

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

IN THE MATTER OF:

ASSOCIATION FOR DEMOCRATIC REFORMS ...PETITIONER

Versus

ELECTION COMMISSION OF INDIA& ANR. ...RESPONDENTS

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1/
ELECTION COMMISSION OF INDIA**

PAPER – BOOK
(KINDLY SEE INSIDE THE INDEX)
(VOL- II PAGE NO. 465 – 962)

ADVOCATE FOR THE RESPONDENT NO.1: AMIT SHARMA

INDEX

S. No	Particulars	pages
40.	<u>ANNEXURE C/39</u> A true copy of the Judgment and Order dated 19.03.2019 passed by Hon'ble Gujarat High Court in KhemchandRajaramKoshti vs Election Commission of India, Writ Petition (PIL) No. 36 of 2019	465 - 559
41.	<u>ANNEXURE C/40</u> A true copy of the Manual on Electronic Voting Machine and VVPAT published by the Election Commission of India	560- 741
42.	<u>ANNEXURE C/41</u> True copy of the Judgment dated 03.03.2009 of the Second Senate of Germany ordering the discontinuation of the use of NEDAP machines in 2009	742-778
43.	<u>ANNEXURE C/42</u> Presentation on EVM & VVPATs	779-854
44.	<u>ANNEXURE C/43</u> Legal history of EVM/VVPATs	855-922
45.	<u>ANNEXURE C/44</u> True copy of the Frequently Asked Questions (FAQs) as provided by the Commission in public domain	923-962

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/WRIT PETITION (PIL) NO. 36 of 2019****FOR APPROVAL AND SIGNATURE:****HONOURABLE THE ACTING CHIEF JUSTICE ANANT S. DAVE sd/-****and****HONOURABLE MR.JUSTICE BIREN VAISHNAV sd/-**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	YES
2	To be referred to the Reporter or not ?	YES
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	NO

KHEMCHAND RAJARAM KOSHTI**Versus****ELECTION COMMISSION OF INDIA & 1 other(s)****Appearance:**

MR KR KOSHTI, ADVOCATE AS PARTY IN PERSON(5000) for the
Applicant(s) No. 1
for the Opponent(s) No. 1,2

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE ANANT S. DAVE
and
HONOURABLE MR.JUSTICE BIREN VAISHNAV

Date : 19/03/2019

CAV ORDER
(PER : HONOURABLE MR.JUSTICE BIREN VAISHNAV)

1. This Public Interest Litigation is filed by the petitioner - a practicing advocate of this Court who has come forward with the following prayers:

“12. In the facts and circumstances of the above case, the petitioner prays that:-

a) Your Lordships may be pleased to allow the present writ petition (P.I.L.);

b) pass appropriate Writ, Order or direction declaring and/or striking down the Rule 56(D)(2) as ultra vires Articles 14, 19 and 21 of the Constitution insofar as it vests discretion in the Returning Officer to reject an application made under Rule 56(D)(2) for counting of the printed paper slips in the dropbox of the Printer;

c) pass appropriate Writ, Order or direction directing the Respondent No 1 to mandatorily count the printed paper slips in the dropbox of the Printer in respect of any polling station or polling stations in all future Legislative Assembly elections and/or Parliamentary elections where paper trail has been introduced;

d) pass appropriate Writ, Order or direction directing Respondent No. 1 to use appropriate technology by which the paper used in the Voter Verifiable Paper Audit Trails (“VVPAT/paper trail”) can be preserved for at least a period of 2 years from the date of election;

e) pass suitable order/writ/direction and direct the respondent No. 1 to procure the adequate quantities of EVMs with VVPAT machines which are compatible with each other since respondent no. 1 is unable to procure the adequate quantity of VVPAT machines as per their reply to the RTI application and as per statement made by respondent no. 1 in Contempt Petition (Civil) No. 303/2016 before the Hon’ble Supreme Court;

...”

2. The introductory facts, as narrated in the present petition, are as under:

2.1 The Election Commission of India is an autonomous body carrying out elections to the Lok Sabha, Rajya Sabha, State Legislative Assemblies in India and the offices of the President and Vice President of the country. Reliance is placed on a circular dated 19.09.2017 by which the Election Commission of India directed all the State Commissions to ensure that Voter Verifiable Paper Audit Trails (hereinafter referred to as 'VVPATS') shall be used with the Electronic Voting Machines (hereinafter referred to as 'EVMs') in all polling stations during the general and the bye elections to the State Legislative Assemblies and the Lok Sabha. According to the petitioner, suitable amendments have been made in The Conduct Of Election Rules, 1961 (hereinafter referred to as 'the Rules') which were notified in the Gazette of India on 14.08.2013.

2.2 According to the petitioner, in an all party meeting on 04.10.2017, there was a broad consensus amongst all political parties for the continued use of EVMs. It was also suggested in the meeting that there should be a possibility of incorporating VVPAT in this system. The Election Commission of India, acting on the suggestion, referred the matter to the Technical Expert Committee to examine the possibility of paper trail. The Bharat Electronics Limited, Bengaluru and the Electronics Corporation of India Ltd., Hyderabad were requested to develop a prototype of the VVPAT system. The prototype was created and was tested in the field in extreme environmental conditions in order to get an effective assessment. According to the petitioner, the trial was to take place in real election like conditions. The field trials were

conducted as averred in paragraph no. 4.4 of the petition in Thiruvananthapuram, Delhi, Jaisalmer, Cherapunji and Leh in the presence and participation of all stake holders including general voters, National and State political parties, Civil Society Organizations and the media. Improvements were suggested in the VVPAT system and after such necessary changes as suggested were carried out, a second trial was conducted.

2.3 According to the petitioner, the Election Commission of India vide a letter dated 28.03.2013, addressed to the Ministry of Law and Justice requested that in order to ensure proper execution of the VVPAT system, it was necessary to carry out ground work to amend The Conduct of Election Rules, 1961. Pursuant to such letter by the Election Commission of India, the Ministry of Law And Justice notified the amendments to the Rules in the official gazette on 14.08.2013 paving the way for the use of VVPAT system with EVMs. The amended rule 66A which contains Rule 56(D)(2) is quoted by the petitioner in the petition. The said rule reads as under:

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

2.4 In the petition, reliance is placed on a decision of the Apex Court in the case of **Dr. Subramanian Swamy vs. Election Commission of India reported in (2013) 10 SCC**

500. According to the petitioner, while holding that the VVPAT system was an indispensable requirement to conduct free and fair elections, the Apex Court while disposing of the petition and directing phase-wise manner of introduction of VVPAT system recognized that the VVPAT system was an indispensable requirement for free and fair elections. According to the petitioner, it was relevant to reproduce paragraph no. 29 of the judgement in the case of **Dr. Subramanian Swamy** which the petitioner has thought it fit to reproduce in the petition which we also reproduce hereunder:

“29) 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 democratic system.”

2.5 The petitioner, thereafter, relies on a newspaper cutting which appeared in ‘The Hindu’ on 16.08.2015 on the question of vulnerability of use of thermal printing and thermal paper for VVPAT. According to the petitioner, inspite of technological advances, the legibility of the thermally printed paper text lasts only for a period of 50 days which would result in a loss of the records beyond a period of time and preservation of votes would therefore become negatory.

2.6 According to the petitioner, for the first time VVPAT

system was introduced in the Kancheepuram Assembly Elections. The issue of mismatch between votes entered in Form 17C of the polling booth and the total number of votes recorded in the control unit of that booth will be resolved only as a result of the VVPAT system because when the control unit showed that 554 votes had been recorded, when the VVPAT was opened it was found that the number of votes entered in form no. 17C was correct. According to the petitioner, there are reports of malfunctioning of the EVMs which has generally left the public questioning on the vulnerability of EVMs and therefore it is in the background of such vulnerability apprehensions, that the VVPAT was introduced and the discretion vested in the Returning Officer in Rule 56(D)(2) in the Rules is under challenge. The petitioner in the petition has extensively referred to various communications exchanged between one Mr. Dinesh Chavda and the Election Commission on the introduction of VVPAT system and has submitted that the Election Commission has spent substantial amount on the manufacture of VVPATs and therefore even thereafter it was announced in the All Party Meeting that the Election Commission would endeavour to see that there is 100% coverage of VVPATs in all future elections of the Lok Sabha.

2.7 The petition further goes on to plead that the Commission vide a letter dated 19.09.2017 directed all State Election Commissions to ensure that VVPAT system shall be used with the EVMs at all polling stations. The circular dated 19.09.2017 has been annexed by the petitioner at Annexure 'L' to the petition. The petitioner has voiced concern over the shortfalls of the VVPAT systems.

2.8 In paragraph no. 4.0 of the petition, the petitioner has brought to the notice of this Court that one Mr. Manubhai Chavda had filed a writ petition no. 1012 of 2017 for challenging the vires of Rule 56(D)(2) of the Rules. According to the learned counsel as averred in the petition, the writ petition was dismissed on the ground since the Code of Conduct was in operation, the Apex Court did not examine the matter on the above grounds. The order of the Apex Court dismissing the SLP is annexed to the petition.

2.9 It may also be clarified at this stage that the learned counsel who has appeared as party-in-person has even tendered a copy of the petition which was filed before the Apex Court. Perusal of the memo of the petition together with the prayers so made would indicate that the prayers in the present petition are identical to the prayers as set out in the writ petition before the Apex Court. The prayers in the petition before the Apex Court are set out as under:

- a) pass appropriate Writ, Order or direction declaring and/or striking down the Rule 56(D)(2) as ultra vires Articles 14, 19 and 21 of the Constitution insofar as it vests discretion in the Returning Officer to reject an application made under Rule 56(D)(2) for counting of the printed paper slips in the dropbox of the Printer;
- b) pass appropriate Writ, Order or direction directing the Respondent No 1 to mandatorily count the printed paper slips in the dropbox of the Printer in respect of any polling station or polling stations in all future Legislative Assembly elections and/or Parliamentary elections where paper trail has been introduced;
- c) pass appropriate Writ, Order or direction directing Respondent No. 1 to use appropriate

technology by which the paper used in the Voter Verifiable Paper Audit Trails (“VVPAT/paper trail”) can be preserved for at least a period of 2 years from the date of election;
...”

2.10 The bone of contention, by filing the present Public Interest Litigation by the petitioner, in short, is that Rule 56(D)(2) of the Rules when read suggests that on an application made to the Returning Officer, for counting/recounting of votes, the Returning Officer will decide the matter or may allow the application in whole or in part or may reject the application in whole or in part if it appears to him to be frivolous and unreasonable. In the grounds raised in the petition, according to the petitioner, such refusal to count the paper trail is bad and is violative of Articles 14, 19 and 21 of the Constitution of India.

3. According to Mr. Koshti, learned advocate/party-in-person, introduction of the VVPAT system was found to be indispensable requirement for free and fair elections and therefore the discretion vested in the Returning Officer to reject an application for recount is uncanalized and would be contrary to the imperative use of the paper trail introduced in the EVM. Vesting such a discretion which is unguided, in the submission of Mr. Koshti, would jeopardize the transparency and will be dangerous for the confidence of the voter, the sole purpose for which the VVPAT was introduced.

3.1 Mr. Koshti further submitted that the entire purpose of the introduction of VVPAT was to ensure that the electoral verdict is the true representation of the votes cast by the

voter. In the event of any discrepancy between the results shown by the EVM and by the VVPAT, the VVPAT is supposed to be the barometer of reflecting the choice and therefore the Returning Officer should have a mandate to count the votes displayed on the VVPAT in the event of a dispute. Refusal to count such votes would amount to the destruction of the spirit behind introduction of VVPATs.

3.2 Mr. Koshti relying on Sections 82 & 100 of The Representation of People Act, 1951 (hereinafter referred to as 'the Act') submitted that discretion vested under Rule 56(D) (2) cannot be challenged by a candidate or a voter as it is not one of the grounds specified under Section 100 for filing an Election Petition. The only remedy therefore of a recount can be by issuing a mandate to the Returning Officer that in an event of a dispute the Returning Officer ought to count the votes. The discretion to consider the application and the words 'may grant' or 'may not grant' invests discretion vested in the Returning Officer which is bound to be abused.

3.3 Mr. Koshti further submitted that the very vesting of the discretion under Rule 56(D) with the Returning Officer enabling him to reject an application on the alleged ground that 'it appears to him to be frivolous or unreasonable' is a complete affront to the rule of law, tainted with the vice of arbitrariness under Article 14 and effaces the very purpose for which the paper trail was introduced.

3.4 Mr. Koshti therefore relying extensively on the decision in the case of **Dr. Subramanian Swamy (supra)**, submitted that since the Apex Court has held that the paper trail was an

indispensable requirement for the conduct of free and fair elections, it was mandatory that the counting of VVPAT votes ought to be carried out in every election where the VVPAT is used and the discretion vested in the Returning Officer to reject such applications was unconstitutional and contrary to the pronouncement of the Apex Court in the case of **Dr. Subramanian Swamy (supra)**.

3.5 Mr. Koshti further submitted that the order of rejection of a request for counting of VVPATs could not be challenged in any Court and such stringent provisions of the Act when read, even the election cannot be questioned on such rejection and therefore if the results of the VVPATs do not match with the EVM results, on a request being made, prima facie Rule 56(D)(2) of the Rules is a stumbling block to the goal of transparency in the election process.

4. It is in the background of these pleadings that the petitioner has approached this Court for the prayers reproduced hereinabove and prayed that Rule 56(D)(2) of the Rules be held as ultra vires Articles 14, 19 & 21 of the Constitution of India insofar as it vests discretion in the Returning Office to reject an application made under Rule 56(D)(2) for counting of printed paper slips in the drop box of the printer.

5. Before we advert to the issue on hand, it will be relevant and in the fitness of things to reproduce the relevant provisions of the Act, 1951 and the Rules.

“80. Election petitions.—No election shall be called in question except by an election petition presented in

accordance with the provisions of this Part.

80A. High Court to try election petitions.— (1) The Court having jurisdiction to try an election petition shall be the High Court.

(2) Such jurisdiction shall be exercised ordinarily by a single Judge of the High Court and the Chief Justice, shall, from time to time, assign one or more Judges for that purpose: Provided that where the High Court consists only of one Judge, he shall try all election petitions presented to that Court.

(3) The High Court in its discretion may, in the interests of justice or convenience, try an election petition, wholly or partly, at a place other than the place of seat of the High Court.]

81. Presentation of petitions.— (1) An election petition calling in question any election may be presented on one or more of the grounds specified in [sub-section (1)] of section 100 and section 101 to the [High Court] by any candidate at such election or any elector [within forty-five days from, but not earlier than the date of election of the returned candidate or if there are more than one returned candidate at the election and dates of their election are different, the later of those two dates].

Explanation.—In this sub-section, “elector” means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

[***]

[(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition [***] and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.]

82. Parties to the petition.—A petitioner shall join as respondents to his petition—

(a) where the petitioner, in addition to claiming declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.]

83. Contents of petition.— (1) An election petition—
 (a) shall contain a concise statement of the material facts on which the petitioner relies;
 (b) shall set forth full particulars of any corrupt practice that the petitioner alleges including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and
 (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

[Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.]

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.]

86. Trial of election petitions.—(1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117.

Explanation.—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98.

(2) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section (2) of section 80A.

(3) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same Judge who may, in his discretion, try them separately or in one or more groups.

(4) Any candidate not already a respondent shall, upon application made by him to the High Court within

fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent.

Explanation.—For the purposes of this sub-section and of section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim or claims made in the petition.

(5) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(6) The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(7) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.]

100. Grounds for declaring election to be void.—

[(1) Subject to the provisions of sub-section (2) if [the High Court] is of opinion—

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act [***] [or the Government of Union Territories Act, 1963 (20 of 1963)]; or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it

concerns a returned candidate, has been materially affected—

- (i) by the improper acceptance or any nomination, or
- (ii) by any corrupt practice committed in the interests of the returned candidate [by an agent other than his election agent], or
- (iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or
- (iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act, [the High Court] shall declare the election of the returned candidate to be void.]

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

- (a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and [without the consent], of the candidate or his election agent; [***]
 - (c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt [***] practices at the election; and
 - (d) that in all other respects the election was free from any corrupt [***] practice on the part of the candidate or any of his agents,
- then [the High Court] may decide that the election of the returned candidate is not void."

PART V OF THE CONDUCT OF ELECTIONS RULES, 1961

COUNTING OF VOTES IN PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES

"50. Definitions.—In this Part, unless the context otherwise requires,—

- (a) "candidate" means a contesting candidate;
- (b) "constituency" means a parliamentary or assembly constituency;
- (c) "counting agent" means a counting agent duly appointed under section 47 and includes a candidate

and the election agent of a candidate when present at the counting;

(d) "notified polling station" means a polling station notified under rule 49;

(e) "polling station" means a polling station provided under section 25 other than a notified polling station.

51. Time and place for counting of votes.—The returning officer shall, at least one week before the date, or the first of the dates, fixed for the poll, appoint the place or places where the counting of votes will be done and the date and time at which the counting will commence and shall give notice of the same in writing to each candidate or his election agent:

Provided that if for any reason the returning officer finds it necessary so to do, he may alter the date, time and place or places so fixed, or any of them, after giving notice of the same in writing to each candidate or his election agent.

52. Appointment of counting agents and revocation of such appointments.—

(1) The number of counting agents that a candidate may appoint under section 47 shall, subject to such general or special direction as the Election Commission may issue in this behalf, not exceed sixteen at the place or each of the places, fixed for counting under rule 51.

(2) Every such appointment shall be made in Form 18 in duplicate, one copy of which shall be forwarded to the returning officer while the other copy shall be made over to the counting agent for production before the returning officer 1[not later than one hour before the time fixed] for counting under rule 51.

(3) No counting agent shall be admitted into the place fixed for counting unless he has delivered to the returning officer the second copy of his appointment under sub-rule (2) after duly completing and signing the declaration contained therein and receiving from the returning officer an authority for entry into the place fixed for counting.

(4) The revocation of appointment of a counting agent under sub-section (2) of section 48 shall be made in Form 19 and lodged with the returning officer.

(5) In the event of any such revocation before the commencement of the counting of votes, the candidate or his election agent may make a fresh appointment in accordance with sub-rule (2).

53. Admission to the place fixed for counting.—

(1) The returning officer shall exclude from the place fixed for counting of votes all persons except—

(a) [such persons (to be known as counting supervisors and counting assistants)] as he may appoint to assist him in the counting;

(b) persons authorised by the Election Commission;

(c) public servants on duty in connection with the election; and

(d) candidates, their election agents and counting agents.

(2) No person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election shall be appointed under clause (a) of sub-rule (1).

(3) The returning officer shall decide which counting agent or agents shall watch the counting at any particular counting table or group of counting tables.

(4) Any person who during the counting of votes misconducts himself or fails to obey the lawful directions of the returning officer may be removed from the place where the votes are being counted by the returning officer or by any police officer on duty or by any person authorised in this behalf by the returning officer.

54. Maintenance of secrecy of voting.—The returning officer shall, before he commences the counting, read out the provisions of section 128 to such persons as may be present.

54A. Counting of votes received by post.— (1) The returning officer shall first deal with the postal ballot papers in the manner hereinafter provided.

(2) No cover in Form 13C received by the returning officer after the expiry of the time fixed in that behalf shall be opened and no vote contained in any such cover shall be counted.

(3) The other covers shall be opened one after another and as each cover is opened, the returning officer shall first scrutinise the declaration in Form 13A contained therein.

(4) If the said declaration is not found, or has not been duly signed and attested, or is otherwise substantially defective, or if the serial number of the ballot paper as entered in it differs from the serial number endorsed on the cover in Form 13B, that cover shall not be opened, and after making an appropriate endorsement thereon,

the returning officer shall reject the ballot paper therein contained.

(5) Each cover so endorsed and the declaration received with it shall be replaced in the cover in Form 13C and all such covers in Form 13C shall be kept in a separate packet which shall be sealed and on which shall be recorded the name of the constituency, the date of counting and a brief description of its content.

(6) The returning officer shall then place all the declarations in Form 13A which he has found to be in order in a separate packet which shall be sealed before any cover in Form 13B is opened and on which shall be recorded the particulars referred to in sub-rule (5).

(7) The covers in Form 13B not already dealt with under the foregoing provisions of this rule shall then be opened one after another and the returning officer shall scrutinise each ballot paper and decide the validity of the vote recorded thereon.

(8) A postal ballot paper shall be rejected—

[(a) if it bears any mark (other than the mark to record the vote) or writing by which the elector can be identified; or] 3[(aa)] if no vote is recorded thereon; or

(b) if notes are given on it in favour of more candidates than one; or

(c) if it is a spurious ballot paper; or

(d) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or

(e) if it is not returned in the cover sent along with it to the elector by the returning officer.

(9) A vote recorded on a postal ballot paper shall be rejected if the mark indicating the vote is placed on the ballot paper in such manner as to make it doubtful to which candidate the vote has been given.

(10) A vote recorded on a postal ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(11) The returning officer shall count all the valid votes given by postal ballot in favour of each candidates, record the total thereof in the result sheet in Form 20 and announce the same.

(12) Thereafter, all the valid ballot papers and all the rejected ballot papers shall be separately bundled and kept together in a packet which shall be sealed with the seals of the returning officer and of such of the

candidates, their election agents or counting agents as may desire to affix their seals thereon and on the packet so sealed shall be recorded the name of the constituency, the date of counting and a brief description of its contents.]

55. Scrutiny and opening of ballot boxes.—[(1) The returning officer may have the ballot box or boxes used at more than one polling station opened and the ballot papers found in such box or boxes counted simultaneously.]

[***]

(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.

(3) The returning officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(4) If the returning officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in section 58 in respect of that polling station.

56. [Counting of votes].—[(1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinized.]

(2) The returning officer shall reject a ballot paper—

(a) if it bears any mark or writing by which the elector can be identified, or

[(b) if it bears no mark at all or, to indicate the vote, it bears a mark elsewhere than on or near the symbol of one of the candidates on the face of the ballot paper or, it bears a mark made otherwise than with the instrument supplied for the purpose, or]

(c) if votes are given on it in favour of more than one candidates, or

(d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given, or

(e) if it is a spurious ballot paper, or

(f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or

(g) if it bears a serial number, or is of a design, different from the serial numbers, or, as the case may be, design, of the ballot authorised for use at

the particular polling station, or

(h) if it does not bear 3[both the mark and the signature] which it should have borne under the provisions of sub-rule (l) of rule 38:

Provided that where the returning officer is satisfied that any such defect as is mentioned in clause (g) or clause (h) has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect:

Provided further that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(3) Before rejecting any ballot paper under sub-rule (2), the returning officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

[(4) The returning officer shall endorse on every ballot paper which he rejects the word "Rejected" and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp and shall initial such endorsement.]

(5) All ballot papers rejected under this rule shall be bundled together.

[(6) Every ballot paper which is not rejected under this rule shall be counted as one valid vote:

Provided that no cover containing tendered ballot papers shall be opened and no such paper shall be counted.

[(7) After the counting of all ballot papers contained in all the ballot boxes used at a polling station has been completed,—

(a) the counting supervisor shall fill in and sign Part II—Result of Counting, in Form 16, which shall also be signed by the returning officer; and

(b) the returning officer shall make the entries in a result sheet in Form 20 and announce the particulars.]]

[***]

[57. Sealing of used ballot papers.]—The valid ballot

papers of each candidate and the rejected ballot papers shall thereafter be bundled separately and the several bundles made up into a separate packet which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon; and on the packets so sealed shall be recorded the following particulars, namely:—

- (a) the name of the constituency;
- [(b) the particulars of the polling station where the ballot papers have been used; and]
- [(c) the date of counting.]

58. Counting of ballot papers transferred to bags or covers under rule 44.—The provisions of rules 55, 56 and 57 shall apply so far as may be in relation to counting of ballot papers and votes, if any, which have been transferred from ballot boxes to cloth bags or cloth-lined covers under sub-rule (5) of rule 44: Provided that every reference in the said rules to a ballot box shall be construed as a reference to a bag or cover to which the contents of a ballot box have been transferred.

59. Counting of votes at notified polling stations.—In relation to the counting of ballot papers found in ballot boxes used at notified polling stations, 1[rules 50 to 54] and, in lieu of rules 55, 56 and 57, the following rules shall apply, namely:—

“55A. Scrutiny and opening of ballot boxes.—

(1) All ballot boxes used at a notified polling station shall be opened at the same time but every ballot box shall be dealt with in such manner that its contents do not get mixed up with the contents of any other ballot box.

(2) Subject to the provisions of sub-rule (1), the returning officer may have the ballot boxes used at more notified polling stations than one opened and their contents counted simultaneously.

(3) Before any ballot box is opened, the counting agents present shall be allowed to inspect the paper seal or any other seal that might have been affixed thereon and to satisfy themselves that it is intact.

(4) The returning officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(5) If the returning officer is satisfied that any of the ballot boxes has in fact been tampered with,

he shall not count the ballot papers contained in any of the ballot boxes used at the polling station at which such box was used and shall proceed as laid down in section 58 in respect of that polling station.

(6) After each ballot box is opened, the counting agents present shall be allowed to inspect the ballot box and satisfy themselves that it bears the proper symbol inside and has been duly marked in accordance with the provisions of sub-rule (6) of rule 33 as modified by clause (c) of sub-rule (3) of rule 49.

(7) If any question arises as to the candidates to whom a particular ballot box was allotted at the poll, the returning officer shall decide such question by a reference to the symbol inside the box:

Provided that—

- (a) if there is no symbol inside the box, or
- (b) if the symbol inside the box has been damaged or mutilated beyond recognition, or
- (c) if the same symbol is found on two or more boxes used at the same polling station, the returning officer, shall, wherever possible, decide the question by reference to all relevant circumstances including the distinguishing marks on the ballot box, and where he does not consider it possible to decide the question, he shall immediately refer it to the Election Commission for its decision.

(56A) [*Counting of votes*].—(1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinised.

(2) The returning officer shall reject a ballot paper—

- (a) if it bears any mark or writing by which the elector can be identified; or
- (b) if it is a spurious ballot paper; or
- (c) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or
- (d) if it bears a serial number, or is of a design, different from the serial numbers or, as the case may be, design, of the ballot papers authorised for use at the particular polling station; or
- (e) if it does not bear 3[both the mark and the signature] which it should have borne under the

provisions of sub-rule (1) of rule 38:

Provided that where the returning officer is satisfied that any such defect as is mentioned in clause (d) or clause (e) has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect.

(3) Before rejecting any ballot paper under sub-rule (2), the returning officer shall allow the counting agents present a reasonable opportunity to inspect the ballot paper but shall not allow them to handle it or any other ballot paper.

(4) The returning officer shall record on every ballot paper which he rejects the letter 'R' and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp.

(5) All ballot papers taken out of any one ballot box and rejected under this rule shall be made into a separate bundle.

[(6) Every ballot paper which is not rejected under this rule shall be counted as one valid vote: Provided that no cover containing tendered ballot papers shall be opened and no such ballot paper shall be counted.]

[(7) After the counting of all ballot papers contained in all the ballot boxes used at a polling station has been completed,—

(a) the counting supervisor shall fill in and sign Part II—Result of Counting in 6[Form 16 which shall also be signed by the returning officer; and

(b) the returning officer shall make the entries in a result sheet in Form 20 and announce the particulars.]

[57A. *Sealing of used ballot papers.*—(1) The valid ballot papers found in each ballot box, shall thereafter be bundled together and kept along with the bundle of rejected ballot papers, if any found in that box in a separate packet which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon and on the packet so sealed there shall be recorded the following particulars, namely:—

(a) the name of the constituency,

(b) the particulars of the polling station where the ballot papers have been used,

- (c) the name of the candidate to whom the ballot box was allotted, and
 - (d) the date of counting.
- (2) The returning officer shall then place together all the packets made up under sub-rule (1) in respect of each candidate in a separate container which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or their counting agents as may desire to affix their seals thereon and on the container so sealed shall be recorded the following particulars, namely:—
- (a) the name of the constituency,
 - (b) the names of the candidates, and
 - (c) the date of counting.]”.

59A. [Counting of votes in specified constituencies.]—Where the Election Commission apprehends intimidation and victimisation of electors in any constituency and it is of the opinion that it is absolutely necessary that the ballot papers taken out of all boxes used in that constituency should be mixed before counting, it may, by notification in the Official Gazette, specify such constituency and for counting of such ballot papers, in lieu of rules 55, 56, 57 and 59, the following rules shall apply], namely:—

‘55B. *Scrutiny and opening of ballot boxes.*—(1) The returning officer shall open, or cause to be opened, simultaneously the ballot box or boxes used at more than one polling station and shall have the total number of ballot papers found in such box or boxes counted and recorded in Part II of Form 16: Provided that discrepancy, if any, between the total number of such ballot papers recorded as aforesaid and the total number of ballot papers shown against item No. 5 of Part I shall also be recorded in Part II of Form 16.

(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.

(3) The returning officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(4) If the returning officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in section 58 in respect of that polling station.

(56B) *Counting of votes.*—(1) Subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, the ballot papers taken out of all boxes 3[used at more than one polling station in a constituency,] shall be mixed together and then arranged in convenient bundles and scrutinised.

(2) The returning officer shall reject a ballot paper—

(a) if it bears any mark or writing by which the elector can be identified, or

(b) if it bears no mark at all or, to indicate the vote, it bears a mark elsewhere than on or near the symbol of one of the candidates on the face of the ballot paper or, it bears a mark made otherwise than with the instrument supplied for the purpose, or

(c) if votes are given on it in favour of more than one candidate, or

(d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given, or

(e) if it is a spurious ballot paper, or

(f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or

(g) if it bears a serial number, or is of a design, different from the serial numbers, or, as the case may be, design, of the ballot papers authorised for use at the particular polling station, or

(h) if it does not bear both the mark and the signature which it should have borne under the provisions of sub-rule (1) of rule 38:

Provided that where the returning officer is satisfied that any such defect as is mentioned in clause (g) or clause (h) has been caused by any mistake or failure on the part of a presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect: Provided further that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(3) Before rejecting any ballot paper under sub-rule (2), the returning officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

(4) The returning officer shall endorse on every ballot paper which he rejects the word “Rejected” and the

grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp and shall initial such endorsement.

(5) All ballot papers rejected under this rule shall be bundled together.

(6) Every ballot paper which is not rejected under this rule shall be counted as one valid vote: Provided that no cover containing tendered ballot shall be opened and no such paper shall be counted.

(7) After the counting of all ballot papers contained in all the ballot boxes used in a constituency has been completed, the returning officer shall make the entries in a result sheet in Form 20A and announce the particulars. Explanation.—For the purpose of this rule, the expression “constituency” shall, in relation to an election from a parliamentary constituency, mean the assembly constituency comprised therein.

(57B) *Sealing of used ballot papers.*—The valid ballot papers of each candidate and the rejected ballot papers shall thereafter be bundled separately and the several bundles made up into a separate packet which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon and on the packets so sealed shall be recorded the following particulars, namely:—

- (a) the name of the constituency; and
- (b) the date of counting.’

60. Counting to be continuous.—The returning officer shall, as far as practicable proceed continuously with the counting and shall, during any intervals when the counting has to be suspended, keep the ballot papers, packets and all other papers relating to the election sealed with his own seal and the seals of such candidates or election agents as may desire to affix their seals and take sufficient precaution for their safe custody during such intervals.

61. Recommencement of counting after fresh poll.

— (1) If a fresh poll is held under section 58, the returning officer shall, after completion of that poll, recommence the counting of votes on the date and at the time and place which have been fixed by him in that behalf and of which notice has been previously given to the candidates and their election agents.

(2) The provisions of rules 56 and 57 shall apply so far as may be to such further counting.

[***]

63. Re-count of votes.— (1) After the completion of the counting, the returning officer shall record in the result sheet in Form 20 the total number of votes polled by each candidate and announce the same.

[(2) After such announcement has been made, a candidate or, in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to re-count the votes either wholly or in part stating the grounds on which he demands such re-count.]

(3) On such an application being made the returning officer shall decide the matter and may allow the application in whole or in part or may reject it in toto if it appears to him to be frivolous or unreasonable.

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

[(5) If the returning officer decides under sub-rule (3) to allow a re-count of the votes either wholly or in part, he shall—

(a) do the re-counting in accordance with 2[rule 54A,] rule 56 or rule 56A, as the case may be;

(b) amend the result sheet in Form 20 to the extent necessary after such re-count; and

(c) announce the amendments so made by him.]

(6) After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5), the returning officer shall complete and sign the result sheet in Form 20 and no application for a re-count shall be entertained thereafter:

Provided that no step under this sub-rule shall be taken on the completion of the counting until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (2).

[64. Declaration of result of election and return of election.—The returning officer shall, subject to the provisions of section 65 if and so far as they apply to any particular case, then—

(a) declare in Form 21C or Form 21D, as may be appropriate, the candidate to whom the largest number of valid votes have been given, to be elected under section 66 and send signed copies thereof to the appropriate authority, the Election Commission and the chief electoral officer; and

(b) complete and certify the return of election in

Form 21E, and send signed copies thereof to the Election Commission and the chief electoral officer.]

65. Counting at two or more places.—If ballot papers are counted at more places than one, the provisions of 1[rules 53, 54 and 55 to 60] shall apply to the counting at each such place, but the provisions of [rules 54A, 63 and 64] shall apply only to the counting at the last of such places.

66. Grant of certificate of election to returned candidate.—As soon as may be after a candidate has been declared by the returning officer under the provisions of section 53, or section 66, to be elected, the returning officer shall grant to such candidate a certificate of election in Form 22 and obtain from the candidate an acknowledgment of its receipt duly signed by him and immediately send the acknowledgment by registered post to the Secretary of the House of the People or, as the case may be, the Secretary of the Legislative Assembly.

66A. Counting of votes where electronic voting machines have been used.—In relation to the counting of votes cast at a polling station, where voting machine has been used,—

(i) the provisions of rules 50 to 54 and in lieu of rules 55, 56 and 57, the following rules shall respectively apply, namely:—

“55C. Scrutiny and inspection of voting machines.—(1) The returning officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

(2) Before the votes recorded in any control unit of voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.

(3) The returning officer shall satisfy himself that none of the voting machines has in fact been tampered with.

(4) If the returning officer is satisfied that any voting machine has in fact been tampered with he shall not count the votes recorded in that machine and shall follow the procedure laid down in section 58, or section 58A or section 64A, as may be applicable in respect of the polling station or stations where that machine was used.

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

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

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

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

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

57C Sealing of voting machines.—(1) After the result of voting recorded in a control unit has been ascertained candidate-wise and entered in Part II of Form 17C and Form 20 under rule 56C, the returning officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon so however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result.

(2) The control unit so sealed shall be kept in specially prepared boxes on which the

returning officer shall record the following particulars, namely:—

- (a) the name of the constituency;
- (b) the particulars of polling station or stations where the control unit has been used;
- (c) serial number of the control unit;
- (d) date of poll; and
- (e) date of counting.”

(ii) the provisions of rules 60 to 66 shall, so far as may be, apply in relation to voting by voting machines and any reference in those rules to,—

- (a) ballot paper shall be construed as including a reference to such voting machine;
- (b) any rule shall be construed as a reference to the corresponding rule in Chapter II of Part IV or, as the case may be, to rule 55C or 56C or 57C].

94. Disposal of election papers.—Subject to any direction to the contrary given by the Election Commission or by a competent court or tribunal—

(a) the packets of unused ballot papers shall be retained for a period of six months and shall thereafter be destroyed in such manner as the Election Commission may direct;]

[(aa) the voting machines kept in the custody of the district election officer under sub-rule (1A) of rule 92 shall be retained intact for such period as the Election Commission may direct and shall not be used at any subsequent election without the previous approval of the Election Commission;]”

6. At the outset, let us appreciate the issue that was raised before the Apex Court in the case of **Dr. Subramanian Swamy (supra)**. In the said case, the appeal was directed against a judgement and order dated 17.01.2012 passed by the Division Bench of the High Court of Delhi. The Delhi High Court disposed of the petition disallowing the prayer of the appellant, for issuing a writ of mandamus to the Election Commission of India to incorporate the system of paper trails in the EVMs. After the contentions which were raised by the

learned advocate appearing on behalf of the petitioner therein, the Apex Court, after charting out the course of history that had gone into the introduction of the VVPATs and the EVMs held as under:

“30. In the light of the above discussion and taking notice of the pragmatic and reasonable approach of the ECI and considering the fact that in general elections all over India, the ECI has to handle one million (ten lakhs) polling booths, we permit the ECI to introduce the same in gradual stages or geographical-wise in the ensuing general elections. The area, State or actual booth(s) are to be decided by the ECI and the ECI is free to implement the same in a phased manner. We appreciate the efforts and good gesture made by the ECI in introducing the same.”

6.1 Reading of the aforesaid judgment would indicate that looking to the fact that the general elections in India are a large scale exercise, the Apex Court permitted the Election Commission of India to introduce VVPATs in gradual stages or geographical wise in the ensuing general elections. The Apex Court further observed that the area, the State or the actual booths are to be decided by the Election Commission of India and that the Election Commission of India is free to implement the same in a phased manner. The Apex Court, for such implementation in a phased manner, directed the Government of India to give the required financial assistance. In other words, pursuant to the directions given by the Apex Court in the case of **Dr. Subramanian Swamy (supra)**, the Election Commission of India has sought to introduce Voter Verifiable Paper Trails in the general elections held in the country.

7. We have extensively reproduced, the relevant prayers and the contentions of the Party in Person in context of the prayer to challenge and declare Rule 56(D)(2) of the Conduct of Election Rules, 1961 as ultra vires Article 14, 19 and 21 of the Constitution Of India. The apprehension voiced is insofar as it vests discretion in the Returning Officer to reject an application made under Rule 56(D)(2) for counting of the printed paper slips in the drop box of the Printer. Such discretion appears to be based on a concern that the discretion will be used by the Returning Officer in not entertaining an application for recount at all.

8. We would have expected the Party-In-Person- who in fact is a practicing lawyer of this Court and not an ordinary uninformed litigant acting at the instructions and briefs of his advocate, to have taken us through the Status Paper to demonstrate the justification of the apprehension of the discretion under Rule 56(D)(2) being capable of being abused. We are afraid that except reiterating the submissions from the pleadings and reading out the provisions of the Representation Of People Act, 1951, the paper was not read though it was part of the letter, annexed to the petition and therefore can be safely presumed to be part of the record.

9. We have therefore undertaken the task of reading the paper and from the contents which we extensively reproduce hereinafter, we are assured that the firm conviction about the integrity and non-tamperability and credibility of the EVMs and the confidence in the robustness of the procedural safeguards as voiced in the communication dated 10.01.2019 by the Election Commission Of India, make the decision-

making process of the Returning Officer and the discretion so vested in him, under Rule 56(D)(2) beyond reproach.

10. It has to be borne in mind that the foundation and the basis of the allegation is a lurking fear repeatedly voiced and demonstrated by the Election Commission Of India that the EVMs are tamperproof. From what we will reproduce hereinafter, the material which was available to the petitioner, a practicing lawyer, as is evident from the communication dated 10.01.2019 addressed to him, a reference has been made to the Commission's 'Status Paper on EVM/ VVPAT' which has comprehensively addressed and cleared all doubts and queries regarding the credibility of EVMs used by the Election Commission of India. The letter unequivocally states that the ***Commission has firm conviction about the integrity, non-tamperability and credibility of the EVMs and is confident of its robustness and reliability in view of its technical security features, comprehensive administrative protocols and robust procedural safeguards that protect the EVMs and VVPATs against any sort of manipulation at any stage, before, during or after the polls including manufacture, transportation, storage, polling and counting process.*** (emphasis supplied).

10.1 Once an autonomous constitutional authority like the Election Commission Of India, which has till date, fulfilled the avowed object of conducting free and fair elections in the largest democracy of the world makes such a statement, in its letter addressed to the petitioner assuring the robustness of

the procedural safeguards, this Court shall be loath to sit in judgement over the assurance of a constitutional authority like the Election Commission Of India and show the zealousness to overstep its jurisdiction vested in it under Article 226 of the Constitution Of India, on mere uncharted reservations and apprehensions voiced by the petitioner.

11. It would also be fruitful to reproduce the information about introduction, present status and the conclusion about EVMs/VVPATs as per the aforesaid Commission's 'Status Paper on EVM/VVPAT' for ready reference and which has been requested by the Election Commission of India to be referred in the communication dated 10.01.2019 addressed to the petitioner. This will also help us to trace the EVMs/VVPATs' journey into the election process of this country through the Status Paper.

"Introduction:

India is the largest Participatory Democracy of the world, with about 850 million registered voters. The Constitutional mandate of superintendence, direction and control of Elections to the Parliament and the State Legislative Assemblies has been conferred on the Election Commission of India.

The Election Commission of India is an independent Constitutional entity, which has successfully conducted regular elections to the Parliament and various State Legislative Assemblies for the past 66 years in a free, fair, participative, informed and credible manner. The Commission is widely acknowledged as a "Global Gold Standard" in Election Management across the World, setting ever-higher standards of efficient and professional conduct of Elections.

The Commission has been at the forefront of embracing, adopting and implementing the latest technological advancements in improving and fine-tuning the election processes and systems. The

Commission has taken the pioneering initiative of introducing Electronic Voting Machine (EVM) for recording, storing and counting of votes across the length and breadth of the Country in a transparent, credible and secure manner, backed by appropriate legal support. The use of EVM demonstrates the Commission's unflinching resolve to continually improve, upgrade and strengthen the Electoral Process in the country.

The Commission has successfully used EVMs in conducting 113 General Elections to the State Legislative Assemblies and 3 Lok Sabha Elections over the last 23 years. The List of States, along with the years in which 100% EVMs were used in the Assembly Elections is placed at ANNEXURE - 1.

55.41 crore (554 million) voters exercised their franchise in 2014 Lok Sabha elections using EVMs.

Since the very inception of the EVMs in 1982, as a positive electoral reform on the electoral scene in India, blames and aspersions have been cast on the EVMs from various quarters including political. Recently, after the announcement of the results of the five State Assembly Elections in March 2017, again certain allegations have been levelled against the EVMs. A group of thirteen political parties met the Commission on 10 April 2017 and expressed certain reservations about the use of EVMs.

It needs to be emphasized that the wide range of technical security, administrative protocols and procedural safeguards mandated by the Commission robustly ensures the integrity, non-tamperability and credibility of the EVMs. The stringent procedures and well-defined poll processes prescribed by the Commission protect the EVMs against any sort of manipulation.

It is also significant to highlight that the Commission is committed to the 100% coverage of VVPATs in all future elections to the Parliament and State Assembly Elections. The requisite funds for the procurement of adequate number of VVPATs and latest generation (M3) EVMs have been sanctioned by the Government and machines are expected to be manufactured and delivered by BEL and ECIL to the ECI by November 2018 as committed by the manufacturers.

At the present juncture, when EVMs are once again encumbered with yet another debate on its efficacy and robustness, it is imperative to hold consultations with stakeholders.

VOTER VERIFIABLE PAPER AUDIT TRAIL (VVPAT)

In a meeting of all political parties held on 4th October, 2010, the parties expressed satisfaction with the EVM but some parties requested the Commission to consider introducing Voter Verifiable Paper Audit Trail for further transparency and verifiability in poll process. In India, the demand of VVPAT to increase transparency was floating in the air for some time after such a tool was first demonstrated in New York City in March 2001 and first used in Sacramento, California in 2002. The demand was referred to the Technical Expert Committee (TEC) by the ECI.

Introduction of VVPAT implied that a paper slip is generated bearing name and symbol of the candidate along with recording of vote in Control Unit, so that in case of any dispute, paper slip could be counted to verify the result being shown on the EVM. Under VVPAT, a printer is attached to the balloting Unit and kept in the voting compartment. The paper slip remains visible on VVPAT for 07 seconds through a transparent window. The Commission referred the matter to its Technical Expert Committee (TEC) on EVMs for examining and making a recommendation in this regard. The Expert Committee had several rounds of meetings with the manufacturers of EVM, namely, BEL & ECIL, on this issue and then had met the political parties and other civil society members to explore the design requirement of the VVPAT system with the EVM. On the direction of the Expert Committee, the BEL and ECIL made a prototype and demonstrated before the Committee and the Commission in 2011. On the recommendation of the Expert Committee on EVM & VVPAT system, the Commission conducted simulated election for the field trial of VVPAT system in Ladakh (Jammu & Kashmir), Thiruvananthapuram (Kerala), Cherrapunjee (Meghalaya), East Delhi District (NCT of Delhi) and Jaisalmer (Rajasthan) in July 2011. All stakeholders including senior leaders of political parties and civil society members participated and witnessed enthusiastically in the field trial. After 1st field trial of the VVPAT system, Commission made a detailed reassessment of the VVPAT system to further fine tune the VVPAT system. Accordingly, the manufacturers developed 2nd version of VVPAT prototype.

The same was again subjected to 2nd field trial in the said five locations in July- August 2012.

In the meeting of the Technical Expert Committee held on 19th February, 2013, the Committee approved the

design of VVPAT and also recommended the Commission to take action on amendment of the rules for using VVPAT. The model was demonstrated to all the political parties in an all-party meeting on 10th May, 2013. The Government of India notified the amended Conduct of Elections Rules, 1961 on 14th August, 2013, enabling the Commission to use VVPAT with EVMs. On 4th September, 2013, the Commission used VVPAT with EVMs first time in bye-election from 51-Noksen (ST) Assembly Constituency of Nagaland. On 8th October, 2013, the Hon'ble Supreme Court ordered introduction of VVPAT in phases in its judgment on a PIL and asked Government to sanction funds for procurement. As directed by the Hon'ble Supreme Court of India, the ECI introduced the VVPAT system in a phased manner so that full implementation could be achieved by 2019. In 2013, the ECI procured 20000 VVPATs. On 25th November, 2013, VVPATs were used in 10 ACs in Mizoram; on 4th December 2013, it was used in one AC in Delhi; and thereafter in subsequent elections.

The following table gives us the journey of VVPAT in India at a glance:

Date	Chronology of Events
4 th Oct 2010	An all-party meeting held. Agreement on incorporation of VVPATs along with EVMs.
07/01/11	Field trial conducted after the prototype was manufactured, in Thiruvananthapuram (Kerala), Delhi, Cherapunjee (Meghalaya), Jaisalmer (Rajasthan) and Leh (Jammu & Kashmir).
July-Aug 2012	A second field trial was conducted
19 th Feb 2013	Final model was approved by TEC
10 th May 2013	The Model was demonstrated to all political parties
14 th Aug 2013	The conduct of Election Rules 1961 was amended and notified

Date	Chronology of Events
8 th Oct 2013	Hon'ble Supreme Court directed ECI to introduce the VVPAT system in a phased manner. full implementation to

	be achieved by 2019
25 th Nov 2013	VVPATS were used in 10 ACs of Mizoram 4th Dec 2013 VVPAT was used in one AC in Delhi and thereafter in subsequent elections
Feb-Mar 2017	52000 VVPATs were used in 33 ACs in Punjab, 6 ACs in Mani- pur, 3 ACs in Uttarakhand, 30 ACs in Uttar Pradesh and 40 ACs in Goa
04/01/17	Approval of Government received for purchase of 16, 15,000 VVPATs at a total estimated cost of Rs.3173.47 Crores**. ** Cost of 16,15,000 VVPATs reduced to Rs. 2616.30 Cr. After fixation of price by the Price Negotiation Committee.
12 th May 2017	All Political Parties Meeting held. The Commission decided to use 100% VVPATs at every polling station in all future elections to Parliamentary and Assembly constituencies.
19 th Sept., 2017	The Commission directed to use 100% VVPATs at every polling station was formally communicated to all Chief Electoral Officers to ensure compliance.
11 th Oct, 2017	The Commission decoded to conduct mandatory verification of VVPAT slips of randomly selected 01 Polling Station per AC. Subsequently, mandatory verification of VVPAT slips has been further extended to 01 randomly selected Polling Station of each Assembly segment of Parliamentary Constituency also.

