, he said employees and service voters can exercise their postal ballots until the commencement of counting.

He informed that 15 tables will be arranged for each Assembly and Parliamentary constituency. Each counting table consists of

103

a supervisor, counting assistant and micro observer. The CEO said requisitions came from the officials of Visakhapatnam, West Godavari and Kurnool districts for increasing the number of tables in counting centres. On re-polling at a few polling centres in the State, the CEO said the EC is yet to take a call on the proposal.

ANNEXURE-P-20

104

firstpost.com

EVM, VVPAT glitches reported across country as polling gets underway for second phase of 2019 Lok Sabha election - Firstpost

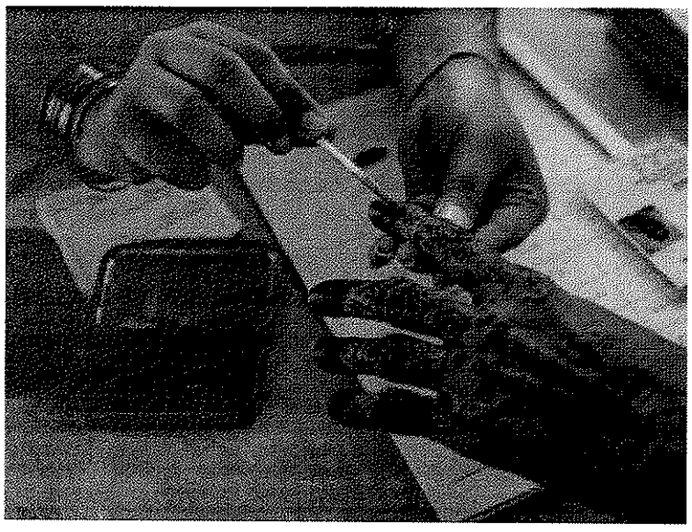
Vinayak Chakravorty Apr 26, 2019 13:53:34 IST

37-47 minutes

Silchar (Assam): As the second phase of polling is underway to elect members to the 17th Lok Sabha, Electronic Voting Machine (EVM) and Voter-verified Paper Audit Trail (VVPAT) glitches have been reported at a number of polling booths across the country.

Polling was delayed in Assam's Silchar owing to VVPAT malfunctioned at the polling station.

"There was a minor glitch in the machine, which has been fixed. The voters may cast the vote now," Sajad Khan, Sector Officer (SO) deployed at the polling booth, told *ANI*.



Representational image. Reuters

105

In Uttar Pradesh, EVMs are not functioning at Mathura, leaving voters irked. Reports suggest that some voters have returned without voting.

Faulty EVMs have also caused delays in booth numbers 29 and 134 in Raiganj Parliamentary Constituency, as well as at booth numbers 261 and 263 of Bolangir parliamentary constituency in Odisha.

Polling is yet to begin at Maniyakarapalayam government high school in Coimbatore as the voting machine has malfunctioned.

In Maharashtra, Beed District Magistrate Astik Kumar Pandey said five places have reported EVM and VVPAT malfunctions since morning in Beed constituency, namely, Georai, Mazalgaon, Kej, Ashti, Parali.

However, all those machines have been replaced immediately and polling is going smoothly at all locations, he added.

As part of the second phase of elections, polling is being held in Lok Sabha constituencies of Assam (5), Bihar (5), Chhattisgarh (3), Jammu and Kashmir (2), Karnataka (14), Maharashtra (10), Manipur (1), Odisha (5), Tamil Nadu (38), Uttar Pradesh (8), West Bengal (3), and a single parliamentary seat of Puducherry.

According to the Election Commission, a voter turnout of 69.43 percent was recorded in phase one of elections in eighteen states and two Union Territories held on 11 April.

Your guide to the latest election news, analysis, commentary, live updates and schedule for Lok Sabha Elections 2019 on firstpost.com/elections. Follow us on Twitter and Instagram or like our Facebook page for updates from all 543 constituencies for the upcoming general elections.

IN THE SUPREME COURT OF INDIA

REVIEW PETITION (CIVIL) NO. ____OF 2019 106

IN

WRIT PETITION(C) NO. 1514 OF 2018

[ARISING OUT OF ORDER PASSED BY THIS HON'BLE COURT IN W.P(C) NO. 1514 OF 2018 DATED 08.04.2019]

IN THE MATTER OF:

M.G. Devasahayam & Ors. ....Petitioners

Versus

Election Commission of India ...Respondent

APPLICATION SEEKING DIRECTIONS FOR HEARING OF THE REVIEW PETITION IN THE OPEN COURT

TO

THE HON'BLE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUSTICES OF THE

SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. That the Petitioners have preferred the above mentioned Review Petition under Article 137 of the Constitution R/w Order XLVII of the Supreme Court Rules 2013 challenging the Impugned Order passed

by this Hon'ble Court in WP(C) No. 1514 of 2018dated 08.04.2019. The Petitioner craves leave of this Hon'ble Court to treat the application as part and parcel of the above mentioned Writ Petitioner, the facts of which are not being repeated herein for the sake of brevity.

2. That in view of the reasons and grounds stated in the accompanying writ petition, oral arguments are essential in the present matter in order to assist this Hon'ble Court. It would be in the interest of justice that oral arguments limited to the aspects highlighting error apparent on the face of record be entertained by this Hon'ble Court and to present the newly discovered evidence that that has been received by the Petitioner which was not available to the Petitioner at the time of the completion of pleadings in the captioned Writ Petition.

3. That the Petitioners have a good prima facie case for review of the order dated 08.04.2019 in WP(C) No. 1514 of 2018.

4. That the present application is being made bone fide and in the interest of justice.

PRAYER

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

a. Direct for hearing of the Review Petition in the open court;

b. Pass such other order or orders as this Hon'ble Court may deem fit to do so in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY.

DRAWN ON: 27.04.2019

DRAWN BY: Mr. Prasanna S, Advocate.

FILED ON: 30.04.2019

FILED AT: New Delhi

FILED BY:

Goutham Shivshankar
Advocate-on-Record
For the Petitioners,
Code No: 2698