So, far, VVPATs have been used in 933 Assembly Constituencies and 18 Parliamentary Constituencies. Till date, VVPAT slip verification has been undertaken for 792 polling stations and in all the cases, the results tallied with the electronic result in the CU.

Present Status:

Hon'ble Supreme Court in its order dated 8 Oct 2013

has observed that EVMs with VVPAT system ensures 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 systems because vote is nothing but an act of expression which has immense importance in democratic system. The apex court appreciated the efforts and good gesture made by the ECI in introducing VVPATs and permitted the ECI to introduce the same in a gradual stages or geographical wise in the ensuing general elections. The Court also directed the Government of India to provide required financial assistance for the procurement of units of VVPATs for the implementation of VVPAT system in a phased manner.

Amidst the ongoing debate on the EVM, the ECI not only reaffirmed its faith on the transparency, credibility, non-tamperability and robustness of the machines, but also stressed on the immediate deployment of VVPATs for safeguarding the integrity of the voting system as well as strengthening confidence of the voters. In order to ensure the compliance of Hon'ble Supreme Court order The Chief Election Commissioner of India vigorously pursued the allocation of funds to the manufacturers for the timely manufacture and supply of required quantity of VVPATs to the ECI for ensuring 100% VVPAT coverage at all polling stations. The Election Commission also vigorously reviewed the production capacity of the manufacturers impressing upon them the need to strictly adhere to the schedule by enhancing their manufacturing capacity.

Based on Commission's continuous follow up the funds have since been allocated on 19April2017 amounting to Rs.2616.30 crore for purchase of 16,15,000VVPATs and orders have been issued to the manufacturers. It is pertinent to mention that Rs 1939.95 crore has been sanctioned and released by the Government for the manufacture of M3 EVMs. The manufacturers have committed to manufacture the EVMs and VVPATs and supply to ECI by Sep 2018.

The Commission is committed to using VVPAT machines along with EVMs in all future elections to be conducted under its superintendence and direction for the Parliament and State Legislative Assemblies.

In the All Political Parties Meeting held on 12th May, 2017, the Commission decided to use 100% VVPATs in all future elections. The above decision of the Commission was formally communicated to Chief Electoral Officers of all States and Union Territories on

19th September, 2017.

The Commission mandated verification of VVPAT paper slips of randomly selected 01 polling station in addition to the provisions of Rule 56D of the Conduct of Elections Rules, 1961, as under:

(a) In case of General and Bye-elections to State Legislative

Assemblies, verification of VVPAT paper slips of randomly selected 01 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 polling station of each Assembly Segment of the Parliamentary Constituency concerned.

Mandatory verification of VVPAT paper slips has been conducted so far in 792 polling stations and no discrepancy was found in electronic result and paper count.

Conclusion:

As is evident, the EVM used in Indian elections have gone through a long journey of evolution amidst challenges and has emerged as an effective machine of electoral reform over the years since its introduction. It has enhanced public confidence as well as legitimacy of Indian elections in the eyes of the world.

The Indian EVM stands as one of the most credible, non-tamperable and transparent machine amongst all such machines used in other parts of the world. Indian EVMs have attracted the attention of many Afro-Asian countries also. Till date, no one could actually demonstrate that EVMs in possession of ECI and used by it, can be tampered with or manipulated. What has been demonstrated or claimed to have been demonstrated is on a privately assembled "look-alike of ECI-EVMs" and not the actual ECI-EVM used by ECI. Recently, on an allegation of EVMs yielding votes for only one political party in Bhind (Madhya Pradesh) and Dholpur (Rajasthan), the ECI promptly conducted an enquiry which found out that such allegations were found to be baseless.

Today, the ECI once again completely reaffirms its faith in the non-tamperability of the EVMs of ECI in view of the technical security features and the stringent administrative protocols and procedural safeguards which are mandatorily to be followed during and after the polls. In conclusion, it will be pertinent to refer to the verdict of the Karnataka High Court in this

respect, which observed that EVM in India is a “national pride” and the fact that Indian elections are widely internationally acknowledged as the “Global Gold Standard”.

The Commission and electoral system stakeholders have taken a conscious decision that EVM is the right answer to the formidable task of election management and the huge logistical challenges it throws. The ECI hopes that once the VVPATs cover all the polling booths in the country, the confidence and transparency will be further enhanced.

The Commission firmly believes that the introduction of VVPAT machines with the EVMs in all future elections will bring utmost transparency and credibility in the EVM-based voting system in our country and conclusively put to rest all misinformed doubts and misgivings regarding these machines.

The Commission will launch a comprehensive, concerted and nation-wide voter education and awareness programme under its flagship SVEEP initiative, to educate, orient and inform the voters about the functioning, usage and advantages of the VVPAT machines and their immense utility in reinforcing the transparency, credibility and authenticity of the voting process. The Commission earnestly solicits the cooperation and collaboration of all the vital stakeholders, particularly the political parties, to join hands in spreading awareness about the advantages of VVPAT machines. The Commission is confident that the collaborative efforts of all the stakeholders in the electoral process will lead to continuous improvements in the electoral management and make our system more transparent, participative, informed and credible. The Commission firmly believes in an open, constructive and comprehensive dialogue with all crucial stakeholders in the electoral process and the political parties are a critical stakeholder of the democratic edifice in the country. Considering the recent issues regarding use of EVMs, the Commission convened an All Party Meeting on 12th May 2017. The objective behind the said meeting was to facilitate threadbare discussions and detailed deliberations amongst the important players in the electoral arena on this vital issue, so that all views and counter-views were placed on the table and thrashed out transparently and cogently.

In All Political Parties Meeting the Commission assured 100% coverage of VVPATs in all future election to the Parliament and State Assembly Elections. In the said

meeting the representatives of political parties were informed that the Commission would hold a challenge and offered opportunity to political parties to demonstrate that EVMs used in the recently concluded Assemblies elections were tampered OR that EVMs could be tampered even under the laid down Technical and Administrative Safeguards.

Subsequently, 20th May 2017, the Commission announced the EVM Challenge and sent invitation to all National and State Recognized Political Parties to participate in the Challenge from 3rd June 2017 onwards. Only two Political Parties, namely NCP and CPI(M) submitted their interest in participating the EVM Challenge. However, they did not participate in the Challenge but only expressed their interest in understanding the EVM process. They interacted extensively with TEC of the Commission to clear their doubts. The EVM Challenge concluded on 3rd July 2017.

Since 12th May 2017, every election to the Parliament and State Assembly Elections has been conducted using VVPAT with EVM and the Commission is committed to 100% deployment of VVPATs in all future elections to Parliament and State Legislative Assemblies.

The Commission requests all citizens and stakeholders to remain aware, vigilant and alert about our electoral processes and facilitate the Commission in discharging its Constitutional mandate of conducting free and fair elections in the country.”

[Emphasis Supplied]

12. In fact the Election Commission of India has also published a Manual (3rd Edition) on EVMs and VVPATs in view of the 100% use of VVPATs with EVMs and to familiarize the readers with the genesis of the EVM, Process of its development, Procurement, Storage and Legal provisions. It also contains all important instructions on use of EVM and VVPAT making it a useful handbook on the subject for the electoral machinery handling the EVM, and VVPAT. The relevant portions of the said manual are reproduced hereunder.

“169. Power to make rules. —

(1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

—
[(a) the form of affidavit under sub-section (2) of section 33A;]

[(aa)] the duties of presiding officers and polling officers at polling stations;

[(aaa) the form of contribution report;]

(b) the checking of voters by reference to the electoral roll;

[(bb) the manner of allocation of equitable sharing of time on the cable television network and other electronic media;];

(c) the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability ;

(d) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote;

(e) the procedure to be followed in respect of the tender of vote by a person representing himself to be an elector after another person has voted as such elector;

[(ee) the manner of giving and recording of votes by means of voting machines and the procedure as to voting to be followed at polling stations where such machines are used;]

(f) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote;

(g) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election; 12

[(gg) the procedure as to counting of votes recorded by means of voting machines;]

(h) the safe custody of 3[ballot boxes, voting machines], ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;

[(hh) the material to be supplied by the Government to the candidates of recognised political parties at any election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State;]

(i) any other matter required to be prescribed by this Act.

[(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or [in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made,] the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.].

2. Under rule 94(aa) of the Conduct of Elections Rules 1961, the guidelines of the Commission on retention period of the EVMs after using in election and for using the same in the subsequent elections, are as under:

A. Every Voting Machine (EVM) and VVPATs used in an election and kept in the custody of the District Election Officer shall be kept untouched, under the standard protocol of security, till confirmation of Election petition position from the High Court concerned after the completion of the period for filing Election Petition i.e. 45 days from the date of declaration of the result.

B. In the case of elections, where no election petition has been filed or no other court cases are pending, after the aforesaid period, the EVMs may be allowed to be used by the Election Commission for any future election or any other purpose like movement, physical verification of EVMs and VVPATs, etc.

C. In case of any election where election petition has been filed, the following action shall be taken:-

i) If the EVMs are the subject of the election petition, the EVMs used at all Polling Stations in the constituency concerned shall continue to be kept in the safe custody of the District Election Officer, till such time the Election Petition is finally disposed of by the Courts.

ii) If the EVMs are not the subject of the election

petition, an application may be moved to the concerned Court for allowing the EVMs concerned to be taken out of the strong room for any future election or any other purpose like movement, physical verification of EVMs etc. 35

iii) In case EVMs not involved in any Election Petition/Court Case are stored with the EVMs involved in Election Petition/Court Case, the following procedure shall be followed for segregating the EVMs not involved in any election petition/court case from the EVMs involved in EP/Court case:-

a) A Notice informing the opening of Strong Room having EVMs involved in EP/Court Case shall be given to the petitioners/respondents of the EP/Court Case and the representatives of all political parties in writing at least 72 hours in advance, requesting them to remain present at the time of opening of strong room.

b) The strong room shall be opened in the presence of the District Election Officer, Petitioners/respondents of the EP/Court case and representatives of Political Parties.

c) The EVMs not involved in any EP/Court Case shall be segregated from the EVMs involved in EP/Court Case for taking out of the strong room. A list of EVMs being so taken out from the strong room shall be prepared.

d) The EVMs, which are not involved in any EP/Court Case, should alone be taken out of the Strong room.

e) The entire process shall be videographed.

f) A copy of the list of EVMs being taken out from the strong room and copy of videography shall be given to the petitioner/respondent of the EP/court case and acknowledgement taken.

D. If any other Court Case is pending, like, booth capturing, etc., in which any EVM is involved, the EVM concerned or the EVM(s) used at such Polling Station(s) concerned may also be kept till the final disposal of the said case. After the final disposal of the election petitions or other court cases, as the case may be, referred to above, the EVMs can be used for subsequent elections.

16.5. APPLICATION FOR VVPAT PAPER SLIPS COUNTING

After announcement of result sheet entries, any candidate, their election agent or their counting agents may apply in writing to the RO to count the printed VVPAT paper slips in any or all polling stations. If such

application is made, the RO shall pass a speaking order on whether the VVPAT paper slips should be counted. If the RO decides to allow the counting of the VVPAT paper slips of any or all polling stations, such decision of the RO must be recorded in writing along with the reasons thereof. The RO shall give due consideration to the following:

Whether the total number of votes polled in that polling station is greater or lesser than the margin of votes between winning candidate and candidate making the application

Whether EVM had a problem and was replaced at that polling station during poll

Whether there was any complaint about VVPAT not printing or 76 complaints by any voter under Rule 49MA in that polling station during the poll.

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 paperslips 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 paperslips 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 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 at least 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 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).

16.7. ARRANGEMENTS FOR COUNTING OF VVPAT PAPER SLIPS:

One of the Counting Tables inside the Counting Hall shall be earmarked by the Returning Officer as VVPAT Counting Booth (VCB) for Counting of VVPAT Paper Slips.

VCB shall be enclosed in a wire-mesh just like a Bank Cashier Cabin, so that no VVPAT paper slip can be accessed by any unauthorised person.

16.8. PROCEDURE TO COUNT VVPAT PAPER SLIPS:

If the RO decides to count the printed paper slips of any polling station(s) on an appeal for recounting of any polling station(s), the following procedures shall be strictly followed:

Step-1:

a) For keeping VVPAT Paper Slips taken out from the Drop Box of the VVPAT, a sufficiently sized container with lid, of dimensions 14 inch X 10 inch X 5 inch (length x breadth x height), to easily accommodate around 1400 Printed Paper Slips, shall be kept on the table of VCB. This Container should be made of sturdy transparent material like plastic etc. Sample images of the Container are available in Annexure-27.

b) For keeping VVPAT paper slips of the respective candidates, a Pigeonhole Framework shall be prepared in advance according to the number of candidates including NOTA, with one additional pigeonhole for keeping self-test slips of the VVPAT, and shall be kept on the table of VCB.

i) The minimum number of Pigeonholes in the Framework must be equal to the number of candidates plus 2 (two).

ii) The size of each compartment (Pigeonhole) must be at least 6 inch X 4 inch X 4 inch (length x breadth x height).

iii) The pigeonhole structure should be made of sturdy transparent material like plastic etc, having a fixed

base, to prevent any VVPAT paper slip from slipping underneath.

iv) The symbol of each contesting candidate as per the Ballot Paper should be affixed on the wall of the pigeonhole allotted to the particular candidates. The symbol should be printed in black and white on a plain paper of minimum size 4 inch X 3 inch. Sample images of the Pigeonhole Framework are placed in Annexure-27.

c) At least 100 Rubber bands for making bundles of 25 VVPAT paper slips.

Step-2:

The VVPAT unit(s) of the respective polling station(s) should be brought to the VCB one by one, as the case may be.

In case a VVPAT unit was replaced during poll at that polling station, all the VVPAT units used at that polling station should be brought to the VCB.

Step-3:

The printed paper slips shall be taken out from all the VVPATs used at the polling station, before beginning the counting of VVPAT paper slips for that polling station.

Before taking out the VVPAT Paper Slips from the drop box, the address tag(s) of the drop box shall be crosschecked to ascertain that the VVPAT pertains to the respective polling station.

a) The VVPAT Paper Slip taken out from the Drop Box of the VVPAT shall be first kept in the container as per specification at step-1 (i).

b) After taking out the VVPAT paper slips from Drop Box, the Counting Supervisor shall ensure that no VVPAT paper slip is left inside the VVPAT drop box and show the empty drop box to the counting agents.

c) In case a VVPAT unit was replaced, it may so happen that an uncut fully or partially VVPAT paper slip is hanging and has not got cut and dropped in the drop box and still connected to the paper roll. This uncut VVPAT paper slip should not be torn and should not be counted because the vote is not recorded electronically in the CU unless the VVPAT paper slip is cut. In such an event, the last voter whose VVPAT paper slip was not cut would have been given an opportunity to cast his vote after replacement of VVPAT and the VVPAT paper slip of the vote cast by him shall be in the next VVPAT used in that polling station.

d) The drop box of the VVPAT will also have VVPAT

slips of self-test report. These are easily identified, as they do not have either the name or the symbol of any candidate. These self-test report slips are to be preserved along with the VVPAT paperslips as part of the record but they are not to be counted.

Step-4:

- i) The VVPAT paper slips should be segregated one-by-one and put in respective pigeon holes after showing each slip to the Counting Agents. The paper slips bearing self-tests report shall also be segregated and put in a separate pigeonhole provided for the purpose.
- ii) Bundles of 25VVPAT paper slips of respective candidates shall be prepared for counting purpose.
- iii) VVPAT Paper Slips shall then be counted by the counting staff.
- iv) Result of the VVPAT paperslips count shall be prepared in the format as per Annexure-28 and attached to Part-II of Form 17-C (Annexure-29).
- v) The result of the count of VVPAT paperslip shall be announced loudly in the counting hall and shown to the counting agents.
- vi) As per Rule 56D (4) (b) of the Conduct of Elections Rules 1961, if there is any discrepancy between EVM count and paper slip count, the paper slip count shall prevail. Hence, if there is discrepancy between the count of votes displayed on the Control Unit and the count of printed-paper slips in respect of that Polling Station, the result sheet will be amended as per the printed-paper slips count.

Step-5:

After completion of counting of VVPAT paper slips, the bundles of all the VVPAT Paper Slips shall be kept back in the Drop Box of the respective VVPAT and door of the Drop Box shall be sealed using address tags.

The candidate(s)/their agents may also be allowed to affix their signature with party abbreviation on the Address Tags.

16.9. Sealing of EVMs after counting of votes

After completion of counting, all such Control Units whether result has been retrieved from it or not, the Control Unit should be kept back inside its carrying case. The carrying cases should then be sealed once again. The Returning Officer and Observer should put their signatures on the seal. All candidates and their election agents should also be allowed to put their signature on the seal. The Control Unit should be then

kept in the strong room(s).

16.10. STORAGE of EVMs & VVPATs after counting of votes:

After completion of counting of votes, EVMs and VVPATs containing printed paper slips in its Drop box, shall be kept in the same strong room without removing Power Packs of Control Units and Power Packs and Paper Rolls of VVPATs.

The Strong room shall not be opened till completion of Election Petition (EP) period i.e. till EP list is received from respective High Court.

After completion of Election Petition Period, the exact EP position should be ascertained from High Court concerned before opening the strong room.

16.11. STORAGE OF VVPAT PAPER SLIPS AFTER EXPIRY OF PERIOD OF FILING OF ELECTION PETITIONS:

After expiry of the period of filing of Election Petitions (EPs) i.e. 45-days from the date of declaration of result, District Election Officers shall ascertain the position of EP from the concerned High Court. After obtaining the status of EP from the High Court concerned, the following action shall be taken:

Every VVPAT used in an election and kept in the custody of the District Election Officers shall be kept untouched, under the standard protocol of security, till confirmation of Election petition position from the High Court concerned after the completion of the period for filing Election Petition i.e. 45 days from the date of declaration of the result.

In the case of elections, where no election petition has been filed or no other court cases are pending, after the aforesaid period, the VVPATs shall be available for use in any future election or any other purpose like training, awareness, movement, physical verification etc.

Before moving any VVPAT, printed paper slips shall be taken out from Drop-box of the VVPATs as per procedure mentioned below: 82

A Notice informing the opening of Strong Room having VVPATs shall be given to the representatives of all political parties in writing at least 48 hours in advance, requesting them to remain present at the time of opening of strong room.

The strong room shall be opened in the presence of the District Election Officer and representatives of Political Parties.

Remove the Power Packs of Control Units and Power Packs and Paper Rolls of VVPATs.

The VVPAT paper slips shall be taken out from the Drop Box of VVPAT and kept in a paper envelope made of thick black paper, sealed using red wax under the seal of DEO. Name of election, number and name of assembly constituency, particulars of polling station, unique serial number of the VVPAT unit, date of poll and date of counting shall be mentioned on the envelope containing printed paper slips.

The envelopes containing VVPAT paper slips shall be kept with all other statutory documents relating to that election till the statutory time limit. Thorough checking of officials deputed for the removal of VVPAT paper slips and their sealing must be ensured. All pockets need to be emptied before entering the Sealing Room/Strong Room and thorough checking of officials leaving the sealing room should be done in addition to DFMD/Metal Detector Checking.

Once the VVPAT paper slips have been taken out, the VVPATs must be kept in their separate designated warehouse. VVPAT should not be kept in the same warehouse where EVMs are stored.

To ensure there is no deliberate attempt to remove any paperslips from sealing room/strong room, the entire process should be conducted under high quality CCTV recording/videography. In case of any election where election petition has been filed, the following action shall be taken:-

If the EVMs or Counting of Votes are the subject of the election petition, the EVMs and VVPATs used at all Polling Stations in the constituency concerned shall continue to be kept in the safe custody of the District Election Officer, till such time the Election Petition is finally disposed of by the Courts. 83

If the EVMs or counting of votes are not the subject of the election petition, an application may be moved to the concerned Court for allowing the EVMs& VVPATs concerned to be taken out of the strong room for any future election or any other purpose like movement, physical verification etc.

In case VVPATs not involved in any Election Petition/Court Case are stored with the VVPATs involved in Election Petition/Court Case, the following procedure shall be followed for segregating the VVPATs not involved in any election petition/court case from the VVPATs involved in EP/Court case:-

A Notice informing the opening of Strong Room having VVPATs involved in EP/Court Case as well as non-EP

VVPATs, shall be given to the petitioners/respondents of the EP/Court Case and the representatives of all political parties in writing at least 72 hours in advance, requesting them to remain present at the time of opening of strong room.

The strong room shall be opened in the presence of the District Election Officer, Petitioners/respondents of the EP/Court case and representatives of Political Parties.

The VVPATs not involved in any EP/Court Case shall be segregated from the VVPATs involved in EP/Court Case for taking out of the strong room. A list of VVPATs being so taken out from the strong room shall be prepared.

The VVPATs, which are not involved in any EP/Court Case, should only be taken out of the Strong room.

The procedure mentioned above shall be followed for taking-out power packs, paper rolls and the printed paper slips from all such VVPATs, following which the VVPATs are available for any subsequent deployment/use.

The entire process shall be videographed and videography must be preserved for record.

DO's AND DON'Ts ON USE OF VVPAT

DO's	DON'Ts
Ensure paper roll knob is locked (horizontal position) before transportation.	
In Polling Station, unlock the paper roll knob (vertical position).	Don't switch ON CU before VVPAT paper roll knob is in unlocked condition (vertical position).
Position BU and VVPAT in Voting Compartment. Position CU and VSDU on PO's Table	
Establish right connection by following the color scheme.	Don't allow direct light or high power illumination over VVPAT.
Ensure the connectors are inserted properly.	Don't insert/remove cables without pressing the clips on the connectors.

Switch 'ON' CU, the Power-On Green LED on VVPAT glows and VVPAT prints all 7 slips.	Don't switch OFF CU unless all 7 slips are printed and cut.
Check for any "PRINTER ERROR" message on VSDU. Inform Sectoral Officer (SO) in such case.	Don't start polling in case of "PRINTER ERROR" message on VSDU.
Always switch OFF CU before making any connection or disconnection including change of battery.	Don't operate the paper roll knob till the end of the poll.
NOTE: In M3 VVPAT there is no VSDU. VVPAT related messages are displayed on the CU's Display.	

13. In the earlier part of the Judgement we have reproduced the relevant provisions of the Representation Of People Act, 1951 and the provisions of the Conduct Of Election Rules, 1961. The perusal of the Conduct of Election Rules and the amendments made therein on the advent of the EVMs reveal that all the procedural safeguards as to counting and recounting of votes, as were part of the rule, the pre-EVM era in the time of use of Ballot Boxes, have been verbatim kept in place for the purposes of count/recount post Ballot Box voting, in the EVM/VVPAT, voting regime. This is notwithstanding the tested technological advancement in the manner and the method of voting and counting of votes, which especially in the context of voting, counting has become more error-free.

13.1 The discretion of the Returning Officer under Rule 56(D) (2) is nothing new, added as a result of the VVPATs. Rule 63 dealing with re-counts, even pre-EVMs had a provision which exists, which is worded the same. Rule 63(3) also provides

that on an application made to the Returning Officer to recount votes, the returning officer shall decide the matter and may allow the application in whole or in part or may reject it in toto if it appears to him to be frivolous or unreasonable. Therefore, it is not a case of introducing an element of discretion in the subjective satisfaction of the Returning Officer, merely on the advent of the VVPATs by the Election Commission. At this juncture, it shall also be relevant to peruse the guidelines as per the **Handbook of Instructions to the Returning Officers, Chapter – XV which pertains to Counting of Votes**. The same is reproduced hereunder:

“15.30. RECOUNT

15.30.1 Normally, there will be no question of recount of votes recorded in the voting machines. Every vote recorded by the voting machines is a valid vote and no dispute will arise as to its validity or otherwise. At the most, some candidates or their agents may not have noted down the result of voting at any particular polling station properly when the control unit displayed that information. If necessity arises for re-verification, the Result Button can preseed, whereupon the result of voting at that polling station will again be displayed in the Display Panels of that control unit.]

15.30.2 Despite the necessity for recount being totally eliminated by the use of voting machines, the provisions relating to recount contained in Rule 63 of the Conduct of Election Rules, 1961, still apply in relation to your constituency. Accordingly, when the counting is completed and the Final Result Sheet in Form 20 has been prepared, you should announce the total number of votes polled by each candidate as entered in the Final Result Sheet. You should then pause for a minute or two. If during this period any candidate or, in his absence, his election

agent or any of the counting agents, asks for a recount, you should ascertain from him regarding the time required by him for applying for recount in writing. If you consider that the time applied for is reasonable, allow it and announce the exact hour and minute up to which you will wait for receiving the written application for recount. You should not sign the Final Result Sheet in Form 20 until after the expiry of the time so announced.

15.30.3 When an application for recount is made, you should consider the grounds urged and decide the matter. You may allow the application in whole or in part if it is reasonable or you may reject it in toto, if it appears to you to be frivolous or unreasonable. Your decision will be final, but in every case you should record a brief statement of your reasons for your decision. A candidate has option to make request for recount of polled ballot papers and/or polled EVMs of all or some of the polling stations

15.30.4 If in any case, you allow an application for recount either wholly or in part, you shall have the votes recorded in the voting machines counted over again in accordance with your decision. The postal ballot papers will also be counted over again if so decided by you. After the recount, correct the final result sheet to the extent necessary. Announce the amendments so made, if any, by you. After the total number of votes polled by each candidate after recount has been announced by you, complete and sign the Result Sheet. No candidate has a right to demand a recount after you have completed and signed the Final Result Sheet. Reject any demand for any recount of votes after you have completed and signed the Final Result Sheet.

15.30.5 Where printer for paper trail is used, any candidate or in his absence his election agent or any of his counting agents may apply in writing to the RO to count the printed paper slips in the drop box of the printer in

respect of any polling station or polling stations after the entries made in the result sheet is announced. If such an application is received, the returning officer shall, subject to such general or special guidelines as may be issued by the ECI, decide the matter and may allow in whole or in part or may reject in whole, if it appears to him as frivolous or unreasonable. Every decision of the RO shall be in writing and shall contain the reasons thereof. If the RO decides the counting of paper slips either wholly or in part or parts, he shall –

- a. do the counting in the manner as may be directed by the Commission,
- b. amend the result sheet in form 20 as per the paper slips count if there is discrepancy between the votes displayed on the Control Unit and the counting of Paper Slips,.
- C. announce the amendment so made by him and,
- d. complete and sign the result sheet (ECI NO 3/1/2013 VVPAT/SDR dated 15.10.2013.)

15.30.6 As the Returning Officer, your duty is to count accurately the votes and you have therefore always the right to order your staff to recount the votes. But the right of a candidate to demand a recount under Rule 63 does not mean that recount can be granted for the mere asking. The party demanding recount has to make out a prima facie case that the counting was not accurate and recount is necessary in the interest of justice.

15.30.7 It would be unreasonable to demand second recount if the first recount showed only minor variations from the first count and at the same time showed a very substantial majority in favour of one candidate. On the contrary, it would be reasonable to demand further recount where the margin between first two candidates is close and where previous recount has shown differing results.

15.30.8 But you would be justified in refusing a further recount when the previous recount

showed the same result even if the difference between the contesting candidates may be very small.

- 15.30.9 The Commission has decided that where the result of an election is going to be decided by difference of postal ballot received by the first two candidates, then there shall be mandatory and comprehensive recount of postal ballot papers, even though no candidate ask for it.
- 15.30.10 If votes are counted at more places than one, according to rule 65 of the Conduct of Elections Rules, 1961, the demand for recount of votes can be made only at the end of counting in the last place fixed for the purpose. Thus, in the case of Parliamentary Constituency, the recount can be demanded only at the place where the Returning Officer counts the postal ballot papers and completes Part II of the Final Result Sheet in Form 20 and not at the places where the votes have been counted Assembly segment-wise.
- 15.30.11 As mentioned above, if votes are counted at more than one places, the recount can be demanded at the last place fixed for the purpose. This would be very inconvenient as the voting machines and all relevant papers would have to be taken to the last place of counting and in that way it will defeat the entire effort and the whole purpose of spreading out the counting at different places. Though generally it is intended that a recount of votes of a particular polling station should be done only after the counting for the entire constituency is over, if any doubt is expressed by any candidate immediately after the counting of votes at any polling station is over, it is desirable that you check up again. This is strictly not a recount but a check, which will satisfy all the candidates.

14. On the contrary, as will be evident from the extensive reproduction of the Status Report on EVMs/VVPATs, the system of registering the vote of the voter and reflection of his vote has become more transparent and apparent to regain the

voter's confidence in the system. What essentially was the object of introduction of the VVPATs was the restoring of the voter's confidence by the logging and registering of his vote correctly in the EVM. The Voter Verifier Audit Trail as the name suggests assures the voter of his vote having been correctly recorded in the system. Once the object of the audit of the voter's vote, from his perception is achieved, who is the end consumer of the franchise, the mere apprehension voiced by the candidate, pales into insignificance.

15. We have also gone through the press notes released by the Commission from time to time. The same read as under:

**“ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi
PRESS NOTE**

No.ECI/PN/39/2017
12th May, 2017

Dated:

Subject: Meeting of all Political Parties on issues related to EVM/VVPAT and other Electoral reforms
The Election Commission held a meeting with all recognised National and State Political parties today at Constitution Club, New Delhi to discuss the following issues:

- (i) EVMs and VVPATs.
- (ii) Making Bribery in Elections a Cognizable Offence.
- (iii) Disqualification on Framing of Charges for the Offence of Bribery in Elections
- (iv) Suggestions on VVPAT Recount Rules.

07 National Parties and 35 State Parties attended the meeting.

In his inaugural address, Chief Election Commissioner Dr. Nasim Zaidi, underlined the contribution of all political parties and stated that systemic improvements and progressive measures

aimed at improving the electoral processes and systems have been evolved by the Commission in cooperation with all political parties.

CEC referred the queries raised by some political parties about the incidents of alleged EVM manipulation at Bhind and Dholpur during the recently concluded Bye-elections, and reiterated that baseless perceptions were generated about these incidents and there was no case of biased vote results.

Commission highlighted the wide range of technical, administrative protocol and procedural safeguards that fortify the EVMs and VVPATs against any sort of manipulation or tampering. He said that Commission is open to hear suggestions on how to further improve integrity and credibility of EVMs.

CEC also informed the political representatives that the Commission will hold a challenge and offer opportunity to political parties to demonstrate that EVMs used in the recently concluded Assemblies elections were tampered OR that EVMs can be tampered even under the laid down Technical & Administrative Safeguards.

CEC stated that the Commission will ensure 100% coverage of VVPATs in all future election to the Parliament and State Assembly Elections. That VVPATs slips of a percentage of EVMs to be determined by ECI will be counted. ECI will soon evolve a framework in this regard. To make the election process more transparent, the Commission has made proposal for electoral reforms on misuse of money power and bribery during elections. The Commission has also made proposal for amendments in the Income Tax Act and in the RP Act, 1951, for enhancing transparency in the funding of political parties.

Dr. Nasim Zaidi urged the political parties to ensure their continuous and qualitative participation at all crucial preparatory steps for elections like FLC, Randomization of EVM/VVPAT/Polling personnel, EVM Preparation/candidate setting, Mock Poll, EVM Sealing etc. CEC also stressed that continuous involvement is the shared responsibility of all the stakeholders including the political parties.

CEC conveyed neutral stand and equidistance of ECI from all political parties as it has no favourite which has enhanced India's reputation in the eyes of Global Community.

A detailed presentation on EVM was presented by Shri. Sudeep Jain, Director General of ECI explaining therein its secured design feature, development process, stakeholders' participation at various levels, and administrative processes making the EVMs secure.

Representatives of the political parties presented their views & suggestions on each of the agenda items.

Commission assured the political parties that their concerns & apprehensions regarding EVMs have been taken note of and would be duly considered & addressed through forthcoming challenge and further necessary actions. In respect of other Electoral Reforms, their views/suggestions would be examined and further action would be initiated appropriately.

-sd/-
(Dhirendra Ojha)
Director

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

No. ECI/PN/42/2017

Dated:20th May 2017

PRESS NOTE

Sub: EVM Challenge by Election Commission of India

1. The Election Commission of India is globally acknowledged as a "Gold Standard" in conduct of free and fair elections with integrity in India. It has set ever-higher standards of efficient, smooth and professional conduct of Elections and has been at the forefront of embracing, adopting and implementing the latest technological advancements in improving and fine-tuning the election processes and systems.

2. The Commission has taken the pioneering

initiative of introducing Electronic Voting Machine (EVM) for recording, storing and counting of votes across the length and breadth of this country in a transparent, credible and secure manner, duly backed by appropriate legal support.

3. Over the last twenty years, the Commission has successfully conducted 107 State Legislative Assembly elections and 03 Lok Sabha elections using EVMs. Since September 2013, Voter Verifiable Paper Audit Trail (VVPAT) machines have also been used in various State Assembly and Parliamentary constituencies for enhanced transparency and credibility in the voting process.

4. The introduction of EVMs in 90's was a positive electoral reform by the Commission. Some doubts have been raised on the functioning of the EVMs from time to time and from some quarters.

5. After the announcement of the results of the five State Assembly Elections (UP, Uttarakhand, Punjab, Goa and Manipur), in March 2017, again certain doubts have been raised on the functioning of EVMs. Some complaints and suggestions were received by Commission after declaration of results of five State Assembly elections. The Commission duly examined these complaints and asked for evidence and credible material information supporting the claims, but so far no evidence has been provided by complainants to ECI.

6. A group of thirteen political parties met the Commission on 10th April, 2017 and expressed certain reservations about the use of EVMs. Some political parties also raised queries about incidents relating to VVPATs used on 31/3/17 during demonstration (NOT in actual poll) at Bhind (M.P) and Dholpur (Rajasthan) Bye-elections held in the first week of April, 2017.

7. To understand the concerns of political parties, Commission convened an all party meeting on 12th May. A press statement was also issued by ECI the same day to the following effects.

(i) The Commission stated before political parties that all future elections will be mandatorily held with VVPATs. The Commission firmly believes that use of VVPAT machines along with the EVMs in all polling stations, in all future elections, will bring utmost transparency and credibility in the EVM-

based voting system. This will enable each voter to see for himself in VVPAT whether his or her vote has gone to the right candidate. After press of button on BU, name and symbol the concerned candidate will appear on the screen of VVPAT machine and paper slip bearing name and symbol will be dropped in a sealed box connected with VVPAT. These slips will serve as audit trail of the vote cast by voter on EVM. Audit trail will enhance confidence and trust of voters. Use of VVPATs with EVMs must conclusively put to rest all misinformed doubts and misgivings regarding EVMs. It will also be a matter of pride that India will become the first country to deploy 100% VVPATs or paper trail in the world, an element that was missing in many countries including Netherland, Germany and Ireland. Funds for procuring the required VVPATs for 100% deployment have already been sanctioned and production is to begin in August, 2017 and will be completed by September, 2018.

(ii) It was also stated that the Commission has also taken into account suggestions made by various political parties regarding counting of VVPAT slips. The Commission will count VVPAT slips up to a definite percentage, which will be determined by the Commission. The ECI will shortly evolve an appropriate framework in this regard.

(iii) The Commission will hold a challenge and offer opportunity to political parties to demonstrate that EVMs used in the recently concluded Assembly elections were tampered or that EVMs can be tampered even under the laid down technical and administrative safeguards of ECI.

(iv) Commission also urged all parties to ensure their continuous and qualitative participation in all crucial steps during elections such as First Level Checking (FLC), randomisation of EVMs/VVPATs/polling personnel, EVM preparation and candidate setting, mock poll, EVM sealing and storage. The Commission also invited more suggestions from political parties on how to further increase their participation, so that absolute transparency is maintained at all times.

(v) Commission, further, urged political parties that improving integrity of election process is a shared responsibility of all the stake holders. We solicited

their suggestions to fill up gaps, if any, during election and non election period. The Commission made it clear that ECI want total transparency and have nothing to hide from people and other stakeholders. Commission will always receive suggestions from its stakeholders for improvement of its processes.

(vi) The Commission also emphasised that Commission is committed and it maintains equidistance from all parties and groups. The Commission further emphasised that ECI has no favourites. Further, this equidistance by ECI has enhanced India's reputation in the eyes of the global community.

8. The Commission has already issued detailed Press releases on Credibility of Electronic Voting Machines on 16th March, 2017, on alleged VVPAT incident during mock EVM demonstration on 31st March 2017 (and not in actual poll as alleged) at Bhind (Madhya Pradesh) on 07th April, 2017 and also regarding EVMs in Dholpur (Rajasthan) on 11th April, 2017. In Bhind, a wrong notion was created that for any key pressed on the Ballot Unit, only one symbol was printed by VVPAT. Commission's thorough enquiry clearly established that during the EVM demo held on 31.03.2017 in DEOs office the 4 buttons were pressed during the demo and not the actual poll and every time the correct corresponding symbol was printed. A Status Paper on EVMs has also been circulated to all stakeholders on 12th May, 2017 elaborating various aspects about EVMs and VVPATs for information and awareness. (All these documents are available on ECI website).

9. Certain complaints of alleged tampering of EVMs during the recently held Municipal elections in Maharashtra and elsewhere also generated wrong perception about EVMs of ECI. It was noted that confusion exists in the minds of many about the jurisdiction of ECI. We would like to clarify once again on this occasion that ECI is not responsible for the conduct of local body elections by the State Govts in the country and consequently about various protocols and procedures adopted by the concerned State Election Commissions. Election to local bodies, both urban and rural, are conducted

by separate constitutional authorities State Election Commissions constituted by the State Govts. Under Article 243 of the Constitution. Moreover, a particular complaint of some candidate receiving zero vote in Mumbai Municipal elections has been found to be totally false by SEC Maharashtra.

10. The Commission is confident and has firm conviction about the integrity, non- tamperability and credibility of the EVMs. The basis of confidence of the Commission flows from a wide range of technical and administrative protocols and procedural safeguards that protects our EVMs and VVPATs against any sort of tampering during manufacture, transportation, storage, polling and counting process. Still, the Commission is open to receiving from all stakeholders' suggestions on how to further improve the integrity and credibility of our EVMs and VVPATs. The Commission will not allow even a shade of doubt about EVM operations.

11. The Commission would like to address some of the important issues that have been raised from time to time in past two months:

A. ECI- EVMs are not hackable as these, are stand alone machines and not connected to the internet and /or any other network at any point of time during polling. Hence, there is no chance of hacking. The ECI-EVMs do not have any frequency receiver or data decoder for wireless and hence cannot receive any coded signal by wireless. Hence, no tampering can be carried out through external hardware Wireless, Wi-Fi or Bluetooth device. Moreover, machines are always in the custody of ECI and its election authorities.

B. Manipulation at manufacturing stage is ruled out as there is very stringent security protocol regarding the security of software. Further, the Machines have been manufactured in different years starting from 1989. After manufacturing, EVMs are sent by ECI to State and district within a State. The manufacturers are in no position to know several years ahead which candidate will be contesting from a particular constituency and what

will be the sequence of the candidates on the BU and, therefore, cannot manipulate EVMs in a predetermined manner at manufacturing stage.

C. Results cannot be altered by activating a Trojan Horse through a sequence of key presses because

1. Trojan Horse cannot be inserted into the software code of ECI EVM burnt into the Microcontroller Chip since the chip is one time Programmable only.

2. The stringent security measures by ECI make it impossible to access the EVMs which is an essential prerequisite for attempting to change the Micro-controller for inserting a Trojan Horse.

3. Control Unit activates Ballot Unit for only one key press at a time. Any additional key pressed on the Ballot Unit is not sensed by the Control Unit making it impossible to send signals by pressing a sequence of keys or secret codes. Once a ballot key is pressed in CU, the CU enables BU for registering the vote and waits for the key pressing in the BU. During this period, all keys in the CU become inactive till the entire sequence of casting of that vote is complete. Once any of the keys (candidates vote button) is pressed by a voter in BU, the BU transmits the key information to CU in dynamically encrypted form. The CU gets the data and acknowledges it by glowing the corresponding red LED lamps in BU. After the enabling of ballot in CU, only the 'first key press' is sensed and accepted by CU.

After this, even if a voter keeps on pressing the other buttons, that is of no use as there will not be any communication between CU and BU of those subsequent key presses, nor will BU register any key press. To put it in other words, there can be only one valid key press (the first key press) for every ballot enabled using CU. Once a valid key press (voting process) is complete, until another ballot enabling key press is made there will not be any activity between the CU and the BU. Hence, sending of any malicious signal, by way of so called 'sequenced key presses', is impossible in the Electronic Voting Machines being used in the country.

D. ECI-EVMs cannot be Physically Tampered with nor their components be changed without anyone

noticing. It is clarified that replacement of micro controller/chip and the motherboard in earlier generations of machines like M1 and M2 is ruled out due to robust administrative and technical safeguards. Further, the new M3 EVM produced after 2013 have additional features like Tamper Detection and Self Diagnostics. The tamper detection feature makes an EVM inoperative the moment anyone tries to open the machine. The Self diagnostic feature checks the EVM fully every time it is switched on. Any change in its hardware or software will be detected. Rs. 1900 Crore have already been sanctioned to the manufacturers for production of 13.95 Lakh BU and 9.30 Lakh CU of M3 generation. Also, 16.15 Lakh VVPATs are also under production and Rs. 3173 Crore have been sanctioned for the same.

E. The latest technological features make ECI-EVMs tamper proof. The ECI- EVMs use some of the most sophisticated technological features like one time programmable (OTP) microcontrollers, dynamic coding of key codes, date and time stamping of each and every key press, advanced encryption technology and EVM-tracking software to handle EVM logistics, among others to make the machine 100% tamper proof.

In addition to these, new model M3 EVMs also have tamper detection and self- diagnostics as added features. OTP software implies that the programme in the EVM cannot be altered, re-written or re-read by anyone under safe custody of ECI. This makes EVM tamper proof. If anyone makes an unauthorized attempt, the machine will become in-operative.

F. Contrary to misinformation spread and alleged by some, ECI does not use any EVMs produced abroad. EVMs are produced indigenously by two PSU manufacturers viz. Bharat Electronics Ltd., Bengaluru and Electronics Corporation of India Ltd., Hyderabad. The Software Program Code is written in-house by these two companies and not outsourced and approved by TEC of ECI and subjected to strict security procedures at factory level to maintain the highest levels of integrity.

The software programme is converted into machine

code by manufacturers and only then given to the chip manufacturer abroad. (We don't have the adequate capability of producing semi-conductor microchips within the country). Every microchip has an identification number embedded into memory and the producers have their digital signatures on them. So, the question of their replacement does not arise at all because microchips brought back to manufacturers are subjected to functional tests with regard to the software. Any attempt to replace microchip is detectable and can make EVM in-operative. Thus, both changing existing program and introducing new one are detectable making EVM in-operative because EVMs are tamper detect. Also the technological advancement now permits fusing of the software on the chip at BEL and ECIL itself and hence, in M3 the software is fused on the chip inside BEL and ECIL.

G. There are no possibilities of manipulation in EVM during transportation or at the place of storage. At the district headquarters, EVMs are kept in a double-lock system under appropriate security. Their safety is periodically checked. The election authorities do not open the strong room, and they only regularly check whether it's fully protected and whether the lock is in proper condition or not. No Unauthorized person can get access to the EVMs at any point of time. During the non election period, annual physical verification of all EVMs is done by DEOs and report sent to ECI. Further, strong rooms are always opened in the presence of representative of political parties.

H. There are different levels of checks and balances ensuring tamper proofing of ECI-EVMs which are as follows:

- First Level Checking: Authorized BEL/ECIL engineers certify originality of components after technical and physical examination of each EVM, which is undertaken in the presence of representatives of political parties. Defective EVMs are sent back to the factory. The FLC Hall is sanitized, entry is restricted and no camera, mobile phone or spy pen is allowed inside. The Mock Poll is conducted on EACH EVM by election officials in the presence of representatives of political parties.

The Mock poll of at least 1000 votes is conducted on 5% EVMs selected randomly by representatives of political parties and the result shown to them. The entire process is video graphed.

- Candidate Setting: Yet another significant safeguard is the process of candidate setting, which is done after the finalization of contesting candidates. A ballot paper is inserted in the Ballot Unit, which is then sealed with Pink Paper Seal. BU is sealed at this stage. Where VVPATs are used, candidates' symbols are loaded in each VVPAT at this stage. Once again, every EVM is subjected to mock poll and 5% EVMs are randomly picked up for 1000 mock poll.

- Randomization: EVMs are randomized twice while being allocated to an Assembly and then to a polling booth ruling out any fixed allocation. As you can appreciate, till first randomization no-one knows the sequence of names on the ballot paper till the finalization of list of contesting candidates, the names of contesting candidates are placed alphabetically on the ballot paper first for National and State Parties, followed by other Registered Parties, followed by independents and NOTA. Thus the Serial no. of any political party, candidate on the BU would be variable from constituency to constituency. It is therefore clear that serial no. of any political party candidate is not fixed or pre-determined in all the constituencies of the state. Hence, till candidate setting, none, not even RO or DEO or CEO or the Commission could know which button on which BU will be assigned to which candidate.

- Mock Poll of at least 50 votes at the polling station is also conducted in front of polling agents of candidates on the poll day, before poll begins.

- After Poll, EVMs are sealed and polling agents put their signature on the seal. Polling agents can travel up to strong room during transportation of polled EVMs from the polling station to the EVM Strong room.

- Strong Rooms: Candidates or their representatives can put their own seals on the rooms, where polled EVMs are stored after the poll and also camp in front of the strong room. These strong rooms are guarded 24x7 in multilayers, with

CCTV facilities.

- Counting Centres: The polled EVMs are brought to the Counting Centres under security and in presence of candidates and Unique IDs of the seals, signature of polling agents on CU are shown to representatives of candidates before the start of counting.

12. Looking at the above series of fool-proof checks and balances that are undertaken by the ECI to make EVMs tamper proof, it is evident that neither the machines can be tampered-with nor they can leave the ECI-EVM system. Further, neither defective machines nor Non-ECI-EVM can get reinducted/ inducted into the polling process at any point of time. Non ECIEVMs will get detected by the above process due to mismatch of BU & CU.

13. Some people argue that why have Developed Nations like the US and the European Union not adopted EVMs and some have even discontinued?

ECI EVMs are far superior to any EVMs worldwide. EVM, used in the Netherlands, Ireland and Germany were privately manufactured and had no independent certification system unlike a very robust verification and certification system through independent TEC or an ECI approved third party in case of ECI EVMs. Also, voting data in these NEDAP EVMs in the Netherlands was transferred using CDs, unlike our EVMs where it is stored internally and never transferred. Also these countries lacked full end to end administrative and security safeguards as well as legal framework. Finally their EVMs also lacked auditability.

A point is raised from time to time that several foreign countries have discontinued the use of voting machines and why India is using EVMs. With the rapid advances in technology over the years, Election Management Bodies, professionals, experts, and activists (particularly Green Activists) have mooted the idea of using paperless electronic voting methods in different parts of the world in order to overcome the disadvantages of manual marking of paper ballots. The marriage between technology and election management goes back to at least 1892, when the first 'lever voting machine' was used in New York, after using the paper ballot for a long time. In the 1960s, punch-card machines

were introduced in the USA, and the first EVM was introduced there in 1975. Electronic Voting has moved quite ahead since then.

Types of Electronic Voting:

The process of electronic voting can be of three types:

(i) Direct Recording Machines placed at designated polling station,

(ii) Internet Voting

- Remote Online Voting
- At Designated Polling Stations

(iii) Optical Scanners

- Stand-alone
- Networked for centralized counting of results

EVMs used in India fall under the first type of stand-alone direct recording machines with no possibility of any kind of network connectivity where voters cast their votes at an assigned polling station on the day of election under strict administrative security ensured by the ECI.

Even though ECI EVMs are also direct recording machines ECI EVMs are completely different from any of the EVMs used internationally either for direct recording or for internet voting or for optical scanning. This is clearly highlighted in the comparative analysis of ECI EVMs with the DRMs used in countries like Germany, Netherland, Ireland, and USA as follows:

The Netherlands

Electronic Voting was used in The Netherlands in between 1990-2007. The voting machines were manufactured by a private Dutch-company called NEDAP (Nederlandse Apparaten Fabriek NV). In 2006, the government ordered an independent testing of the voting machines. Two independent commissions, The Voting Machines Decision-making Commission and the Election Process Advisory Commission (EPAC) were also established on December 19, 2006 and January 18, 2007, respectively, to review the security and reliability features of NEDAP machines. Following the observations of the two Commissions, the use of NEDAP machines and electronic voting was discontinued in 2007 on the following grounds:

- The Ministry of Interior and Kingdom Relations (MOIKR) of The Netherlands lacked adequate technical knowledge vis-à-vis the NEDAP machines, leading officials to depend on external actors for the conduct of elections.
- Technology vendors became part of the decision making process and the ministry was not in a position to exercise effective oversight.
- The Dutch Organization for Applied Scientific Research (Toegepast Natuurwetenschappelijk Onderzoek, TNO) certified and tested these machines following “outdated standards” which were not immune to modern IT and security threats.
- Moreover, the certification and testing reports were not made public depriving independent experts to verify the analysis.
- The legal framework, particularly the necessary security requirements, was inadequate to deal with the specificities of the electronic voting process.

(For a comprehensive report on electronic voting in The Netherlands, see link:

https://www.ndi.org/sites/default/files/5_Netherlands.pdf)

Germany:

In Germany, the e-voting machines manufactured by NEDAP were used in between 2005 – 2009 before it came under criticism and finally discontinued. The Bundesverfassungsgericht (the Federal Constitutional Court of Germany) ordered the discontinuation of the use of NEDAP machines in 2009 because of the below-mentioned reasons:

- The use of Nedap electronic voting machines violated the principle of the public nature of elections (Article 38 in conjunction with Article 20.1 and 20.2 of the Basic Law) that requires that all essential steps in the elections are subject to public examinability unless other constitutional interests justify an exception.
- It also observed that “it must be possible for the citizen to check the essential steps in the election act and in the ascertainment of the results reliably and without special expert knowledge”.

(See the judgment in the following link: <http://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2009/03/cs200>

90303_2bvc000307en.html;jsessionid=FEA71E86E2CEE030FF7AAAC90572279C.2_cid383)

Ireland:

NEDAP machines were used in Ireland in between 2002 – 2004. The use of these machines was questioned following which two independent commissions were set up. The two Commissions on the Secrecy, Accuracy and Testing of the Chosen Electronic Voting System, concluded the NEDAP machines could not be used in elections in Ireland on the following grounds:

- Inadequate technological safeguards
- Insecure transfer of data by the use of CDs
- Absence of a comprehensive independent end-to-end testing, verification and certification by a single accredited body
- Inconsistencies in physical security of machines across constituencies
- Absence of a clear policy guideline via-a-vis storage, transport, set-up, use and disposal of voting equipment; and
- Absence of comprehensive electronic register to record the identity, location and movement of the electronic voting devices.

(Seelinks:<http://www.unic.pt/images/stories/publicacoes1/00Index.pdf>; <http://www.unic.pt/images/stories/publicacoes1/Part200%20Index.pdf>)

United States of America:

In 2000, after the dispute on the voting method in the USA presidential elections, the voting method was reviewed (Esteve, Goldsmith, & Turner, 2012: 185). Accordingly, Direct Recording Electronic (DRE) Systems (like the widely used AccuVote TS developed by Premier Election Solutions, commonly called Diebold) were introduced. DRE Systems uses “one of three basic interfaces (pushbutton, touchscreen or dial)” through which “voters record their votes directly into computer memory. The voter’s choices are stored in DREs via a memory cartridge, diskette or smart card...Some DREs can be equipped with Voter Verified Paper Audit Trail (VVPAT) printers...” Currently, in the USA, the Direct Recording Machines are used in 27 states, among which paper audit trails are used in 15 states. The other voting methods include: Optical Scan Paper Ballot Systems, Ballot Marking Devices,

and the Punch Card Ballot.

(See <https://www.verifiedvoting.org/resources/voting-equipment/>) link:

Other countries:

In Brazil, the machines used in elections are called 'electronic ballot boxes' which are stand-alone direct electronic recording systems. In Venezuela, SATIS (Smartmatic Auditable Election Systems) voting machines are used which were fully implemented across the nation in 2004. (Esteve, Goldsmith, & Turner, 2012: 185)

India:

Indian EVMs are truly unique compared to the e-voting machines used in other parts

of the world for the following reasons:

- ECI-EVMs are stand-alone non-networked machines
- The ECI-EVMs are manufactured in two PSUs namely ECIL and BEL, unlike machines used in other countries, which were manufactured entirely by private entities. Hence there is no chance of involvement of vested interest of private players or technology vendors in decision making or production of the ECI-EVMs.
- ECI-EVMs have been time and again successfully verified and certified by an independent Technical Experts Committee after an end-to-end testing process. STQC under Ministry of Information and Technology, an accredited third party entity, conducts standardization and certification of ECI EVMs produced by manufacturers, unlike the machines used in Netherlands,
- In ECI EVMs data is stored internally and not transferrable by any device, unlike other countries where voting data recorded in the DRM is transferred by means of CD, etc.
- Commission has evolved full end to end security protocol and administrative safeguards for the use, storage, transportation and tracking of ECI EVMs, unlike in other countries where NEDAP machines were used.
- Unlike MOIKR of Netherlands, the Commission is fully backed by a Technical Expert Committee comprising of eminent professors.
- Every EVM has a unique number attached to it,

which is recorded in the Election Commission's database through EVM Tracking Software. This number of the EVM can always be cross-checked against the database.

- The software used in these EVMs is One Time Programmable (OTP), which can't be re-written after manufacture.

- The ECI-EVMs are always under strict, uniform, high profile administrative and physical security as per legal framework across the country.

- Section 61 A of the Representation of the Peoples Act 1951 allows the use of EVMs by ECI. The different High Courts across the country have also upheld the use of EVMs time and again in various judgments and the Karnataka High Court in 2004 declared ECI-EVMs as "national pride" because of its transparency and robustness.

- Following the direction of the Hon'ble Supreme Court, the ECI has introduced the technology of VVPAT in order to ensure public verifiability. The Commission is committed to implement VVPATs nation-wide by 2019. Thus there will be 100% voter verifiability and auditability of every vote cast as opposed to lack of such facility in the NEDAP machines, which was struck down by the German Supreme Court as un-Constitutional, whereas Indian Supreme Court has upheld the validity of use of EVM for conducting elections in the country.

- Thus any comparison of ECI-EVMs with machines used elsewhere is misplaced. The Commission has always worked in an open and transparent manner and always welcome questions, doubts and constructive and decent criticism of our processes so that we can further strengthen electoral processes. During political party meeting on 12 May 2017, Commission had promised to organise an open challenge to give

an opportunity to political parties to demonstrate that EVMs used in five States were tampered or EVMs even under technical and administrative safeguards can be tampered. Accordingly, ECI now proposed to open a challenge on 3rd June 2017 onwards to all political parties.

Frame-work of the challenge:

Election Commission of India invites the nominees of National and State Recognized political parties

who contested and claimed that the EVM machines held under the ownership of Election Commission of India and used in the recently held General Assembly Elections of five states namely Punjab, Goa, Manipur, Uttarakhand and Uttar Pradesh in Feb-Mar 2017 were tampered or that these could be tampered even under technical and administrative safeguards of ECI, to demonstrate their claims at the ECI Headquarters within the framework of the extant administrative and security protocols prescribed by the Commission. Salient features of the EVM Challenge of the Commission are as follows:

Challenge Statement I:

That the EVMs used in the General Elections to five States-2017 were tampered to favour a particular candidate/political party by altering the results stored in the EVMs after the polls. The claimants will hence have to alter the results in the Control Units used during these polls in exactly the same scenario as the EVMs remain within the technical and administrative safeguards of ECI after the poll, i.e. during the storage in strong rooms or during counting, through

- a. using press of combination of keys on CU or BU or BOTH, or
- b. By communication to CU or BU or Both via external wireless/Bluetooth/mobile phone etc.

Challenge Statement II

That the EVMs used in the General Elections to the five States-2017 were tampered before or during the poll day. The claimants will hence have to alter the results in the EVMs used during these polls in exactly the same scenario as the EVMs remain within the technical and administrative safeguards of ECI before the poll, i.e. during the storage in strong rooms or during the poll, through

- c. using press of combination of keys of CU or BU or Both, or
- d. by communication to CU or BU or Both via external wireless/Bluetooth/mobile phone etc.

Common Procedure for Challenge I and Challenge II

1. The EVM Challenge is open for participation from the National and State Recognized Political Parties only which participated in the five States'

Assemblies Elections viz. Goa, Punjab, Manipur, Uttarakhand and Uttar Pradesh.

2. Each National and State Recognized Party intending to participate may nominate a maximum of 3 persons only to participate in the EVM Challenge. Each Party shall intimate the names of maximum 3 authorized persons, if any, who wish to accompany the chosen EVMs from the Warehouses to the Commission at New Delhi during transportation at their own cost.

3. The Political Parties willing to participate in the EVM Challenge must mandatorily confirm their interest to ECI by 5.00 pm on 26th May, 2017 through the email (evmchallenge@eci.gov.in), wherein the details of the Nominated members must be furnished as per the prescribed Performa. Only those Political Parties, which respond by 5.00 pm on 26th May, 2017 to the ECI, shall be allowed to participate in the EVM Challenge. The response of the political parties shall mandatorily be made on the official letter-head of the party duly signed by the President or General Secretary of the political party concerned, which shall be scanned and emailed to the email id mentioned above.

4. Further, if the Nominees of any Political Party, to whom a Challenge date-time Slot has been allotted, fail to report at the designated time and venue without prior intimation or approval, shall forfeit their right to participation in the EVM Challenge.

5. Each Political Party will be allowed to choose a maximum of 4 EVMs of their choice from any 4 polling stations out of the Five poll-gone States. Examples; Maximum of 4 EVMs only form 4 polling stations can be chosen, either from one AC or from multiple ACs in a State or from any of the five States. It is clarified that any EVMs involved in EP (Election Petition) or those under any sealing by the orders of a competent Court, shall not be part of this EVM Challenge. If a Political Party does not wish to specify a particular EVM but wants ECI to provide any EVM of Commission's choice, then the same should be intimated by 26th May, 2017.

6. The choice of the EVMs shall be emailed (evmchallenge@eci.gov.in) in the prescribed proforma by 5.00 pm on 26th May, 2017.

7. The chosen EVM machines, including Control Units (CU), Ballot Units (BU) (one or more as deployed) and VVPAT (wherever deployed) shall be brought to the ECI at New Delhi, on as-is-where basis, in compliance of the extent of established protocol of ECI regarding opening of EVM strong-rooms/warehouse and EVM transportation.

8. The representatives of the Political Parties at State Level are at liberty to witness the opening of EVM Strong-rooms at the District/AC level where the EVMs are presently stored, inspect the machines for the various seals (as in protocol) and accompany the machines during their transportation to ECI in sealed trunks, if they so desire.

9. As these EVMs were used in the recently held elections and were stored post counting, the EVMs would still have the candidate setting and the result of the said election.

10. The results of the machines as recorded during the counting in the previous elections shall be available in paper form also, having details like total votes polled and votes casted for each candidates etc.

11. A Challenge Slot of 4 Hours shall be allotted to each participating Political Party, wherein their registered nominees shall be given access to one of their chosen EVMs (CU+BU + VVPAT if deployed) for the purpose of PROVING the Challenge Statement 1 and 2. In case the first chosen EVM is in-operative as a result of transportation, then the second of the chosen EVM shall be allowed to be used for the challenge and so on. However, if a Political Party desires to avail of more time, the request shall be made in writing to the Commission, which shall decide the issue on merits and demands of reasonability.

12. The nominees may before proceeding for challenge if they want, check the result of previous election already stored in CU and verify that these are same as given by ECI in item 10 above as per ECI protocol of declaring results from CU. This step is optional and will be recorded if they opt for it in writing. The result of re-count also will be recorded.

13. The Nominees of the participating Political

Parties shall be allowed the following methods on the Challenge EVMs to prove the challenge:

a. Pressing any sequence of buttons on the CU or BU or Both.

b. The use of any external wireless/Bluetooth/Mobile Phone device/Transmitter.

14. All Key Presses made by the Challenger shall be declared prior to the actual execution of key presses and these will manually be recorded by the ECI Counter Staff for keeping a "written record of exact process of conduct" of the "challenge proving" poll. In case the challenger wishes to use mobile or blue tooth during poll, he should inform the Election officials and this should also be recorded. This is especially relevant, in case the Challenger wishes to conduct any mock poll or full poll by either use of key presses or mobile phone / blue-tooth during his tamper attempt to prove the Challenge Statements.

15. All Key Presses shall be made in clear and unhindered view of the ECI Counter Staff and the recording Cameras and made with a Specially Designed Presser, so as to avoid any confusion or ambiguity in the key presses made by the Challenger using his fingers.

16. EVMs can be opened and only visually inspected during Challenge-II as this is allowed during First Level Check (FLC). However, EVMs cannot be opened during Challenge- I as EVMs are always kept sealed after the Poll till counting in actual poll scenario.

17. During the Challenge period, with regard to any written representation or any dispute or interpretation issues, the decision of the ECI Officer In-charge shall be final.

18. The EVM challenge shall be organised from 03.06.2017 onwards at Nirvachan Sadan, Ashoka Road, New Delhi.

Challenge Conclusion:

1. The Challenger under Challenge I shall be deemed to have "FAILED" if:

a. The EVM becomes non-functional after the tamper attempt made by the Challenger. (Reason: ECI EVMs are designed to go into error mode if any

unwarranted technical operations are conducted rather than recording any wrong results).

b. The EVM is functional and results displayed on the CU after conduct of challenge attempt are the same as ECI declared results stored on the chosen CU (prior to the pressing of CLEAR Button).

c. If the Challenger violates any of the guidelines prescribed for the EVM Challenge.

d. The challenger withdraws from current challenge.

2. The Challenger under Challenge II shall be deemed to have "FAILED" if:

a. The EVM becomes non-functional after the tamper attempt made by the Challenger. (Reason: ECI EVMs are designed to go into error mode if any unwarranted technical operations are conducted rather than recording any wrong results).

b. The EVM remains functional and after erasing the earlier stored result, a mock poll or full poll is conducted by the Challenger along with his challenge attempt and manually recorded votes (by ECI staff) are the same as that stored on the chosen CU after the said mock/full poll.

c. If the Challenger violates any of the guidelines prescribed for the EVM Challenge.

d. The challenger withdraws from current challenge.

10. Certain naysayers have demanded that ECI should either permit them to take the EVMs with them for tampering or allow changing of internal circuit etc. of the EVM. This is like saying that they should be permitted to manufacture a new machine and introduce their new EVMs in our system. Further, it is common knowledge that changing the 'internal circuit' of any electronic device is like changing the whole device itself, after which it is no longer the same device. As any person with common sense will be able to appreciate, a non-ECI EVM or an EVM with a different 'internal circuit' is simply a different machine or look alike of ECI EVM hence can never be guaranteed by ECI to give correct results. Such a scenario is completely ruled out within our administrative safeguards and that's why it is not proposed in the Challenge.

11. The Commission is thankful to all the citizens, voters, political parties and all stakeholders for

their unwavering faith in the Commission for more than 67 years. The Commission would further like to thank all political parties for showing their continuous trust and confidence in the Election Commission of India as expressed during interventions of political parties on 12th May in the All Party Meeting. The Commission would like to reassure the people of the country that the Commission would leave no stone unturned in preserving the purity, integrity and credibility of the Elections and reinforcing the faith and trust of the people in the electoral democracy of our country. I wish to reassure that citizens of the country that the Commission will never ever allow the faith of the people in the integrity of the election process to be shaken. The Commission desire all citizens and stakeholders to remain aware ,vigilant and alert about our electoral processes so that conduct of free and fair election by Commission is further strengthened.

(Dhirendra Ojha)
Director

ANNEXURE-6
ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN, ASHOKA ROAD, NEW
DELHI-110001

No. ECI/PN/47/2017
3rd June, 2017

Dated:

Press Note
Subject- EVM Challenge concludes.

At the outset ECI thanks all the stakeholders for reaffirming their faith and confidence in the EVMs whether by participation or otherwise in the whole exercise of EVM Challenge. The Election Commission of India had, in an extraordinary measure, invited all national and state recognized political parties to come and participate in the EVM challenge announced by it on 20th May, 2017 as per the framework of the challenge. Only two political parties namely, NCP and CPI(M) submitted their interest in participating the EVM challenge till 5.00 PM on 26th May, 2017.

Since none of the two political parties specified their choices for EVMs to be chosen from five poll gone states, the Commission brought 14 EVMs randomly in sealed condition kept in strong rooms from 12 Assembly Constituencies of Punjab, Uttarakhand and Uttar Pradesh for the EVM challenge scheduled for 3rd June, 2017.

Earlier, Commission had a meeting with all National and State Political Parties on 12 May 2017 in which 42 parties participated. While majority expressed full confidence on the integrity of EVMs, a few continued to raise doubts on functioning of the ECI-EVM.

Commission held a press conference on 20 May 2017 and explained in great detail why it has absolute confidence on non-tamperability of ECI-EVMs working within the technical and administrative safeguards. Commission then announced an EVM Challenge and spelt out a complete framework and send to all political parties on 20th May, 2017 alongwith invitation.

Today both the parties (NCP and CPI-M) reported to the Challenge Venue on the 7th floor. However CPI(M)told they do not wish to participate in the challenge but only want to understand the EVM process. A detailed demonstration of the entire process was given to them by our technical team. They also expressed desire to interact with the TEC and had a detailed doubt clearing session in which in depth technical doubts were clarified by TEC of the Commission. CPI(M) team then expressed complete satisfaction and suggested that to allay any such doubts Commission should hold such demonstrations and awareness sessions with technical community proactively. Commission welcomes their very constructive suggestion.

NCP team led by Mrs Vandana Chavan, MP, informed that they too do not want to participate in any challenge but were only interested to participate in an academic exercise. She referred to her earlier request to provided them the memory number and battery number of the EVM four days in advance. The Director General Mr Sudeep Jain informed her that Commission had already replied to their request mentioning that the EVMs have to

be kept under sealed conditions it is not possible for the Commission to open the EVMs to take out the memory and battery numbers in the absence of party representatives in the Commission. Commission had accordingly informed that the party can access these numbers at the time of the Challenge by opening themselves the sealed EVMs which is provided as per Challenge Framework. DG again informed her that they can choose an EVM and open the same to access these memory numbers. However NCP representative submitted a letter saying they cannot participate in the challenge because of non-provision of this information. In the letter NCP representative also raised an objection of last minute change in the EVM selection protocol by asking them to select an EVM out of the list of 14 EVMs.

Commission then offered her to have all her technical doubts clarified by interacting with TEC. NCP team then had a detailed discussion with TEC which clarified all their issues, including the 8 issues listed by them in their letter submitted today to which the response would be sent separately.

NCP team again met the Commission where the Commission reiterated their offer that they can still participate in the Challenge or by way of academic exercise by selecting the EVM and then accessing the memory and battery numbers by opening the machines themselves. Commission also offered them that they can come back, as they had demanded, to prove their point.

However NCP representative mentioned that the source of all their doubt had been alleged problems with EVMs during Municipal Elections in Maharashtra. Commission clarified that EVMs used by SEC, Maharashtra for urban local bodies elections do not belong to ECI. The NCP team then expressed their willingness to opt out requesting that Commission should evolve a system which clearly distinguishes ECI-EVMs from SEC EVMs. Commission has taken note of NCPs suggestion.

The Commission has already stated publicly and before political parties that all future elections will be mandatorily held with VVPATs. The Commission firmly believes that use of VVPAT machines along with the EVMs in all polling stations, in all future

elections, will bring utmost transparency and credibility in the EVM-based voting system. Audit trail will enhance confidence and trust of voters. Use of VVPATs with EVMs must conclusively put to rest all misinformed doubts and misgivings regarding EVMs.

Honourable Uttarakhand High Court in its judgement yesterday said “Prima facie, it is evident from a combined reading of the entire press release of ECI that this system is seal proof. The EVMs are not hackable. There cannot be any manipulation at manufacturing stage. The results cannot be altered by activating a Trojan Horse through a sequence of key presses. The ECI-EVMs cannot be physically tampered with. The EVMs use some of the microcontrollers, dynamic coding of key codes, date and time stamping of each and every key press etc. These EVMs also cannot be tampered with during the course of transportation or at the place of storage. There are checks and balances to ensure tamper-proofing of EVMs”.

It is clarified that for visual Inspection EVMs can be opened and visually inspected during Challenge-II as this is allowed during First Level Check (FLC). The Commission is thankful to all the citizens, voters, political parties and all stakeholders for their unwavering faith in the Commission for more than 67 years. The Commission would further like to thank all political parties for showing their continuous trust and confidence in the Election Commission of India as expressed during interventions of political parties on 12th May in the All Party Meeting. The Commission would like to reassure the people of the country that the Commission would leave no stone unturned in preserving the purity, integrity and credibility of the Elections and reinforcing the faith and trust of the people in the electoral democracy of our country. I wish to reassure that citizens of the country that the Commission will never ever allow the faith of the people in the integrity of the election process to be shaken. The Commission desire all citizens and stakeholders to remain aware, vigilant and alert about our electoral processes so that Commission can further strengthen the conduct of free and fair elections in

the country.

-----Sd--
(Suman Kumar Das)
Under Secretary”

16. From the reproduction of the contents hereinabove, the salient features of the EVM/VVPATs mode used in the election process of the country when appreciated, can be enumerated as under:

A) The Election Commission Of India, an autonomous constitutional authority has the constitutional mandate of superintendence, direction and control of elections to the Parliament and the State Legislature. Article 324 of the Constitution Of India vests the Commission with such power to conduct elections. The introductory Chapter to the Status Report is self-explanatory of the role of the Commission and its responsibilities, which we no further re-iterate and elaborate. Judicial notice can be taken of the fact that the Indian Democracy has seen multiple elections in the vast geographical expanse, without a murmur of the elections not being conducted in a free and fair manner at the hands of the Commission. This is notwithstanding the voices of the disgruntled candidate who has voiced unfounded allegations on the tamperability of the EVMs, which have to be nipped in light of the Election Commission’s conviction in its letter of 10.01.2019 coupled with the action so taken as demonstrated in the Status Report regarding the unjustified apprehensions.

B) The voting system in India has gone through multiple changes. The use of ballot paper was time consuming, prone to malpractices booth-capturing and ballot box stuffing. There

was a recognizable possibility of casting of votes and large number of invalid votes due to wrong/incorrect marking, subject to prolonged counting drills, more disputes and delayed result announcements.

C) The introduction of EVMs has made voting, from the perception of the voter, much more simpler and voter-friendly. The voter has to merely press a button on the Balloting Unit. Under the EVM system, there is no invalid vote unlike the ballot system where there were large number of invalid votes to an extent that in some cases the number of invalid ballot papers were more than the winning margin of the elected candidate. The EVMs are more auditable, accurate, transparent reducing human error. The Commission conducted several field trials and involved all stake holders and political parties in evolving a error free EVM.

D) The addition of the Voter Verifiable Paper Trail (VVPAT) which was introduced in 2013 brought in additional transparency.

E) The status report has in detail, highlighted in a separate chapter - LEGAL INTERVENTION AND COURT CASES eliciting decisions of various Courts where the election mode and manner has successfully stood up when the credibility of the technology was at stake.

F) The Voter Verifiable Paper Trail is an additional unit attached to the EVMs. It prints a small slip of paper that carries the symbol, name and serial number of the candidate voted by the Voter, which is visible for some seconds in the

viewing machine in the viewing window. The voter after pressing the button on the Balloting Unit can view the printed slip on the VVPAT through the window. The paper slips are then automatically cut and stored in the sealed compartment of VVPAT to be used later to cross check the votes in the Control Unit. This is an additional verification to the voter. Therefore, the mechanism has been introduced to be more voter-centric and not with a view to address the apprehensions of a losing candidate or for that matter a contesting candidate.

G) The report has highlighted the safety and security features of the EVMs which indicate that the technological safeguards that contribute to the non-tamperability of the EVMs are :

- * They are stand-alone non-networked machine which are neither computer controlled nor connected to any network and hence cannot be hacked. In fact, as the Press Notes reproduced earlier the exercise to see whether it was “hackable” were undertaken and it has stood the test.
- * The machine is electronically protected. The software is developed in-house and tested.
- * The software is so designed that it allows the voter to cast the vote only once. The vote can be recorded by a voter from the ballot unit only after the Presiding Officer enables the ballot on the Controlling Unit. The machine does not receive any signal from outside at any time. The next vote can be recorded only after the Presiding Officer enables the ballot on the Control Unit. In

between, the machine becomes dead to any signal from outside(except from the Control Unit).

H) The administrative procedures as highlighted by the Report for handling EVMs are also stringent. They are :

Before every election, a first level checking is done for every EVM to be used in the election by the engineers in the presence of political parties.

The manufacturers certify at the time of first level checking that all components in the EVM are original. After this, the plastic cabinet of Control Unit of the EVM is sealed using a Pink Slip which is signed by the representatives of the political parties and stored in strong rooms.

A mock poll is conducted with a few votes at the time of first level checking using EVMs and VVPATs and after the poll printed VVPATs slips are counted and the result is tallied with the electronic result of the Control Unit. Representatives of the political parties are allowed to do mock poll themselves. Such a mock poll by casting 50 votes is conducted at every polling station on the poll day in the presence of the representative of the candidates and the polling agents and a mock poll certificate is obtained from a Presiding Officer.

The entire EVM is then sealed and the candidates and their agents are allowed to put their signature.

I) Reading the extract in the Status Report at Pages 46-49 (of which the table at page 47 is reproduced hereinbelow at the cost of repetition) reveal from the chronology of events

that so far VVPATs have been used in 933 Assembly Constituencies and 18 Parliamentary Constituencies. Till date, VVPAT slip verification has been undertaken for 792 polling stations and in all cases, the results tallied with the electronic result in the CU. This gives no manner of room for the petitioner to contend that the discretion vested in the Returning Officer under Rule 56(D)(2) is wrought with the fears expressed by the Petitioner.

Date	Chronology of Events
4 th Oct 2010	An all-party meeting held. Agreement on incorporation of VVPATs along with EVMs.
07/01/11	Field trial conducted after the prototype was manufactured, in Thiruvananthapuram (Kerala), Delhi, Cherapunjee (Meghalaya), Jaisalmer (Rajasthan) and Leh (Jammu & Kashmir).
July-Aug 2012	A second field trial was conducted
19 th Feb 2013	Final model was approved by TEC
10 th May 2013	The Model was demonstrated to all political parties
14 th Aug 2013	The conduct of Election Rules 1961 was amended and notified

J) Reading of the Status Report indicates that on 12.05.2017, a meeting with all political parties was organized by the Election Commission of India. The Election Commission highlighted the wide range of technical, administrative protocol and procedural safeguards that fortify the EVMs and VVPATs against any sort of tampering or manipulation. The Commission informed the political representatives that an

opportunity will be offered to the political parties to demonstrate that EVMs can be tampered with. The Commission has assured 100% coverage of VVPATs in all future elections to the Parliament and State Assembly Elections. A Press Conference was held on 20.05.2017 to announce the EVM Challenge and invitation was sent to all National and State Recognized Political Parties to participate in the EVM Challenge from June 3, 2017 onwards. Only two political parties reported for the challenge. They reported for the challenge but they did not wish to participate in the challenge and instead only expressed their interest in understanding the EVM Process. They interacted extensively with the Technical Expert Committee of the Commission to clear their doubts. The Press Notes of 12.05.2017, 20.05.2017 and 03.06.2017 are self-explanatory

K) The Election Commission of India had issued instructions to all Chief Electoral Officers on 13.02.2018 for mandatory verification of VVPAT paper slips-Pilot Testing. Evident it is, on reading the August Edition of the Status Report, that there has been no complaint as to the defect on the VVPAT's credibility. The same is reproduced hereunder:

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

No.51/8/VVPAT-INST/2018-LMS
February, 2018

Dated: 13th

To

The Chief
Electoral
Officers of All
States and

Union
Territories.

**Subject: Mandatory verification of
VVPAT paper slips- Pilot Testing -
regarding.**

Sir.

I am directed to state that the Commission has already mandated that VVPATs will be used with EVMs at all polling stations in all future General/Bye-Elections to the Parliament and the State Legislative Assemblies. The Commission conducted **mandatory** verification of VVPAT paper slips of randomly selected 01 (one) polling station per Assembly Constituency on a 'pilot' basis in the recently concluded General Elections to State Legislative Assemblies of Gujarat and Himachal Pradesh, **in addition** to the provisions of Rule 56D of the Conduct of Elections Rules, 1961, and the same has been extended to the ongoing General Elections to the State Legislative Assemblies of Meghalaya, Nagaland and Tripura. on 'pilot' basis.

The Commission has further, directed that henceforth, **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:

1. The verification of VVPAT paper 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.

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.

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.

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.

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.

The verification of VVPAT paper slips shall be done in a 'VVPAT Counting Booth' (VCR), 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.

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 of the Commission on counting of printed paper slips.

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.

9. The above process shall be fully videographed.

10. After completion of the above process, the Returning Officer shall give a certificate in the annexed format.

The above direction of the Commission shall be brought to the notice of all concerned.

CC. Standard Distribution"

17. Keeping the aforesaid facts on hand and collectively appreciating the purpose of the introduction of the VVPAT, in exercise of powers under Section 169 of the Representative Of People Act, 1951, the Central Government has the powers to

make Rules in consultation of the Election Commission for carrying out the purposes of the Act. Amendments have been made in the Conduct Of Election Rules, 1961 looking to the technological advancement in the method of voting i.e. through EVMs rather than casting of votes in a Ballot Box through a Ballot Paper. The Rules as existing for the method of voting through a Ballot Paper and counting of such votes, have been added and renumbered as new Rules by virtue of introduction of VVPATs. The language and the spirit of the Rules which erstwhile existed when the franchise was exercised through the Ballot Paper has remained the same for the EVMs too, though notwithstanding the fact that from the perception of the Voter, who is the prime consumer of the institution of democracy has had the benefit of the voting becoming more easier and transparent through the concept of EVMs and VVPATs.

17.1 The entire step-wise procedural safeguards that the Election Commission undertakes in the manner of the conduct of elections through the EVMs and VVPATS, in exercise of its constitutional obligation under Article 324 of the Constitution Of India coupled with the technology, leaves no room of doubt for the petitioner to contend that the discretion of the Returning Officer to entertain an application under Rule 56(D) (2) of the Rules can be said to be an unguided discretion when they are qualified with the words that the rejection will only be on the ground of the application being frivolous or unreasonable. Such a rule existed even when the voting was carried out through the Ballot Box. The apprehension of the petitioner seems to be based on the unjustified apprehension of a malfunction and tamperability of the EVMs, which claims

have been rendered completely unfounded and unjustified.

17.2 It is required to be noted that the provisions of law reproduced hereinabove and the guidelines laid down by the Election Commission of India specifically ensure demonstration of transparency in the conduct of elections. In fact the provisions of Rule 56D(2) allows the Returning Officer to address cases of genuine complaints and there is no reason why the prayers prayed for by the petitioner should be granted. The communication dated 10.01.2019 addressed by the Election Commission of India to the petitioner and the conviction of the Election Commission, a constitutional authority more an autonomous body, assures of the fact that the discretion so vested in the Returning Officer will be exercised with due care and in accordance with law. Reading of the provisions of Section 100(d)(iv) of the Representation Of People Act, 1951 indicates that in the event such an application is rejected, the aggrieved candidate or the elector has a remedy which is inbuilt to file an Election Petition. On these counts, therefore, we see no reason to entertain the Public Interest Petition and grant the prayers therein.

18. Before parting, we may just make a reference to the fact that the petitioner has with his petition, annexed a copy of the order of the Supreme Court rendered in Writ Petition (Civil) No.1012/2017. By the order dated 20.11.2017, the Apex Court dismissed the petition filed by Mr. Manubhai Chavda against the Election Commission. In the pleadings in the PIL before this Court, a reference is made that the Writ Petition before the Supreme Court was filed challenging Rule 56(D)(2) of the Conduct of Election Rules, 1961 by the writ petitioner

therein. Mr. Koshti, Party-In-Person has furnished a copy of the Writ Petition so filed. The grounds and particularly the prayers of the Writ Petition before the Apex Court and this Court are identical. When Mr. Koshti was confronted with the question whether it was appropriate for the petitioner to file the present petition, when the Supreme Court had dismissed the petition with similar prayers, Mr. Koshti relied on several decisions of the Apex Court, namely in the cases of **DM Wayanad Institute Of Medical Sciences versus Union Of India and Anr. (Writ Petition (C) No.448 of 2015) : Indian Oil Corporation versus State Of Bihar 1986(4) SCC 146** to submit that merely because Article 32 of the Constitution of India is invoked, there is no bar to a subsequent petition under Article 226 of the Constitution of India. Since we have extensively dealt with the issue on merits, we are not going into the said question of maintainability of this Petition.

19. The Writ Petition PIL is therefore dismissed with no orders as to costs.

sd/-
(ANANT S. DAVE, ACJ)

sd/-
(BIREN VAISHNAV, J)

DIVYA

// True Copy //



Manual on Electronic Voting Machine

Edition 8
August 2023



भारत निर्वाचन आयोग
Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi-110001
“Greater Participation for a stronger democracy”

561

Manual on Electronic Voting Machine

Edition 8
August 2023



Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi-110001

“Greater Participation for a stronger democracy”

PREFACE

The use of Electronic Voting Machines (EVM) has revolutionized the Electoral System and introduction of Voter Verifiable Paper Audit Trail (VVPAT) system has provided greater transparency to the poll process. **Henceforth, EVM means Ballot Unit, Control Unit and VVPAT unit unless specified particular unit.**

This is the **8th Edition** of Manual on Electronic Voting Machine which has been updated in view of important progressive decisions taken by the Commission since the last Edition. The Manual contains the gist of all important instructions on use of EVM for clarity on implementation of ECI instructions and guidelines. If any instruction mentioned in this Manual is not covered in any earlier existing instructions/directions, the instructions written in this Manual will prevail. The Manual has been divided into four parts for ease of understanding. Part-I covers storage and movement of EVMs during non-Election period, First Level Checking, Training & Awareness and First Randomization. Part-II covers all processes from second randomization to counting of votes. A new Chapter Documentation and Monitoring has been included. Part-III gives the historical and legal perspective of EVMs. Part-IV contains all Annexures and Formats.

It is hoped that this Manual will be useful to all election related officials and other stakeholders. The Commission would welcome suggestions from all users of this Manual for making it more informative and useful.

INDEX

PART-I

FROM NON ELECTION PERIOD TO FIRST RANDOMIZATION OF EVMs

Sl. No.	Chapter No	Contents	Page No.
1	Chapter – 1	STORAGE OF EVMs AND OPENING OF EVM WAREHOUSE DURING NON-ELECTION PERIOD AND EMERGENCY-MOVEMENT/SHIFTING OF EVMs	8-13
2	Chapter – 2	FIRST LEVEL CHECKING (FLC) OF EVMs	14-21
3	Chapter – 3	FIRST RANDOMIZATION OF EVMs	22-24
4	Chapter – 4	REPAIRING OF NON-FUNCTIONAL EVMs	25
5	Chapter – 5	TRAINING AND AWARENESS OF EVMs	26-29

PART – II

FROM SECOND RANDOMIZATION OF EVMs TO COUNTING OF VOTES

Sl. No.	Chapter No	Contents	Page No.
6	Chapter –6	STORAGE OF EVMs, OPENING OF EVM WAREHOUSE DURING ELECTION & EP PERIOD OF EVMs	31-35
7	Chapter –7	SECOND RANDOMIZATION OF EVMs	36
8	Chapter –8	COMMISSIONING OF EVMs (CANDIDATE SET)	37-44
9	Chapter –9	DISPERSAL OF EVMs	45-52
10	Chapter – 10	VOTING COMPARTMENT TO BE USED IN POLLING STATION	53
11	Chapter – 11	POLL DAY	54-68
12	Chapter – 12	STORAGE OF POLLED AND UNPOLLED EVMs AFTER POLL	69-71
13	Chapter – 13	USE OF EVMs IN CASE OF REPOLL	72
14	Chapter – 14	COUNTING OF VOTES	73-86

15	Chapter –15	CHECKLIST AND PRECAUTIONS	87-93
16	Chapter –16	DOCUMENTATION AND MONITORING	94-102
PART-III INTRODUCTION OF EVMs			
Sl. No.	Chapter No	Contents	Page No.
17	Chapter – 17	INTRODUCTION	104-106
18	Chapter – 18	LEGAL PROVISION FOR THE USE OF EVM	107-118
19	Chapter - 19	EVM MANAGEMENT SYSTEM	119-120
PART-IV ANNEXURES			
Sl. No.	Chapter No	Contents	Page No.
1	Annexure-1	Master Stock Register	122-123
2	Annexure-2	Monthly/Quarterly Inspection Reports	124-126
3	Annexure-3	Attendance Register for National and State Recognised Political Parties at FLC Hall	127
4	Annexure-4	SOP for Cleaning of Plastic Cabinet and Carrying Cases	128-129
5	Annexure-5	Certification of EVMs by BEL/ECIL	130
6	Annexure-6	Tools and Spares to be brought by BEL/ECIL Engineers for FLC	131
7	Annexure-7	Mock Poll Selection Certification during FLC of EVMs	132
8	Annexure-8	Mock Poll by Representatives of National and State Recognised Political Parties during FLC of EVMs	133
9	Annexure-9	Mock Poll certification during FLC of VVPATs	134
10	Annexure-10	Flow Chart for FLC Procedure of EVM	135
11	Annexure-11	Sealing of Control Unit of EVMs using Pink Paper Seal	136

12	Annexure-12	Certificate on arrangement for FLC by DEO	137
13	Annexure-13	Certificate on completion of FLC process	138
14	Annexure-14	Inspection Report of arrangement for FLC	139-141
15	Annexure-15	Plan on Awareness for EVMs	142
16	Annexure-16	Progress on EVMs Awareness	143
17	Annexure-17	Standard Operation Procedure (SoP) for Training including demonstration and awareness program of EVMs	144
18	Annexure-18	Potential Errors	145
19	Annexure -19	Register for Preparation of EVMs	146
20	Annexure -20	Certification of EVMs by BEL/ECIL	147-148
21	Annexure -21	Installation of Paper Roll in VVPAT	149
22	Annexure -22	Mock Poll certification during Preparation of EVMs	150
23	Annexure-23	Handling of Non-Functional CU, BU & VVPAT During Poll	151-152
24	Annexure -24	Check List of Additional Items of Polling Materials to be provided to the Polling Party	153
25	Annexure -25	Voting Compartment – Dimensions & Cascading of Ballot Units	154-156
26	Annexure- 26	Form of Declaration by Elector under Rule 49MA of Conduct of Elections Rules, 1961	157
27	Annexure-27	PRESIDING OFFICER'S REPORT(PART-I TO V)	158-163
28	Annexure -28	Certificate for Sector Officers / Zonal Magistrate etc.	164-165
29	Annexure-29	CERTIFICATE- all the unused reserve EVMs and Non-functional un-pollled EVMs (BY RO)	166
30	Annexure -30	Mandatory verification of paper slips of VVPAT of 05 randomly selected Polling Stations	167
31	Annexure- 31	Mandatory verification of paper slips of VVPAT of 05 randomly selected Polling Stations (Observer)	168

32	Annexure -32	Samples of Container and Pigeonholes	169
33	Annexure -33	Result of Printed Paper Count (Annexure to Part-II of Form 17-C)	170
34	Annexure -34	Account of Votes Recorded (FORM-17C)	171-172
35	Annexure -35	Appointment of Officer for shredding VVPAT slips	173
36	Annexure -36	Certificate- Disposal of VVPAT Paper Slips pertaining to Mock Poll & Actual Poll (DEO)	174
37	Annexure -37	Certificate- Disposal of all the VVPAT Paper Slips pertaining to Mock Poll & Actual Poll (CEO)	175

PART–I

(From Non-Election period to First Randomization of EVMs)

Sl. No.	Chapter No	Contents	Page No.
1	Chapter – 1	STORAGE OF EVMs AND OPENING OF EVM WAREHOUSE, MOVEMENT OF EVMs - DURING NON-ELECTION PERIOD AND EMERGENCY-MOVEMENT/SHIFTING OF EVMs	8-13
2	Chapter – 2	FIRST LEVEL CHECKING (FLC) OF EVMs	14-21
3	Chapter – 3	FIRST RANDOMIZATION OF EVMs	22-24
4	Chapter – 4	REPAIRING OF NON-FUNCTIONAL EVMs	25
5	Chapter – 5	TRAINING AND AWARENESS OF EVMs	26-29

CHAPTER-I

STORAGE OF EVMs AND OPENING OF EVM WAREHOUSE DURING NON-ELECTION PERIOD AND EMERGENCY-MOVEMENT/SHIFTING OF EVMs

1.1. Various types of EVM storages:

- (a) **EVM Warehouse:** EVM Warehouse means the designated building having room(s) for storing EVMs during non-election period including VVPATs after counting of votes at District Headquarters or at Tehsil Headquarters, in exceptional case with valid reason.
- (b) **EVM Strong Room:** EVM Strong Room means the designated hall/room for storing EVMs from FLC to completion of EP filing period. Various categories of EVM Strong Room include;
 - (i) **FLC Strong Room:** FLC Strong Room(s) means the designated room/hall having FLC-Ok EVMs after completion of First Level Checking of EVMs.
 - (ii) **Repair Strong Room:** Repair Strong Room(s) means the designated room/hall having FLC-rejected EVMs and un-pollled non-functional EVMs pertaining to Awareness, Training, Commissioning, dispersal, mock poll (Category C) etc.
 - (iii) **Training & Awareness Strong Room:** Training & Awareness Strong room(s) means the designated room/hall having EVMs pertaining to Training & Awareness.
 - (iv) **AC/AS Strong Room:** AC/AS Strong Room(s) means the designated room/hall having EVMs after First Randomization of EVMs.
 - (v) **Polled Strong Room:** Polled Strong Room(s) means the designated room/hall having polled EVMs [Category A (Polled) EVMs and Category B (Polled non functional) EVMs] after completion of Poll till Counting of votes. Re-pollled machines, if any, may also be kept here.
 - (vi) **Reserve Strong Room:** Reserve Strong Room(s) means the designated room/hall having unused/reserve EVMs (Category D) after completion of Poll.
 - (vii) **District Strong Room:** District Strong Room means the designated room/hall for storing Category A (Polled) EVMs (Ballot Units and Control Units) and Category B (Polled non-functional) EVMs (Ballot Units and Control Units) after Counting of Votes till Election Petition Period.

1.2 Physical Aspects of the EVM Warehouse/Strong Room:

- i) Only one (1) entry/exit point (Single entry and exit point for the warehouse/strong room)
- ii) Seal all other doors/windows of the warehouse/strong room, if any using brick-masonry or concrete.
- iii) Install Main switch outside the warehouse/strong room and disconnect electricity of room, where EVMs are kept, after sealing.
- iv) Free from dampness, pests, rodents etc.
- v) Free from flood/water logging risk/cracks/leakage etc.

- vi) Provide exhaust fan on the front side at the highest feasible point for air-circulation and install strong iron grill at the vent/passage.
- vii) Vacuum Cleaner for each warehouse.
- viii) No other material whether election related or not (except the documents/materials prescribed by the Commission) to be kept with the polled EVMs.
- ix) In no case SEC-EVM and ECI-EVM loaned to SEC shall be stored in EVM warehouse meant for storage of ECI-EVMs.
- x) Before storing the EVMs in newly constructed warehouse or any EVM warehouse, the District Election Officer shall obtain a certificate from the authority concerned to ensure the quality and physical aspects of the EVM warehouse and to be kept on record for future reference.

1.3 Non-Election Period (After C+45 days)

1.3.1 Storage of EVMs

- i) District Head Quarters/Designated warehouse
- ii) In Treasury
- iii) If it is not possible to store as above, then the alternative storage place shall not be below the Tehsil Headquarters. The same shall be done with valid reasons with the approval of the CEO concerned.
- iv) Warehouse of Food Corporation of India (FCI), Central Warehouse Corporation (CWC) or State Warehouse Corporation (SWC) may be used for storing EVMs only as last resort after exhausting all other options.

1.3.2 Security & Safety arrangements for EVM Warehouse/strong room:

- i) Double Lock System with all keys of each lock with two separate specified officers.
- ii) Minimum Half Section of Armed Police for 24X7 security (only Government Security Personnel). Home Guards Security as an exception when regular police cannot be posted.
- iii) Installation of CCTV Camera to capture hall door and corridor with DVR for storing at least 30 days recording.
- iv) Log book for each entry and exit.
- v) Duty roster for security personnel.
- vi) Videography at the time of the opening and closing of the warehouse (recording of last inspection to be preserved till the next inspection)
- vii) Adequate fire safety and fire alarm system.

1.3.3 Custody of Warehouse Keys: DEO is over all in-charge of the safe custody of EVMs.

- i) All the keys of Lock -1 with DEO & all the keys of Lock-2 with Dy. DEO or equivalent.
- ii) Warehouse outside the District HQ- all the keys of Lock -1 with SDM & all the keys of Lock-2 with Tehsildar or equivalent.

- iii) Deposit keys in Treasury and maintain proper log book for depositing and taking out the keys. If there is no provision of Treasury, the keys shall be in the custody of the DEO and Dy. DEO concerned.
- iv) Handing over and taking over of the keys to be a part of Certificate for Transfer of Charge (CTC).

1.3.4 Protocol for opening & closing of EVM warehouse/strong room:

- i) Inform National and State Recognized Political Parties in writing, at least 24 hours in advance, about the date and time of opening and closing of EVM warehouse.
- ii) Do not open Warehouse having EVMs in Election Petition or court cases for any purpose.
- iii) DEO to nominate an Officer not below the rank of Tehsildar for the purpose of opening/ closing of EVM-warehouse.
- iv) Allow National and State Recognized Political Parties Representatives to remain present during opening and closing of the warehouse.
- v) Conduct of videography is mandatory whether election period or non-election period.
- vi) In case of exigencies like flood, fire etc., if videography is not feasible, video of opening/ closing of warehouse shall be made through mobile.
- vii) In case of exigencies like flood or fire the CEO/DEO may shift the EVMs under intimation to the Commission and also take post facto approval. The DEO shall inform the CEO on the same day and the CEO shall immediately send report to the Commission with his comments. If EVMs (BU and CU) are pertaining to Election Petition, shift the EVMs (BU and CU) in the presence of DEO, petitioners and respondents of Election Petition under advance intimation to the Hon'ble High Court concerned specifying the reasons.

1.3.5 Maintain details of EVMs in a Master Stock Register (MSR) for every district as per format in Annexure-1.

1.3.6 Monthly/Quarterly Inspection of EVM warehouse by the DEO

- i) Monthly inspection of sealed warehouse every month and submission of inspection report in **Annexure-2 (A) in EMS**.
- ii) Quarterly inspection report of opening and checking the warehouse for its internal condition in March, June, September and December every year and submission of inspection report in **Annexure-2 (B) in EMS**. National and State Recognized Political Parties Representatives to remain present during opening and closing of the warehouse.
- iii) It should be ensured that in no case warehouse be opened for checking its internal conditions, if it has EVM pertaining to any election petition/court case/during FLC to finalization of EP status period.
- iv) Time stamping along with GPS location to be printed on photographs while inspecting warehouse.

- v) Opening and checking of warehouse for its internal condition during rainy season or in case of any exigencies, if required, and submission of report to the CEO concerned.
- vi) The CEO shall also do inspection of one EVM warehouse per Quarter and should countersign the report {**Annexure-2 (B)**}. Similarly, the EVM Nodal Officer shall also do inspection of one EVM warehouse per month and should countersign the report {**Annexure-2 (A)**}.
- vii) Inspection of warehouse by the Chief Electoral Officer and The EVM State Nodal Officer be done in the following ways :

Officer	Minimum Frequency	Remarks
Chief Electoral Officer	One EVM Warehouse per Quarter in the State	Inspection date should coincide with concerned DEO's Quarterly inspection date. CEO should countersign the report.
EVM State Nodal Officer	One EVM Warehouse per month in the State	Inspection date should coincide with concerned DEO's Monthly inspection date. SNO should countersign the report.

- viii) The CEO shall review consolidated inspection reports received at each interval and proceed to remove any deficiencies pointed out immediately.

1.4 TRANSPORTATION/SHIFTING OF EVMs

1.4.1 General Instructions to follow:

- a) Movement of EVMs through EVM Management System (EMS).
- b) Use only containerized trucks or sealed trucks with proper locking arrangements.
- c) Seal all trucks transporting EVMs with lock and paper seals.
- d) Use GPS enabled Vehicles for movement of EVM and tracking of movement.
- e) Inform the National and State Recognized Political Parties in advance about opening, stocking & sealing of warehouses while shifting EVMs. However, if no representative attends, the work should not stop.
- f) DEO to videograph the whole process of transfer/receipt of EVM.
- g) Adequate foolproof armed security arrangements are made for the transportation of the machines.
- h) the movements of each of the vehicle carrying EVMs should be closely monitored on daily basis, until it reaches the destination, by the Chief Electoral Officers/District Election Officers of the concerned State through which the vehicle carrying EVMs are to pass.
- i) One official, not below the rank of Tehsildar (or equivalent as known), with each vehicle shall also be appointed by the CEO/DEO and their cell numbers shall be given to concerned officers of States through which vehicle passes, who shall be in contact with the official on monitoring of the transportation of EVMs and VVPATs.
- j) A signage shall be labeled on the wind-screen of the vehicle carrying EVMs "Election Materials-Urgent" for smooth passage of the vehicle with clear mention of originating and destination places.

1.4.2 Movement of EVMs from or to or within poll bound State(s)/District(s) especially during the period commencing from Commissioning of EVMs to Counting of Votes shall be avoided, as there may be possibility of miscommunication/disinformation resulting into avoidable aspersions. However, various essential movements of EVMs originating from or terminating at the poll bound State/district having the manufacturing premises/companies cannot be avoided for several weeks.

1.4.3 The manufacturers (BEL/ECIL) and the sender/receiver CEOs shall provide tentative full movement plan of containerised vehicle carrying EVMs to be passed through any enroute State/district in advance to the Chief Electoral Officer by email, letter and telephonically. The Chief Electoral Officer of poll-bound State/UT shall intimate the National & State Recognised Political Parties, in writing, about all such movements of EVMs that is planned through the State/UT and destined to go or come from other States/UTs.

1.4.4 Responsibility to provide armed security, track GPS movements of vehicles and to inform enroute/destination States/UTs/PSUs shall be as follows :

Sender	Receiver	Responsibility to		
		Provide Armed Security (by CEO & DEO)	Track GPS Monitoring of vehicles (by CEO & DEO)	Inform Enroute/Destination States/ UTs/PSUs (by CEO & DEO)
State/UT	State/UT	Receiver State/UT	Receiver State/UT	Receiver State/UT
State/UT	PSU	Sender State/UT	Sender State/UT	Sender State/UT
PSU	State/UT	Receiver State/UT	Receiver State/UT	Receiver State/UT

Factory to State

- Transportation arrangement of New EVMs/VVPATs done by Manufacturer.
- Consignee State/UT to depute its official at Factory with security personnel.
- State/UT to bear the transportation charges of shifting of repaired EVM.

Intra-State & Intra District Movement

- CEO is competent authority to issue permission to DEO for shifting under intimation to the Commission.
- Share list of EVMs to National and State Recognised Political Parties/candidates/their representatives.
- Smooth Movement to avoid physical damage.
- Proper entry of moving out the EVMs in the Master Stock Register/Movement Register to be ensured by nominated officer with the acknowledgement from the officer receiving the same.

Inter-State Movement

- Appoint Nodal Officer at State as well as District level for constant coordination and smooth transportation.
- Borrowing State/UT to depute its official at sender State/UT with security personnel.
- Ensure the location of districts for collection of EVMs is in a cluster or on the same route.

1.4.5 Intra-State (inter-district) shifting of First Level Checking (FLC) completed EVMs:

- a) **De-novo** FLC in the district where these units are being shifted.
- b) During Parliamentary election, within the Parliamentary Constituency (covering more than one district)

BEFORE first randomization of EVMs, ensure **de-novo** FLC of the EVMs.

AFTER first randomization of EVMs, there is **no need of FLC** of the EVMs.

1.4.6 In case of Intra-district shifting of FLC completed EVMs:

- a) FLC of these EVMs is not required, subject to the following conditions: -
 - i. For General Election to State Legislative Assembly, from one Assembly Constituency to another Assembly Constituency after first randomization of EVMs, ensure **de novo FLC of the EVMs**.
 - ii) For Parliamentary election, from one Parliamentary Constituency to another Parliamentary Constituency after first randomization of EVMs, ensure **de-novo First Level Checking of the EVMs**.
- b) In case of simultaneous elections to Assembly and Parliamentary constituencies, FLC of EVMs/ VVPATs is conducted, if EVMs/VVPATs pertaining to Assembly election are required to be used in Parliamentary constituency or vice-versa.

CHAPTER - 2

FIRST LEVEL CHECKING (FLC) OF EVMs

2.1 Overall responsibility of FLC:

- (a) District Election Officer (DEO) shall be responsible for overall FLC process.
- (b) DEO shall ensure strict adherence & compliance of FLC instructions.
- (c) DEO will appoint a senior officer of the rank of Addl. /Dy. DEO fully trained with FLC process as FLC Supervisor.

2.2 Requirement of EVMs for conducting FLC:

- (a) For Bye election to the Parliamentary and Assembly Constituencies, the requirement of EVMs for conducting FLC shall be 200% of number of polling stations.
- (b) For General Election to the Parliamentary and Assembly Constituency, the requirement of EVMs (Ballot Units and Control Units) and VVPATs for conducting FLC shall be 125% and 135% respectively of the number of polling stations or as allocated by the Commission considering geographical or past experiences.

2.3 FLC when to be done:

- (a) FLC of EVMs shall be done before every General/Bye-election to Assembly and Parliamentary Constituency or in any elections where EVMs are used.
- (b) FLC of EVMs shall commence:
 - (i) within one month of occurrence of vacancy in case of bye-election.
 - (ii) at least P-120 days in case of General Election to State Legislative Assembly or as instructed by the Commission.
 - (iii) at least P-180 days in case of General Election to Lok Sabha or as instructed by the Commission.(P-may be estimated based on the last General Election).
- (c) FLC is to be done sufficiently in advance so that all checks are carried out without any undue haste in the presence of representatives of National and State Recognised Political Parties.
- (d) FLC of EVMs shall be completed, as far as possible, three months before tentative announcement of election. The same may be calculated considering the last time of announcement of election.

2.4 Schedule of FLC:

- (a) Depending on the number of EVMs to be checked in FLC, the CEO/DEO shall prepare a schedule for the FLC of EVMs in consultation with EVM manufacturers (BEL & ECIL).
- (b) Ensure timings of FLC from 9 am to 7 pm on all days including holidays. For any exemption request for timing or OFF on a particular day due to any valid reason, prior approval of the CEO concerned is required under intimation to the ECI.

2.5 FLC to be done in the presence of representatives of National and State Recognised Political Parties:

- (a) The schedule for FLC shall be communicated to every National and State Recognised Political Party at the district headquarters with proper acknowledgement and copy endorsed to the parties at State headquarters, in writing by the DEO at least 2 days before the beginning of the FLC in the district.
- (b) On the day of the FLC, representatives of all National and State Recognised Political Parties authorised by the District President of the party shall be encouraged to be present.
- (c) If the representative of no or only one National/State Recognised Political Party is present in 3 days, a written reminder shall be given to every National and State Recognised Political Party at the district headquarters with proper acknowledgment and copy endorsed to the State headquarters by the DEO.
- (d) A register shall be kept at FLC hall by the DEO in **Annexure-3** in which signatures of the representatives of National and State Recognised Political Parties shall be taken every day as token of their presence.

2.6 Arrangements in the premises of FLC:

- (a) FLC Hall shall be spacious to accommodate the EVMs, officials nominated by DEO, engineers of BEL/ECIL and the representatives of National and State level recognized parties.
- (b) FLC hall shall be large, well-lit, well ventilated and dust free hall. Non-heating high illumination LED lights to be installed so that each table is brightly lit.
- (c) In consultation with BEL/ECIL, install a TV/Monitor of minimum 24 inches display with HDMI input, for each SLU under use in FLC Hall for simultaneously viewing the symbols being loaded in VVPATs by the representatives of the National and State Recognised Political Parties.
- (d) FLC area to be fully barricaded and sanitized by police.
- (e) Ensure the hall is free from any electronic components, device, except those permitted by the Commission for the purpose of FLC process etc.
- (f) Make proper arrangements like drinking water, toilets (separate for male and female), first aid, fire extinguishers, fire alarm inside and outside the hall.
- (g) Single entry and exit to hall with full security by armed police forces (minimum one section) round the clock with 24X7 CCTV coverage.
- (h) Paste copy of the Detailed Standard Operating Procedure (**SOP**) mentioning step by step instructions in FLC hall. The SoP shall be provided by BEL and ECIL, as the case may be, in advance so that the same shall be pasted in FLC Hall before starting FLC.
- (i) Entry to hall through Door Frame Metal Detector (DFMD) on production of Identity Card of authorised official/pass issued by DEO.
- (j) Proper frisking of every person/officer/engineer at every entry with record in the log book for every entry and exit.

- (k) Cell phones, camera, spy pens etc. not to be allowed inside the FLC hall and kept at the collection centre made outside the hall **except for two mobiles to be used by the election officials nominated by DEO for marking FLC-OK and one mobile to BEL/ECIL engineer to mark FLC-Reject in EMS using mobile app with proper reason.**
- (l) (I) **No** other equipment allowed inside the hall except those mentioned in FLC User Manual and a paper shredding machine to dispose of VVPAT slips generated during FLC process.
- (m) Web casting of the entire FLC process and monitoring the same in the Control room at DEO and CEO level and submission of report to ECI.
- (n) Arrangement of one PC/laptop with internet connectivity outside FLC Hall for transmitting FLC data from P-FLCU on daily basis.
- (o) During entire FLC period in the district, both P-FLCU and SLU with SLMD and connecting cables shall be in the custody of the FLC In-charge deputed by the District Election Officer and to be kept in the FLC premises with proper security. The same shall be returned back to BEL/ECIL (engineers authorized by the BEL/ECIL) after completion of FLC in the respective district, for further use in other stations or to move to safe custody of the manufacturers.

2.7 Manpower in FLC:

- (a) FLC shall be conducted only by authorised engineers of BEL and ECIL. BEL and ECIL shall be fully responsible for the integrity, efficiency and competence of their engineers.
- (b) Randomization of list of engineers to be deputed by BEL/ECIL for carrying out FLC shall be done by the CEO for District-wise allocation and shall provide the list along with engineers' cell numbers to DEO concerned.
- (c) Deputation of Sr. level engineers at State Headquarters as well as at each district headquarters by BEL/ECIL to supervise FLC.
- (d) Deputation of one Manager by BEL/ECIL for 4-5 districts to remain in the field for daily supervision & co-ordination.
- (e) No entrance of engineers, technicians or other technical staff except authorised engineers/ technical staff of BEL and ECIL to the FLC Hall.
- (f) Deployment of sufficient unskilled labour by the DEO for cleaning, unpacking and packing of EVMs in consultation with the manufacturers.

2.8 Work to be done during FLC:

- (a) **Cleaning of Machines by official/staff/ labourer deputed by DEO:** This includes removal of address tags, ballot papers, special tags, cleaning of superscriptions of CU, BU and VVPAT, clearing of earlier poll data, dusting of CU, BU and VVPAT, etc. as per the prescribed guidelines (**Annexure-4**) of the manufacturers in the designated FLC hall under the supervision of Team leader of engineers and FLC in-charge.
- (b) **Visual Inspection by authorised engineers of BEL/ECIL:** Visual Inspection of BU, CU, VVPAT, connecting cable, connector, latches, carrying cases etc., will be conducted to ensure there is no damage or breakage of plastic parts, latches, switches etc. Any defect

in the unit will be noted down against unit serial number. Replacement of plastic parts, latches, switches etc. which are permissible (as per detailed SoP for FLC of BEL/ECIL) in the field.

- (c) **Functionality checks using P-FLCU by authorised engineers of BEL/ECIL:** The functionality checks of CU, BU & VVPAT will be conducted using P-FLCU as per the detailed procedure contained in the P-FLCU user manual for field engineers.
- (d) **Symbol Loading in VVPAT using SLU by authorised engineers of BEL/ECIL:** P-FLCU passed Voter Verifiable Paper Audit Trail (VVPAT) shall be moved to Symbol Loading table before moving to manual FLC table. Symbol loading in VVPAT shall be done using SLU as per the SLU user manual and facilitation of simultaneously viewing of symbol loading on Monitor to the representatives of National and State Recognized Political Parties. Only dummy symbols prescribed by the ECI shall be loaded in the VVPATs for conduct of FLC and Mock polls.
- (e) **Full functionality checks:**
 - (i) Diagnostic test of each BU, CU and VVPAT prescribed by the manufacturer.
 - (ii) Check response of all switches and carry out tests prescribed by the manufacturers as per the SoP to confirm all the components of the EVM are original. BEL and ECIL engineers will certify in **Annexure-5** that all the components of the EVMs (Ballot Units and Control Units) are original.
 - (iii) In order to provide assurance to the political parties, the authorised engineers will ensure opening of cabinets of BU & CU in the presence of the representative of National and State Recognised Political Parties during FLC and carry out visual inspection of PCB to check for spurious components, if any. Any discrepancy should be brought to the notice of DEO or his representative immediately. Seal the cabinet of the CUs with Pink Paper Seals as per the SoP.
 - (iv) For conducting FLC of BU, CU & VVPAT together, Mock poll of 6 votes against each candidate button shall be conducted and electronic count of CU will be tallied with VVPAT paper slips of each VVPAT.
 - (v) Whenever, additional BUs or CUs or VVPATs are required to be added with the EVMs of already conducted FLC-OK EVMs at later stage like commissioning, de-novo FLC of additional units shall be conducted.
 - (vi) Once the unit is passed, Green FLC OK sticker will be pasted on Ballot Unit (BU), Control Unit (CU) and Voter Verifiable Paper Audit Trail (VVPAT).
 - (vii) Red Sticker with reasons of rejection will be pasted on FLC-rejected units.
 - (viii) Ensure signatures of BEL/ECIL Engineers and the representative of DEO on both red/ green stickers as applicable.
 - (ix) Pink Paper Seals will be pasted on FLC-OK CU and signed by FLC Engineer, FLC supervisor and the representatives of National and State Recognised Political Parties.
 - (x) If any EVM is found to be non-functional, it will be kept aside and sent to the factory of BEL and ECIL for repairs **within 7 days** of completion of FLC in the district.

CEO shall club dispatches from more than **1** district to economise transport.

- (xi) In case of bye-elections to Parliamentary and Assembly Constituencies, all the non-functional EVMs pertaining to First Level Checking, commissioning, dispersal and mock poll (before actual poll) replacement shall be sent together to the respective manufacturers namely; BEL and ECIL for repairing purpose **within 7 days of completion of the bye election(s)**.
- (xii) Superscription on the cabinet/carrying cases of EVM with marker pen or any other pen is **strictly prohibited** to avoid defacing of the machines.
- (xiii) No electronic repair of the machine shall be carried out in the field. Changing of electronic components of the machines in the field is strictly prohibited.
- (xiv) BEL/ECIL FLC Engineers shall bring with them the detailed Standard Operating Procedure (SoP) mentioning the step-by-step instructions of checking of the machine. Copy of this SoP shall be pasted prominently at FLC Hall.
- (xv) List of equipment and spares, which the engineers shall be allowed to carry with them in FLC Hall is attached as **Annexure-6**.

(f) Conduct of Mock Poll by officials/Staff/FLC Engineer deputed by DEO:

- i) Casting of 6 (six) votes **against each of the 16 candidate buttons**, observation of result and clearing of mock poll data will be done for each EVM (BU+CU) and VVPAT by FLC Engineers.
- ii) A load test on 1% of the randomly selected FLC-OK EVMs will be conducted by connecting 4 BUs to 1 CU and 1 VVPAT and casting at least 1 vote for each candidate button of connected BUs (i.e. 64 votes) and tallying the VVPAT slips count with the CU count.
- iii) Additionally, mock-poll in **1% of EVMs & VVPATs of 1200 votes, in 2% of EVMs & VVPATs of 1000 votes and in 2% of EVMs & VVPATs of 500 votes** shall be done **in the presence of** the representatives of the National and State Recognised Political Parties and electronic count shall be tallied with VVPAT slips count. Percentage shall be taken/calculated on quantity of FLC OK Control Units.
- iv) Representatives of the National and State Recognised Political Parties shall be allowed to pick machines randomly for the purpose of mock-poll and also do the mock poll themselves, if they so desire and their signatures will be obtained in the register at **Annexure-7** and **Annexure-8**, respectively.
- v) In rest of the machines, number of votes polled during the mock poll should be to the satisfaction of the representatives of political parties.
- vi) Signatures of representatives of the National and State Recognised Political Parties shall be taken in a register in **Annexure-9** as a token of confirmation that there are no discrepancies between the VVPAT paper slips count and electronic count of Control Unit.
- vii) Destruction of VVPAT paper slips generated during FLC shall be done on daily basis through shredding machine.

- (g) **Updation of FLC status in EMS:** Unique ID of FLC-OK units will be uploaded (In case of Control Units along with Unique Serial Number of Pink Paper Seals) using EMS mobile App by the authorised official of DEO, on a daily basis. Unique ID of rejected Units with rejection details will be uploaded to EMS using EMS mobile app, on a daily basis, by FLC engineers.
- (h) **Uploading PFLCU Data:** At the end of the day the FLC In charge (BEL/ECIL) shall move all PFLCUs to the internet room (Room with PC & Internet) of the FLC Centre and upload the PFLCU data to respective factory server on a daily basis. In case of physical and Plastic Damages, Data which could not be captured by PFLCU, shall be manually entered into application against unit serial number. Further, FLC Data will be sent to BEL/ECIL FLC server through internet using “Field FLC Data Transfer” Application only.
- (i) Flow chart for the FLC procedure is attached at **Annexeure-10**.

2.9 Sealing of plastic cabinet of Control Unit of EVMs with Pink Paper Seal

- (a) In order to ensure that the Control Unit of EVM cannot be opened after First Level Checking of the EVMs, the cabinet of the Control Units shall be sealed with the modified Pink Paper Seal supplied by the Nasik Security Press, in the presence of the representatives of the National and State Recognised Political Parties present at the time of FLC, as per the following procedure:
- (i) Pink Paper Seal has two portion/part of same Unique Serial Number. First, split the seal into two separate Pink Paper Seals.
- (ii) Remove the gummed paper from Pink Paper Seal carefully.
- (iii) These two Pink Paper Seals shall be pasted on two sides of the Cabinet of the Control Unit as shown in the figures:



Control Unit sealed with Pink Paper Seal

- (iv) For proper fixing of the seals, the BEL and ECIL shall emphasise the following:
- Proper handling of seals.
 - The surface on which seal need to be applied should be clean and free from dust, dirt, water, chemical and oil.
 - The peeling off/removal of seal from the release liner surface with clean finger nails.

- The application to the applicable surface should be done gently with thumb pressure or finger (4-5 times) to avoid possibility of air pocket, crease.
 - The seal applied on the EVM surface should not be partially stuck and removed and re-used.
- (v) While marking FLC-OK in EVM Management System (EMS) using Mobile App, the Unique Serial Number of Pink Paper Seal shall be entered by scanning QR-Code.
- (b) Take signatures of the Engineer and the representatives of the National and State Recognised Political Parties present along with the party name in abbreviations below their signatures. Allow them to note down the serial number of the Pink Paper Seal.
- (c) Marking of FLC-OK and FLC-Reject of machines in EMS should be done on daily basis.
- (d) Maintain a register in **Annexure-11** for mentioning the unique number of CU and serial number of pink paper seal and take their signature and provide photocopy to the National and State Recognised Political Parties.
- (e) Provide list of FLC-OK Ballot Units, Control Units and VVPATs generated from EMS to the National and State Recognised Political Parties after completion of FLC and also to all the contesting candidates as soon as last date of withdrawal of candidature is over and take their acknowledgement.
- (f) Ensure the availability of photocopy of the register at the time of Commissioning of EVMs.

2.10 Supervision of FLC

- (a) FLC shall be carried out under the direct and close supervision of District Election Officer.
- (b) The DEO shall nominate one officer not below the rank of Additional/Deputy DEO as FLC Supervisor to supervise the entire process of FLC. This officer shall be present in the FLC Hall for the entire duration of FLC. FLC Supervisor shall submit a certificate in **Annexure-12** to the CEO concerned through DEO before starting of FLC to the effect that all the arrangements of FLC have been done as per ECI instructions.
- (c) District Election Officer shall invariably conduct a daily inspection of the FLC venue & FLC process to ensure that the FLC is being carried out as per the instruction of the Commission. The process of FLC shall be webcast (CCTV with IP) & continuously recorded. Video, CD, DVD or other suitable modes will be kept in the custody of DEO.
- (d) Webcast cameras shall be installed in the FLC Hall in such a manner that the process of FLC can be fully seen on webcast. The web link shall be shared with CEO and ECI, preferably as a single dashboard view with individual links for all the FLC centres.
- (e) Control Room shall be set up at CEO office for monitoring through webcast whether FLC instructions & procedures are being fully followed.
- (f) After completion of the FLC of all the BUs, CUs and VVPATs and updating of FLC-Status in the EMS, DEOs shall submit a Certificate to this effect to the CEO in the

format given at **Annexure-13** and CEO will submit a consolidated certificate for all the districts to the Commission.

2.11 Inspection of preparedness and quality check of FLC:

- (a) In case of bye-election(s) to Parliamentary/Assembly Constituency(ies), EVM Nodal Officer of the State/UT concerned shall do inspection.
- (b) In case of General Election to Lok Sabha/State Legislative Assembly, Nodal Officer(s) of other States/UTs shall be deputed to do surprise inspection. In Lok Sabha election, State Officers/NLMTs/ECI Officers and consultants can also be deputed.
- (c) Deputed officers will submit report to the Commission in **Annexure-14**.
- (d) CEO shall also depute teams to conduct surprise inspection of FLC process in the districts from time to time. The report of such inspection undertaken by CEO shall be submitted to the Commission.

2.12 Security measures for EVMs after FLC of EVMs:

- (a) Comprehensive arrangements should be made for round-the-clock security of the FLC Strong Rooms having EVMs after First-Level-Checking.
- (b) Minimum one section of State Armed Police shall be deployed for 24X7 security of FLC Strong Room having FLC “OK” EVMs.
- (c) The entry point of FLC Strong Room having EVMs after FLC and corridor shall have 24X7 CCTV coverage with DVR.
- (d) **There should be sufficient arrangement of fire extinguishers and fire alarm near and inside the strong room.**
- (e) A log book shall be maintained by the security personnel in which entry should be made about date, time, duration and name(s) of anyone entering near the strong rooms. This includes visits by the Observers or DEOs or SPs or Political Parties/candidates or their agents or any other person.

- 2.13.** After completion of FLC, store FLC-OK EVMs in FLC Strong Room till first randomization of EVMs with minimum one section of armed police for 24X7 security along with CCTV coverage.

CHAPTER – 3

FIRST RANDOMIZATION OF EVMs

3.1 Steps for First Randomization to be done by DEO:-

Before 1 st Randomization of EVMs, take out upto 10% EVMs for training and awareness purpose and mark as “Training and Awareness” in EVM Management System (EMS) [Ref: Chapter-5]			
DEO will fix a schedule for 1 st Randomization and invite the National and State Recognised Political Parties in writing, atleast 48 hours in advance, with acknowledgment			
Conduct 1 st Randomization of EVMs in EVM Management System (EMS)			
Conduct 1 st Randomization of EVMs in the presence of the representatives of National and State Recognised Political Parties			
In case of General/ Bye-elections to Legislative Assembly, allocate EVMs Assembly Constituency-wise	In case of General/ Bye-elections to Lok Sabha, allocate EVMs Assembly Segment-wise	In case of Simultaneous elections to Lok Sabha and Legislative Assembly, allocate EVMs Assembly Segment-wise (for PC) and EVMs Assembly Constituency-wise (for SLA)	Exceptional case: In case Assembly Constituency/ Segment is falling in two or more districts, refer Scenarios 4 and 5.
Provide the list of randomized EVMs to each National and State Recognised Political Party and obtain written acknowledgment.			
Taking charge of EVMs by the respective Returning Officer/Assistant Returning Officer, as the case may be.			
Receiving of 1 st Randomized EVMs in AC/AS Strong Room using Mobile App.			
After First Randomization, the EVMs shall be in the custody of the RO/ARO concerned. for details kindly see para 6.1.1 of Chapter-6			

During the General Elections to the Lok Sabha, the States/UTs may face the following scenarios:

Scenario No.1: When the entire district consists of the PC, the District Election Officer (DEO) is the custodian of EVMs/VVPATs of that district and the Returning Officer of that PC.

Ex: PC consists of only one District-A having 9 Assembly Segments (AS) (a, b, c, d, e, f, g, h and i).

District-A (1-PC = 9 AS: fully covered in District -A)

a	b	c
d	e	f
g	h	i

Shaded Area is PC

Scenario No.2: When the entire two or more districts consist of the PC, the DEOs are the custodian of EVMs/VVPATs of the respective district and the DEO of one district is the Returning Officer of that PC.

Ex: PC consists of two Districts-A & B. District-A having 9 AS (a, b, c, d, e, f, g, h and i) and District-B having 4 AS (j, k, l and m). DEO of District-A is the RO of PC.

District-A

District-B

a	b	c	j	k
d	e	f	l	m
g	h	i		

Shaded Area is PC

Scenario No.3: When the PC consists of entire district as well as some AS of some adjoining district/districts and the DEO of this district is RO of the PC.

Ex: PC consists of entire Districts-A (a, b, c, d, e, f, g, h and i) & some AS of District-B (only AS-j) & District-C (only AS- o and p). DEO of District-A is the RO of PC.

District-A

District-B

a	b	c	j	k
d	e	f	l	m
g	h	i		
n	o	p		
q	r	s		

Shaded Area is PC

District-C

Scenario No.4: The PC consists of entire district as well as some AS or some parts of AS of some adjoining district/districts and the DEO of this district is RO of the PC.

Ex: PC consists of entire Districts-A (a, b, c, d, e, f, g, h and i) & some part of AS of c i.e. c (ii) of District-A is in District-B & some AS of District-C (only AS- o and p). DEO of District-A is the RO of PC.

District-A			District-B		
a	b	c(i)	c(ii)	j	k
d	e	f	l	m	
g	h	i			
n	o	p			
q	r	s			

Shaded Area is PC

District-C

Scenario No.5: In case of Assembly election: If any AC falls in two or more districts, First Randomization for allocating EVMs and VVPATs to that AC will be conducted by the DEO of the district in which RO HQs of that AC is situated. That AC shall be mapped in EMS with the district where RO HQs of that AC is situated.

Ex: Some part (b1) of AC-b is in District-A and remaining part (b2) in District-B. AC-b-RO HQs is at District-A. AC-b shall be mapped in EMS with District-A.

District-A		District-B	
a	b(b1)	b(b2)	g
c	d	h	i
e	f	j	k

3.2. Action to be taken if 120% EVMs and 130% VVPATs are not available for first randomization:

- Randomize all the CUs and VVPATs available in the district for allocating them AC/AS wise. Hence, as far as possible equal percentage of Control Units, allocate to all the ACs/ASs without retaining any CU at District level.
- In case of BUs of EVMs, randomize the number of BUs equivalent to number of CUs for allocating them to AC/AS wise i.e. the percentage of BUs should be equal to percentage of CUs at each AC/AS.
- The remaining BUs should be available in the FLC strong room at the District level for allocating to the PC/AC where more than one BU would be needed after withdrawal of candidatures. However, this additional allocation after withdrawal should also be randomized.
- Training and Awareness EVMs may be re-introduced to meet the shortfall, if any, by following de-novo FLC and supplementary randomization etc., at later stage before commissioning of EVMs.

3.3. Identification and recognition of EVMs for simultaneous elections

For clear identification and recognition of EVMs for simultaneous elections:

- Paste distinct colour (same as that of ballot paper) self-adhesive stickers containing the words 'LOK SABHA' or 'LEGISLATIVE ASSEMBLY', as the case may be, on the carrying cases of BU, CU and VVPAT.
- Apart from the above, paste distinct colour (same as that of ballot paper) self-adhesive stickers containing the words 'LOK SABHA' or 'LEGISLATIVE ASSEMBLY', as the case may be, on top cover 'BATTERY SECTION' of the CU and on top of VVPAT.
- Size of self-adhesive sticker - **6 cm x 3 cm**.

CHAPTER-4

REPAIRING OF NON-FUNCTIONAL EVMs

- 4.1 The non-functional EVMs are sent to the respective factory of the manufacturers of the EVMs, namely, BEL & ECIL for necessary repairs.
- 4.2 Strictly follow the following protocol for non-functional EVMs:-
- a) Send FLC rejected EVMs to the manufacturers for repair within **7 days** of completion of FLC in that district. The CEO will coordinate and club non-functional Machines of multiple districts for dispatching to the factory.
 - b) **No movement of EVMs is permitted during the period from commencement of Candidate Setting (commissioning) to the Counting day. However, transportation of EVMs required for use in** subsequent phases of elections or for training of election officials is allowed under intimation to the National & State Recognized Political Parties and Candidates.
 - c) Store all non-functional EVMs not used in the poll in Repair Strong Room, preferably in a separate campus and never with other EVM.
 - d) **POST ELECTION REPAIRS:** Within 10 days of declaration of result, send all the non-functional EVMs (except polled non-functional) to the respective factory for repairs and non-functional polled EVMs, which are not involved in any Election Petition within 10 days of confirmation of status of Election Petitions.
 - e) After repairs are carried out, BEL/ECIL to follow exactly the same testing protocol for all repaired machines as for new EVMs.
 - f) The manufacturers shall not return the repaired EVMs to the respective State/ UT; the repaired EVMs are to be stored in the factories till further allocation by the Commission. CEOs/DEOs are not required to take back the EVMs sent to the factory for repairs.
 - g) The manufacturers will furnish a report of the repaired EVMs in the prescribed Proforma to the State of dispatch/allocation and to the Commission. The same shall be uploaded in EMS also.
- 4.3 **Expenditure on Repairing of non-functional EVMs:** Sender State will bear the payment for repairing of all non-functional EVMs. The States/UTs where no specific Head for meeting the expenses on repairs/maintenance of EVMs exist they may create necessary sub head viz. **“Maintenance of EVMs”** for the purpose in consultation with the State Government.

**No electronic repair can be done during FLC (except mechanical).
Shifting of these non-functional EVMs through EMS only.**

CHAPTER-5

TRAINING AND AWARENESS OF EVMs

5.1 Schedule of Awareness program:

- a) The Chief Electoral Officer shall fix a **time schedule for a focused campaign** throughout the State. The campaign shall have three components:
 - (i) EVM Demonstration Centers (EDC)
 - (ii) Mobile Demonstration Vans (MDV)
 - (iii) Digital outreach
- b) The awareness campaign shall be started approximately 3 months prior to announcement of election (for this purpose date of announcement of the last election may be considered). Further, **awareness of EVMs** by way of physical display and/or demonstration of the machines in public shall **not** be conducted after announcement of election, whereas digital outreach may be intensified after announcement.
- c) A **schedule for awareness campaign** should be prepared by the DEO assembly constituency/ segment-wise and adequate publicity shall be made in the media about this campaign. Schedule of Awareness program shall be **shared with National and State Recognized Political Parties**.
- d) **Only M-3 EVM** shall be used in training, demonstration and awareness.
- e) Physical demonstration of EVM would be carried out through 'EVM Demonstration Centre' and 'Mobile Demonstration Vans'.
- f) CEOs to submit plan on Awareness for EVM at **Annexure-15** approximately 3 months prior to announcement of election and progress on EVM/VVPAT awareness every week on Monday at **Annexure-16** till the date of announcement of elections.

5.2 EVM Demonstration Centre (EDC):

- (a) For physical demonstration-cum-awareness on use of EVM, **EVM Demonstration Centre(s)** shall be set up at District Election Office and at the Returning Officer Headquarters/Revenue Sub-Division Offices.
- (b) The EVM Demonstration Centre shall remain operational till the announcement of the elections.
- (c) Adequate infrastructure with proper signage (banner on EDC and close to demonstration table and Standee on demonstration table) should be provided in the EVM Demonstration Centres. Adequate publicity shall be made in this regard.

5.3 Mobile Demonstration Vans (MDV):

- (a) A **Mobile Demonstration Van** must be deployed for every Assembly Constituency/ Segment. However, the requirement of Vans may be assessed based on the geographical and other local conditions of the AC/AS by the CEO/DEO and decision may be taken

accordingly, so that all polling locations/clusters/ELCs (Electoral Literacy Clubs) are covered during the campaign period at least once.

- (b) An officer designated by DEO shall accompany each Mobile Demonstration Van.
- (c) Mobile Demonstration Vans shall be functional till announcement of Election.
- (d) Mobile Demonstration Vans should be appropriately equipped with Audio-Visual Equipment and proper signage (**banner on vehicle and close to demonstration table and Standee on demonstration table**). Route chart with programme dates shall be adequately publicized.
- (e) **Mobile Demonstration Vans** shall be provided proper security and safeguards.

5.4 Digital Outreach:

Digital outreach component of the awareness campaign shall be dovetailed in the SVEEP Plan of the districts and the State and executed accordingly during the campaign period. Innovative creative contents on **usage of EVMs** shall be developed locally, if required in vernacular languages, as part of the SVEEP Plan under guidance of SVEEP Division.

5.5 Protocol of EVM/VVPAT for Training and Awareness:

- (a) For the purpose of Training and Awareness (T&A), District Election Officers shall take out EVMs keeping the overall **upper ceiling of 10%** of the total number of polling stations in the district. **Awareness EVM shall be used only for the innovative physical outreach mode described in para 5.2 and 5.3.**
- (b) It shall be ensured that only First Level Checked OK EVMs shall be used for the aforesaid purpose.
- (c) The **representatives of National and State Recognized Political Parties** shall be invited to witness the process from opening and closing of the warehouse/strong room for the purpose of taking out the EVMs under videography.
- (d) The **list of such EVMs** shall be provided with acknowledgment to the National and State Recognized Political Parties. This list shall also be shared with acknowledgment to the candidates/their agents, as and when they are finalized.
- (e) A **yellow color sticker** mentioning “Training/Awareness” shall be affixed on such EVMs and also on their carrying cases without fail.
- (f) There shall be **no distinction** between Training and Awareness EVMs. The machines marked for Training/Awareness could be used interchangeably between Training and Awareness purpose inter-changeably.

5.6 Storage Protocol:

- (a) The abovementioned EVMs (Training & Awareness) shall be stored in a **separate designated warehouse**, not below the sub-division headquarters with proper security and lock.
- (b) In no case, EVMs pertaining to Training and Awareness shall be kept in FLC Strong Room.

- (c) For opening and closing of Training and Awareness designated warehouse, there is **no need** to invite the representatives of the recognised political parties. However, the opening and closing of the designated warehouse shall be done by the authorized officer nominated by the DEO.
- (d) A proper log-book shall be maintained for proper account of EVMs pertaining to Training and Awareness.
- (e) Such EVMs shall be given only to the authorized officials deputed by the District Election Officer.
- (f) After the conclusion of daily training and awareness programs, these machines shall be stored in the **designated warehouse only**.

5.7 The DEO shall ensure that the officials chosen for creation of EVM awareness/campaign, as well as those nominated for handling the EVMs must be comprehensively trained on the usage and functioning of EVMs.

5.8 EVMs pertaining to Training and Awareness may be re-introduced as Poll Day Reserve, after de-novo FLC, randomizations, candidate setting, etc. carried out as per the extant instructions of the Commission.

5.9 Standard Operating Procedure (SoP) for Training including demonstration and awareness program of EVMs is enclosed at **Annexure-17**. A list of Potential Errors during training and awareness is enclosed at **Annexure-18**.

5.10 Training of Master Trainers, Polling Personnel, Counting Personnel and Storage Personnel:

- (a) Presiding Officers, Polling Officers, Returning Officer, Assistant Returning Officers, Sector Officers and Counting Personnel must be given hands-on-training related to their role/duties on use of EVMs.
- (b) Every official to get an opportunity to operate the EVM system and understand the process of recording the vote using VVPAT.
- (c) Separate training to be given on counting of printed paper slips from the VVPAT system and tallying the count of VVPAT paper slips with the count of the Control Unit.
- (d) A copy of EVM/VVPAT brochure should be given to all officers during training and be made available at polling station on poll day.
- (e) A training session may be incorporated in the training module of State Public Administration Institutions, on operation & use of EVMs.

5.11 Hands-on-Training on VVPAT slips counting during training of counting staff:

- (a) Mock drill of VVPAT slip count shall be included in training module of counting staff for a more in depth and hands on experience so that there is **no need** to rush up conduct of **mock drill of VVPAT** slip count for counting staff **on previous day of counting of votes**, which has logistical issues/problems.
- (b) EVMs pertaining to training and awareness shall only be used. In NO case, reserve EVMs shall be used for training of polling and counting staff.

- (c) Only dummy symbols prescribed by the Commission shall be used.
- (d) Mock drill of VVPAT slip counting shall be done along with training of counting staff. Mock drill of VVPAT slips shall be conducted in a dummy VVPAT Counting Booth (VCB). For mock drill of VVPAT slips counting during training, a dummy (VCB) shall be made.
- (e) For training of counting staff at least 500 VVPAT slips shall be generated.
- (f) VVPAT Slips used for training/Mock drill shall be destroyed through shredding machine on a daily basis.

5.12 Destruction of VVPAT Slips generated during Training & Awareness

- (a) Destruction of VVPAT slips generated during the training and awareness using Paper Shredding Machine on a daily basis, in the presence of a Gazetted Officer duly nominated by the DEO.
- (b) Issuance of a certificate by the Nodal Officer in-charge of Training and Awareness exercise regarding the daily destruction of all VVPAT Slips as per Commission's direction.
- (c) Further, the DEO shall submit a Certificate to the respective CEO on P-3 day for the entire district attesting the compliance of these instructions.

NOTE: Use only FLC-OK EVMs with dummy symbols for training, awareness and demonstration purposes.

PART – II

(From Second Randomization of EVMs to Counting of Votes)

Sl. No.	Chapter No.	Contents	Page No.
6	Chapter –6	STORAGE OF EVMs, OPENING OF EVM WAREHOUSE DURING ELECTION & EP PERIOD	31-35
7.	Chapter –7	SECOND RANDOMIZATION OF EVMs	36
8.	Chapter –8	COMMISSIONING OF EVMs (CANDIDATE SET)	37-44
9.	Chapter –9	DISPERSAL OF EVMs	45-52
10.	Chapter – 10	VOTING COMPARTMENT TO BE USED IN POLLING STATION	53
11.	Chapter – 11	POLL DAY	54-68
12.	Chapter – 12	STORAGE OF POLLED AND UNPOLLED EVMs AFTER POLL	69-71
13.	Chapter – 13	USE OF EVM IN CASE OF REPOLL	72
14.	Chapter – 14	COUNTING OF VOTES (EVM)	73-86
15.	Chapter –15	CHECKLIST AND PRECAUTIONS	87-93
16.	Chapter –16	DOCUMENTATION AND MONITORING	94-102

CHAPTER-6

STORAGE OF EVMs, OPENING OF EVM WAREHOUSE DURING ELECTION & EP PERIOD

6.1. Election Period

6.1.1 Pre-Poll Storage: After first Randomization of EVMs till dispersal of polling parties

- a) After first randomization of EVMs, handover EVMs to the RO/ARO concerned, as the case may be, under proper armed police escort.

Guidelines to be followed:

- i) Store EVMs in AC strong room in the presence of representatives of National and State Recognised Political Parties under Videography.
 - ii) Keep Training and awareness EVMs in Training and Awareness warehouse.
 - iii) 1 Section Armed Security and CCTV coverage 24X7
 - iv) All the keys of Lock-1 with RO and all the keys of Lock-2 with ARO. In case of Parliamentary Constituency election, if some Assembly Segments are in other district(s), the all keys of Lock-1 with ARO and all the keys of Lock-2 with SDM/ Tehsildar concerned.
- b) Store EVMs in separate strong rooms Assembly Constituency (AC)/Assembly Segment (AS) wise.
 - c) In case of simultaneous elections, store EVMs pertaining to AC/AS separately in separate strong rooms.
 - d) In exceptional cases, make separate temporary strong rooms for each AC/AS within large strong room with separate entry for every temporary strong room.
 - e) Open the Strong Room at the time of commissioning of EVMs.
 - f) After commissioning, keep EVMs again in the strong room and open on the day of dispersal in the presence of candidates or their representatives.

6.1.2. Post-Poll Storage (Polled EVMs storage): After poll till counting day

- (a) After completion of poll, escort back the complete set of machines (BU, CU & VVPAT) of a particular polling station to Collection/Reception Centre and store in the Polled strong room in the presence of the candidates/their authorised representatives, under videography.
- (b) Store unused EVMs in separate “Reserve EVM” strong room in other location.
- (c) Earmark all polling stations on the specified parts of the floor space of the strong room in the form of squares in advance for stacking the EVM(s) of a particular polling station in the respective square. In any case, EVMs of a particular polling station, should not be stored in separate strong room i.e. all units used at a particular polling station should be kept together in the square/rack earmarked for that polling station. If not feasible, to accommodate all EVMs in one Strong Room follow the protocol mentioned below:

- i. Keep polled EVMs (including non-functional polled) in multiple strong rooms, adjacent to each other, and outside each strong room paste a notice indicating the particulars of the elections, AC/AS name and No. and serial number of polling stations whose EVMs are kept inside.
- ii. Fabricated steel/iron/wooden multi-layer storage rack for storing polled EVMs (including non-functional polled) as per ECI specifications.



6.1.3. Security & Safety arrangements for Polled EVM Strong Room:

- (a) Single Entry/ Exit with all other doors/windows sealed with brick masonry/ concrete.
- (b) Double Lock System.
- (c) All the keys of Lock-1 with RO and all the keys of Lock-2 with ARO. In case of Parliamentary Constituency election, if some Assembly Segments are in other district(s), the all keys of Lock-1 with ARO and all the keys of Lock-2 with SDM/Tehsildar concerned.
- (d) Minimum One Platoon of Armed Police for 24X7
- (e) Two tier security arrangements round the clock. Innermost perimeter by CAPF and outer perimeter by State Armed Police.
- (f) CCTV Cameras with DVR and Uninterrupted Power Supply. CCTV Camera should cover sealed Door of Polled Strong Room, security and corridor etc.
- (g) Operative Control Room adjacent to the Strong Room.
- (h) Log book for each entry, exit and duty roster for security personnel.
- (i) Separate Log book for authorized officials (including Observers, DEOs or SPs) crossing the second security ring i.e. the middle perimeter under Videography.
- (j) Videography at the time of the opening and closing of strong room.
- (k) Fire- extinguishers inside and outside of strong room. Adequate fire alarm system.
- (l) No entry for any vehicle including VIPs & officials.

6.1.4 Protocol for Polled EVMs:

- (a) Intimate all contesting Candidates, 24 hrs. in advance, in writing with acknowledgment, for deputing their representatives for watching the security arrangements of strong room and allow them to stay outside the inner perimeter. If entrance of the Strong Room is not visible, arrange CCTV display for them.
- (b) Make proper arrangements like drinking water, shamiana / tent etc.
- (c) Circulate the phone nos. of CEO, Addl. CEOs, DEC in-charge in the ECI and the DEO/SP/ COP/ROs concerned for emergency.
- (d) Constant Videography of all the entry points (doors etc.) of strong rooms using the web cams.
- (e) Visit of RO to the storage campus (up to the inner perimeter only) twice a day in the morning and evening to check the log book and Videography and send a report to the DEO on the status every day.
- (f) In case of strong rooms located in the district headquarters or outside the District HQ, DEO is responsible for regular or frequent visits as possible and at least once in 3-4 days.
- (g) DCs and SPs are responsible for security of strong room within the district and meticulous implementation of the protocol. Copy of the Manual to be circulated to all candidates, DEOs, ROs and CAPF commandant.
- (h) The above instructions will also apply mutatis mutandis to the storage of the voting machines during the interval between the original count and the recount, if any.

6.2 After the Counting of Votes till EP Period

- a) **Sub-rules (1A) and (2)(cc) of Rule 92 of the Conduct of Elections Rules 1961-Keep all voting machines and the printed paper slips sealed under the provisions of rule 57 C of the said Rule in the custody of concerned DEO.**
- b) DEOs are the custodian of EVMs.
- c) A minimum of one section State Armed Police may be deployed till the EP period is over.

6.2.1.Storage of EVMs after Counting of Votes:

- (a) After completion of counting of votes, seal CU as per existing instruction of the Commission after removal of power pack from CU. Thereafter, shift EVMs to District Strong Room. In District Strong Room, EVMs and VVPATs should not be kept together. VVPATs (having no VVPAT slips) should be stored separately in the District Strong Room so that VVPATs can be used, if required, even during Election Petition Period.
- (b) Inform all the contesting candidates/their agents well in advance in writing with acknowledgment about the location of EVM strong room. Allow them to put their seals on the double lock system.
- (c) Guidelines to follow if the strong room is at different place than the counting centre:

- (i) Allow the contesting candidates/their agents to follow the vehicles carrying EVMs and give intimation in writing with acknowledgment.
- (ii) Provide proper armed escort for the vehicles carrying EVMs after counting of votes with Videography.
- (d) Do not keep EVMs (Ballot Units and Control Units) of 2 or more than 2 Assembly Segments/Constituencies in the same strong room till completion of Election Period (EP).
- (e) In case of simultaneous elections, store EVMs (Ballot Units and Control Units) pertaining to AC and AS in separate strong rooms i.e. do not keep EVMs pertaining to AC with EVMs (Ballot Units and Control Units) pertaining to AS of PC in the same strong room.
- (f) Guidelines to be followed in case of not keeping the EVMs (Ballot Units and Control Units) pertaining to 1 AC/AS in a single room:
 - (i) Fabricate steel/iron/wooden multi-layer storage rack for EVMs.
 - (ii) Keep EVMs in two strong rooms, adjacent to each other within a building and paste notice indicating the particular of elections, AC/AS name and No. and serial number of polling stations outside of all such strong rooms.

6.2.2 Guidelines of the Commission on retention period of the EVMs (Under rule 94(aa) of the Conduct of Elections Rules 1961) after using in election and for using the same in the subsequent elections are as under:

- (a) Do not touch any EVM (Ballot Units and Control Units) used in an election which are in the custody of the DEO, under the standard protocol of security, till confirmation of Election Petition (EP) position from the High Court concerned, after the completion of the period for filing Election Petition i.e. 45 days from the date of declaration of the result.
- (b) Immediately after completion of EP period, obtain the details of the EP/Court Cases pertaining to the election from the High Court/Court concerned.
- (c) After ascertaining the position of EP/court cases from the court concerned,
 - (i) Within 10 days, send all the non-functional EVMs pertaining to actual poll (along with list containing unique ID of BU/CU) to BEL/ECIL, which are not involved in any EP/court cases.
 - (ii) Do not open the Strong Room in which the non-functional EVMs pertaining to any EP/court case are kept. After final disposal of the EP/Court case, send the non-functional EVMs for repairs to the respective factories within one month.
- (d) If there is no election petition filed or no other court cases are pending, after the aforesaid period, use EVMs for any future election or any other purpose like movement, physical verification of EVMs etc.
- (e) Take following action if EP filed: -
 - (i) If the EVMs (Ballot Units and Control Units) or counting of votes are the subject of the EP, the EVMs (Ballot Units and Control Units) used at all Polling Stations in the constituency continue to be in the safe custody of the DEO, till the EP is finally

disposed of by the Courts. However, move an application to the concerned Court for taking out/releasing Ballot Units from the Strong Room for any future election or other purpose, as Ballot Units have no election/result data. In case Hon'ble Court permits the same, the procedure mentioned at (iv) shall be followed.

- (ii) After disposal of election petition/court case, the CEO shall take the following action:
 - Ascertain the position of appeal from the Supreme Court.
 - If no appeal is filed, the DEO shall be permitted to open the warehouse, if needed.
 - Petitioners/respondents of the EP/Court case shall be invited through a Notice regarding opening of the strong room.
- (iii) If EVMs (Ballot Units and Control Units) are not subject of EP, move an application to the concerned court for taking out the EVMs from the strong room for any future election or any other purpose. In case, the Hon'ble High Court permits for taking out the EVMs (Ballot Units and Control Units) for use in elections, there is no need to ascertain about appeal filed in the Hon'ble Supreme Court. The procedure mentioned below shall be following in such case.
- (iv) Follow the procedure for segregating the EVMs not involved in any EP/court case from the EVMs involved in EP/Court case stored at one place: -
 - Give a notice informing the opening of Strong Room having EVMs (Ballot Units and Control Units) involved in EP/Court Case to the petitioners/respondents of the EP/Court Case and the representatives of all political parties in writing at least 72 hours in advance, requesting them to remain present at the time of opening of strong room.
 - Open the strong room in the presence of the DEO, Petitioners/respondents of the EP/Court case and representatives of Political Parties.
 - Segregate and take out the EVMs (Ballot Units and Control Units) not involved in any EP/Court Case from the EVMs involved in EP/Court Case from the strong room under videography and provide a prepared list of EVMs taken out to the petitioner/respondent of the EP/ court case and take acknowledgement.
- (f) If any other Court Case is pending, like, booth capturing, etc., in which any EVM is involved, keep the EVM concerned or the EVM(s) used at such Polling Station(s) concerned till the final disposal of the said case. After the final disposal of the election petitions or other court cases, as the case may be, referred to above, use the EVMs for subsequent elections.

6.2.3 Lost/stolen EVMs

Action to be taken in case of traced or recovered lost/stolen EVMs

- Furnish a detailed report to the Commission.
- Recovered/traced units to be kept in a separate store and stock-taking of the same not to be done, if already does not exist in stock inventory.
- After disposal of court cases (if any) send to the factory for destruction.

CHAPTER – 7

SECOND RANDOMIZATION OF EVMs

The purpose of Second Randomization is to allocate EVMs randomly to Polling Stations.

Second Randomization of EVMs is to be done after finalization of List of the Contesting Candidates and just before the commissioning of EVMs.			
Returning Officer will fix a schedule for 2 nd Randomization and invite all the Contesting Candidates in writing with acknowledgment at least 24 hours in advance.			
Conduct 2 nd Randomization of EVMs in EVM Management System (EMS).			
Conduct Second Randomization of EVMs in the presence of all the Contesting Candidates/their representatives in presence of General Observer(s) appointed by ECI.			
In case of General/ Bye-elections to Legislative Assembly, allocate EVMs Polling Station-wise by RO	In case of General/ Bye-elections to Lok Sabha, allocate EVMs Polling Station-wise by RO of PC concerned	In case of Simultaneous elections to Lok Sabha and Legislative Assembly, allocate EVMs Polling Station-wise, by RO of AC (for SLA) and RO of the PC (for PC election)	Exceptional case for General/Bye Election to Lok Sabha by ARO
After, 2 nd Randomization of EVMs, RO shall provide the list of randomized EVMs alongwith 1 st Randomization list to all the Contesting Candidates and obtain written acknowledgment.			
RO will fix a date for preparation of EVMs for poll (candidate setting) after the last date of withdrawal of candidatures and finalization of the ballot paper under written intimation with acknowledgment to all the Contesting Candidates at least 48 hours in advance.			

CHAPTER-8

COMMISSIONING OF EVMs (CANDIDATE SET)

8.1. Commissioning of EVMs after the last date of withdrawal of candidatures

- a. RO draws schedule for commissioning of EVMs.
- b. Commissioning of EVMs is done for all the assembly constituencies/segments in separate halls.
- c. Written intimation with acknowledgment to all the candidates about the schedule for their presence to oversee the commissioning and actively participate in the mock poll process and take their signatures on the register maintained as per **Annexure-19**.
- d. In case of Parliamentary Elections, ARO will supervise the preparation of EVMs for assembly segment.

8.2 Arrangements in the premises of preparation of EVM

- a. Large Preparation hall to accommodate EVMs, officers nominated by the DEO, engineers of concerned manufacturers and representatives of candidates.
- b. In consultation with BEL/ECIL, install a TV Monitor for each SLU under use in commissioning hall for simultaneously viewing the symbols being loaded in VVPATs by candidates/ their representatives.
- c. Fully sanitized to ensure that the hall is free from any electronic components or devices.
- d. Single entry and exit point to hall with full security by atleast one Section of armed police forces round the clock with 24X7 CCTV coverage.
- e. Permission for Entry to hall through Door Frame Metal Detector (DFMD) on production of Identity card of authorised official/pass issued by DEO.
- f. Proper frisking at every entry and exit.
- g. Neither allow anyone to carry any electronic device inside the hall nor anybody to take out anything outside the Preparation Hall.
- h. Commissioning of EVMs pertaining to Assembly Segment (AS) of PC falling in RO headquarters may be done at **ARO** level under direct supervision of **RO** level, in the presence of candidates/ their representatives. Further, the commissioning of EVMs of remaining AS may be done by the respective **ARO** in the presence of candidates/their representatives.

8.3 Manpower for preparation

- a. Commissioning of EVMs shall be done by the officials deputed by the RO/ DEO.
- b. Only the authorized engineers of BEL/ECIL to be associated for the commissioning of EVMs.
- c. BEL/ECIL to share the list of engineers with DEO for carrying out task during the commissioning of EVMs in a district along with their identity card numbers etc.

- d. Allow authorized engineers/technical staff of BEL and ECIL only to enter the preparation hall.
- e. Separate teams for conducting mock poll of 1000 in randomly selected 5% of EVMs.

8.4 Main tasks during preparation

Detailed instructions of the tasks performed during preparation of BU and CU of EVMs are available in the Handbook for RO. Execute the following additional tasks:

8.4.1. Checking and Preparation of Ballot Units (BUs)-

- a. Opening of outer cover of BUs by BEL/ECIL Engineers to examine and certify as in **Annexure-20** that all components of BUs are original and show to the candidates/their representatives.
- b. Separately issue detailed instructions for checking of BU by BEL and ECIL for their respective machines and the list of equipment to carry within the preparation hall.
- c. Sealing of ballot paper screen of BU with thread and address tag



After firm fixation of the ballot paper under the Ballot Paper Screen on the upper side of top cover, seal the screen from inside, by passing the thread through two holes, at the back of the ballot paper screen, using address tag showing the particulars of election with seal of the RO.

- d. **Setting of Thumb Wheel Switch:** Set the two digits of the rotary thumb wheel switches, at the top right corner of BU, at desired position like 01 for BU-I, 02 for BU-2 and so on.
- e. **Masking Unused Buttons of BU:** Unmask all candidate buttons including NOTA button of BU as per the ballot paper and mask all remaining unused buttons of BU.
- f. **Sealing of plastic cabinet of BU with thread and address tag**



After unmasking candidate buttons, seal the upper cover of the BU by thread passed through holes on the top and bottom end at right side using address tags showing the particulars of the election with the seal of the RO.

g. **Sealing of plastic cabinet of BU with pink paper seal**

- Pink Paper Seal has two portion/part of Pink Paper Seals of same Unique Serial Number. First, split the seal into two separate Pink Paper Seals.
- Remove the gummed paper from Pink Paper Seal carefully.
- These two Pink Paper Seals shall be pasted on lower and upper sides of the Cabinet of the Ballot Unit as shown in the figures:



Lower Portion

Upper Portion

- h. In case more than 01 Ballot Unit is used, Braille Sticker “Ballot Unit-1”, “Ballot Unit-2 and so on shall be printed and affixed on the corresponding Ballot Unit on the TOP MIDDLE PART of the Ballot Unit.

8.4.2. PREPARATION OF VVPAT- Rule 49B [4(c) (i) - (iii)] of the Conduct of Elections Rules, 1961

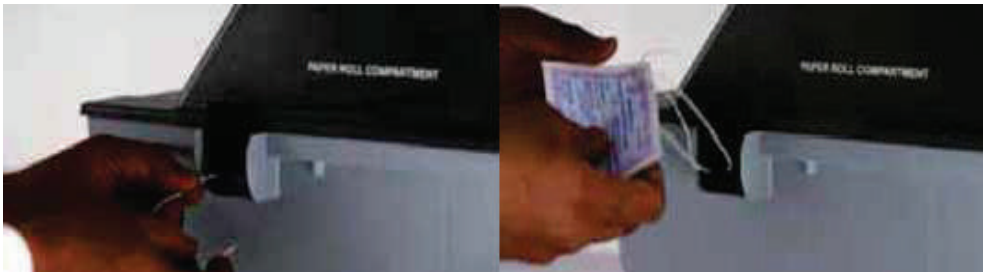


Installation of paper roll

Inserting of power pack

- Install a new power pack (battery) to the VVPAT unit and shut the door of the battery compartment. Do not seal the battery compartment as the power pack can be replaced in case of low battery.
- Install a fresh paper roll in the printer unit as per the procedure mentioned in the user manual (**Annexure-21**).
- Load allotted Serial numbers, names of candidates and symbols in VVPAT with the help of engineers using Symbol Loading Unit (SLU). RO/ARO to check the test printout with the ballot paper in BU & sign & certify the same. User Manual on SLU shall be provided by the BEL/ECIL concerned.

Sealing of paper roll compartment of VVPAT:



After installation of paper roll in the paper roll compartment of VVPAT, seal the latches of Paper Roll Compartment by passing a thread through holes provided on the latches using Address Tag showing the particulars of the election with the seal of the RO.

(Ensure Switching OFF of Control Unit and keep the paper roll knob in horizontal position (transport position) before sealing of paper roll compartment)

8.4.3. Preparation and Candidate Setting in Control Units:

- a. Install new Power Pack in CU.
- b. Connect cable of VVPAT with CU and cable of BU with VVPAT. In case of more than one BU, the cable of BU-2 is to be plugged into connector at the back of BU-01 and so on.
- c. Unlock Paper Roll knob of VVPAT (Rotate to Working Position).
- d. Switch ON the CU.
- e. Press Candidate Set button of CU. Display Panel of CU shows Set Candidate _.
- f. Press last candidate button (NOTA button) of BU to set candidate in CU.
- g. Mock Poll with one vote to each candidate to check that the VVPAT is printing the paper slips accurately.
- h. Switch off the CU and Lock paper roll knob of VVPAT (Transport Position).
- i. Seal the latches of paper roll compartment of VVPAT and Battery & Candidate Set compartments of CU using thread seals and address tags.
- j. Allow the candidates/their agents to affix their signatures with party abbreviations on Address Tags.

8.4.4. Sealing of Control Units (CUs) -

Sealing of Candidate Set Section and Battery Section of CU with thread & address tag



After Candidate set, seal cover of the Candidate Set Section and Battery Section of CU by passing a thread through hole provided on the respective side using address tags showing the particulars of the election with the seal of the RO.

NOTE : *All Seals used at the time of commissioning of EVMs & VVPATs shall be signed by the Returning officers and candidates/their agents.*

8.4.5. Identification of Reserve Units (BU/CU/VPAT):

- a) Paste adhesive stickers with inscription 'RESERVE' on carrying cases of reserve BU/CU/ VVPAT.
- b) Pink sticker for Assembly Elections and White sticker for Parliamentary Elections.
- c) **Dimension of sticker:** 15 cm x 10 cm.
- d) Sealing of carrying cases of reserve BU/CU/VVPAT with address tag.

8.4.6. Safe custody of Symbol Loading Unit:

- a) BEL/ECIL shall provide list of SLUs to DEO concerned.
- b) SLUs brought by BEL/ECIL Engineers for symbol loading in VVPATs during commissioning of VVPATs shall be in the custody of the concerned Returning Officer (Assistant Returning Officer in case of Parliamentary Constituency election, if required) from arrival in constituency to completion of commissioning.
- c) After completion of commissioning of EVMs, BEL/ECIL Supervisors shall hand over all the SLUs to the concerned DEO along with a list of Serial Number of the SLU for safe keeping. DEOs shall keep the SLUs in their safe custody and return to BEL/ECIL Supervisors or engineers authorized by the BEL/ECIL on P+1 Day.

8.4.7. Conduct of higher rate Mock Poll:

- a. Checking of VVPATs. In 100% VVPATs, one vote to each candidate including NOTA shall be given to check that the VVPATs are printing the paper accurately.
- b. Mock poll of 1000 votes on 5% randomly selected EVMs. Percentage shall be calculated on quantity of Control Units.
- c. Tally the electronic result with paper count. Allow Candidates/their representatives to pick machines randomly for this purpose.
- d. Allow representatives of candidates to do the mock poll themselves and take their signatures in a register in **Annexure-22** as token of having done mock poll themselves.
- e. Ensure that the pink paper seal of the CU applied at the time of FLC is not damaged in any manner during commissioning.
- f. Install new Paper Roll and Power Pack in VVPATs and new Power Pack in CUs in which higher mock poll of 1000 votes cast.

8.4.8. Supervision of the preparation: RO or one of the AROs will supervise the preparation of EVMs under CCTV/videography.

8.4.9. Braille Signage Features: Make Additional Arrangements to facilitate visually impaired electors to exercise their franchise.

- (a) **Do not paste any Braille Sticker** on the right of the blue button (voting button) on the BU because it has embossed serial numbers of the candidates in Braille signage.
- (b) After finalization of list of the contesting candidates, immediately send the list of contesting candidates to the State approved /recognized Association/ Institution /University having requisite expertise for **preparation of Dummy Ballot Sheets** which contains the serial numbers of the contesting candidates, names of the candidate arranged in the same serial numbers order in which their names appear on the ballot paper on the BU.
- (c) Indicate the party affiliation of each of the candidates by printing the name of the political party concerned against the name of candidate. In the case of Independent candidates, print the word **“Independent”**.
- (d) Prepare **Dummy Ballot Sheet in regional languages** (i.e. language printed on actual Ballot Paper) in addition to English and supply a copy of the same to each of the PS.
- (e) If **more than 1 BU** is used at a polling station, print separate dummy ballot sheet for each BU.

8.5 Preparation of Dummy Ballot Sheet:

- a) Give serial Numbers to candidates in each Dummy Ballot Sheet **from 01 to 16**. **Ex.-** if number of contesting candidates are **19** including NOTA, number the serial number for the candidates in first Dummy Ballot Sheet as **01 to 16** as mentioned on the Ballot Paper of first BU. For contesting candidates at serial **number 17-19 of BU-2**, start the serial numbers again from **01 on 2nd Dummy Ballot Sheet i.e. 01 for 17th Candidate, 02 for 18th Candidate and 03 for NOTA**.
- b) If more than 1 BU is used, **print BU-01** in Braille on the **TOP MIDDLE PART** of first Dummy Ballot Sheet and **BU-02** in second dummy ballot sheet and so on.
- c) Similarly, **print Braille stickers ‘BU-01’, ‘BU-02’** and so on and affix on the corresponding BU on the **TOP MIDDLE PART**.
- d) Print Dummy Ballot Sheets mentioned above in Braille signage by the State approved/ recognized Association/Institution/University having requisite expertise for this purpose under the supervision of one responsible officer appointed by CEO of the State/UT. Write the name of the constituency on Dummy Ballot Sheets in normal script at the top.
- e) Commissioner of Disabilities of concerned State or his/her authorized representative who will be an official knowing Braille, will certify each such sheet prepared for every polling station.
- f) Conduct detailed training and briefing sessions for the Presiding Officers and the Polling Officers explaining them these facilities for the visually impaired electors.
- g) Arrange for wide publicity of these measures through advertisements in newspapers and TV etc. to inform the visually impaired voters for the arrangements made.
- h) At the polling station, allow the visually impaired persons to take a companion along as provided in Rule 49N of the Conduct of Elections Rules, 1961.
- i) Give the Dummy Ballot Sheet in Braille to the visually impaired voter on his/her request if he/she prefers to cast his/her vote with the help of same. After he/she studies the

contents of Dummy Ballot Sheet, allow his/her to proceed to the voting compartment to cast her vote.

- j) Such electors after reading the Dummy Ballot Sheet will be able to cast their vote by reading the serial number of the candidate of their choice on the numeric sticker fixed on the EVM (Ballot Unit).
- k) After the voter has cast his/her vote, ensure that the Dummy Ballot Sheet delivered to the voter is returned to the Presiding Officer.
- l) After the close of poll, seal the Dummy Ballot Sheet in separate cover superscribed “**Dummy Ballot Sheet**” for visually impaired and send to the RO along with other Non-Statutory forms.

8.6. Destruction of VVPAT paper slips taken out during commissioning of EVMs:

VVPAT slips generated during Commissioning of EVM disposed of by using Paper Shredding machine on daily basis in the presence of Returning Officer/Assistant Returning Officer.

Note:

1. In case any BU or CU or VVPAT does not work properly during commissioning of EVMs **only** concerned unit **should be replaced from the reserve one.**
2. **All Seals used at the time of commissioning of EVMs shall be signed by the Returning Officers and candidates / their agents.**

A SAMPLE POSTER ON COMMISSIONING OF EVMs(TO BE DISPLAYED IN COMMISSIONING HALL)

COMMISSIONING OF EVM & VVPAT

HOW TO COMMISSION?

Ballot Unit(s)	Control Unit	VVPAT
<ul style="list-style-type: none"> Open the Ballot Screen of BU and place Ballot Paper with proper alignment. Seal the Ballot Screen with Address Tag. Unmask the required number of Candidate Buttons of BU including NOTA. Set the Thumb Wheel. (01 for BU-1, 02 for BU-2 and so on) Seal the Outer Cover of BU with Pink Paper Seals and Address Tags. 	<ul style="list-style-type: none"> Installation of New Power Pack in Power Pack Compartment of CU and seal with Address Tag. 	<ul style="list-style-type: none"> Installation of New Paper Roll in Paper Roll Compartment. Installation of New Power Pack in Power Pack Compartment of VVPAT. Loading of Serial Number, Name and Symbol of the candidates in VVPAT using Symbol Loading Unit (SLU). Sealing of Paper Roll Compartment of VVPAT with Address Tags.

- Connect BU, CU and VVPAT for candidate setting in Control Unit.
- Switch ON the CU.
- Press last candidate button (NOTA Button) of BU to set candidate.
- Cast 1 vote to each candidate button including NOTA to check correctness.
- Switch OFF the CU before disconnecting cables.
- Seal the Candidate Set Section of CU with Address Tag after candidate setting.
- Put VVPAT knob in Transport mode (Horizontal position) before keeping in carrying case

REPLACEMENT PROTOCOL: All 'ERROR' messages for BU, CU & VVPAT will be displayed on CU only. Please read message and act accordingly. In case BU or CU or VVPAT is not functioning, replace the respective unit only with reserve one.

DON'T DO

- Don't install serial number, name and symbol of candidates in VVPAT without verifying with ballot paper.
- Don't set candidates in CU without VVPAT.
- Don't preserve VVPAT slips printed during Commissioning. Shred them on daily basis.
- Don't start mock poll of 1000 votes on 5% randomly selected BUs, CUs and VVPATs without first replacing power pack of CUs & VVPATs and paper roll of VVPATs.
- Don't keep VVPAT knob in Working mode (Vertical position) after commissioning.

CHAPTER-9

DISPERSAL OF EVMs

- 9.1 Inform date and time of opening of strong room in writing with acknowledgment to the candidates/ agents whenever the EVMs are taken out of the strong room for dispatch to polling stations.
- 9.2 At the time of dispatch, **Presiding Officers to check and ensure:**

Ballot Unit(s)
<ul style="list-style-type: none"> Address Tags of BU pertain to the assigned polling station and tally with ID mentioned on metallic plate/barcode sticker on the unit. Pink Paper Seals of BU are intact. Ballot Paper is inserted properly. Contesting Candidate Blue Buttons including NOTA are unmasked. Thumb wheel position is 01 for first BU (If more than 01 BU is used, Thumb wheel position for 2nd BU is 02, for 3rd BU is 03 and so on).
Control Unit
<ul style="list-style-type: none"> Address Tags of CU pertain to the assigned polling station and tally with ID mentioned on metallic plate/barcode sticker on the unit. Pink Paper Seals of CU are intact. Switch ON the CU (without connecting to BU and/or VVPAT) to check Battery status and number of contesting candidates. Thereafter, Switch OFF the CU.
VVPAT
<ul style="list-style-type: none"> Address Tags of VVPAT pertain to the assigned polling station and tally with ID mentioned on metallic plate/barcode sticker on the unit. Power Pack (Battery) is installed. VVPAT knob is in horizontal position (i.e. Transportation mode). If VVPAT knob is in vertical position (i.e. Working mode), turn the knob to horizontal position.

- 9.3. Backpacks to carry EVMs as well as Backpacks for carrying polling materials to aid hand free movement for polling parties in difficult terrain and safeguard the machines.**
- A. Backpacks shall be provided to all polling teams deployed in difficult terrain (*like hilly areas/ locations wherein movement of machines by foot is involved*). For this purpose, the Chief Electoral Officers (CEOs) shall consider the following:
- a. **Backpacks to carry EVMs in difficult terrain:**
- i. The specifications of backpack to carry EVMs and polling materials is as under:

	Technical Specification for		
	Control Unit (CU Bag)	Ballot Unit (BU Bag)	VVPAT Bag
Size	15" (Vertical) 12.4" (Horizontal) 10.6" (Breadth/ Thickness)	22.6" (Vertical) 15" (Horizontal) 10.6" (Breadth/Thickness)	17.6" (Vertical) 17.6" (Horizontal) 12" (Breadth/Thickness)
Fabric Materials	High Quality eco friendly material: Specification outer shell Fabric: 1000D OXFORD COATING SOLVENT PU *2+ Polyster ULY GSM 210 DYEING METHOD JET DYEING Specification of inner Shell Fabric: Pungi (Polyster) 140 GSM W/R	High Quality eco friendly material: Specification outer shell Fabric: 1000D OXFORD COATING SOLVENT PU *2+ Polyster ULY GSM 210 DYEING METHOD JET DYEING Specification of inner Shell Fabric: Pungi (Polyster) 140 GSM W/R	High Quality eco friendly material: Specification outer shell Fabric: 1000D OXFORD COATING SOLVENT PU *2+ Polyster ULY GSM 210 DYEING METHOD JET DYEING Specification of inner Shell Fabric: Pungi (Polyster) 140 GSM W/R
Colour	Black	Black	Black
Bottom Bush/ Padded PVC	2.2" diameter (6 pieces per bag)	2.2" diameter (6 pieces per bag)	2.2" diameter (9 pieces per bag)
Shoulder straps	Base with fabric size 3.5" width x 1" width with adjustable nylon strip and buckles)	Base with fabric size 3.5" width x 1" with width adjustable nylon strip and buckles)	Base with fabric size 3.5" width x 1" with width adjustable nylon strip and buckles)
	On top with soft cushion inside- 30mm width capable of withstanding 20 kg weight	On top with soft cushion inside- 30mm width capable of withstanding 30 kg weight	On top with soft cushion inside- 30mm width capable of withstanding 30 kg weight
Zip	2 Heavy Duty Tony Runner Chain No 10 ZIP	2 Heavy Duty Tony Runner Chain No 10 ZIP	1 Heavy Duty Tony Runner Chain No 10 ZIP
	Zipper (Fastener) with 2 Nos. sliding tabs: Toothed edges of plastic with metal sliding tabs, (Heavy Duty).	Zipper (Fastener) with 2 Nos. Sliding tabs: Toothed edges of plastic with metal sliding tabs, (Heavy Duty).	Zipper (Fastener) with 2 Nos. Sliding tabs: Toothed edges of plastic with metal sliding tabs, (Heavy Duty).

Other Features	The length of the back strap is adjustable with good quality buckles	The length of the back strap is adjustable with good quality buckles	The length of the back strap is adjustable with good quality buckles
	The bag has interlocking nylon strip stitched with 100% nylon 40 TKT thread.	The bag has interlocking nylon strip stitched with 100% nylon 40 TKT thread.	The bag has interlocking nylon strip stitched with 100% nylon 40 TKT thread.
	Buckles are made from Poly Acetal Materials	Buckles are made from Poly Acetal Materials	Buckles are made from Poly Acetal Materials
	2 Chambers with a width of 10.6" for carrying 2 CU/Election Materials	2 Chambers with a width of 10.6" for carrying 2 CU/Election Materials	NA
	Waist Trap with foam Poly Acetal Materials	Waist Trap with foam Poly Acetal Materials	Waist Trap with foam Poly Acetal Materials
	4 buckles of 1" with adjustable nylon strip and buckles on the top of the bag as additional support	4 buckles of 1" with adjustable nylon strip and buckles on the top of the bag as additional support	2 buckles 1" with adjustable nylon strip and buckles on the top of the bag for safety when zip are fail
	12 mm thick thermo cool between the two chambers of the bag as well as at the inner lining of the bag	12 mm thick thermo cool between the two chambers of the bag as well as at the inner lining of the bag	12 mm thick thermo cool in the inner lining of the bag
	Multi colour ECI logo (6"x 6") customized embroidery	Multi colour ECI logo (6"x 6") customized embroidery	Multi colour ECI logo (6"x 6") customized embroidery
	Department Name embroidery	Department Name embroidery	Department Name embroidery

Note: The above specifications are minimum desirable. However, States may adopt the features with suitable modifications as per requirement.

BACKPACKS TO CARRY EVMS - INDICATIVE SAMPLES



BU

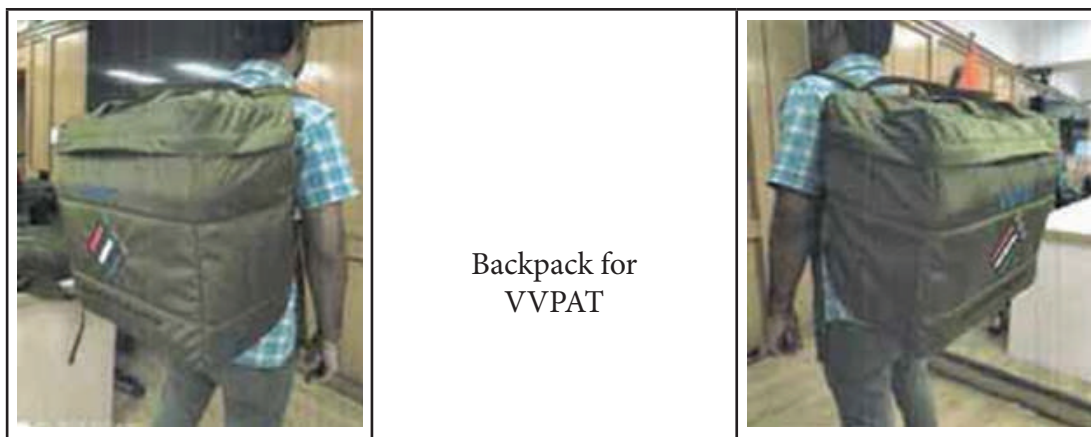


CU



VVPAT

	Backpacks for BU	
	Backpack for CU	



Photographs of indicative backpack samples

- ii. Above mentioned specifications is for guidance of the CEOs. However, CEOs may further improve upon them based on local situations and needs; in which case the following aspects are to be necessarily considered while designing the backpacks:
 - The logo of ECI is necessarily to be imprinted on all the backpacks.
 - There will be provision of waist belt, straps, good quality buckles with lock, strong and smooth zips.
 - Padded head straps may be added as optional from the middle portion of the VVPAT backpack especially for hilly terrain if needed.
 - The length and width of shoulder straps for VVPATs should be adjustable.
 - The back pack shall be water proof.
 - In case of VVPAT backpack, extra padding for back support should be incorporated.
- iii. In case of **simultaneous elections**, the backpack for BU should have two pockets for carrying two BUs. Similarly, the backpack for CU should have two pockets for carrying two CUs. However, two separate backpacks should be used for carrying VVPATs.
- iv. **Tagging system** for the identification of AC/AS, including the details of polling booth number is to be used. In case of simultaneous elections, two different colours of the tags have to be used as given: AC election - Pink colour, PC election - White colour.

B. Backpack for carrying polling materials in difficult terrain:

In order to provide hands-free movement while carrying polling materials in difficult terrain, the CEOs may consider to add outer pocket/chamber on backpack to keep polling materials for polling parties.

C. Necessary action on the matter shall be initiated on priority.

9.4. Trouble Shooting Instructions to be provided to Polling Parties

At the time of dispersal of Polling parties, hand over two copies of trouble shooting

instructions (**Annexure-23**) and a list of additional items of Polling material (**Annexure-24**) to the Presiding Officer.

9.5. EVM-Intermediate Strong Rooms for Polling Team staying with EVMs at intermediate location before poll and after poll

SOP for P-2/P-3 dispatch and P+1 arrival of Polling Parties:

- Earmark a Govt. building at the cluster point for polling parties and EVMs of P-2/P-3 dispatch Polling Stations and RO will inform the same to all the contesting candidates in writing. Do not use Police Stations for such cluster points.
- Earmark a room as strong room for storing EVMs of the P-2/P-3 PSs at these designated Govt. buildings. Keep all EVMs in the said strong room and seal in the presence of Sector Officers and video graph the entire process. Allow the contesting candidate to nominate their representative to watch the whole process, if they desire.
- In case there is more than one assembly segment involved, make a sturdy partition for each AS of the said strong room in such a way that it can be properly secured by double lock system/seals etc. Under no circumstance, mix the units of one AS with those of another AS in one strong room.
- Maintain a logbook for opening and closing of the said strong room.
- Follow the aforesaid process for P+1 arrival of Polling Parties. Minimum half section CAPF will guard the intermediate strong room, where polled EVMs are stored.
- A Nodal Officer may be appointed for Intermediate Strong Room(s) for arrangement, coordination and to facilitate polling parties etc.
- In exceptional case, Police Station(s) for Intermediate strong room/cluster point may be considered, if there is no Govt. Building for the purpose, with the approval of the respective Chief Electoral Officer.

Videography by mobile for Opening/Closing of Intermediate Strong room(s) may be considered, if it is not possible to depute videographer.

Note:

1. Instruct the polling parties for not testing the VVPAT at the time of dispersal and before mock poll at polling station under any circumstance.
2. In case any BU or CU does not work properly during dispersal only concerned unit should be replaced from the reserve one.


9.6. Use of vehicles with GPS tracking/Mobile app-based tracking for movement of EVMs during election period.

- a) Monitor the end-to-end movement of all vehicle carrying EVMs including Reserve EVMs at all times using GPS/ Mobile app-based tracking.
- b) DEO is responsible for the effective end-to-end GPS/Mobile-app based tracking and monitoring.
- c) Set up **‘EVM Control Room’** at DEO as well as CEO level for round-the-clock monitoring and tracking through GPS Monitors and other related IT infrastructure/


applications.

- d) Sector Officers shall not remove the EVMs from the authorized vehicles except where required for election purpose or for safe storage at designated places.
- e) DEO notifies the registration number and details of all vehicles carrying Reserve EVMs along with the name of the Sector Officer to all National and State Recognised Political Parties/ Candidates and Observers in the district.
- f) The General Observer shall monitor the compliance of these instructions and record an entry to this effect in the General Observers' diary.

Sample Poster for Dispersal Day
(To be displayed at Dispersal Centre and provided to Polling Parties)



DISPERSAL DAY

 **WHAT TO CHECK?**

Ballot Unit(s)	Control Unit	VVPAT
<ul style="list-style-type: none"> Address Tags of BU to ensure BU(s) is pertaining to your assigned polling station Pink Paper Seals of BU are intact Ballot Paper is installed properly Ballot buttons upto NOTA (Candidate Blue Buttons) are unmasked Thumb wheel position is 01 for first BU (If more than 01 BU is used, Thumb wheel position for 2nd BU is 02, for 3rd BU is 03 and so on) 	<ul style="list-style-type: none"> Address Tags of CU to ensure CU is pertaining to your assigned polling station Pink Paper Seals of CU are intact Switch ON the CU (without connecting to BU and/or VVPAT) to check Battery status and number of contesting candidates. Thereafter, Switch OFF the CU 	<ul style="list-style-type: none"> Address Tags of VVPAT to ensure that VVPAT is pertaining to your assigned polling station Power Pack (Battery) is installed VVPAT knob is horizontal (i.e. Transportation mode). If VVPAT knob is vertical (i.e. Working mode), keep the knob horizontal.

DON'T DO

- Don't connect Ballot Unit, Control Unit and VVPAT during dispersal.
- Don't keep BU, CU and VVPAT outside their respective carrying cases after checking.
- Don't keep VVPAT knob vertical (Working mode) while transporting.
- Don't take away EVM & VVPAT to any unauthorised place like residence, hotel etc.
- Don't remove any seal from BU, CU and VVPAT.
- Don't use vehicle other than vehicle provided for dispersal.
- Don't stay at any place other than designated place.
- Don't set up Voting Compartment near open window or door.
- Don't set up Voting Compartment just below the highly illuminated bulb/light.

CHAPTER-10

VOTING COMPARTMENT USED IN POLLING STATIONS

10.1 To maintain secrecy of vote at the time of poll and uniformity on use of voting compartments, follow the following instructions for use of Voting Compartment at Polling Stations: -

- a. **Voting Compartment will be only of corrugated plastic sheet (flex-board)** of steel grey color, which is opaque and reusable. The thickness of corrugated flex board for making Voting Compartment will be minimum 3 mm.
- b. In three folds, each fold having dimension of **24”x24”x30” (Length x Width x Height)**.
- c. **Self-adhesive stickers on all the three sides** of the voting compartments as per **Annexure-25**. The height of the table on which the voting compartment **should be 30”** as per **Annexure-25**.
- d. If more than one BU is used for poll, increase the width of the voting compartment by 12” for each additional BU. Where additional BU is used, arrange it in the manner as per **Annexure-25**. While placing the EVM in the voting compartment, ensure that the secrecy of voting is not violated and ensure that it is not near a window or the door of the polling station.
- e. Route the interconnecting cable of BU/VVPAT in such a way that it does not obstruct the movement of voters inside the polling station and they do not tread or trip over it, but **the entire length of the cable should be visible and under no circumstances be concealed under the cloth or under the table**.
- f. **Tape the connecting wires of BU, CU and VVPAT to the leg of the table with “Transparent Adhesive Tape” of half inch width** in such a manner that the wires do not hang in the air so that the load of hanging wire does not impact the connecting switch of the BU and VVPAT.

10.2 Additional Directions:

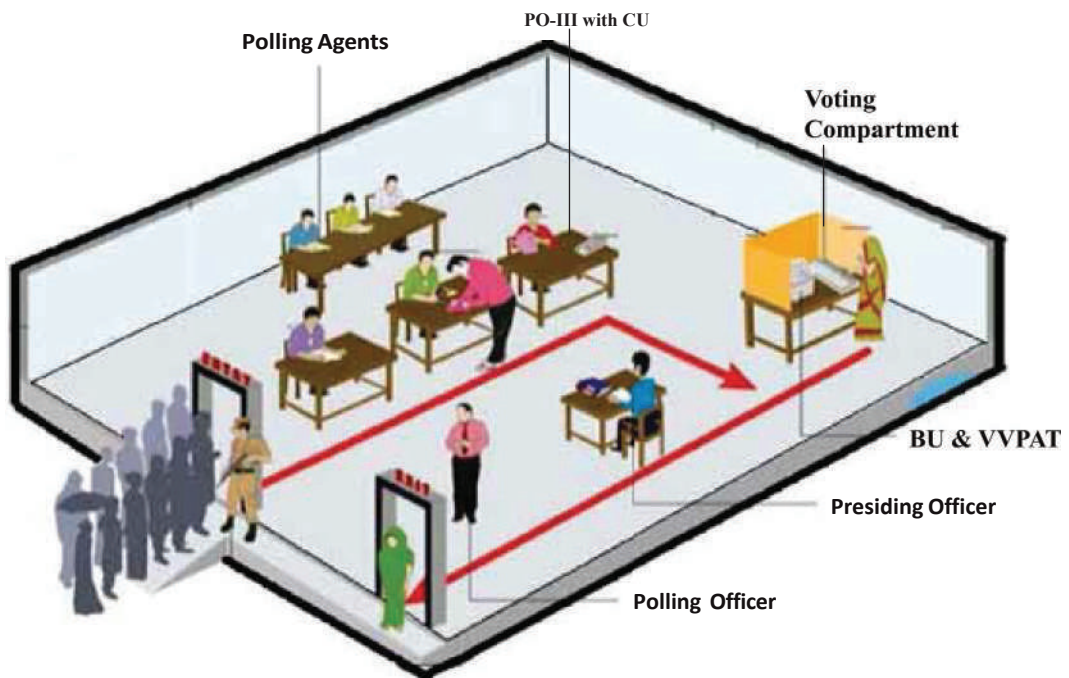
- i. Proper electricity arrangements at the polling stations.
- ii. Place the Voting Compartment in such a way that sufficient light is available inside the voting compartment, no direct lighting is placed over or in front of the voting compartment.

NOTE: The size of the voting compartment as specified above includes the use of VVPAT.

CHAPTER-11

POLL DAY

11.1. Layout of polling station



11.2. SET UP OF EVMs AND VVPATs



11.3 Responsibilities of DEO, Presiding and Sector Officers on Poll Day

In order to ensure that the conduct of the Presiding Officers and other polling staff complies with secrecy of votes, the following instructions shall be strictly adhered to:-

11.3.1 Supply of Dummy Ballot Paper to Presiding Officer

- a) Supply a printed sample of EVM (Ballot Unit) pasted on a cardboard (real size) to all the Presiding Officers along with other polling materials at the time of dispatch.
- b) While printing such model ballot, ensure that only dummy name and dummy symbols that are not in use, are used and not any real names or symbols and print in colour so that 'blue button', 'green light' and 'red light' etc. are clearly represented.

11.3.2 Responsibilities of Presiding Officer

Presiding Officers are responsible for the conduct of the poll in the polling station and they must have a sound knowledge of the voting procedures.

- a) Whenever any voter asks for help or expresses inability to vote using EVM, explain to the voter the voting process using the card board model of the EVM ballot in such a manner that the voter is able to understand. This shall be done outside the voting compartment only in the presence of polling agents.
- b) Ensure inspection of BU in the presence of polling agents from time to time when there is no voter inside the voting compartment.
- c) All the CUs/BUs/VVPATs allotted to Polling Stations as well as the reserve machines shall be kept in the strong room in the presence of candidates/agents.
- d) Enquire all the complaints about the conduct of the polling staff at the polling station. The Observers are being instructed to take serious note of such complaints and conduct or cause enquiry in to such allegations and submit reports to the Commission.
- e) If any voter alleges about the wrong printing of particulars of a candidate and/or symbol of that candidate on VVPAT paper slip printed by the printer on pressing of concerned blue (candidate) button on the Ballot Unit to which the printer is connected, provide him a 'Form of Declaration' (**Annexure-26**) and take action in accordance with rule 49MA of the Conduct of Elections Rules 1961.

11.3.3 Responsibilities of Polling Officer-I

Before the first voter signs in Form 17A (Register of Voters), the Polling Officer-I shall check with the Presiding Officer and record in **INK** in Form 17A that "**Total in the Control Unit checked and found to be Zero**".

11.3.4 Responsibility of Sector Officers and movement of reserve EVMs on Poll Day

- a) As far as possible, reserve EVMs shall be provided to Sector Officers/Zonal Magistrates on Poll Day.
- b) In case reserve EVMs are provided to Sector Officers/Zonal Magistrates before Poll Day, the reserve EVMs shall be kept at Government Building with proper security. In absence of Govt. Building, reserve EVMs may be kept at police station in exceptional circumstance only with written approval of the Chief Electoral Officer concerned.

- c) All EVMs provided to polling parties or Sector Officers/Zonal Magistrates shall be under cover of armed police at all times.
- d) Reserve and non-functional un-pollled EVM (replaced during mock poll) will be carried by the Sector Officer with proper labeling like “RESERVE”, “MOCK POLL REPLACED”.
- e) Non-functional unit replaced before start of actual poll (mock poll) should not be left in the polling station with the Presiding Officer.
- f) The place of storage of reserve EVMs shall be identified and earmarked in advance and intimated to all contesting candidates/their agents.
- g) Categories C (Un-pollled non-functional- replaced during mock poll on poll day) & D (Unused Reserved) EVMs will be deposited at the same time when all polled EVMs (Category-A) and polled non-functional (Category-B) are stored in the strong room under written intimation to candidates and proper videography in separate room other than the polled strong room.
- h) Category C and Category D EVMs will be stored in EVM Repair Room and Reserve Unit Warehouse respectively not in the building of Polled Strong Room (having Category A and Category B EVMs)
- i) 1/2 Section Security to warehouse/strong room, where Categories C & D EVMs are stored.
- j) Sector Officer shall submit a detailed account of reserve EVMs in prescribed format at the time of deposition of reserve EVMs after close of poll on the same day.
- k) SoP for Sector Officers on handling EVMs (Point 11.4 to 11.4.6) shall be provided to all Sector Officers during training as well as on dispersal day.

11.4 Standard Operating Procedure for Sector Officer on handling EVMs

- A sticker containing “ON DUTY- Sector Officer/Zonal Magistrate” may be pasted on the front (wind-screen) and backsides of the vehicles having reserve EVMs on dispersal/poll days.
- Names and mobile number of the Sector Officer/Zonal Magistrate and the polling stations covered by them may be shared with all the contesting candidates.

11.4.1 Collection of Reserve EVMs

- Returning Officer will provide reserve EVMs and extra Power Packs of CU and VVPAT for poll day replacement.
- Reach the earmarked Collection Centre for receiving the same at scheduled time fixed by the Returning Officer.

11.4.2 What to check on Reserve EVMs

- Stickers “Reserve” are pasted on the carrying cases of Ballot Unit(s), Control Unit(s) and VVPAT(s).
- Check the unique ID of reserve BU(s), CU(s) and VVPAT(s) provided.

11.4.3 Intermediate Storage and Movement of Reserve EVMs

- Use only vehicles/other transport provided by the Returning Officer.
- On Poll Day, keep reserve EVMs in the provided vehicles/other transport.
- In case of P-3/P-2/P-1 Day, keep reserve EVMs only in Intermediate Strong Room earmarked by the Returning Officer.
- Ensure security person with vehicle.

11.4.4 Replacement Protocol

(All 'ERROR' messages for BU, CU & VVPAT will be displayed on CU only. Please read message and act accordingly)

During Mock Poll

- BU not functioning: Replace BU only.
- CU not functioning: Replace CU only.
- VVPAT not functioning: Replace VVPAT only.
- Past prescribed sticker on Non-functional BU/CU/VVPAT replaced during mock poll.
- It shall be kept with Sector Officer. In no case Non-functional BU/CU/VVPAT replaced during mock poll shall be kept in the polling station.

During Actual Poll

- BU or CU not functioning: Replace BU+CU+VVPAT
(Ask Presiding Officer to do mock poll in new set of BU+CU+VVPAT by casting 1 vote to each contesting candidate button including NOTA and to follow other mock poll process)
- VVPAT not functioning: Replace VVPAT only. (Advise Presiding Officer not to conduct mock poll in such case)
- CU shows Error "Replace Power Pack of CU": Replace power pack of CU only. (Advise Presiding Officer not to conduct mock poll in such case)
- CU shows Error "Replace Power Pack of VVPAT": Replace power pack of VVPAT only. (Advise Presiding Officer not to conduct mock poll in such case)
- Non-functional BU/CU/VVPAT replaced during actual poll shall be with Presiding Officer and deposited by Presiding Officer at Receipt Centre.

11.4.5 Deposition of Reserve and Mock Poll non-functional EVMs along with left out Power Packs of CU and VVPAT by Sector Officer.

- Immediately after completion of poll, on Poll Day itself deposit reserve and mock poll non-functional EVMs in the Receiving Centre or other place earmarked by the Returning Officer.
- In case of P+1 movement, keep reserve and mock poll non-functional EVMs only in Intermediate Strong Room earmarked by the Returning Officer and deposit in the

Receiving Centre or other place earmarked by the Returning Officer, as instructed.

11.4.6. DON'T

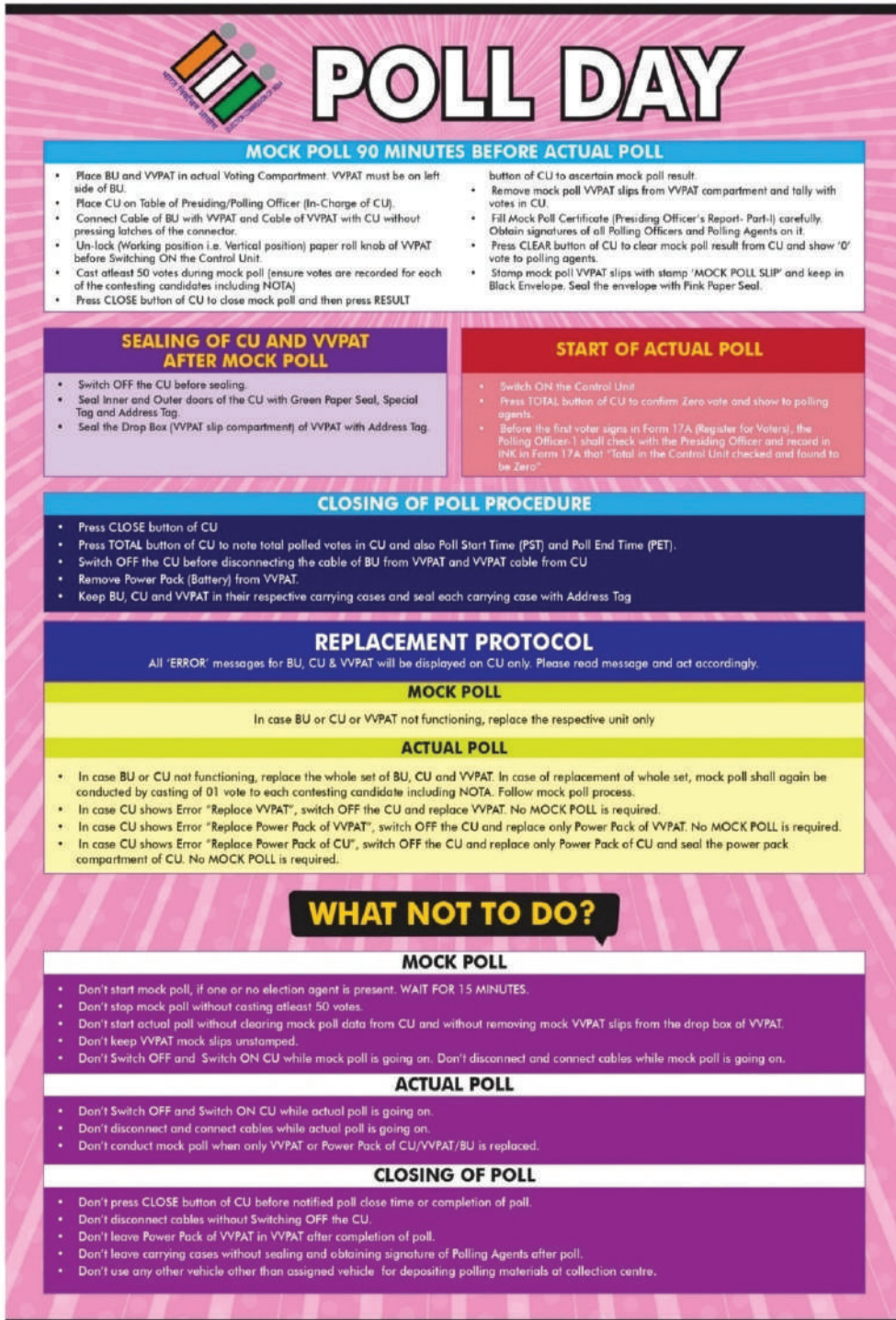
- Don't use vehicle other than vehicle/transport provided by Returning Officer.
- Don't use provided vehicle/transport without Signage, "Sector Officer- On Duty" on front and back side of the vehicle.
- Don't stay at any private place like hotel, home etc. Always stay in designated place.
- Don't leave vehicle unattended under any circumstances.
- Don't keep reserve and mock poll replaced EVMs without prescribed stickers in vehicle.
- Don't keep EVMs at any private places. Always keep at places earmarked by the Returning Officer.

NOTE: In case of any doubt, immediately contact the Returning Officer.

11.5. Replacement of Power Pack of the Control Unit:

- In case the Power pack of CU does not function properly or show low battery, replace Power pack of CU. For this purpose Presiding Officer shall replace the Power pack of CU in presence of polling agents and Sector Officer and again seal the Battery Section of CU with Address Tag and obtain their signatures. Presiding Officer shall submit a report in Format prescribed by the Commission.

Sample Poster of Poll Day for displaying at Polling Station



The poster is titled "POLL DAY" in large, bold, white letters on a black background. Above the title is a logo for the Election Commission of India, featuring the Indian national flag and the text "Election Commission of India". Below the title, the poster is divided into several sections with blue and yellow headers, each containing a list of instructions.

MOCK POLL 90 MINUTES BEFORE ACTUAL POLL

- Place BU and VVPAT in actual Voting Compartment. VVPAT must be on left side of BU.
- Place CU on Table of Presiding/Polling Officer (In-Charge of CU).
- Connect Cable of BU with VVPAT and Cable of VVPAT with CU without pressing latches of the connector.
- Un-lock (Working position i.e. Vertical position) paper roll knob of VVPAT before Switching ON the Control Unit.
- Cast atleast 50 votes during mock poll (ensure votes are recorded for each of the contesting candidates including NOTA)
- Press CLOSE button of CU to close mock poll and then press RESULT button of CU to ascertain mock poll result.
- Remove mock poll VVPAT slips from VVPAT compartment and tally with votes in CU.
- Fill Mock Poll Certificate (Presiding Officer's Report- Part-I) carefully. Obtain signatures of all Polling Officers and Polling Agents on it.
- Press CLEAR button of CU to clear mock poll result from CU and show '0' vote to polling agents.
- Stamp mock poll VVPAT slips with stamp 'MOCK POLL SLIP' and keep in Black Envelope. Seal the envelope with Pink Paper Seal.

SEALING OF CU AND VVPAT AFTER MOCK POLL

- Switch OFF the CU before sealing.
- Seal Inner and Outer doors of the CU with Green Paper Seal, Special Tag and Address Tag.
- Seal the Drop Box (VVPAT slip compartment) of VVPAT with Address Tag.

START OF ACTUAL POLL

- Switch ON the Control Unit.
- Press TOTAL button of CU to confirm Zero vote and show to polling agents.
- Before the first voter signs in Form 17A (Register for Voters), the Polling Officer-1 shall check with the Presiding Officer and record in ink in Form 17A that "Total in the Control Unit checked and found to be Zero".

CLOSING OF POLL PROCEDURE

- Press CLOSE button of CU.
- Press TOTAL button of CU to note total polled votes in CU and also Poll Start Time (PST) and Poll End Time (PET).
- Switch OFF the CU before disconnecting the cable of BU from VVPAT and VVPAT cable from CU.
- Remove Power Pack (Battery) from VVPAT.
- Keep BU, CU and VVPAT in their respective carrying cases and seal each carrying case with Address Tag.

REPLACEMENT PROTOCOL

All 'ERROR' messages for BU, CU & VVPAT will be displayed on CU only. Please read message and act accordingly.

MOCK POLL

In case BU or CU or VVPAT not functioning, replace the respective unit only

ACTUAL POLL

- In case BU or CU not functioning, replace the whole set of BU, CU and VVPAT. In case of replacement of whole set, mock poll shall again be conducted by casting of 01 vote to each contesting candidate including NOTA. Follow mock poll process.
- In case CU shows Error "Replace VVPAT", switch OFF the CU and replace VVPAT. No MOCK POLL is required.
- In case CU shows Error "Replace Power Pack of VVPAT", switch OFF the CU and replace only Power Pack of VVPAT. No MOCK POLL is required.
- In case CU shows Error "Replace Power Pack of CU", switch OFF the CU and replace only Power Pack of CU and seal the power pack compartment of CU. No MOCK POLL is required.

WHAT NOT TO DO?

MOCK POLL

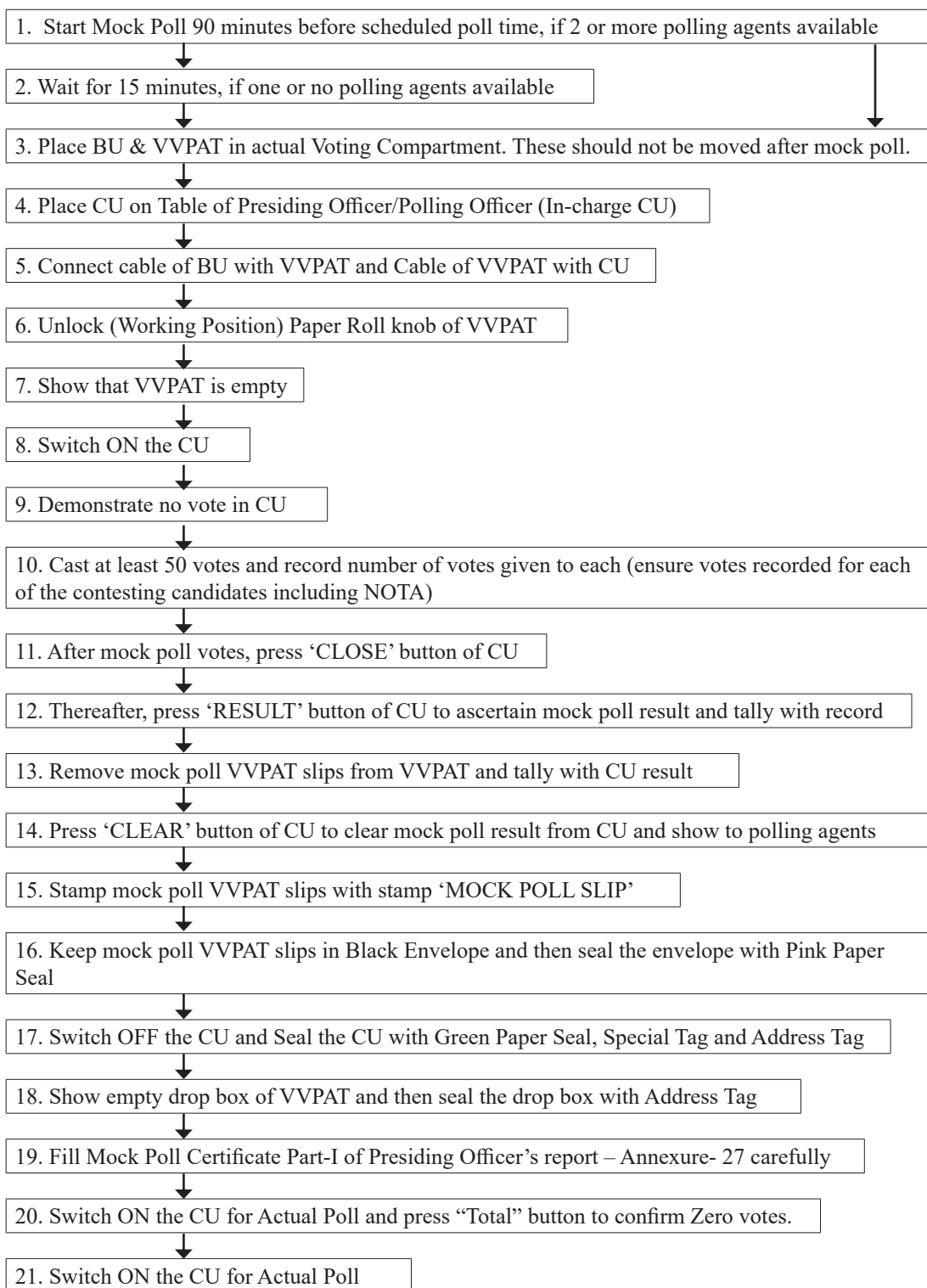
- Don't start mock poll, if one or no election agent is present. WAIT FOR 15 MINUTES.
- Don't stop mock poll without casting atleast 50 votes.
- Don't start actual poll without clearing mock poll data from CU and without removing mock VVPAT slips from the drop box of VVPAT.
- Don't keep VVPAT mock slips unstamped.
- Don't Switch OFF and Switch ON CU while mock poll is going on. Don't disconnect and connect cables while mock poll is going on.

ACTUAL POLL

- Don't Switch OFF and Switch ON CU while actual poll is going on.
- Don't disconnect and connect cables while actual poll is going on.
- Don't conduct mock poll when only VVPAT or Power Pack of CU/VVPAT/BU is replaced.

CLOSING OF POLL

- Don't press CLOSE button of CU before notified poll close time or completion of poll.
- Don't disconnect cables without Switching OFF the CU.
- Don't leave Power Pack of VVPAT in VVPAT after completion of poll.
- Don't leave carrying cases without sealing and obtaining signature of Polling Agents after poll.
- Don't use any other vehicle other than assigned vehicle for depositing polling materials at collection centre.

11.6. MOCK POLL ON THE DAY OF POLL

11.7 Mock poll in case of replacement of EVM

- In case the CU or BU or VVPAT does not work properly during **mock poll**, replace the respective unit only.
- In case the CU or the BU does not work properly during **actual poll**, replace entire set of CU, BU and VVPAT. In such case cast only one vote to each contesting candidate including NOTA should be polled in the Mock Poll and follow other instructions of mock poll.
- In case the VVPAT does not work properly during actual poll, replace only VVPAT. **NO MOCK POLL** is required in case of replacement of VVPAT only.

NOTE:

1. Provide adhesive stickers with inscription 'MOCK POLL REPLACED' to Sector Officers for affixing on carrying case of rejected BU/CU/VVPAT replaced during mock poll.
2. Paste 'MOCK POLL REPLACED' sticker on non-functional Machines carrying cases.
3. Specification of sticker:
 - i) Dimension: 15 cm x 10 cm
 - ii) Color: Pink for AC and White for PC elections.

11.8 Recording of Poll Start and Poll End Date and Time

The Presiding Officer, at the end of Mock Poll at the Polling Station, shall check and note the date and time shown in the display of the CU and also the actual date and time as well as any discrepancy between the two, if any, in the mock Poll certificate (Annexure-27) and also in the Presiding Officer Diary.

11.9 Critical Mistakes

- Not pressing the CLOSE button of CU after mock-poll.
- Not matching the mock-poll result of the CU with the VVPAT Paper Slips.
- Not removing the mock-poll paper slips from VVPAT.
- Non-deletion of mock-poll data from the Control Unit.
- When setting up the EVMs and VVPATs in the polling station, the VVPAT to be positioned so as to avoid direct light from falling on it.
- Do not position the VVPAT near an open window or directly under a bulb or halogen lamp.

NOTE:

- Advise the Presiding Officer to show the Machine Numbers to the agents present before the commencement of the mock Poll.
- The Presiding Officer will note the number and Serial Number of CU, BU and VVPAT used at the Polling Station in his/her Diary.
- Keep Ballot Unit(s) and VVPAT in voting compartment when conducting mock poll.

11.10. Various types of seals and tags used for Sealing EVMs

- Common Address Tags for BU/CU/VVPAT
- Special Tags
- Green Paper Seals
- Pink Paper Seals for sealing black envelope containing mock poll VVPAT slips
- Thread and sealing wax etc.



PINK PAPER SEAL (TWO PARTS)



GREEN PAPER SEAL



COMMON ADDRESS TAG



SPECIAL TAG

11.11 Sealing of EVMs on Poll day

- At the Polling Stations on Poll Day after Mock Poll
 - Sealing of black envelope having mock poll printed ballot slips with Pink Paper Seal



After the mock poll, Presiding Officer removes all the printed paper (ballot) slips from the drop box in the VVPAT unit, stamps the printed paper slips of the mock poll on their back side with rubber stamp having inscription “**MOCK POLL SLIP**” before keeping and sealing these printed paper slips in the thick black envelope supplied for the purpose. The envelope is sealed with the seal of the PO and Pink Paper Seals.

The following shall be written on the mock poll envelope:

VVPAT MOCK POLL SLIPs

Name of Election:

No. and Name of AC/PC:

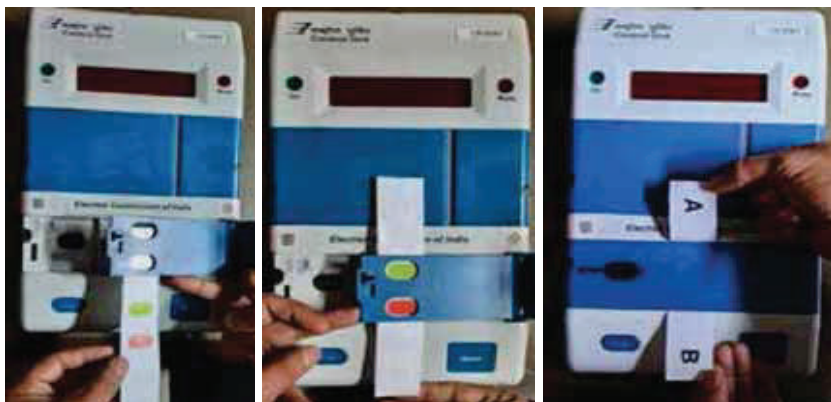
No. and Name of Polling Station:

VVPAT ID:

Date of Poll:

- (ii) **Fixing of Green Paper Seal in Control Unit after Mock poll and before starting actual poll on poll day**

After mock poll and clearing mock poll data, switch off the Control Unit for sealing Result Section of the CU.



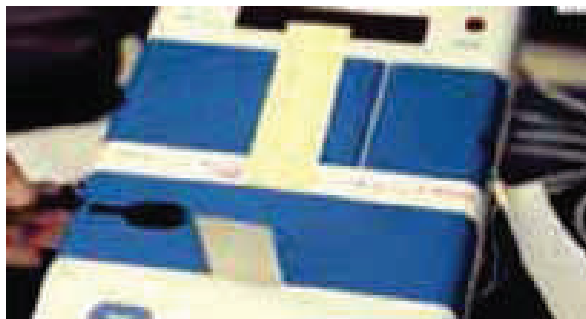
Fixing of Green Paper Seal and closing of inner compartment

Affix Green paper seal on the inner side of door of Result Section as shown in the above figure and close the door in such a manner that the two ends of the paper seal project outwards from the sides of the inner compartment.

(iii) **Sealing of inner door compartment (inner Result Section) with Special Tag**



Seal the inner door of the Result Section by passing a thread through hole provided on the left side using Special Tag showing the particulars of the election with the seal of the Presiding Officer.



(iv) **Sealing of outer door Result Section of CU with thread seal using Address Tag and Green Paper Seal**



After sealing inner door of Result Section of CU with Special Tag, close the outer door of the Result Section ensuring that loose ends of the Green Paper Seal protrude out from both the sides of the closed outer door. Then the Presiding Officer shall

seal the outer door by passing a thread through hole provided on the left side using Address Tag showing the particulars of the election with the seal of the Presiding Officer.

Thereafter, remove the wax paper from 'A' side of the Green Paper Seal and paste on the outer door of the Result Section. Then remove the wax paper from 'B' side and paste on top of the underlying 'A' side of the Green Paper seal in such a way that the serial no. of the seal is visible on the top.

(v) **Sealing of drop box of VVPAT with thread using Address Tag**



Thereafter, seal the drop box with the thread and Address Tag before actual poll starts.

***NOTE :** All seals used on the poll day for sealing of EVMs & VVPATs shall be signed by the Presiding officer and polling agents.*

11.12. Handling Contingencies during Poll

11.12.1. Replacement of units during Actual Poll

(Switch OFF CU before any sort of replacement)

1. If CU or the BU does not work properly. Replace full set (BU + CU + VVPAT). When full set is replaced then conduct Mock Poll by casting one vote to each contesting candidate including NOTA.
2. If CU shows “Low Battery” for VVPAT, then replace power pack of VVPAT
3. If VVPAT does not work properly, replace VVPAT only. In this case **No mock-poll** is required to be undertaken.
4. Replacement of Power Pack of the Control Unit: In case the Power pack of CU does not function properly or show low battery, replace Power pack of CU. For this purpose Presiding Officer shall replace the Power pack of CU in presence of polling agents and Sector Officer and again seal the Battery Section of CU with Address Tag and obtain their signatures. Presiding Officer shall submit a report in Format prescribed by the Commission (Part-II of the Presiding Officer’s report **Annexure-27**).
5. If VVPAT has not printed the paper slip, or the printed paper slip remains uncut, then
 - i. **Do not try to remove/cut hanging slip** from the paper roll, **no effort should be made to make it fall into the drop box**. It should be allowed to remain hanging as it means that the vote has not been recorded in Control Unit and as it is not to be counted at the time of counting of the printed-paper slips. The details of such an occurrence should be clearly recorded in the Presiding Officer’s dairy in the following format: -

- a. The date and time of the occurrence.
 - b. The name of the voter and his serial number in the part in the electoral roll, who was allowed to cast his vote after replacement of VVPAT.
 - c. Whether the voter cast his vote after replacement of VVPAT or went away without casting his vote.
 - d. The Total number of votes cast before the occurrence.
- ii. The last voter is allowed to cast his vote after the replacement of VVPAT.

In case of contingencies, the Presiding Officers may also refer to **Annexure-23** for solutions.

11.12.2. Wrong Printing Complaint

If any voter alleges about the wrong printing of particulars of a candidate and/or symbol of that candidate on VVPAT paper slip printed by the printer on pressing of concerned blue (candidate) button on the Balloting Unit to which the printer is connected, the Presiding Officer of the polling station should provide his/her a 'Form of Declaration' (**Annexure- 26**) to lodge a complaint and follow the procedure prescribed under rule 49MA, which reads as under:

- **“49MA. Procedure in case of complaint about particulars printed on paper slip**
Where printer for paper trail is used, if an elector after having recorded his vote under rule 49M alleges that the paper slip generated by the printer has shown the name or symbol of a candidate other than the one he voted for, obtain a written declaration from the elector as to the allegation, after warning the elector about the consequence of making a false declaration.
- **If the elector gives the written declaration referred to in sub-rule (1) -** make a second entry related to that elector in Form 17A, and permit the elector to record a test vote in the voting machine in her presence and in the presence of the candidates or polling agents who may be present in the polling station, and observe the paper slip generated by the printer.
- **If the allegation is found true -** report the facts immediately to the RO to stop further recording of votes in that voting machine and act as per the direction that may be given by the RO.
- **If, however, the allegation is found to be false** and the paper slip so generated under sub rule (1) matches with the test vote recorded by the elector under sub-rule (2), then-
 - a) Make a remark to that effect against the second entry relating to that elector in Form 17A mentioning the serial number and name of the candidate for whom such test vote has been recorded;
 - b) Obtain the signature or thumb impression of that elector against such remarks; and make necessary entries regarding such test vote in item 5 in Part I of Form 17C.”.

11.13. Closure of Poll

1. Close the poll at the time fixed for the purpose, even if it had commenced somewhat later than the hour appointed for the commencement of poll owing to some unavoidable reason.
2. Presiding Officer will ensure that after the **last voter** has voted, the 'CLOSE' button is pressed on the Control Unit. **Note the total number of votes recorded in the EVM in Item 6 of Part I of Form 17C.**
3. Make note of the Poll end date and time displayed on the CU in the Presiding Officer's diary.
4. After prescribed Forms have been carefully and duly filled for the election, disconnect the Balloting Units and VVPATs from the Control Units and seal them in their respective carrying cases. In the case of simultaneous election, the papers should be prepared and sealed separately.

11.14. Sealing of EVM in the carrying case after the close of Poll

1. First **Switch off** the CU and then disconnect BU, CU and VVPAT. Put back BU and CU in their respective carrying cases.
2. Presiding Officer will **remove the power pack (battery) from VVPAT** in the presence of polling agents. Only after removal of power pack (battery) from VVPAT, seal the carrying case of VVPAT in the presence of polling agents. The removed power pack (battery) of the VVPAT shall be deposited at the collection centre. These power packs will not be stored in strong room.
3. Seal each carrying case at both ends by passing a thread through the two holes provided for the purpose on both sides of the carrying case and putting thread seal with an address tag.
4. Presiding Officer shall put his/her signature on address tags and also obtain the signatures of polling agents.
5. Deposit all the sealed EVMs and VVPATs and election records to the Returning Officer, at the reception/collection centre, as per the prescribed procedure.

11.15. Presiding Officer's Report Format (Annexure-27) to be obtained on Poll Day.

- a) **Part-I (Mock Poll Certificate).**
- b) **Part-II (Replacement of Power Pack of the Control Unit):** To be filled whenever Power Pack of the Control Unit is replaced.
- c) **Part-III (Pressing of Close Button after completion of Poll Certificate):** To be filled after completion of Poll.
- d) **Part-IV (EVM replacement Report, if replaced during Mock Poll).**
- e) **Part-V (EVM replacement Report, if replaced during Actual Poll).**

Collection of Presiding Officer's Report

- (i) Part-I, Part-II and Part-III of the Presiding Officer's Report shall be kept in an envelope.

Details to be printed on envelope:

Name of election:(to be pre-printed)
No. and Name of AC/AS:(to be pre-printed)
No. and Name of PC:(to be pre-printed)
Polling Station No:

The Presiding Officer shall deposit the said envelope along with EVM and other election material at Receiving Centre.

- (ii) Part-IV and Part-V of the Presiding Officer's Report shall be collected by the Sector Officer, whenever any replacement is done. Sector Officers shall submit the said Reports to the Returning Officer.

CHAPTER-12

STORAGE OF POLLED AND UN-POLLED EVMS AFTER POLL

12.1 The Four categories of EVMs and VVPATs after Poll:

1. **Category ‘A’ - Polled EVMs**
2. **Category ‘B’ - Non-functional Polled EVMs (Replaced during actual poll)**
3. **Category ‘C’ - Non-functional Un-polled EVMs (Replaced during mock poll)**
4. **Category ‘D’ - Unused Reserve EVMs**

Three categories of strong rooms:

1. Polled Strong Room (Store category ‘A’ & ‘B’)
2. Repair Strong Room (Store category ‘C’), not in the vicinity of AC/AS strong room
3. Reserve Strong Room (Store category ‘D’), not in the vicinity of AC/AS strong room

Common Instructions for Safe Storage and Safety of all 04 Categories of EVMs

1. Advance identification of storage space & earmark as per Category A, B, C & D and intimation to all contesting candidates in writing with acknowledgement.
2. Under any circumstances don't store C & D category machines in Polled Strong Room having category A & B machines for ensuring that unused machines are not blocked with the polled machines till the EP period is over.
3. Armed Police cover for all Polling parties or authorized officials at all times.
4. After the Polls also follow the same protocol for all categories of EVMs.
5. After the Polls, safely deposit all categories of EVMs at the pre-designated receipt centre on the same day.
6. Do not keep any election related material in EVMs Polled Strong Room other than materials -Form-17C, Pr. O's Declaration and Envelope containing mock poll slips or as specifically prescribed by the Commission.
7. Security arrangements for all categories of machines as per ECI instructions.

Store Category ‘A’ & ‘B’ in Polled Strong Room

1. Store Polled and Non-functional Polled EVMs in the same strong room as per procedure.
2. Ensure that 2 or more than 2 ACs machines are not stored in the same strong room after completion of poll and counting of votes till the completion of the EP period.
3. Safely keep the machines in demarcated space or the racks for safe storage as per ECI guidelines with **prior** intimation to the candidate & under proper Videography.
4. For detail instructions kindly see para-6.1.2 to 6.1.4 Chapter-6

Store Category ‘C’ in Repair Strong Room

1. Store category ‘C’ separately in a separate room other than vicinity of the polled strong room.

Store Category 'D' in unused Reserve Strong Room

1. Store unused Reserve EVMs in a separate room other than vicinity of Polled Strong room so that these are made available for the purpose of any Re-Polls.
2. Paste 'Unused EVMs' on the carrying cases of such category of BUs, CUs and VVPATs.
3. Sector Officers shall submit a detailed account of the Reserve EVMs in **Annexure-28** at the time of deposition of the Reserve EVMs/VVPATs after the close of poll on the same day.
4. The RO shall furnish a Certificate in the prescribed format (**Annexure-29**)

12.2 Storage of Non-functional un-pollled EVM (Category-C) and un-used reserve EVM (Category-D)

- **In case of State Legislative Assembly Election**
 - (a) Store Category-C EVMs of all Assembly Constituencies in respective District Headquarters.
 - (b) Store Category-D EVMs of all Assembly Constituencies in a single warehouse with proper categorization of AC with temporary partition.
- **In case of election(s) to the Parliamentary Constituency (ies)/Lok Sabha**
 - (a) Store Category-C EVMs of all Assembly Segments at District warehouse.
 - (b) Store Category-D EVMs of all Assembly Segments in a single warehouse with proper categorization of AS within Parliamentary Constituency.
- Categories C & D EVM are deposited at the same time when all polled EVMs (Category-A) and polled non-functional EVMs (Category-B) are stored in the strong room under written intimation to candidates and proper videography. Candidates may depute their representatives.
- Minimum 1/2 Section Armed security to warehouse/strong room, where Categories C & D EVMs are stored.

12.3 SoP on handling of damaged/broken EVMs during election process.

1. With regard to handling of damaged/broken EVMs, after dispersal to mock poll on poll day and during actual poll on poll day, by miscreants or any other reason, the following SoP shall be followed:
 - i) After dispersal to Mock poll on poll day: EVM damaged after dispersal to mock poll on poll day shall be stored in the strong room having defective un-pollled EVMs (Category C).
 - ii) During actual poll on poll day/before counting: Handling of EVM having polled data damaged/broken during actual poll on poll day
 - (a) Such EVM shall be kept in the strong room having polled EVMs (Category A) and defective polled EVMs (Category B), if the polled votes can be retrieved/paper slips are intact to obtain result during counting of votes.
 - (b) Such EVM shall be kept in the strong room having un-pollled defective EVMs (Category C), if the polled votes cannot be retrieved/paper slips

are not intact.

2. The damaged/broken machines shall be marked as damaged in EVM Management System (EMS) by the DEO.
3. In all such cases an FIR shall be filed under the relevant Sections of the Representation of the People Act, 1951, as under, and a detailed report with a copy of FIR shall be sent to the Commission:
 - i) Section 129 (Officers, etc., at elections not to act for candidates or to influence voting)
 - ii) Section 132 (Penalty for misconduct at the polling station)
 - iii) Section 134 B (Prohibition of going armed to or near a polling station)
 - iv) Section 135 (Removal of ballot papers from polling station)
 - v) Section 135A (Offence of booth capturing)
 - vi) Section 136 (Other offences and penalties therefore)
 - vii) In addition to the aforesaid offences under the Representation of the People Act, 1951, Section 171C (Undue influence at elections), Section 506 (Punishment for criminal intimidation), 425 (Mischief), etc. of IPC shall also be suitably considered along with any other applicable provisions/statutes while filing FIR in all such cases.
4. The Chief Electoral Officer concerned shall follow up the FIR case with Police Department concerned.
5. The damaged/broken machine mentioned at para 1 (ii)(a) above shall be inspected only on the order of the competent court as Rule 93 (IA) of the Conduct of Elections Rules, 1961, which specifies that the control units sealed under the provisions of rule 57C and kept in the custody of the District Election Officer shall not be opened and shall not be inspected by or produced before, any person or authority except under the orders of a competent court.
6. The damaged / broken machine mentioned at para 1(i) and 1(ii)(b) above shall be provided for investigation purpose, if required. However, such EVM shall be in the custody of District Election Officer concerned.

CHAPTER-13

USE OF EVMs IN CASE OF RE-POLL

In case of re-poll:

1. Draw EVMs from the unused reserve list and inform their numbers to the candidates/ agents in writing.
2. Ensure that the address tag on the EVMs clearly mentions that EVMs are for use in the re-poll indicating the date and Polling Station number.
3. Paste **“Re-poll EVM”** pre-printed sticker on the EVMs and on their carrying cases.
4. After re-poll, re-open the strong room in presence of the candidates/ their agents and observer for storage of the re-poll EVMs.
5. Place re-poll EVMs together with the old EVMs which were used earlier in the original poll. Paste **“TO BE COUNTED”** sticker with bold print at the time of placing the **‘Re-poll EVM’** in the strong room.
6. Paste **‘NOT TO BE COUNTED’** sticker with bold print on the old EVMs/VVPATs, to remove any confusion at the time of counting.
7. Enter the unique ID number of the EVMs used in re-poll in EMS.
8. **Specification of sticker:**
Dimension: 15 cm x 10 cm
Color: Pink for AC and White for PC elections.

CHAPTER-14

COUNTING OF VOTES

14.1 General Instructions

- (a) Polled Strong Room shall be opened in the presence of candidates/their authorised representatives, ECI observer, RO/ARO, under videography.
- (b) At the time of counting, only bring CUs to the Counting Hall. In case of polling station(s) the repoll was held, the CU on which sticker “TO BE COUNTED” is pasted shall be brought to the Counting Hall.
- (c) The movement of EVMs to the counting hall should be in the most secure manner in a barricaded passage/secured passage. The movement of EVMs from the Strong Room to the Counting Hall shall be under CCTV coverage.
- (d) Verify the unique ID of the CU, the Pink Paper Seal and the green paper seal and show to the counting agents before starting the counting.
- (e) Press ‘TOTAL’ button of CU to ascertain total votes polled in CU and compare/match with total votes polled in EVM mentioned in form 17C.
- (f) Verify the poll start date & time and poll end date & time displayed on the CU and show to the counting agents.
- (g) Before taking signature of candidates/their agents/counting agents in Part II of Form 17C, in space between counting supervisor signature and signature of candidates/their agents/counting agents, write in pen - **“We, hereby certify that CU No(s) i s / are the same which were used in the Polling Station No.....”**

14.2 Procedure in case of discrepancy in the date & time of start and end of poll in Control Unit

- (a) Compare the difference with the date & time noted in the mock poll certificate.
- (b) If the difference does not match with the date & time difference of start and end of poll at the time of counting, keep the EVM (Control Unit) aside and refer the matter to the Commission.
- (c) If matches with the difference of date & time of start and end of poll noticed at the time of counting, explain the discrepancy to the candidates and their representatives.
- (d) Count the votes polled in the EVM (Control Unit) in the usual manner.

14.3 Procedure in case the close button is not pressed at the end of the poll-

- (a) Take the following action during counting of votes, in the presence of candidates/their authorized agents, under videography:
- (b) Press ‘TOTAL’ button of the CU to see total votes polled in the CU. If total votes polled in the CU tally with total votes polled in CU mentioned in Form-17C, Counting Supervisor should press the “Close” button of the Control Unit(s) and then press “Result” button for getting result data.

- (c) If total votes polled in the CU don't tally with total votes polled in CU mentioned in Form-17C, keep the CU back inside its carrying case and keep under Returning Officer's custody in the counting hall. Count the votes in other machines as usual. Action shall be taken as mentioned in para 14.5.

14.4. Instructions in case of Control Unit does not display result at the time of Counting.

- a) First install new power packs in CU to obtain Result. Even then CU does not display result, keep the CU inside its carrying case and then under the Returning Officer's custody in the counting hall. Counting of votes in other machines should continue as usual.
- b) Corresponding VVPAT shall be counted as per 14.8.
- c) A report regarding counting of printed ballot slips of VVPAT should be sent to the Commission in the following format through Chief Electoral Officer concerned for information.

S.No.	No. and Name of AC/ AS (in case of PC)	Polling Station No.	Unique ID of VVPAT	Unique ID of CU for which VVPAT paper slips counted

14.5. Issues regarding counting of VVPAT slips: non-deletion of mock poll data from the Control Unit or non-removal of mock poll slips from VVPAT or total votes polled in CU does not match the record of votes in Form 17C-

- (a) Pre-identified cases (on poll day, during scrutiny of documents on P+1 day etc.), where mock poll is either not erased from the Control Unit or VVPAT paper slips pertaining to mock poll not removed (fully or partially).
- (b) During the round-wise counting of EVMs, if there is any case in which the total votes polled in CU does not match the record of votes in Form 17-C, it is an indication that the Close Result-Clear (CRC) protocol after mock poll was not correctly done in respect of this polling station during the actual poll.

In the above cases, the following action shall be taken:

- i) In all such cases, the CU shall be kept aside i.e. these polling stations will not be taken up for counting during the regular round-wise counting of the Control Units. The Table allocated to such polling stations shall be kept vacant during the relevant round of counting.
- ii) The list of all pre-identified polling stations shall be shared with the contesting candidates before the commencement of process of counting.
- iii) After the completion of all regular rounds of Control Unit counting, the following procedure shall be followed:

A. For State Assembly Elections:

- (i) If the winning margin is more than the total votes polled in all such polling stations, these polling stations, identified as mentioned above, will not be

taken up for counting and the result will be declared without these polling stations.

- (ii) If the winning margin is equal to or less than total votes polled in these polling stations, in such case only counting of the respective VVPAT paper slips will be done and the Control Units shall be discarded for counting purpose i.e. the Control Units shall not be used for counting of votes.
- (iii) Even in cases where VVPAT paper slips pertaining to mock poll have not been taken out from the drop box of the VVPAT, the VVPAT slips shall be counted and the candidate wise votes from mock poll certificate shall be deducted to arrive at correct count of candidate wise votes polled.
- (iv) The VVPAT slip count result of all these polling stations shall be added to the candidate-wise tally and the final result compiled.

B. For Lok Sabha Elections:

- (i) For all the polling stations where EVM and VVPAT has been kept aside as mentioned above, will not be taken up for counting in any Assembly Segment of the Parliamentary Constituency till completion of counting of votes in all Assembly Segments of that Parliamentary Constituency.
- (ii) If the winning margin is more than the total votes polled in all such polling stations of all the Assembly Segments, these polling stations, identified as per para 14.5 (a) and (b), will not be taken up for counting and the result will be declared without these polling stations.
- (iii) If the winning margin is equal to or less than total votes polled in these polling stations of the Assembly Segments, in such case only counting of the respective VVPAT paper slips will be done in the respective Assembly Segment and the Control Units shall be discarded for counting purpose i.e. the Control Units shall not be used for counting of votes.
- (iv) Even in cases where VVPAT paper slips pertaining to mock poll have not been taken out from the drop box of the VVPAT, the VVPAT slips shall be counted and the candidate wise votes from mock poll certificate shall be deducted to arrive at correct count of candidate wise votes polled.
- (v) The VVPAT slip count result of all these polling stations shall be added to the candidate-wise tally and the final result compiled.”

C If there is any discrepancy or difficulty to arrive at correct count of candidate wise votes polled, the matter shall be referred to the Commission for further direction in the matter.

D Since, in the aforesaid cases, the Control Unit(s) will be discarded/not used for counting of votes, these polling stations will be excluded from the random selection of 5 (five) Polling Stations for Mandatory Verification of VVPAT paper slips count.

14.6. Candidate Demanding VVPAT Paper Slips Counting under Rule 56D

- (1) After announcement of result sheet entries, any candidate, their election agent or their counting agents may apply in writing to the RO for counting the printed VVPAT paper slips in any or all polling stations. If such application is received, the RO should pass a speaking order on whether the VVPAT paper slips should be counted. If the RO decides to allow the counting of the VVPAT paper slips of any or all polling stations, such decision of the RO must be recorded in writing along with the reasons thereof. The RO should give due consideration to the following:
 - (a) Whether the total number of votes polled in that polling station is greater or lesser than the margin of votes between winning candidate and candidate demanding the counting.
 - (b) Whether EVM had a problem and was replaced at that polling station during poll
 - (c) Whether there was any complaint about VVPAT not printing or complaints by any voter under Rule 49MA in that polling station during the poll.
- (2) A report regarding counting of printed ballot slips of VVPAT should be sent to the Commission in the following format through Chief Electoral Officer concerned for information.

S. No.	No. and Name of AC/AS (in case of PC)	Polling Station No.	Unique ID of VVPAT	Unique ID of CU for which VVPAT paper slips counted under Rule 56D of the Conduct of Elections Rules 1961

14.7. Mandatory Verification of VVPAT Paper Slips:

- (a) **Mandatory** verification of VVPAT paper slips of randomly selected 05 (five) polling stations must be conducted in all 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:
 - i. In case of General and Bye elections to State Legislative Assemblies, verification of VVPAT paper slips of randomly selected **05 (five) polling stations per Assembly Constituency**.
 - ii. In case of General and Bye elections to the House of the People, verification of VVPAT paper slips of randomly selected **05(five) polling stations of each Assembly Segment of the Parliamentary Constituency concerned**. For this mandatory verification of VVPAT paper slips, the following procedure to be followed:
- (b) The verification of VVPAT paper slips of randomly selected 05 (five) polling stations for each Assembly Constituency/Segment should be done after the completion of the last round of counting of votes recorded in the EVMs and VVPAT paper slips count due to non-display of result from the Control Unit(s) or under Rule 56(D) of the

Conduct of Elections Rules 1961 or whatsoever the reason.

- (c) The random selection of 05 (five) polling stations per Assembly Constituency/Segment to 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.
- (d) The draw of lots must be conducted immediately after the completion of the last round of counting of votes in the designated Counting Hall for the particular Assembly Constituency/Assembly Segment.
- (e) A written intimation regarding the conduct of draw of lots for the random selection of 5 (five) polling stations for verification of VVPAT Slips should be given by the Returning Officer to the Candidates/their election agents well in advance.
- (f) The following procedure to be followed for the conduct of draw of lots:
 - i) Use White colour paper cards of postcard size for conducting the draw of lots.
 - ii) Total number of such paper cards must be equal to total number of polling stations in the Assembly Constituency.
 - iii) Do not include the polling stations where VVPAT paper slips have been counted due to non display of result from the Control Unit(s) or under Rule 56(D) of the Conduct of Elections Rules 1961, polling station (s) mentioned in para 14.5 or whatsoever the reason in the draw of lots by mandatory verification of VVPAT slips count.
 - iv) The paper cards to 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.
 - v) Each digit of the polling station number should be at least 1”x1”(1 inch by 1 inch) size and printed in black ink.
 - vi) 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.
 - vii) Show each paper card to the candidates/their agents before folding and dropping in the container.
 - viii) Keep the paper cards in a big container and shake well before picking up one-by-one 5 (five) slips by the Returning Officer.
- (g) The verification of VVPAT paper slips should be done in a VVPAT Counting Booth (VCB), specially prepared for this purpose inside the Counting Hall. The booth should 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.
- (h) Conduct the Verification count of the VVPAT paper slip of the randomly selected 5 (five) polling stations sequentially i.e. **one after another**.

- (i) Strictly conduct the verification count of the VVPAT paper slips of randomly selected 05 (five) polling stations in accordance with the instructions of the Commission on counting of printed paper slips.
- (j) The Returning Officer and the Assistant Returning Officer, as the case may be, should personally supervise the counting of VVPAT paper slips at the VCB. The Observer concerned should maintain close and direct oversight on the entire exercise and ensure strict compliance of the Commission's instructions.
- (k) In case there is any mismatch between electronic count of the Control Unit and VVPAT slips manual count, recounting of the VVPAT slips of that particular EVM to be counted till it tallies either with the EVM count or one of the previous VVPAT slips counts.
- (l) After completing the process as specified in para 14.7.10. above, if there is any discrepancy between EVM count and VVPAT paper slips count, as per Rule 56(D) (4)(b) of the Conduct of Elections Rules 1961, the VVPAT paper slips count should prevail. Hence, if there is any discrepancy between the count of votes displayed on the Control Unit and the count of printed paper slips in respect of that polling station, amend the result sheet as per the printed paper slips count.
- (m) The above process must be fully video recorded.
- (n) After completion of the above process, the Returning Officer should give a certificate in the annexed format (**Annexure-30**) separately for each polling station to the Chief Electoral Officer concerned. The CEO should compile the reports for the entire State/UT and submit a consolidated summarized report to the Commission within 7 days from the end of counting process.
- (o) The Observer appointed by the Commission should also submit their report to the Commission in the annexed format (**Annexure-31**)

14.8 Sequence of VVPAT Slips Count

- a) Count the VVPAT slips of polling station(s) for which result is not displayed on the Display Panel of the Control Unit.
- b) Count the VVPAT slips of polling station(s) ordered/instructions issued by the Commission due to improper conduct of mock poll procedure by non-clearance of mock poll data/slips or mismatch of votes polled in CU and Form-I 7C.
- c) Counting of VVPAT slips under Rule 56D of the Conduct of Elections Rules 1961, if any.
- d) Mandatory verification of VVPAT slips of randomly selected 05 polling stations per Assembly Constituency/each Assembly Segment of Parliamentary Constituency.
- e) Further, count the VVPAT paper slips one by one not simultaneously.
- f) Every VVPAT paper slips count to be considered as a separate round.
- g) In respect of Step c & d, amend the result sheet as per the printed paper slips count, if the paper counts differ from electronic count (CUs) to VVPAT paper

slips count in terms of Rule 56D of the Conduct of Elections Rules 1961.

14.9 Arrangements for Counting of VVPAT Paper Slips:

- a) Returning Officer should earmark one of the Counting Tables inside the Counting Hall as VVPAT Counting Booth (VCB) for Counting of VVPAT Paper Slips.
- b) VCB should have minimum length 6 ft, breadth 6 ft and height 8 ft.
- c) All four sides and ceiling should be covered with narrow wire mesh and a circular hole of 5 cm radius at suitable height for the counting agents' transactions.
- d) Installation of CCTV on ceiling just above the counting table for monitoring and recording purpose.
- e) Seating arrangements for at least 4 persons inside the VCB.

14.10 Procedure to Count VVPAT Paper Slips:

If the RO decides to count the printed paper slips of any polling station(s) on an appeal for recounting of any polling station(s), the following procedures to be strictly followed:

Step-1:

- a) For keeping VVPAT Paper Slips taken out from the Drop Box of the VVPAT, a sufficiently sized container with lid, of dimensions 14 inch X 10 inch X 5 inch (length x breadth x height), to easily accommodate around 1400 Printed Paper Slips, to be kept on the table of VCB. This Container should be made of sturdy transparent material like plastic etc. Sample images of the Container are available in **Annexure-32**.
- b) For keeping VVPAT paper slips of the respective candidates, a Pigeonhole Framework should be prepared in advance according to the number of candidates including NOTA, with one additional pigeonhole for keeping self-test slips of the VVPAT, and to be kept on the table of VCB.
 - i. The minimum number of Pigeonholes in the Framework must be equal to the number of candidates plus 2 (two).
 - ii. The size of each compartment (Pigeonhole) must be at least 6 inch X 4 inch X 4 inch (length x breadth x height).
 - iii. The pigeonhole structure should be made of sturdy transparent material like plastic etc, having a fixed base, to prevent any VVPAT paper slip from slipping underneath.
 - iv. The symbol of each contesting candidate as per the Ballot Paper should be affixed on the wall of the pigeonhole allotted to the particular candidates. The symbol should be printed in black and white on a plain paper of minimum size 4inch X 3 inch. Sample images of the Pigeonhole Framework are placed in Annexure-32.
- c) At least 100 Rubber bands for making bundles of 25 VVPAT paper slips.

Step-2

- a) Bring the VVPAT unit(s) of the respective polling station(s) to the VCB one by one.

- b) In case a VVPAT unit was replaced during poll at that polling station, bring all the VVPAT units used at that polling station to the VCB.

Step-3

- a) Take out the printed paper slips from VVPAT used at the polling station, before beginning the counting of VVPAT paper slips for that polling station. In case more than one VVPAT were used, count slips of each VVPATs separately, one by one and enter the result of each VVPAT in the **Annexure-33** (separate for each VVPAT). Thereafter, prepare the Final Result sheet by combining all results of that particular polling station and attach the same to Form-17C.

Before taking out the VVPAT Paper Slips from the drop box, cross check the address tag(s) of the drop box to ascertain that the VVPAT pertains to the respective polling station.

- i. Keep the VVPAT Paper Slips taken out from the Drop Box of the VVPAT first in the container as per specification at Step 1(a).
- ii. After taking out the VVPAT paper slips from Drop Box, the Counting Supervisor must ensure that no VVPAT paper slip is left inside the VVPAT drop box and show the empty drop box to the counting agents.
- iii. In case a VVPAT unit was replaced, it may so happen that an uncut fully or partially VVPAT paper slip is hanging and has not got cut and dropped in the drop box and still connected to the paper roll. This uncut VVPAT paper slip should not be torn and counted because the vote is not recorded electronically in the CU unless the VVPAT paper slip is cut. In such an event, the last voter whose VVPAT paper slip was not cut would have been given an opportunity to cast his vote after replacement of VVPAT and the VVPAT paper slip of the vote cast by him will be in the next VVPAT used in that polling station.
- iv. The drop box of the VVPAT should also have VVPAT slips of self-test report. These are easily identified, as they do not have either the name or the symbol of any candidate. These self-test report slips are to be preserved along with the VVPAT paper slips as part of the record but they are not to be counted.

Step-4

- a) Segregate the VVPAT paper slips one-by-one and put in respective pigeon holes after showing each slip to the Counting Agents. The paper slips bearing self-tests report should also be segregated and put in a separate pigeonhole provided for the purpose.
- b) Prepare bundles of 25 VVPAT paper slips of respective candidates for counting purpose.
- c) Counting staff should then count VVPAT Paper Slips.
- d) Prepare result of the VVPAT paper slips count in the format as per **Annexure-33** and attach to Part-II of Form 17-C (**Annexure-34**).
- e) Announce the result of the count of VVPAT paper slips in the counting hall and show it to the counting agents.

- f) As per Rule 56D (4) (b) of the Conduct of Elections Rules 1961, if there is any discrepancy between EVM count and paper slip count, the paper slip count should prevail. Hence, if there is discrepancy between the counts of votes displayed on the Control Unit and the count of printed paper slips in respect of that Polling Station, amend the result sheet as per the printed-paper slips count.

Step-5

- a) After completion of counting of VVPAT paper slips, keep the bundle of the VVPAT Paper Slips back in the Drop Box of the respective VVPAT and seal the door of the Drop Box using address tags.
- b) Allow the candidate(s)/their agents to affix their signature with party abbreviation on the Address Tags.

14.11 Sealing of EVMs after counting of votes

After completion of counting, keep all Control Units, after removing power packs from CUs, whether result has been retrieved from it or not back inside its carrying case and seal the carrying cases once again. The Returning Officer should put their signatures on the seal. Allow all candidates and their election agents to put their signature on the seal. Then keep the Control Unit in the strong room(s).



NOTE : All seals used on the counting day for sealing of EVMs & VVPAT slips taken out from VVPATs shall be signed by the RO, ARO and candidate/Counting agents.

14.11. A Removal of VVPAT slips from VVPATs after completion of Counting of Votes -

After the result is announced, the VVPAT paper slips will be taken out of the VVPAT printer unit, irrespective of whether the slips were counted or not, as per the following procedure:

- i) Thorough checking of officials deputed for the removal of VVPAT slips and their sealing must be ensured. All pockets need to be emptied before entering the Sealing Room/Strong Room and thorough checking of officials leaving the sealing room should be done in addition to DFMD/Metal Detector Checking.
- ii) The VVPAT paper slips shall be taken out from the drop box of VVPAT and kept in a paper envelope made of thick black paper polling station wise; it shall be sealed using red wax with the bilingual secret seal of the Commission provided to the Returning Officer. If more than one VVPAT was used in a particular polling station, the VVPAT slips taken out from each VVPAT slips should be kept in the separate envelope. Following shall be written on the envelopes:

- (a) Name of election
- (b) Number and Name of Parliamentary/Assembly Constituency
- (c) Particular of polling station:
- (d) Unique Serial Number of the Control Unit
- (e) Unique Serial Number of VVPAT unit
- (f) Date of poll
- (g) Date of counting.

- iii) Candidates and their authorised agents shall be allowed to witness the process and their signatures shall also be obtained on every envelope. (Candidates/their authorized agents)
- iv) All the envelopes of a particular Assembly Constituency/Assembly Segment must be kept in a separate big trunk. The trunk must be sealed using red wax with the bilingual secret seal of the Commission provided to the Returning Officer. Following shall be written on the trunk:

VVPAT SLIPs OF POLL DAY

- (a) Name of election
- (b) Number and Name of Parliamentary/Assembly Constituency
- (c) Date of poll
- (d) Date of counting.

Similarly, mock poll VVPAT slips envelopes shall also be kept in a separate trunk.

- v) The said trunk shall be kept with all the statutory documents relating to that election and shall be disposed of as mentioned in the Rule 94 of the Conduct of Elections Rules 1961. If any Election Petition is pending, the same shall be preserved till the final disposal of the election petition.
- vi) Once the VVPAT paper slips have been taken out, the VVPAT must be kept in a designated warehouse. VVPAT should not be kept in the same strong room where EVMs are stored, so that even if any election petition is filed from the constituency, the VVPAT units can be taken out for future use in subsequent elections, if required, without opening the strong room having EVMs.
- vii) The entire process should be conducted under high quality CCTV recording/videography and under the supervision of RO/ARO concerned. CCTV recording/videography shall be made in such a way that the entire process must be clearly visible. Two copies of CCTV recording/videography shall be made. One copy of the same shall be kept in the strong room having all the statutory documents relating to that election and the trunk and one copy in the custody of the District Election Officer concerned.
- viii) RO/ARO shall be responsible for any lapses on the compliance of the aforesaid direction of the Commission.

It should again be ensured that the thermal paper rolls and power pack, if any, are taken out of the VVPAT before keeping the units in the designated warehouse.

14.12 Storage of EVMs (BUs and CUs) and VVPAT slips after counting of votes:

After completing counting of votes, keep the EVMs (BUs and CUs) in the District Strong Room and trunk containing printed paper slips of VVPATs in the strong rooms having statutory document. Do not open the Strong rooms till the completion of Election Petition (EP) period i.e. till EP list is received from respective High Court. [Kindly ref: Para 6.2. of Chapter-6]

14.13 Storage of VVPAT Paper Slips after expiry of period of filing of Election Petitions

- A. In the case of elections, where **no election petition has been filed or no other court cases are pending**, after the aforesaid period VVPAT paper slips pertaining to mock poll and actual poll shall be disposed of as per relevant provision mentioned in the Rule 94 of the Conduct of Elections Rules 1961. These VVPAT paper slips shall be disposed of as per following procedure:
- (i) VVPAT paper slips may be disposed of by using Paper Shredding Machine within seven days of the order of District Election Officer.
 - (ii) The above shredding shall be done in the presence of a Gazetted Officer duly nominated by the District Election Officer concerned in the format attached as **Annexure-35**.
 - (iii) The District Election Officers shall submit a certificate in the format attached as **Annexure-36**, to the Chief Electoral Officer concerned in this regard within 15 days
 - (iv) The Chief Electoral Officers shall submit a consolidated certificate in the format attached as **Annexure-37** to the Commission within 30 days.
- B. In case of any election **where election petition has been filed**, the following action should be taken:-
- (i) If the EVMs (**BUs and CUs**) or Counting of Votes are the subject of the election petition, the EVMs used at all Polling Stations in the constituency concerned should continue to be kept in the safe custody of the District Election Officer, till such time the Election Petition is finally disposed of by the Courts. However, for releasing Ballot Units, action shall be taken as mentioned in sub para (e) (i) of para 6.2.2 of Chapter-6.
 - (ii) If the EVMs (**BUs and CUs**) or counting of votes are not the subject of the election petition, an application may be moved to the concerned Court for allowing the EVMs concerned to be taken out of the strong room for any future election or any other purpose like movement, physical verification etc.
 - (iii) If any Election Petition is pending, the VVPAT slips shall be preserved till the final disposal of the election petition. Thereafter, the slips will be disposed as per the process mentioned in 14.13 A.

14.14 Storage of EVMs in Educational Institutional

- A) Where EVMs are stored in any School/Educational Institution due to Election Petition and where the educational institution has requested to vacate the same, the Chief Electoral Officers shall immediately file an application before the Court concerned for shifting EVMs from School/Educational Institution to alternate storage

place (warehouse). The application should contain the purpose of vacation of School/Educational Institution and also the following protocol to be followed for shifting of EP blocked EVMs:

- (a) A Notice informing the opening of strong room having EVMs involved in EP shall be given to the petitioner(s) and respondent(s) of the EP in writing at least 48 hours in advance, requesting them to remain present at the time of opening of the strong room.
 - (b) The strong room shall be opened in the presence of the District Election Officer and Petitioner(s)/Respondent(s) of the EP.
 - (c) Petitioner(s) and Respondents(s) of the EP shall be allowed to follow the vehicles carrying EVMs.
 - (d) EVMs shall be stored under double-lock system, in the presence of District Election Officer and Petitioner(s)/Respondent(s) of the EP.
 - (e) The strong room shall be sealed in the presence of District Election Officer and Petitioner(s)/Respondent(s) of the EP and Petitioner(s)/Respondent(s) shall also be allowed to put their own seals.
 - (f) The entire process shall be videographed.
- B) Where reason for not vacating educational institute cited is lack of space the Chief Electoral Officer shall review and certify that all other warehouses, including the option of hiring warehouses, has been explored and still there is no space available anywhere in the entire district to store these EVMs.

14.15 Disposal of unusable/expired Power Packs of EVMs

For disposal of the power packs, ECI instruction, dated 26/10/2022 shall be followed.

SAMPLE OF POSTER TO BE DISPLAYED ON COUNTING DAY**START OF COUNTING OF VOTES FROM CONTROL UNIT****General Instructions**

- Start EVM counting after 30 minutes of start of postal ballot counting.
- At the time of counting only bring CUs in Counting Hall.
- Verify the unique ID of the CU, the Pink Paper Seal and the green paper seal and intactness of seals and show to the counting agents before starting the counting.
- Press RESULT button of CU and show result display on CU to the counting agents.
- Before taking signature of candidates/their agents/counting agents, in space between counting supervisor's signature and signature of candidates/their agents/counting agents in Part II of Form 17C, write in pen - *"We, hereby certify that CU No(s) is/are the same which were used in the Polling Station No....."*

Procedure in case of discrepancy in the date & time of start and end of poll

- Compare the difference with the date & time noted in the mock poll certificate or Presiding Officer's Diary.
- If the difference does not match, refer the matter to the Commission.
- If the difference matches, count the votes polled in the usual manner.

Procedure in case the close button is not pressed at the end of the poll

- Press TOTAL button to see total votes polled in this CU and compare with the total votes polled mentioned in Form-1 7C.
- If tallies, the Returning Officer/Counting Supervisor should press the "Close" button of the Control Unit(s) so that "Result" button can be pressed for getting result data.
- If does not tally, keep the CU back inside its carrying case and then under Returning Officer's custody.
- After completion of counting of votes from all CUs, see the winning margin.
- If winning margin is more than the total votes polled in that polling station, declare the result without obtaining result from the CU/CUs.
- If winning margin is less than the total votes polled in that polling station, count VVPAT slips of that polling station.

In case Control Unit does not display result

- Install new power packs in CU to obtain Result.
- Even then CU does not display result, count the VVPAT slips of the corresponding VVPAT, after completion of counting of votes from all the Control Units.

Issues regarding counting of VVPAT slips: non-deletion of mock poll data from the Control Unit or non-removal of mock poll slips from VVPAT or total votes polled in CU does not match the record of votes in Form 17C

- Keep the CU back inside its carrying case and then keep it under Returning Officer's custody.
- After completion of counting of votes from all CUs, see the winning margin.
- If winning margin is more than the total votes polled in that polling station, declare the result without obtaining result from the CU/CUs.
- If winning margin is less than the total votes polled in that polling station, count VVPAT slips of that polling station. If there is any discrepancy or difficulty to arrive at correct count of candidate wise votes polled, the matter shall be referred to the Commission for further direction.

Candidate Demanding VVPAT PAPER SLIPs COUNTING under Rule 56D

- Candidate/Counting agents can demand only in writing.
- RO to pass speaking order to count or not to count considering the following guidelines:
 - o Whether the total number of votes polled in that polling station is greater or lesser than the margin of votes between winning candidate and candidate demanding the counting.
 - o Whether EVM had a problem and was replaced at that polling station during poll
 - o Whether there was any complaint about VVPAT not printing or complaints by any voter under Rule 49MA in that polling station during the poll.

MANDATORY VERIFICATION OF VVPAT PAPER SLIPs:

- In case of General and Bye elections to State Legislative Assemblies, verification of VVPAT paper slips of randomly selected **05 (five) polling stations per Assembly Constituency.**
- In case of General and Bye elections to the House of the People, verification of VVPAT paper slips of randomly selected **05(five) polling stations of each Assembly Segment of the Parliamentary Constituency concerned.**
- Do not include the polling stations where VVPAT paper slips have been counted due to non display of result from the Control Unit(s) or under Rule 56(D) of the Conduct of Elections Rules 1961 or whatsoever the reason in the draw of lots by mandatory verification of VVPAT slips count

SEQUENCE OF VVPAT SLIPs COUNT

- Count the VVPAT slips of polling station(s) for which result is not displayed on the Display Panel of the Control Unit.
- Count the VVPAT slips of polling station(s) ordered/instructions issued by the Commission due to improper conduct of mock poll procedure by non-clearance of mock poll data/slips.
- Counting of VVPAT slips under Rule 56D of the Conduct of Elections Rules 1961, if any.
- Mandatory verification of VVPAT slips of randomly selected 05 polling stations per Assembly Constituency/each Assembly Segment of Parliamentary Constituency.
- Further, count the VVPAT paper slips one by one not simultaneously.

NOTE: If there is any discrepancy between EVM count and VVPAT paper slips count, as per Rule 56(D)(4)(b) of the Conduct of Elections Rules 1961, the VVPAT paper slips count should prevail.

SEALING OF EVMs AND VVPATs AFTER COUNTING OF VOTES

- Remove Power Pack from Control Units before re-sealing.
- Remove VVPAT slips from VVPATs and seal in black envelope and store as per existing direction of the ECI.
- Remove Paper Roll from VVPATs.

CHAPTER-15

CHECKLIST AND PRECAUTIONS

I. Examples of Critical Mistakes

1. First Level Checking of EVMs

- Non-updation of FLC-OK or FLC-Reject status in EMS through Mobile-App on day to day basis.
- FLC of EVMs without using Dummy Ballot Paper on BU.
- Non-Uploading of 16 candidates (including NOTA) Dummy Symbols in the 1% VVPATs which are used for testing with 4-BUs having 64 dummy symbols (including NOTA)
- Irregularity on use of Dummy Symbols

2. Commissioning of EVMs

- Non-checking of candidate symbols uploaded in VVPAT during commissioning.
- Not connecting VVPAT with CU at the time of candidate setting in CU.

3. Transportation of VVPATs

- Not Locking paper roll when transporting the VVPAT from one place to another

4. Dispersal

- Checking of VVPAT by connecting it to CU and BU at the time of dispersal.

5. Mock-Poll on Poll Day

- Not pressing the CLOSE button of CU after mock-poll.
- Not matching the mock-poll result of the CU with the VVPAT Paper Slips.
- Not removing the mock-poll paper slips from VVPAT
- Non-deletion of mock-poll data from the Control Unit.
- When setting up the EVMs and VVPATs in the polling station, the VVPAT should be positioned so as to avoid direct light from falling on it.
- Do not position the VVPAT near an open window or directly under a bulb or halogen lamp.

6. During Poll

- Conducting mock poll, in case of replacement of VVPAT only as Mock poll is not required to be conducted in case of only VVPAT being replaced.
- In case of non-functioning of CU or BU replacing only CU or BU. In such case both BU and CU along with VVPAT shall be replaced.
- Non-pressing of CLOSE Button after completion of Poll.

- Damaging any seal of BU/CU/VVPAT.

7. General

- Do not repeatedly switch ON and OFF the VVPAT as it will deplete the battery as well as paper roll.
- Switch OFF the CU when connecting or disconnecting the EVMs/VVPATs and do not pull the cable for disconnecting.
- VVPAT status will be displayed on the CU Display Panel.

II. A Para-wise Checklist of Don'ts

	1. GENERAL
1	Don't allow the units to be handled by any unauthorised personnel/staff
2	Don't move/keep/store EVM in any unauthorised place.
3	Don't shift any EVM without making entry in EMS.
4	Don't leave any EVMs without 24X7 security.
5	Don't damage any seal of the BU, CU & VVPAT.
6	Don't burn any VVPAT slip.
7	Don't leave VVPAT Paper Lock in vertical position during transportation.
8	Don't position the EVM near an open window or any direct light/high- illumination source in the polling Station.
9	Don't forget to put paper lock position in vertical position before switching ON the CU.
10	Don't move/shift the units anywhere during the period from - Commissioning to the Counting Day - except EVMs required for use in poll.
11	Don't switch ON CU before VVPAT paper roll knob is in unlocked condition (vertical position).
12	Don't remove cables without pressing the clips on the connectors.
13	Don't insert cables by pressing the clips on the connectors.
14	Don't switch OFF CU unless all 7 slips are printed and cut.
15	Don't connect or disconnect EVM cables when CU switch is ON.
16	Don't switch ON/OFF CU repeatedly.
17	Don't leave EVMs unattended.
	2. DURING STORAGE OF EVMs
1	Don't open and close EVM warehouse without intimation and participation of the representatives of National and State Recognised Political Parties
2	Don't keep other material whether election related or not (except the documents/materials prescribed by the Commission) with EVM.
3	Don't forget to install fire extinguisher at FLC centre, Warehouse, Strong Room.
4	Don't store EVM at any place below the Tehsil Headquarters-level

5	Don't keep various models of EVM in same room/hall of the warehouse
6	Don't keep/mix EVM of other election management bodies (viz. State Election Commission etc.) with ECI EVM
7	Don't forget to disconnect electricity inside room/hall having EVM
8	Don't forget to seal all other doors/windows (except entry/exit door) using brick-masonry or concrete
9	Don't make EVMs warehouse in the Educational Institute.
10	Don't open the strong room/warehouse having EVM pertaining to Election Petition for any purpose without approval of the Court concerned
11	Don't forget videography of opening and closing of warehouse/strong room
12	Don't forget to maintain Log Book for each entry and exit.
13	Don't forget to maintain Duty Roster of security personnel.
3. TRANSPORTATION	
1	Don't transport EVM without GPS/Mobile app-based tracking.
2	Don't transport EVM in un-containerized vehicles
3	Don't transport EVM without armed security
4	Don't transport VVPAT in unlock position of the paper roll knob (vertical position)
5	Don't forget to invite the representatives of National and State Recognised Political Parties while sending or receiving EVMs from warehouse/ strong room.
6	Don't forget to coordinate with the DEOs concerned in case of Factory to State, State to Factory, Inter-State and Intra-State transportation of EVMs.
4. FIRST LEVEL CHECKING	
1	Don't allow to take any electronic device inside FLC Hall except those items permitted by ECI.
2	Don't forget to install Door Frame Metal Detector (DFMD) at FLC centre.
3	Don't allow any person inside the FLC hall without proper frisking.
4	Don't forget to dispatch the FLC rejected Units to the factory for repairs after completion of FLC.
5	Don't forget to mark FLC OK, FLC rejected unit in EMS on a daily basis.
6	Don't forget to conduct mock poll in 5% randomly selected EVMs (1200 votes in 1% EVMs, 1000 votes in 2% EVMs and 500 votes in 2% EVMs)
7	Don't forget to paste pink paper seal on CU
8	Don't use real election symbol during FLC and Training & Awareness
9	Don't leave VVPATs slips generated during FLC / T&A without shredding on daily basis.
10	Don't forget to install fire extinguisher at FLC centre, Warehouse, Strong room.
11	Don't forget to intimate in writing FLC schedule to National and State Recognised Political parties at District Headquarters as well as State Headquarters
12	Don't appoint FLC Supervisor below the rank of Deputy Election Officer
13	Don't forget to submit FLC Preparedness Certificate before starting FLC
14	Don't allow other equipment inside the FLC hall except those mentioned in FLC SoP
15	Don't forget to barricade and sanitize FLC area by police.
16	Don't allow entry to FLC hall without production of Identity Card issued by the DEO.

17	Don't forget frisking of every person/officer/engineer at every entry and exit.
18	Don't forget install TV/Monitor display with HDMI input for each SLU under use in FLC hall.
19	Don't forget to paste FLC SoP in FLC Hall.
20	Don't allow any person/official except authorized staff and engineers of Bharat Electronics Limited and Electronics Corporation of India Limited, as the case may be, to conduct FLC
21	Don't keep FLC OK and FLC Reject EVM in the same strong room
22	Don't forget to share list of FLC OK units to National and State Recognised Political Parties after completion of FLC with proper acknowledgment
23	Don't pre-signed on FLC OK (Green) and FLC Reject (Red) stickers before confirming FLC OK or FLC Reject
5. TRAINING & AWARENESS	
1	Don't forget to mark those EVM in EMS as 'Training/Awareness'
2	Don't forget to paste a yellow colour sticker mentioning Training /Awareness on T&A EVMs.
3	Don't take out T&A EVMs more than 10% of total number of PS in the district.
4	Don't use units without FLC OK sticker for T&A.
5	Don't use real election symbol during training, Awareness, FLC of EVMs.
6	Don't forget to share list of EVM and VVPAT taken out for T&A to National and State Recognised Political Parties after completion of FLC with proper acknowledgment
7	Don't keep T&A units in FLC Strong Room or vicinity of FLC OK Strong Room. Keep them in separate designated warehouse/nearby training areas.
8	Don't forget to share the information of the designated warehouse to keep T&A EVMs
9	Don't forget to destroy VVPAT slips generated during Training and Awareness on daily basis
10	Don't operate EVM Demonstration Centre(s) set up at DEO, RO Headquarters/ Revenue Sub-Division Offices after announcement of election by the ECI.
11	Don't forget to re-introduce T&A EVMs as Poll Day Reserve after de-novo FLC, randomizations, candidate setting etc.
6. RANDOMIZATIONS	
1	Don't forget to intimate in writing 1 st Randomization schedule to National and State Recognised Political parties with proper acknowledgment
2	Don't allocate EVM AC-wise unevenly during 1 st Randomization
3	Don't allocate Ballot Units more than Control Units during 1 st Randomization
4	Don't forget to receipt EVM AC-wise by scanning after 1 st Randomization
5	Don't forget to share list of 1 st Randomized EVM (AC-wise) with National and State Recognised Political Parties with proper acknowledgment
6	Don't forget to intimate in writing 2 nd Randomization schedule to all the contesting candidates/their agents with proper acknowledgment
7	Don't forget to share list of 1 st Randomized EVM (AC-wise) with the respective contesting candidates/their agents with proper acknowledgment
8	Don't miss out to update polling stations before 2 nd Randomization

9	Don't forget to share list of 2 nd Randomized EVM with all the contesting candidates/their agents with proper acknowledgment
7. DURING COMMISSIONING	
1	Don't forget to intimate in writing schedule of Commissioning of EVMs to all the contesting candidates/their agents with proper acknowledgment
2	Don't leave VVPATs slips generated during commissioning without shredding on a daily basis.
3	Don't forget to check correct loading of Serial Numbers, Names of Candidate and their Symbols in VVPATs
4	Don't forget to conduct mock poll of 1000 votes on 5% randomly selected EVMs during commissioning.
5	Don't keep VVPAT knob in Working mode (Vertical position) after commissioning
6	Don't set candidates in CU without connecting BU(s) and VVPAT.
7	Don't forget to share lists of EVMs to be used in polling stations (polling station-wise) and reserve EVMs and VVPATs with contesting candidates
8. DURING DISPERSAL TO POLLING STATIONS	
1	Don't forget to ensure EVM/VVPAT is related to the particular polling station for which it has been allotted.
2	Don't take away any EVM to any unauthorised place like residence, etc.
3	Don't repeatedly switch ON and OFF the VVPAT as it will deplete the battery as well as paper roll causing problems during the poll day.
4	Don't forget to switch OFF the CU while connecting or disconnecting the EVM units and VVPAT using cables
5	Don't pull the cable of BU & VVPAT while disconnecting from the CU.
6	Don't forget to earmark a government building as the cluster point for polling parties and for EVMs dispatch to polling stations on P-2/3. Don't use Police stations for such cluster points.
7	Don't switch on the VVPAT at the time of dispersal.
8	Don't connect Ballot Unit, Control Unit and VVPAT during dispersal
9	Don't keep VVPAT knob vertical (Working mode) while transporting.
10	Don't stay at any place other than designated place.
11	Don't remove any seal from BU, CU and VVPAT.
12	Don't use vehicle other than vehicle provided for dispersal.
9. DURING MOCK POLL ON POLL DAY	
1	Don't start mock poll, if no or one election agent is present. Wait for 15 minutes.
2	Don't stop mock poll without casting at least 50 votes.
3	Don't keep BU, CU and VVPAT on one table for mock poll. (Keep BU & VVPAT at voting compartment)
4	Don't forget to cast at least one vote to each candidate button including NOTA during mock poll
5	Don't leave any mock poll slips inside the VVPAT slips compartment after completion of mock poll on poll day.
6	Don't forget to delete mock poll data from the CU before starting of actual poll.

7	Don't keep mock poll VVPAT slips unstamped in black envelop.
8	Don't forget to tally EVM (CU) count with VVPAT slips count during mock poll.
9	Don't forget to fill Mock Poll Certificate (Part-I of Presiding Officer Report)
10	Don't start actual poll without sealing Result Section of CU and Drop Box of VVPAT and taking signatures of polling agents.
10.DURING POLL	
1	Don't operate the paper roll knob till the end of the poll.
2	Don't forget pressing of close button of CU after completion of poll.
3	Don't conduct mock poll in case of replacement of only VVPAT during the actual poll.
4	Don't hang any high illumination bulb over VVPAT at Voting Compartment
5	Don't Switch ON the Control Unit at the time of connection and disconnection of Ballot Unit, Control Unit and VVPAT
6	Don't Switch ON Control Unit when VVPAT paper roll knob is in lock position (horizontal position)
7	Don't forget to tape the interconnecting cable of BU/VVPAT to the leg of then table with 'transparent' adhesive tape.
8	Don't forget to press both side latches of connector while disconnecting the cable
9	Don't forget to clear mock poll data from the Control Unit and VVPAT mock slips from VVPAT in mock poll process
10	Don't enter into the voting compartment to educate illiterate how to cast vote. Use cardboard BU for this purpose.
11	Don't Switch OFF/Switch ON EVM during poll process
12	Don't forget to remove VVPAT Power Pack (Battery) from VVPAT before sealing of VVPAT in its carrying case after completion of poll
11. AFTER POLL	
1	Don't keep polled units and reserve units in the same strong room
2	Don't transport EVM in unauthorized vehicle (not notified for transport of EVM).
3	Don't store the "C" & "D" category of EVMs in the vicinity of "A" & "B" category of EVMs.
4	Don't leave the VVPAT battery inside the VVPAT after completion of poll.
5	Don't forget to intimate all the contesting candidates about the storage place of category A, B, C and D.
6	Don't keep polled units of two or more Assembly Constituency/Segment in the same strong room, after poll
7	Don't transport EVMs without escort after poll from polling stations to collection centre.
12. DURING COUNTING	
1	Don't obtain result from CUs without verifying seals.
2	Don't forget to write in pen, in space between counting supervisor's signature and signature of candidate/their agents/counting agents in Part-II for Form-17C "We, hereby certify that CU No.(s)..... is/are the same which were used in the Polling Station No".

13. AFTER COUNTING	
1	Don't leave CU batteries inside CUs before storing them in the strong room after counting of votes.
2	Don't forget to remove VVPAT slips from all VVPATs after counting of votes before storing VVPAT in warehouse.
3	Don't open the strong room till the completion of EP period i.e. till EP list is received from respective High Court.
4	Don't store 2 or more than 2 ACs machines in same strong room after completion of poll and counting of votes till the completion of EP period.
14.FOR PENDING EPEVMs and VVPATs	
1	Don't open the strong room where EP related EVMs are stored, without permission of the Court, except in exceptional cases like flood, fire, etc.

III. DOs AND DONTs ON USE OF VVPAT

Dos	DON'Ts
Ensure paper roll knob is locked (horizontal position) before transportation.	
In Polling Station, unlock the paper roll knob (vertical position), before switching ON the CU.	Don't switch ON CU before VVPAT paper roll knob is in unlocked condition (vertical position).
Position BU and VVPAT in Voting Compartment. Position CU on PO's Table	
Establish right connection by following the colour scheme.	Don't allow direct light or high power illumination over VVPAT.
Ensure the connectors are inserted properly.	Don't remove cables without pressing the clips on the connectors.
Switch 'ON' CU, the Power-On Green LED on VVPAT glows and VVPAT prints all 7 slips.	Don't switch OFF CU unless all 7 slips are printed and cut.
Check for any "ERROR" message on CU. Inform Sector Officer (SO) in case of any "ERROR".	Don't start polling in case of "PRINTER ERROR" message on CU.
Always switch OFF CU before making any connection or disconnection including change of battery.	Don't operate the paper roll knob till the end of the poll.
NOTE: In M3 VVPAT, VVPAT related messages are displayed on the CU's Display.	

CHAPTER-16

DOCUMENTATION AND MONITORING

Offices of the Chief Electoral Officers and District Election Officers shall maintain a folder in which a copy of the following documents shall be kept for records purpose.

S.No.	Activity	Required document(s)
1	Opening and Closing of EVM warehouse for any purpose like (a) Quarterly inspection (b) Receiving or Sending of EVMs and VVPATs (c) First Level Checking (d) Taking of EVMs and VVPATs for training and awareness from FLC Strong room etc.	<ul style="list-style-type: none"> Intimation given to the National and State Recognised Political Parties and their acknowledgement. Proceeding of opening and closing of EVM warehouse
2	First Level Checking of EVMs and VVPATs	<ul style="list-style-type: none"> Intimation given to the National and State Recognised Political Parties for and their acknowledgement. Attendance Register for the National and State Recognised Political Parties on daily basis. Certification of EVMs by BEL/ECIL i.e. components of the EVMs are original countersigned by the representatives of National and State Recognised Political Parties. Mock poll certification during FLC regarding participation and satisfaction of the representatives of National and State Recognised Political Parties. List of FLC-OK EVMs and VVPATs shared with the National and State Recognised Political Parties.
3	Taking out of EVMs and VVPATs for Training and Awareness after FLC	<ul style="list-style-type: none"> Intimation given to the National and State Recognised Political Parties and their acknowledgement. Acknowledgment of the National and State Recognised Political Parties regarding getting list of EVMs and VVPATs taken out for T&A. Acknowledgment of the National and State Recognised Political Parties regarding getting information of storage place(s) of EVMs and VVPATs pertaining to T&A. Proceeding of the entire process with the acknowledgment of the National and State Recognised Political Parties.
4	First Randomization of EVMs and VVPATs	<ul style="list-style-type: none"> Intimation given to the National and State Recognised Political Parties and their acknowledgement. Proceeding of the entire process with the acknowledgment of the National and State Recognised Political Parties. Acknowledgment of the National and State Recognised Political Parties regarding getting AC/AS wise allocated randomized lists of EVMs and VVPATs.

5	Second Randomization of EVMs and VVPATs	<ul style="list-style-type: none"> • Intimation given to all the contesting candidate and their acknowledgement. • Proceeding of the entire process with the acknowledgment of the contesting candidates/their representatives. • Acknowledgment of all the contesting candidates regarding getting Polling Station wise allocated randomized lists of EVMs and VVPATs and reserve EVMs and VVPATs.
6	Commissioning of EVMs and VVPATs	<ul style="list-style-type: none"> • Intimation given to all the contesting candidate and their acknowledgement. • Proceeding of the entire process with the acknowledgment of the contesting candidates/their representatives. • Attendance Register for the contesting candidates/their representatives on daily basis. • Mock poll certification during commissioning regarding participation and satisfaction of the contesting candidates/their representatives. • Revised lists of EVMs and VVPATs to be used in polling station(s) and reserve EVMs and VVPAT to all the contesting candidates/their representatives, if any replacement of BU/CU/VVPAT due to non-functional during commissioning.
7	Dispersal of EVMs and VVPATs	<ul style="list-style-type: none"> • Intimation given to all the contesting candidate and their acknowledgement. • Revised lists of EVMs and VVPATs to be used in polling station(s) and reserve EVMs and VVPAT to all the contesting candidates/their representatives, if any replacement of BU/CU/VVPAT due to non-functional during dispersal.
8	Transportation of polled EVMs and VVPATs from Polling Stations to Collection Centre	Intimation given to all the contesting candidate regarding allowing them/polling agents to follow the vehicles carrying polled EVMs and VVPATs and their acknowledgement.
9	Storage of various categories of EVMs and VVPATs after poll.	Intimation given to all the contesting candidate regarding storage place(s) of various categories of EVMs and VVPATs (polled, reserve and non-functional) and for deputing their representatives and their acknowledgement.
10.	Meeting with National and State Recognised Political Parties	<ul style="list-style-type: none"> • Meeting Notice issued to the National and State Recognised Political Parties. • Attendance sheet. • Proceeding of the meeting.
11.	Objection/complaints of the National and State Recognised Political Parties and Candidates during various processes related to use of EVMs and VVPATs.	<ul style="list-style-type: none"> • Complaints/objections of the National and State Recognised Political Parties and Candidates. • Disposal of the complaints/objections in the form of proceeding/letter.

Note: All these documents shall be retained for at least five years at the office of DEOs and six years at the office of CEOs.

Destruction		
S.No.	Particulars	Period
1.	VVPAT Slips generated during: a) First Level Checking b) Training and Awareness c) Commissioning	Daily Basis
2.	VVPAT Slips generated during: a) Mock Poll on Poll day b) Actual Poll	Rule 94 of the Conduct of Elections Rules 1961.
3.	Power Packs of EVMs/VVPATs	After Expiry Date
4.	Indelible Ink	After Expiry Date

Proceeding of all the activities related to EVM shall be made as per the following draft sample:

SAMPLE PROCEEDING

Name of State/UT:
Name of District:
Name of Election:
Name of PC/AC:
Venue:
Date:
Time:

Purpose: [like Opening and Closing of EVM warehouse/Strong Room, First Level Checking of EVMs, 1st Randomization of EVMs, 2nd Randomization of EVMs, Commissioning of EVMs, Dispersal of EVMs, Meeting with the Recognised Political Parties/Candidates on..... Etc.]

Brief description:

Example: All the Recognised Political Parties have been invited vide.....
(Notice No. and date) to remain present during opening and closing of EVM warehouse for the purpose of(like shifting of EVMs) from.....to.....

The warehouse has been opened in the presence of the Recognised Political Parties at.....
AM/PM on(date) and closed at.....AM/PM on,,,,,,,,,,,,,,,,,,,,,,,,,,,,, (date), under videography.

All are satisfied with the entire processes.

Participants:

Administrative/Election Machinery			
S.No.	Name & Designation	Dept. ID No.	Signature
Recognised Political Parties/Candidates			
S.No.	Name and designation	Party Affiliation, if any / Independent	Signature

SoP for EVM NODAL OFFICER

INTRODUCTION

EVM Nodal Officer will be In-charge and responsible for all matters related to EVM-VVPAT. He/she works under the CEO of the State and co-ordinate with ECI, manufacturers of EVMs and VVPATs (M/s Bharat Electronics Limited and M/s Electronics Corporation of India Limited) and manufacturers of various consumables related to EVMs and VVPATs (BEL and ECIL for EVM-VVPAT related various consumables like Power Packs for EVMs and VVPATs, Paper Rolls for VVPATs and India Security Press for Common Address Tags, Pink Paper Seals, Green Paper Seals) and local vendors for Special Tags etc.

PLANNER : KEY ACTIVITIES

NON-ELECTION PERIOD (From C+45 days to First Level Checking)		
S.No.	Particulars	Time Line
1	Ascertaining the position of Election Petition for High Court concerned (Written as well as personally)	Next day of completion of Election Petition period (i.e. C+45 days)
	a) Confirm whether Election Petition(s) is related to EVM-VVPAT and Counting of Votes or not.	Within 7 days of getting confirmation of EP status
	b) Marking of Election Petition status in EVM Management System (EMS) with relevant documents.	On the same day of getting confirmation of EP status
	c) If EVM-VVPAT is NOT the subject matter of Election Petition(s), ensure filing an application before the High Court concerned for releasing the EVMs and VVPATs for further use.	Within 10 days of getting confirmation of EP status
	d) Whenever, EVM-VVPATs are released from EP, the EVMs and VVPATs should be marked in EMS as “Available for use”.	On the same day of getting confirmation from the Court
2	Sending of non-functional EVMs and VVPATs pertaining to commissioning, dispersal, poll and counting etc., which are not involved in any Election Petition/ Court cases, to manufacturer concerned (BEL/ECIL).	Within 10 days of getting confirmation of EP status/ Court clearance status
3	Regularly check Physical Aspects of the EVM-VT Warehouse to ensure compliance of ECI Instructions including Security & Safety arrangements.	
	a) Monthly Inspection Report	15 th day of every month (except April, July, October and January)
	b) Quarterly Inspection Report (Inspection to be carried out during March, June, September and December)	15 th day of April, July, October and January

4	Monitoring of movement of EVMs and VVPAT related to your State or EVM vehicle passing through your State.	Daily basis (Instant issue of instruction to different Offices in the State to co-operate in safe, secure and error-free transportation).
	a) Factory to State	
	b) State to Factory	
	c) Inter-state movement	
	d) Intra-state movement	
5	First Level Checking (FLC) of EVMs and VVPATs	
	a) Ensure required quantity of EVMs and VVPATs to be deployed.	At least 30 days before start of FLC
	b) Ensure FLC workshop for District Election Officers and FLC Supervisor in consultation with ECI.	At least 20 days before start of FLC
	c) Fixation of FLC schedule in consultation with BEL/ECIL and intimation to ECI.	At least 20 days before start of FLC
	d) Ensure availability of required Power Packs for EVMs and VVPATs and Pink Paper Seals to be used during FLC and also to send procurement orders of all consumables related to EVMs and VVPATs including Indelible Ink.	At least 15 days before start of FLC
	e) Randomization of FLC engineers and intimation to BEL/ECIL and DEOs concerned.	At least 10 days before start of FLC
	f) Intimation of FLC schedule to ECI for deputing EVM Nodal Officer(s) of other States/UTs.	At least 10 days before start of FLC
	g) Sharing of webcasting link to ECI.	One day before FLC
	h) Collection of FLC-Preparedness Certificates from DEOs concerned and intimation to ECI.	At least 2 days before start of FLC in a particular district
	i) Visit to districts to oversee FLC and FLC quality.	During FLC
	j) Monitoring of FLC process through webcasting.	On daily basis
	k) After completion of FLC in districts, obtaining FLC completion certificates from DEOs concerned and intimation to ECI.	Next day of completion of FLC
NON-ELECTION PERIOD <i>(From completion of First Level Checking to Announcement of Election)</i>		
1	Sending of FLC rejected EVMs and VVPATs to BEL/ECIL under intimation to ECI.	Within 7 days of completion of FLC

2	Ensure taking out of 10% (maximum 10% of total polling stations) for EVM-VVPAT training and awareness purpose with Yellow Stickers. Also ensure marking these units as “Awareness” units in EMS.	Immediate after completion of FLC
	a) Ensure storage of training and awareness EVMs and VVPATs in a separate designated warehouse.	Immediate after completion of FLC
	b) Ensure and monitor setting up of EVM Demonstration Centres (EDC) at DEO and RO HQs/Revenue Sub-Division Offices.	Daily basis
	c) Ensure and monitor Mobile Demonstration Van (MDV) to cover all polling stations for awareness purpose.	Daily basis
	d) Submission of progress report to ECI.	Weekly basis
	e) Comprehensive plan for Training and Awareness Program for EVM-VT.	Within 5 days of completion of FLC
	f) Ensure NO physical display through EDC and MDV after announcement of election by the ECI.	Announcement of election day
ELECTION PERIOD <i>(From Announcement of Election to Election Petition Period i.e. C+45 days)</i>		
1	First Randomization of EVMs and VVPATs through EMS	
	a) Ensure timely completion of First Randomization of EVMs and VVPATs.	Within 2-3 days of announcement of election
	b) Ensure identification of AC Strong room and mapping the same in EMS.	Well before First Randomization
	c) Ensure compliance of ECI SoP on storage and security. Obtain Strong Room Safety Certificate from DEO and SP.	Within 2-3 days of announcement of election
	d) Co-ordination with ECI-EMS Team for technical support.	Need base
2	Second Randomization of EVMs and VVPATs through EMS	
	a) Ensure timely completion of 2 nd randomization.	Within 2 days of finalization of list of contesting candidates and before commissioning.
	b) Ensure updation of polling stations before 2 nd Randomization.	
	c) Co-ordination with ECI-EMS Team for technical support.	Need base

3	Commissioning of EVMs and VVPATs	
	a) Ensure preparedness of commissioning of EVMs and VVPATs as per ECI instructions.	
	b) Check issue of NOTICE by RO to candidates.	
	c) Ensuring safe keeping of SLU as prescribed.	
	d) Sending report on replacement of non-functional EVMs and VVPATs.	Daily basis
4	Dispersal Day	
	a) Co-ordination with District EVM-VVPAT Nodal Officer and ensure proper dispersal of polling parties and send the dispersal report of EVM-VVPAT to ECI. b) Ensure movement of EVMs and VVPATs through GPS/Mobile app based tracking	Same day of dispersal day as well as on poll day
5	Poll Day	
	a) Closely monitor the mock poll and ensure mock poll replacement report to be sent to ECI timely.	Poll day (by 9.00 AM)
	b) Closely monitor the Actual Poll replacements and reports to be sent to ECI timely.	Poll day (11.00 AM, 1.00 PM, 3 PM and 5 PM)
	c) Set up Rapid Response Teams towards media reporting and timely respond to misinformed and baseless aspersions cast on the credibility of EVMs.	Poll day
	d) Closely monitor the End of Poll and send the required reports in the prescribed formats to ECI timely.	Poll day (Final Report)
	e) Ensure updation of replacement of EVM-VVPAT during Mock Poll, Actual Poll in EMS.	Next day of Poll Day
	f) Ensure the Storage of Polled and Un-Polled EVMs-VVPATs as per ECI Instructions.	Next day of Poll Day
6	Counting Day	
	a) Ensure timely sending of Counting Reports to ECI (VVPAT slips count report).	After completion of Counting of Votes
	b) Ensure VVPAT slips are removed from all VVPATs after completion of counting of votes.	
	c) Ensure compliance of storage and security of EVMs at DEO level in EVM Strong Rooms, and metal trunk containing VVPAT slips along with statutory documents in strong room meant for keeping statutory documents.	
	d) Ensure VVPATs are not stored in the strong room with EVMs during EP Period.	

Note: Above SoP is only illustrative based on important activities related to EVMs and VVPATs. However, EVM Nodal Officer shall go through the latest EVM VVPAT Manual and instructions on EVMs and VVPATs issued from time to time. Non-compliance of any instructions on EVMs and VVPATs shall be viewed seriously by the ECI and EVM Nodal Officer shall be responsible for any lapse on his part.

DON'TS FOR EVM NODAL OFFICER

- | | |
|---|--|
| ➤ | Don't interact with any Media, Political Parties etc. without consent of the Chief Electoral Officer. |
| ➤ | Don't send any field report without any observation and comment/remark/recommendation. |
| ➤ | Don't withhold any information and incidence related to EVMs and VVPATs. |
| ➤ | Don't send any request for exemption from meeting, field visit etc. without unavoidable reason. |
| ➤ | Don't hesitate to call ECI Officer concerned for any clarification or doubt. |
| ➤ | Don't seek any direction of the ECI on EVM/VVPAT matter, where there is clear cut instructions or directions of the ECI. |
| ➤ | Don't be fully dependent on technical person on operation of EMS. |
| ➤ | Don't forget to ensure daily shredding of VVPAT paper slips generated till P-1 day. |
| ➤ | Don't have non-serious approach to any EVM related matter. |

PART–III
(Introduction of EVM & VVPAT)
INTRODUCTION OF EVM

Sl. No.	Chapter No	Contents	Page No.
1	Chapter –17	INTRODUCTION	104-106
2	Chapter – 18	LEGAL PROVISION FOR THE USE OF EVMs	107-118
3	Chapter – 19	EVM MANAGEMENT SYSTEM	119-120

CHAPTER-17

INTRODUCTION



An EVM consists of three units, namely, Control Unit (CU), Ballot Unit (BU) with a cable (5mt. long) and VVPAT unit with a cable (5mt. long). A Ballot Unit caters upto 16 candidates. In case of M3-EVMs, 24 (Twenty Four) Ballot Units can be cascaded together for catering to 384 candidates (including NOTA) which can be used with one Control Unit. It runs on a power pack (Battery) having 7.5 volts. In case of M3 EVM, power packs are inserted in 5th, 9th, 13th, 17th & 21st Ballot Units, if more than 4 BUs are connected to a Control Unit. On the right side of the BU along the candidates' vote button, digits 1 to 16 are embossed in Braille signage for guidance of visually impaired electors.

Voter Verifiable Paper Audit Trail is an independent system attached with the Electronic Voting Machines that allows the voters to verify that their votes are cast as intended. When a vote is cast, a slip is printed on the VVPAT printer containing the serial number, name and symbol of the candidate and remains exposed through a transparent window for about 7 seconds. Thereafter, this printed slip automatically gets cut and falls in sealed drop box of the VVPAT.

VVPAT runs on a power pack (Battery) of 22.5 volts. Control Unit is kept with the Presiding Officer/ Polling Officer and Ballot Unit and VVPAT are kept in the voting compartment.

For details, kindly read Status Paper on Electronic Voting Machine and Presentation on EVMs available in the ECI's website.

FLOW CHART

Use of EVMs in Elections

District Election Officer

(Testing Checking & Allocation of EVMs Assembly Constituency/Segment wise)

- Custodian of EVMs
- First Level Checking (FLC) of EVMs done at his level by the Manufacturers
- Representatives of Recognized National & State Political Parties participate in the FLC process.
- First Randomization of EVMs & VVPATs done after FLC to allocate EVMs assembly constituency/segment wise.

Returning Officer

(Commissioning of EVMs & Allocation of EVMs Polling Station wise)

- • Store first randomized EVMs in Strong Rooms
- After finalization of List of contesting Candidates Second randomization of EVMs is done to allocate _____ tion wise before preparation of EVMs.
- Commissioning of EVM is done in the presence of Candidates/their Agents.
- Prepared EVMs are again stored in Strong Room in the presence of Candidates/their Agents.
- On day of dispersal of polling parties, Strong rooms are reopened and EVMs with election materials handed over to polling parties in the presence of Candidates/ their agents.

Polling Parties

(Conduct of Poll)

- After receiving EVMs & election materials, polling parties move to their designated polling stations under security.
- Before actual poll, Mock-poll is conducted by Presiding Officer in the polling station in the presence of polling agents of the contesting candidates.
- After Mock-poll, data of mock poll is cleared and Result section and drop box of VVPAT resealed with paper & thread seals.
- After completion of poll, EVMs are escorted back to strong room.
- Polled EVMs are stored under 24 X 7 security of Returning Officer

Returning Officer

(Counting of Votes)

- On counting day, Strong Rooms are opened in the presence of Candidates/their Agents and Observers of the ECI.
- Counting of Votes is done in the presence of Candidates/ their Agents and Observers of the ECI.
- After counting of votes EVMs are sealed and stored in Strong Rooms. VVPAT slips are taken out, kept in sealed black envelope and preserved as per Rule 94 of CER, 1961.

Retention of Polled Data in EVMs

- Period for filing Election Petition (EP) is 45-days from the date of declaration of result.
- Data Retention period for EVMs involved in EP is till the final disposal of EP including Appeal, if any.
- DEOs can clear data from the EVMs involved in any EP, but where use of EVMs is not in question, after obtaining permission from the concerned High Court, for using in any subsequent election.
- DEOs can clear data from EVMs where no EP is filed, after verifying the position from the High Court after period for filing EPs is over.

Standard Schedule for Upcoming/Poll Going States

PROCESS	TIME SCHEDULE (Atleast)
1	2
Allocation of EVMs by ECI	P-200
Ordering of consumables LOI	P-200
FLC start	P-120 (Assembly Election) & P-180 (Parliamentary Election)
FLC completion	P-50
Dispatch of FLC not ok to BEL/ECIL	P-45
1 st Randomization of EVMs	P-21
2 nd Randomization of EVMs	P-14
Handing over of non-functional EVMs to manufacturers for repair	C+7
Completion of Repairs	C+90

P= Poll day

C = Counting day

Standard Schedule for Bye-Election

PROCESS	TIME SCHEDULE
1	2
Assessment of EVMs by CEO	V+1
Ordering of consumables LOI	V+1
FLC start	V+15
FLC completion	V+30

V= Vacancy date

CHAPTER-18

LEGAL PROVISION FOR THE USE OF EVMs

The Electronic Voting Machines were used for the first time during the General Election to the Kerala Legislative Assembly held from Parur Assembly Constituency in May, 1982 at 50 polling stations. Thereafter, these machines were used in ten other constituencies in 1982-83.

After 1983, the EVMs could not be used, as in the Election Appeal arising out of the election petition relating to the use of the machines in the election from Parur Assembly Constituency in Kerala, the Supreme Court ruled that there should be specific provision in the law providing for use of EVMs in elections.

There upon, the Election Commission of India recommended to the Government of India to amend the law suitably to provide legal sanction for the use of EVMs.

In December, 1988 a new section 61 A was inserted in the Representation of the People Act, 1951, empowering the Election Commission of India to use Electronic Voting Machines in elections, which reads as under -

“61A. Voting machines at elections-Notwithstanding anything contained in this Act or the rules made there under, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify. “

Explanation.-*For the purpose of this section, “voting machine” means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.*

The Supreme Court upheld the validity of the above provision in All India Anna Dravida Munnetra Kazhagam v/s. Chief Election Commissioner and others [2002(UJ)(1)387]

[NOTE: In case of any discrepancy kindly refer Manual of Election Laws] The Representation of the People Act, 1951 -

58. Fresh poll in the case of destruction, etc., of ballot boxes-

- 1) If at any election,-
 - a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained; or
 - b) any voting machine develops a mechanical failure during the course of the recording of votes; or]
 - c) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll, the returning officer shall forthwith report the matter to the ECI.

- 2) There upon the Election Commission shall, after taking all material Circumstances into account; either-
- a) declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or
 - b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that the mechanical failure of the voting machine or] the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

The provisions of this Act and of any rules or orders made there under shall apply to every such fresh poll as they apply to the original poll.]

135A. Offence of booth capturing.-

- [(1)] Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which [shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine].

Explanation - For the purposes of [this sub-section and section 20B], “booth capturing” includes, among other things, all or any of the following activities, namely:-

- (a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;
 - (b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and [prevent others from free exercise of their right to vote];
 - (c) [coercing or intimidating or threatening directly or indirectly] any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
 - (d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;
 - (e) doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.]
- (2) An offence punishable under sub-section (1) shall be cognizable.]

169. Power to make rules-

- (1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely-

- [(a) the form of affidavit under sub-section (2) of section 33A;]
 - [(aa) the duties of presiding officers and polling officers at polling stations; [(aaa) the form of contribution report;]
 - (a) the checking of voters by reference to the electoral roll;
 - [(bb) the manner of allocation of equitable sharing of time on the cable television network and other electronic media;];
 - (b) the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability;
 - (c) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote;
 - (d) the procedure to be followed in respect of the tender of vote by a person representing himself to be an elector after another person has voted as such elector;
 - [(ee) the manner of giving and recording of votes by means of voting machines and the procedure as to voting to be followed at polling stations where such machines are used;]
 - (e) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote;
 - (f) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election;
 - [(gg) the procedure as to counting of votes recorded by means of voting machines;]
 - (g) the safe custody of [ballot boxes, voting machines], ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;
 - [(hh) the material to be supplied by the Government to the candidates of recognised political parties at any election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State;]
 - (h) any other matter required to be prescribed by this Act.
- (3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or [in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made,] the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.].

Conduct of Elections Rules, 1961 (Statutory Rules and Order) with Conduct of Elections (Amendment) Rules, 2013

Voting by Electronic Voting Machines & EVMs with VVPATs 49A. Design of Electronic

Voting Machines-

Every electronic voting machine (hereinafter referred to as the voting machine) shall have a control unit and a balloting unit and shall be of such designs as may be approved by the Election Commission.

Provided that a printer with a drop box of such design as may be approved by the Election Commission may also be attached to a voting machine for printing a paper trail of the vote, in such constituency or constituencies or parts thereof as the Election Commission may direct.

49B. Preparation of voting machine by the returning Officer.-

- (1) The balloting unit of the voting machine shall contain such particulars and in such language or languages as the Election Commission may specify.
- (2) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.
- (3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.
- (4) Subject to the foregoing provisions of this rule, the returning officer shall-
 - (a) fix the label containing the names and symbol of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;
 - (b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;
 - (c) **where the printer for paper trail is used under the proviso to rule 49A, set the printer as per the number of contesting candidates set in the Control Unit by-**
 - i) loading in the printer the serial numbers and names of candidates and symbols allotted to them as given on the balloting units under clause (a);
 - ii) loading paper in the printer; and
 - iii) sealing the printer in such manner as may be directed by the Election Commission”.

49C. Arrangements at the polling stations-

- (1) Outside each polling station there shall be displayed prominently-
 - (a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and
 - (b) a copy of the list of contesting candidates.
- (2) At each polling station there shall be set up one or more voting compartments in which the electors can record their votes free from observation.
- (3) The returning officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for

taking the poll.

- (4) Without prejudice to the provisions of sub-rule (3), the returning officer may, with the previous approval of the Election Commission, provide one common voting machine for two or more polling stations located in the same premises.

49E. Preparation of voting machine for poll-

- (1) The control unit and balloting unit of every voting machine used at polling station **and the printer for paper trail where used**, shall bear a label marked with-
 - (a) the serial number, if any, and the name of the constituency;
 - (b) the serial number and name of the polling station or stations as the case may be;
 - (c) the serial number of the unit; and
 - (d) the date of poll.
- (2) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the label referred to in sub-rule (1), **and where the printer for paper trail is used that the drop box of the printer is empty.**
- (3) A paper seal shall be used for securing the control unit of the voting machine, and the presiding officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling agents present as the desirous of affixing the same.
- (4) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of the voting machine and shall secure and seal the same.
- (5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the “result button” without breaking the seal.
- (6) The control unit shall be closed and secured and placed in full view of the presiding officer and the polling agents and the balloting unit placed in the voting compartment.
- (7) Where the printer for paper trail is used, the printer shall also be kept along with the balloting unit in the voting compartment and shall be connected to the EVM in the manner as directed by the Election Commission.

49L. Procedure for voting by voting machines. -

- (1) Before permitting an elector to vote, the polling officer shall-
 - (a) Record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form I 7A.
 - (b) Obtain the signature or the thumb impression of the elector on the said register of votes; and
 - (c) Mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote;
 - (d) Give details of the document produced by the elector in proof of his/her identification.]

Provided that no elector shall be allowed to vote unless he has his signature or thumb

impression on the register of voters.

- (2) Notwithstanding anything contained in sub-rule (2) of rule 2, it shall be necessary for any Presiding Officer or polling officer or any other officer to attest the thumb impression of the elector on the register of voters.

49M. Maintenance of secrecy of voting by electors within the polling station and voting procedures.

- (1) Every elector who has been permitted to vote under rule 49L shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.
- (2) Immediately on being permitted to vote the elector shall proceed to the presiding officer or the polling officer in-charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit; for recording of elector's vote.
- (3) The elector shall thereafter forthwith
 - (a) proceed to the voting compartment;
 - (b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and
 - (c) come out of the voting compartment and leave the polling station:

Provided that where printer for paper trail is used, upon casting the vote by pressing the button under clause (b), the elector shall be able to view through the transparent window of the printer, kept along with the balloting unit inside the voting compartment, the printed paper slip showing the serial no, name and the symbol of the candidate for whom he has cast his vote before such paper slip gets cut and drops in the drop box of the printer”.

- (4) Every elector shall vote without undue delay.
- (5) No elector shall be allowed to enter the voting compartment when another elector is inside it.
- (6) If an elector who has been permitted to vote under rule 49L or rule 49P refuses after warning given by the presiding officer to observe the procedure laid down in sub-rule (3) of the said rules, the presiding officer or a polling officer under the direction of the presiding officer shall not allow such elector to vote.
- (7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the elector's name in the register of voters in Form 17A by the presiding officer under his signature.

49MA Procedure in case of complaint about particulars printed on paper slip-

- (1) Where printer for paper trail is used, if an elector after having recorded his vote under rule 49M alleges that the paper slip generated by the printer has shown the name or symbol of a candidate other than the one he voted for, the presiding officer shall obtain a written declaration from the elector as to the allegation, after warning the elector about the consequence of making a false declaration.

- (2) If the elector gives the written declaration referred to in sub-rule (1), the presiding officer shall make a second entry related to that elector in Form 17A, and permit the elector to record a test vote in the voting machine in his presence and in the presence of the candidates or polling agents who may be present in the polling station, and observe the paper slip generated by the printer.
- (3) If the allegation is found true, the presiding officer shall report the facts immediately to the returning officer, stop further recording of votes in that voting machine and act as per the direction that may be given by the Returning Officer.
- (4) If, however, the allegation is found to be false and the paper slip so generated under sub-rule (1) matches with the test vote recorded by the elector under sub-rule (2), then, the presiding officer shall-
 - (i) Make a remark to that effect against the second entry relating to that elector in Form 17A mentioning the serial number and name of the candidate for whom such test vote has been recorded;
 - (ii) obtain the signature or thumb impression of that elector against such remarks; and
 - (iii) make necessary entries regarding such test vote in item 5 in Part I of Form-17C.

49N. Recording of votes of blind or infirm electors.-

- (1) If the presiding officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognize the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button there on without assistance the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes: Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day: Provided further that before any person is permitted to act as the companion of an elector on any day under this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.
- (2) The presiding officer shall keep a record in Form 14A of all cases under this rule.

49Q. Presiding Officer's entry in the voting compartment during poll.-

- (1) The presiding officer may whenever he considers it necessary to do so, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.
- (2) If the presiding officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.
- (3) Whenever the presiding officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

49R. Closing of poll.-

- (1) The presiding officer shall close a polling station at the hour fixed in that behalf under section 56 and shall not thereafter admit any elector into the polling station:

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

- (2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the presiding officer and his decision shall be final.

49S. Account of votes recorded.-

- (1) The presiding officer shall at the close of the poll prepare an account of votes recorded in Form 17C and enclose it in a separate cover with the words 'Account of Votes Recorded' superscribed thereon.
- (2) The presiding officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form 17C after obtaining a receipt from the said polling agent therefore and shall attest it as a true copy.

49T. Sealing of voting machine after poll.-

- (1) As soon as practicable after the closing of the poll, the presiding officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit **and from the printer, where printer is also used, so that the paper slips contained in the drop box of the printer shall remain intact.**
- (2) The control unit and the balloting unit **and the printer, where it is used,** shall thereafter be sealed, and secured separately in such manner as the Election Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the units without breaking the seals.
- (3) The polling agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

49U. Sealing of other packets-

- (1) The presiding officer shall then make into separate packet
 - (a) the marked copy of the electoral roll;
 - (b) the register of voters in Form 17A;
 - (c) the cover containing the tendered ballot papers and the list in Form 17B;
 - (d) the list of challenged votes; and
 - (e) any other papers directed by the Election Commission to be kept in a sealed packet.
- (2) Each packet shall be sealed with the seal of the presiding officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

49V. Transmission of voting machines, etc., to the returning officer-

- (1) The presiding officer shall then deliver or cause to be delivered to the returning officer at such place as the returning officer may direct-

- (a) the voting machine;
 - (b) the account of votes recorded in Form -17C;
 - (c) the sealed packets referred to in rule 49U; and
 - (d) all other papers used at the poll.
- (2) The returning officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

49X. Closing of voting machine in case of booth capturing-

Where the presiding officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and shall detach the balloting that from the control unit.]

49W. Procedure on adjournment of poll.-

- (1) If the poll at any polling station is adjourned under sub-section (1) of section 57, the provision of rules 49S to 49V shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under section 56.
- (2) When an adjourned poll is recommended under sub-section (2) of section 57, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.
- (3) The Returning Officer shall provide the presiding officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the electoral roll, register of voters in Form 17A and a new voting machine.
- (4) The Presiding Officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll for marking the names of the electors who are allowed to vote at the adjourned poll.
- (5) The provisions of rule 28 and rules 49A to 49V shall apply in relation to the conduct of an adjourned poll before it was so adjourned.

66A. Counting of votes where electronic voting machines have been used.-

In relation to the counting of votes at a polling station, where voting machine has been used the provisions of rules 50 to 54 and in lieu of rules 55, 56 and 57, the following rules shall respectively apply, namely:-

‘55C. Scrutiny and inspection of voting machines-

- (1) The returning officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.
- (2) Before the votes recorded in any control unit of voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.

- (3) The returning officer shall satisfy himself that none of the voting machines has in fact been tampered with.
- (4) If the returning officer is satisfied that any voting machine has in fact been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in section 58, or section 58A or section 64A, as may be applicable in respect of the polling station or stations where that machine was used.

56C. Counting of votes.-

- (1) After the returning officer is satisfied that a voting machine has in fact not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked “Result” provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.
- (2) As the votes polled by each candidate are displayed on the control unit, the returning officer shall have,-
 - (a) the number of such votes recorded separately in respect of each candidate in Part II on Form 17C;

Provided that the test vote recorded, if any, for a candidate, as per item 5 in Part I of Form 17C, shall be subtracted from the number of votes recorded for such candidate as displayed on the control unit.

- (b) Part II of Form 17C completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and
- (c) corresponding entries made in a result sheet in Form 20 and the particulars so entered in the result sheet announced.

“56D Scrutiny of paper trail-

- (1) Where printer for paper trail is used, after the entries made in the result sheet are announced, any candidate, or in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to count the printed paper slips in the drop box of the printer in respect of any polling station or polling stations.
- (2) On such application being made, the returning officer shall, subject to such general or special guidelines, as may be issued by the Election Commission, decide the matter and may allow the application in whole or in part or may reject in whole, if it appears to him to be frivolous or unreasonable.
- (3) Every decision of the returning officer under sub-rule (2) shall be in writing and shall contain the reasons thereof.
- (4) If the Returning Officer decides under sub-rule (2) to allow counting of the paper slips either wholly or in part or parts, he shall-
 - a) do the counting in the manner as may be directed by the Election Commission;
 - b) if there is discrepancy between the votes displayed on the control unit and the counting of the paper slips, amend the result sheet in Form 20 as per the paper slips count;

- c) announce the amendments so made by him; and
- d) complete and sign the result sheet.” 57C. **Sealing of voting machines.-**

- (1) After the result of voting recorded in a control unit has been ascertained candidate wise and entered in Part II of Form 17C and Form 20 under rule 56C, the returning officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix the seals thereon so however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result **and where printer for paper trail is used, the returning officer shall seal the paper slips in such manner, as may be directed by the Election Commission.**
- (2) The control unit **and the paper slips** so sealed shall be kept in specially prepared boxes on which the returning officer shall record the following particulars, namely:-
 - a) the name of the constituency;
 - b) the particulars of polling station or stations where the control unit has been used;
 - c) serial number of the control unit **and printer wherever used;**
 - d) date of poll; and
 - e) date of counting.
- (3) the provisions of rules 60 to 66 shall, so far as may be, apply in relation to voting by voting machines and any reference in those rules to,-
 - a) ballot paper shall be construed as including a reference to such voting machine;
 - b) any rule shall be construed as a reference to the corresponding rule in Chapter II of Part IV or, as the case may be, to rule 55C or 56C or 57C].

92. Custody of ballot boxes and papers relating to election-

(1A) All voting machines used at an election shall be kept in the custody of the concerned district election officer.

(2) The district election officer shall keep in safe custody-

(cc) the printed paper slips sealed under the provisions of rule 57C.

(dd) The packets containing registers of voters in Form-I7A

93. Production and inspection of election papers.-

- (1) While in the custody of the district election officer or, as the case may be, the returning officer-
 - a) the packets of unused ballot papers with counterfoils attached thereto;
 - b) the packets of used ballot papers whether valid, tendered or rejected;
 - c) the packets of the counterfoils of used ballot papers;

(cc) the printed paper slips sealed under the provisions of rule 57C.

 - d) the packets of the marked copy of the electoral roll or, as the case may be, the list

maintained under sub-section (1) or sub-section (2) of section 152; and

[(dd) the packets containing registers of voters in form 17-A;]

- e) the packets of the declarations by electors and the attestation of their signatures; shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent court.

[(IA) The control units sealed under the provisions of rule 57C and kept in the custody of the district election officer shall not be opened and shall not be inspected by, or produced before, any person or authority except under the orders of a competent court.]

- (2) Subject to such conditions and to the payment of such fee as the Election Commission may direct,-
 - a) all other papers relating to the election shall be open to public inspection; and
 - b) copies thereof shall on application be furnished.
- (3) copies of the returns by the returning officer forwarded under rule 64, or as the case may be, under clause (b) of sub-rule(1) of rule 84 shall be furnished by the returning officer, district election officer, chief electoral officer or the Election Commission on payment of a fee of two rupees for each copy.]

94. Disposal of election papers.-

Subject to any direction to the contrary given by the Election Commission or by a competent court or tribunal-

[(a) the packets of unused ballot papers shall be retained for a period of six months and shall thereafter be destroyed in such manner as the Election Commission may direct;]

[(aa) the voting machines kept in the custody of the district election officer under sub-rule (IA) of rule 92 shall be retained intact for such period as the Election Commission may direct and shall not be used at any subsequent election without the previous approval of the Election Commission;]

- (b) the other packets referred to in sub-rule (I) of rule 93 shall be retained for a period of one year and shall thereafter be destroyed:

[Provided that packets containing the counterfoils of used ballot papers **and the printer paper slips, if any**, shall not be destroyed except with the previous approval of the Election Commission;]

- (c) all other papers relating to the election shall be retained for such period as the Election Commission may direct.

95. Power of the Election Commission to issue directions.-

Subject to the other provisions of these rules, the Election Commission may issue such directions as it may consider necessary to facilitate the proper use and operation of the voting machines.

[For provisions regarding use of VVPAT system please refer to the Conduct of Elections (Amendment) Rules, 2013]

CHAPTER-19

EVM MANAGEMENT SYSTEM (EMS)

EVM Management System (EMS) 2.0 is a Cloud native application developed for managing inventory of EVMs owned by the Election Commission of India (ECI). The system offers transparency by recording all EVM related activities and ensures no manual intervention at any level from manufacturer to polling stations.

The EMS 2.0 is designed and developed using state-of-the-art Micro services and distributed computer architecture. The system is modular in nature, secure, highly scalable and has quick and fast response features.

This application comprises of both Web and Mobile Versions (Android and iOS based mobile application). ECI, Chief Electoral Officers, District Election Officers, Warehouse in-charges, Returning Officers of assembly constituencies, Assistant Returning Officers of parliamentary constituencies and Manufacturers of EVMs (M/s. Bharat Electronics Limited and M/s. Electronics Corporation of India Limited) are the stakeholders of this application.

It allows tracking inventories of Control Units (CU), Balloting Units (BU) and VVPATs with their locations. It also allow management of warehouses and election related activities viz. FLC Process, Randomisation.

EMS 2.0 application has following modules

- User Management
- WH & SR Management
- Order Management
- Unit Management
- Support
- EVM Consumable Management
- Other Aggregate Services

User Management

User Management module allows user creation, updating/editing user details, resetting of passwords as per the roles & permissions provided to the User. ECI Admin can create CEO level users; CEO can create one CEO office and DEO level users. DEOs can create DEO office, warehouse in-charges and Temporary Users. Updating/editing user details and resetting of passwords can be done by the ECI Admin, CEO and DEO for the users created by them.

CEO office user and DEO office user has the same right & privileges as given to CEO & DEO respectively.

WH & SR Management

Warehouse and Strong-room management module allows the DEOs to create warehouse and strong room in the respective districts. It also facilitate DEOs to conduct monthly and quarterly inspection of the warehouse and upload inspection reports in EMS 2.0

Order Management

This module allows ECI to create orders for Inter-State shifting of EVMs and shifting from factories to the State/UT. It also allow the CEOs to create inter-district shifting within State/UT and DEOs can create orders for shifting of EVMs within district or to the factories. Status of execution of the created order can also be monitored in EMS 2.0. While allocating orders, the system has the facility to shows the distances for the near by warehouses.

Unit Management

This module helps in managing the life cycle of the EVMs as well as various election related activities viz. scheduling of election, randomisation of EVMs and marking of units for Training/ Awareness and Election Petition etc.

Support

This module is developed to provide support to the end users, if they find any difficulty in use of any of the functionalities of EMS 2.0. It has the facility for peer to peer and higher level communication.

EVM Consumable Management

This module provides a dashboard for managing the inventory of consumable items being used with the EVMs at various election related processes.

Other Aggregate Services

Under the Other Aggregate Services user has the facility of Global Search of the Unit ID with its current location and History, FLC Status and status of FLC non-functional units at a Glance. A dashboard for the manufacturers is also available in this module to have a status and make wise abstract status of EVMs available at factory premises and in the States/UTs.

Reports

Various reports are made available in the EMS 2.0 for its users at the level of ECI Admin/ CEO/ DEO/WH Manager/Manufacturer to check the status of work allocated and to identify pending issues.

EMS 2.0 Application for Android and iOS

Most of the functions available in the web-version of EMS 2.0 are also available in the mobile application of EMS 2.0. In addition, mobile application also provide facility to scan the barcodes/ QR codes of unit ID and Pink Paper Slips affixed to Control units during FLC.

PART-IV
ANNEXURES

Sl. No.	Chapter No	Contents	Page No.
1	ANNEXURES	ANNEXURES	122-175

ANNEXURE-1**Master Stock Register****Name of State/ Union Territory:****Name of District:****Name of sub-division/ Taluka:****Address of Warehouse:****(Note: Separate Register for Ballot Units, Control Units and VVPATs)****Control Unit**

Box No.	CU ID No.	Name of Manufacturer	Year of Manufacture	Date of Receipt	Receipt Challan No.	Date on receipt Challan	Name and designation of receiver	Signature of receiver	Signature of Warehouse-In-charge	Remarks
1	2	3	4	5	6	7	8	9	10	11

Ballot Unit

Box No.	BU ID No	Name of Manufacturer	Year of Manufacture	Date of Receipt	Receipt Challan No.	Date on receipt Challan	Name and designation of receiver	Signature of receiver	Signature of Warehouse In-charge	Remarks
1	2	3	4	5	6	7	8	9	10	11

VVPAT

S. No.	VVPAT ID No	Name of Manufacturer	Year of Manufacture	Date of Receipt	Receipt Challan No.	Date on receipt Challan	Name and designation of receiver	Signature of receiver	Signature of Warehouse-in-charge	Remarks
1	2	3	4	5	6	7	8	9	10	11

Gist of Control Unit, Ballot Unit and VVPAT in Separate Register

Total Unit re-ceived in ware-house			Date of receipt	Total Units shifted from warehouse			Date of despatch	Net availability in ware-house			Remarks
BU	CU	VVPAT		BU	CU	VVPAT		BU	CU	VVPAT	

ANNEXURE-2 (A)**Certificate of monthly inspection of EVM warehouse (s)**

I, hereby, certify that as per the Commission's instruction, I personally visited the EVM warehouse(s) and I am satisfied with the arrangements as under:

S. No.	Particulars	Inspection Report
1.	EVM warehouse(s)	(a) District Headquarters (b) Tehsil Headquarters (c) Other(specify the name)
2.	How many entry point(s) is/are there in EVM-warehouse(s)?	
3.	What type of lock system is observed in EVM-warehouse.	
4.	Other doors and windows, if any, in the warehouse are sealed with which material.	
5.	(a) Number of CCTV installed	
	(b) Whether DVR was connected with laptop to inspect the activities in WH? What was the observation?	
6.	(a) Whether log-book showing the duty of the security personnel was inspected?	Yes/No
	(b) How many security personnel deployed in each shift?	
	(c) When was the warehouse opened last time?	
	(d) Kindly mention reason for opening of warehouse and who authorised the opening of warehouse..	
	(a) Where is the main switch of the warehouse installed?	
7.	(b) Whether main switch installed outside has been switched off in warehouse?	Yes/No
8.	(a) How many fire-fighting equipment are installed?	
	(b) Date of expiry of the fire-extinguisher	
9.	Kindly attach Photographs of inspection of warehouse(s)	

Date of Inspection:

Signature

(Name of District Election Officer)

Name of District

ANNEXURE -2 (B)**Certificate of Quarterly Inspection of EVM Warehouse(s)**

I, hereby, certify that as per the Commission's instruction, I personally visited the EVM-VVPAT warehouse(s) and I am satisfied with the arrangements as under:

S. No.	Particulars	Inspection Report
1.	EVM-VVPAT warehouse is at	(a) District Headquarters (b) Tehsil Headquarters (c) Other (specify the same)
2.	a)How many entry point(s) is/are there in EVM-VVPAT warehouse?	
	(b) If more than one entry point, whether other entry point (s) is sealed with brick- masonry or concrete.	Yes/No
3.	(a) What type of lock system is put in place in EVM-VVPAT warehouse.	
	(b) Who are the custodian of Keys of the Locks? Name & designation of officers	
4.	Other doors and windows, if any, in the warehouse, are sealed as per extant instructions? Specify material used for sealing.	
5.	(a) Number of CCTV cameras installed	
	(b) Have you seen the past CCTV recording after the last inspection to verify that recording is happening and is satisfactory?	Yes/No
6.	(a) Whether log-book showing the duty of the security personnel was inspected by senior police officers?	Yes/No
	(b) How many security personnel were deployed in each shift?	
	(c) When was the warehouse opened last time?	
	(d) Kindly mention reason for opening of warehouse and who authorized the opening of warehouse.	
	(e) Whether at the time of opening and closing of warehouse (s) signature of representatives of National and State Political Parties obtained in logbook? If No, reason thereof.	Yes/No
	(f) Where is the copy of videography of opening and closing of warehouse(s) kept?	
7.	(a) Where is the main switch of the warehouse installed?	
	(b) Whether main switch of warehouse installed outside has been switched off?	Yes/No

8.	(a) How many fire- fighting equipment are installed?	
	(b) Dates of expiry of the fire extinguishers	
	(c) Is Fire NOC available for the building from the municipal or other competent authority?	Yes/No
9.	Details of the representatives of National/State Recognized political parties, who are present at the time of inspection.	
10.	Check for dampness/water logging/rodents/any other abnormality etc. and remarks on the internal conditions of the Warehouse.	
11.	Whether any other materials (other than EVMs & VVPATs) are kept with EVMs & VVPATs in Warehouse(s)	
12.	Kindly attach 4-5 photographs of inspection of warehouse (s) mainly covering the entrances/exits.	Yes/No
13.	Whether the warehouse is in flood-prone area considering the trend in the past 5 years?	Yes/No
14.	If the warehouse is in a flood-prone area as per (Q.13), whether necessary SOP/Plan is in place for safe keeping of the EVM stock in such eventuality?	Yes/No
15.	(i) Whether the necessary NOC from CPWD/ PWD (Civil and Electrical) has been taken on record at the time of putting to the Warehouse to use & (ii) Whether the NOCs are still valid?	(i) Yes/No (ii) Yes/No
16.	If the answer to the Q. No. 15 is No, provide details of action taken thereof?	
17.	Any other Remark/observation	

Date of Inspection:

Signature

(Name of District Election Officer)

Name of District

ANNEXURE-3**(Attendance Register for National and State Recognised Political Parties-FLC Hall)**

Name of State/UT:

Name of District:

Address of FLC hall:

Date:.....

S. No.	Name of National/State Party	Name of representative of political party with party affiliation	Identity document No. with date	Signature of representative	Remarks, if any.

Note: If the representative of a party is absent the proof of due service of notice to the party should be pasted in the register.

(Name, Designation and Signature of officer nominated by District Election Officer)

ANNEXURE-4**SOP for Cleaning of Plastic Cabinet and Carrying Cases**

Purpose: The purpose of cleaning of cabinets and carrying cases of EVM/VVPATs is to remove all the previous traces, tags, markings, stickers and any other display tags related to its earlier usage which if not removed properly, may mislead information in its future assigned use.

Objects for Cleaning on the Cabinet & Carrying Case:

Tags, Seal, FLC Stickers, Pink Paper Seal, Other previous poll displays, Markings over Boxes.

Detail: The following Tags, Seal, display are normally found on the cabinet/ carrying case of EVM/ VVPAT after being used for Election.

- (a) **BU:** Ballet Papers, Transparent Ballot Paper screen address Tag, Top & Bottom Latches address Tag, Pink Paper Seal, Green FLC Sticker.
- (b) **CU:** Battery Compartment address Tag, Candidate Set compartment address Tag, Special Tag, Green paper Seal, Outer paper strip seal, CRC door address Tag, Green FLC sticker, Pink Paper Seal, Superscriptions.
- (c) **VVPAT:** Paper Roll Compartment address tag Seal, Ballot Slip Compartment Address Tag Seal, Green FLC sticker, superscription.
- (d) **Carrying Case:** Marking/display of information such as District Name, AC/PC number & Name, Polling Station number, other information of previous poll.

Method: For Surface Cleaning & to remove the Stickers and Tags, the recommended chemical is “Iso Propyl Alcohol”. The Cotton waste is to be used to apply the chemical on the surfaces of Cabinet & Carrying case.

The Cotton waste should be soaked sufficiently with the Iso Propyl alcohol and gently rubbed on the stickers/tags which are to be removed without any damage or scratching on the body. Cleaning process may be repeated till the stickers are completely removed.

In any case, the Iso Propyl alcohol should not be directly poured on the Cabinet or Carrying case body, but it has to be applied through cotton waste only. Other solvents like Thinner, Water etc. should not be used to avoid damage to EVM/VVPAT units.

Other Instructions:

- 1. Writing on the carrying case body using permanent marker should be avoided and appropriate stickers to be used for display of other relevant information such as AC/PC number, AC/PC name, district name etc. Removal of permanent marker “markings” require repeated forced rubbing even with the Iso Propyl alcohol and may damage the surface.
- 2. Iso Propyl alcohol being a flammable material, proper storage & handling protocol to be maintained.
- 3. The General instruction on safety and handling of Iso Propyl alcohol are as under. Specific instructions can be referred from the Material Safety Data Sheet supplied along with the Iso Propyl alcohol by the supplier/ manufacturer:-

HAZARDS IDENTIFICATION

- (a) **Primary Entry Routes:** Inhalation, skin, eyes and ingestion.
- (b) **Acute Effects:** Inhalation of vapours irritates the respiratory tract. Exposure to high concentration has a narcotic effect producing symptoms of dizziness, drowsiness, headache, staggering, unconsciousness and possibly death.
- (c) **Aggravation of Pre-existing conditions:** Persons with pre-existing skin disorders or impaired liver, kidney or pulmonary function may be more susceptible to the effects of this chemical.

FIRST AID MEASURES

- (a) **Eyes:** Immediately flush eyes with plenty of water for at least 15 minutes. Lifting lower & upper eye lids occasionally. Get medical attention immediately.
- (b) **Skin:** Immediately flush skin with plenty of water for at least 15 minutes. Call a physician, if irritation develops.
- (c) **Inhalation :** Remove affected person to fresh air. If not breathing, give artificial respiration. If breathing is difficult, give oxygen. Get medical attention.
- (d) **Ingestion:** Give large amount of water to drink. Never give anything by mouth to an unconscious person. Get medical attention.

FIRE FIGHTING MEASURES

- (a) **Extinguishing media:** Water spray, Dry chemical, Alcohol Foam or CO₂ Water Spray may be used to keep fire expose container cool, dilute spills to non-flammable mixtures and to protect personnel attempting to stop leak and disperse vapours.
- (b) **Fire fighting instructions:**In the event of fire, wear full protective clothing and self-contained breathing apparatus with full face piece.

STORAGE REQUIREMENTS: Store in a cool, dry, well ventilated area away from heat source. Storage and usage area should be clarified as “No smoking Area”.

ECOLOGICAL INFORMATION: Prevent spillage from entering drains or water sources. After spills, wash area with water preventing run-off from entering drains. When released into water, this material may bio-degrade to a moderate extent.

ANNEXURE-5**(Certification of EVMs by BEL/ECIL)****Name of State/UT:****Name of District:****Address of FLC Hall:****Date:.....**

It is certified that tests prescribed by BEL/ECIL to ascertain that all components are original were carried out on the EVMs (BU & CU) listed below on..... (date). On the basis of these tests it is certified that all components of the EVMs listed below are original.

CU Identification No.	BU Identification No.

(Name & Signature of BEL/ECIL engineers with ID No.)**(Names of Representatives of political parties with their party affiliation and signature)****(Name, designation and signature of officer nominated by District Election Officer)**

ANNEXURE-6**Tools and Spares to be brought by BEL/ECIL Engineers for FLC****1. TOOLS TO BE CARRIED BY ENGINEERS**

- a) Screw Drivers, forceps, nose-pliers;
- b) Multi-meter;
- c) Symbol loading Unit with Accessories (SLMD with all connecting cables); and
- d) P-FLCU

2. SPARE-PARTS AND OTHER MATERIAL TO BE BROUGHT BY ENGINEERS

- a) Flaps
- b) Close Caps
- c) Latches
- d) Cables (BU,VVPAT)
- e) Buttons (Ballot, Total, Close, Result, Clear & Candidate)
- f) Spare parts mentioned above (a) to (e) should be 20% of the number of EVMs to be tested
- g) High Resolution Photographs of component side of CU-PCB and BU-PCB
- h) FLC Stickers {FLC-OK (Green), FLC-Failed (Red)}
- i) Tamper seals
- j) VVPAT Stickers (Transportation, Working and Unlock before Switch ON); and
- k) Ballot Paper of Dummy symbol

ANNEXURE-7**(Mock Poll Selection Certificate during FLC of EVMs)****Date:****Name of State/UT:****Name of District:****Address of FLC Hall:**

It is certified that I have been allowed to pick machines (EVMs as well as VVPATs) randomly for the purpose of mock-poll.

SL No.	Name of National/State Party	Name of representative of political party with party affiliation	Identity document No. with date	Signature of representative	Remarks, if any.

ANNEXURE-8**(Mock Poll by Representatives of National and State Recognised Political Parties during FLC of EVMs)****Date:.....****Name of State/UT:****Name of District:****Address of FLC Hall:**

It is certified that I have done mock poll on.....EVMs along with VVPATs and I am fully satisfied with the functioning of EVMs and VVPATs.

S. No.	Name of National/State Party	Name of representative of political party with party affiliation	Identity document No. with date	Signature of representative	Remarks, if any.

ANNEXURE-9

(Mock Poll certification during FLC of VVPATs)

Date:.....

Name of State/UT:

Name of District:

Address of FLC Hall:

It is certified that the **results of the printed ballot slips of VVPATs** (*list of unique ID of VVPATs attached*) have been tallied with the electronic result of the respective Control Units. There are no discrepancies between the electronic count of the Control Units and count of printed ballot paper slips of VVPATs.

S. No.	Name of National/ State Political Party	Name of representative of political party with party affiliation	Identity document No. with date	Signature of representative	Remarks, if any.

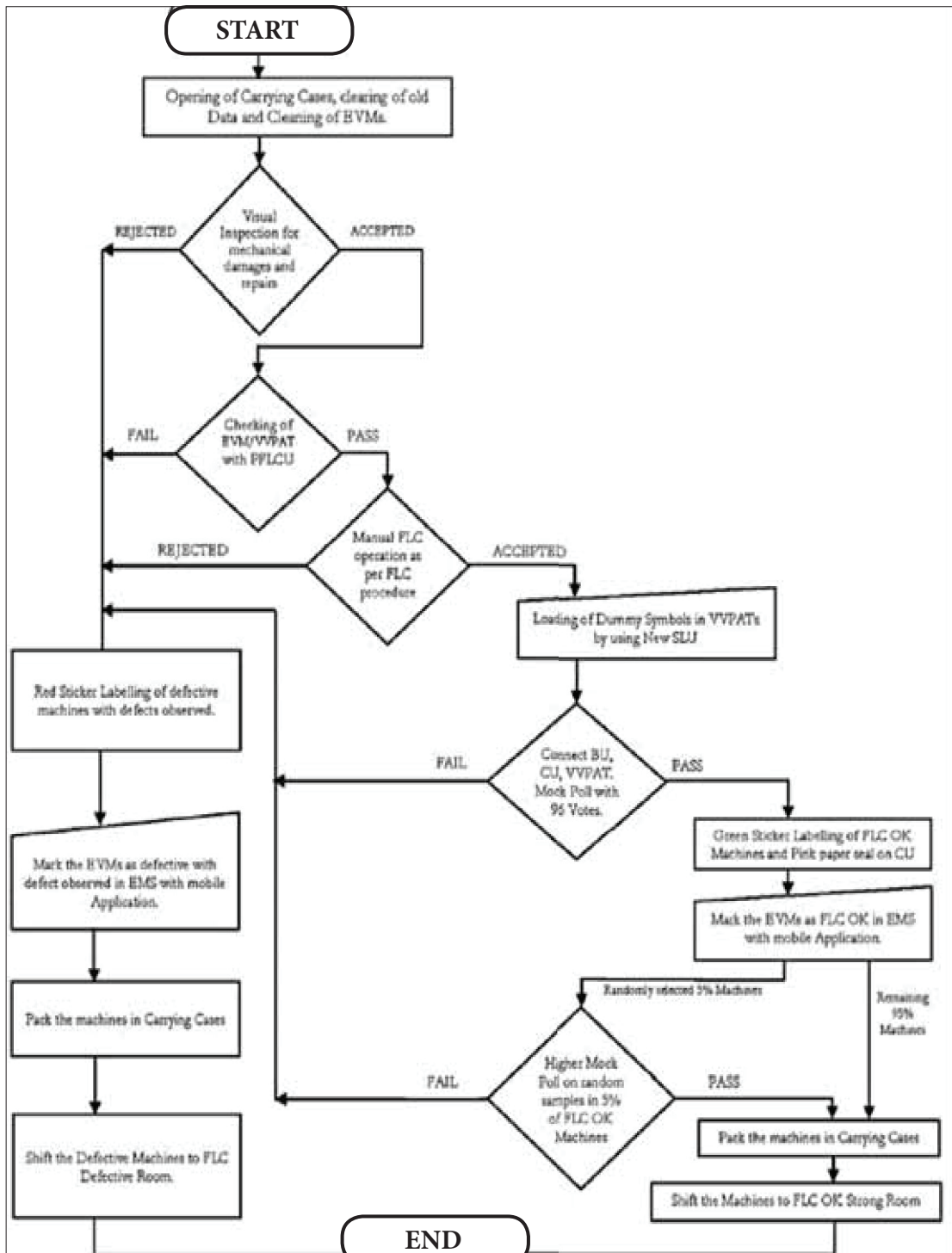
Name and Signature of BEL/ECIL Engineers

- 1.
- 2.
- 3.

(Signature)

Name of FLC-Supervisor.....

Designation

ANNEXURE-10**Flow Chart for FLC Procedure of EVM**

ANNEXURE-11**(Sealing of Control Unit of EVMs using Pink Paper Seal)****Name of State/UT:****Name of District:****Address of FLC hall:****Date:**

It is certified that the sealing of the Control Units using Pink Paper Seals has been done in my presence. I have put my signature on the Pink Paper Seals after sealing of the Control Units and I am satisfied with the sealing of the Control Units.

SI. No.	Unique ID No. of Control Unit	Pink Paper Seal Number

(Name, Designation and Signature of officers nominated by District Election Officer)

ANNEXURE-12**Part-I (Inspection Report of arrangement for FLC)****Name of State/UT:****Name of District:****Address of FLC Hall:****Date.....**

S.No.	Particular	Yes / No
1.	Whether FLC hall is sufficiently large to accommodate the EVMs and VVPATs to be checked, officials nominated by the DEO, engineers of BEL and ECIL and also representatives of political Parties.	
2.	Whether FLC Hall well-lighted, well ventilated and dust free.	
3.	Whether FLC area has been barricaded and sanitized by police	
4.	Whether adequate arrangement of fire extinguishers and fire alarm has been made inside and outside the hall.	
5.	Whether hall is free from any other electronic device or components of electronic devices other than permissible devices	
6.	Whether facilities of drinking water, toilet, first aid etc. are available	
7.	Whether there is only one entry and exit point to the hall and guarded by armed Police force round the clock.	
8.	Whether arrangement for installation of TV/Monitor (minimum 24 inches) with HDMI input for each SLU has been made.	
9.	Whether arrangement of one PC/Laptop with internet connectivity outside FLC Hall for transmission of FLC data from P-FLCU has been made.	
10.	Whether arrangement has been made for pasting SoP on FLC procedure in the FLC Hall.	
11.	Whether arrangement has been made for shredding of VVPATs slips by shredding machine.	
12.	Whether Door Frame Metal Detector are installed.	
13.	Whether arrangement for frisking has been made.	
14.	Whether Identity Cards for entry into the FLC hall to the authorized officials/ Representatives of political parties have been issued by the District Election Officer	
15.	Whether arrangement of webcasting have been made.	
16.	Whether log book to record entry of every person has been kept at FLC Hall.	
17.	Whether a separate log book (i.e. duty roster) to be maintained for armed police force deployed for FLC hall has been kept at FLC hall.	
18.	Whether all required registers and formats are ready and kept in FLC Hall.	
19.	Number of Armed Police Personnel in each shift	

I have personally inspected the above arrangements.

(Name and Signature of District Election Officer)

ANNEXURE-13**(Certificate on completion of FLC process)****Name of State/UT:****Name of District:****Address of FLC Hall:****Date:.....**

It is certified that FLC process has been completed on.....(date) as per instructions of the Commission on First Level Checking of EVMs and VVPATs. I personally inspected FLC on following dates:

The status of EVMs and VVPATs after completion of FLC is as under:

Name of District	Available in the District			FLC Ok Quantity			FLC Reject Quantity		
	BU	CU	VVPAT	BU	CU	VVPAT	BU	CU	VVPAT

The Non-functional EVMs and VVPATs shall be shifted to the manufacturer (BEL/ECIL) oni.e. within 7 days from the date of completion of FLC process in the district.

(Name and Signature of District Election Officer)

ANNEXURE-14**Part-I (Inspection Report of arrangement for FLC)****Name of State/UT:****Name of District:****Address of FLC Hall:****EVMs/VVPATs of BEL/ECIL :**

Date:.....

S. No.	Particular	Report
1.	Total Number of Polling Stations.	
2.	Quantity of units (a) Ballot Units (b) Control Units (c) VVPATs	
3.	Number of engineers deployed by BEL/ECIL.	
4.	Expected FLC start date.	
5.	Whether FLC hall is sufficiently large to accommodate the EVMs and VVPATs to be checked, officials nominated by the DEO, engineers of BEL/ECIL and also representatives of political parties.	
6.	Whether FLC hall well-lighted, well ventilated and dust free.	
7.	Whether adequate arrangement of fire extinguishers and fire alarm has been made inside and outside the FLC hall.	
8.	Whether FLC area has been barricaded and sanitized by police.	
9.	Whether the hall is free from any other electronic device or components of electronic devices other than permissible devices.	
10.	Whether facilities of drinking water, toilet, first aid etc. are available.	
11.	Whether there is only one entry and exit point to the hall and guarded by armed police force round the clock.	
12.	Whether Door Frame Metal Detector are installed.	
13.	Whether arrangement for frisking has been made.	
14.	Whether Identity Cards for entry into the FLC hall to the authorised officials/representatives of political parties have been issued by the DEO.	
15.	Whether webcasting showing FLC tables clearly visible in DEO's chamber.	
16.	Whether log book to record entry of every person has been kept at FLC hall.	
17.	Whether a separate log book (i.e. duty register) to be maintained for armed police force deployed for FLC hall has been kept at FLC hall.	
18.	Whether all required registers and formats mentioned in the Commission's letter No. 51/8/INST/2022-EMS, dated 13 th September, 2022 are ready and kept in FLC hall.	
19.	Number of Armed Police Personnel planned in each shift.	
20.	Whether all National and State Recognized Political Parties at district and State level have been invited in writing and notices duly served.	

(Signature)
Name and Designation

Part-II (Inspection Report of quality of FLC)

Name of State/UT:

Name of District:.....

Address of FLC Hall:.....

EVMs/VVPATs of BEL/ECIL:

Date :

S. No.	Particular	Report
1.	Total Number of Polling Stations.	
2.	Quantity of units subject to FLC (a) Ballot Units (b) Control Units (c) VVPATs	
3.	Total number of BEL/ECIL authorised engineers present.	
4.	Date of FLC start	
5.	Quantity of units FLC done so far (a) Balloting Units (b) Control Units (c) VVPATs	
6.	Name and designation of FLC Supervisor appointed by DEO	
7.	Photocopies of attendance register of political parties	
8.	Who is monitoring Webcasting of FLC process in the Control Room?	
9.	SoP to confirm that all components of the EVMs are original is available with authorised engineers of BEL/ECIL.	
10.	SoP mentioning the step-by-step instructions of checking of the machines is pasted prominently at FLC hall.	
11.	PCB and other components of EVMs are shown to the representatives of political parties.	
12.	Whether DEO is conducting a daily inspection of the FLC venue and FLC process.	
13.	Whether ECI instructions on FLC process are being followed in letter and spirit.	
14.	Kindly mention below shortcomings or suggestions for improvement.	

(Signature)
Name and Designation

**Checklist on Probable Shortcomings During FLC
(To be submitted with Part-II of Inspection Report)**

Name of State/UT:.....

Name of District :

Address of FLC Hall:

EVMs/VVPATs of BEL/ECIL:

Date of visit:.....

S.No.	Particular	Report
1.	Whether web-casting is covering the entire FLC process i.e. CCTV coverage is available in all Halls where FLC process is going on and same is visible at web-casting.	
2.	Quality of cleaning of cabinets and carrying cases of machines	
3.	Whether FLC-OK and FLC-Rejected units are kept in separate rooms.	
4.	Whether FLC-OK and FLC-Rejected status is updated in EMS on daily basis i.e. no FLC-OK machine of previous day is pending for updating in EMS.	
5.	Whether Pink Paper Seals are affixed on FLC-OK CUs properly.	
6.	Whether sufficient quantity of spare plastic parts viz. buttons, covers and latches etc. are available at FLC Hall.	
7.	Whether paper shredding machine is available in the FLC Hall to shred the VVPAT slips. If Yes, whether VVPAT slips are disposed of on daily basis.	
8.	Observations on functional and physical status of randomly selected 10 FLC-OK units (i.e. 5 CU + 5 VVPAT) checked on the visit date.	
9.	Observations on functional and physical status of randomly selected 10 FLC-Rejected units (i.e. 5 CU + 5 VVPAT) checked on the visit date.	
10.	Whether the reason of rejection mentioned for the FLC-rejected units checked by you was correctly mentioned in the record.	
11.	a) No. of Engineers Deployed in the District	
	b) No. of Engineers available in the District	
	c) If there is any difference between 11(a) & 11(b), reasons thereof.	

(Signature)

Date:

Name and
Designation

ANNEXURE- 15

Plan on Awareness for EVMs

Name of State:.....

EVM Demonstration Centre (EDC)

Name of District	No. of EVMs Demonstration Centres (EDC) set up at DEO HQs	Address of DEO HQs, where EDC is set up	No. and name of Assembly Constituency	No. of EDC set up at Returning Officer/Revenue Sub-Division offices	Address of Returning Officer/Revenue Sub-Division offices where EDC is set up	Remarks, if any

Mobile Demonstration Van (MDV)

Name of District	No. and Name of Assembly Constituency in the district	No. of Mobile Demonstration Vans (MDV) deployed in AC	Total No. of Polling Station Location in Assembly Constituency	Date of Start of MDV in AC	Plan to cover all Polling Station Location in AC (atleast once)	Remarks, if any

ANNEXURE-16**Progress on EVMs Awareness**

(To be submitted every Monday till the date of announcement of elections)

Name of State:

Date of Report:

EVM Demonstration Centre (EDC)

Particulars	At DEO Headquarters	At RO/Revenue Sub-Division Headquarters	Total (2+3)
1	2	3	4
1. No. of people came to EVM Demonstration Centre till previous day of the Report.			
2. No. of people cast mock vote at EVM Demonstration Centre till previous day of the Report.			

Mobile Demonstration Vans (MDV)

Name of District	No. & Name of ACs in District	AC Wise Polling Locations	AC Wise Polling Locations Covered Till Previous Day Of Report	AC Wise Polling Locations Balance To Cover

ANNEXURE-17**Standard Operating Procedure (SoP) for Training including demonstration and awareness program of EVMs and VVPATs**

Following SoP shall strictly be followed for Training including demonstration and awareness program of EVM and VVPAT:

- EVM and VVPAT used for the aforesaid purpose shall be checked/tested by authorized engineer(s) of M/s Bharat Electronics Limited and M/s Electronics Corporation of India Limited, as the case may be, during First Level Checking (FLC).
- Only 'FLC-OK' units shall be used for training, demonstration and awareness campaign.
- Engineer(s) of BEL and ECIL shall ensure that there is no data (including ballot paper, in case of Ballot Unit) of previous election in the EVM and VVPAT.
- Engineers shall only use dummy symbols for ballot paper(s) and VVPAT as mentioned below:
 - o For name of candidate-AAA, BBB, CCC,... and so on.
 - o For symbol of candidates-Alpha (a) Beta W), Gama (y)... and so on. Sample

For Training/Demonstration/Awareness		
1	AAA	α
2	BBB	β
3	CCC	γ

- Only Sample ballot papers, having dummy names and symbols shall be used for training, demonstration, awareness campaign and First Level Checking. Any modification or alteration in the Dummy Name, Symbol or Sequence shall require prior approval of the Commission.
- BEL/ECIL shall ensure that engineers deputed for training, demonstration, awareness campaign and First Level Checking of EVMs and VVPATs must carry necessary equipment/SLU for symbol loading and preparation of sample ballot Paper.
- The VVPAT shall have dummy symbols which should match with the symbols of the ballot paper.
- Demonstration and Awareness shall not be given in an open area as the VVPATs have to be shielded from direct sunlight.
- During demonstration/awareness, Ballot Unit and VVPAT shall be kept together so that voters can see the printed paper slip in VVPAT.
- Voters should be explained about the process using EVM with VVPAT and also informed about the use of VVPAT with EVM in election.
- A Register should be maintained to record votes and signatures of all the participants on daily basis in the demonstration process.
- At the end of demonstration, the electronic result of the Control Unit shall be cleared and VVPAT slips shall be removed from the VVPAT drop box. Further, it has to be ensured that on the next day the same process is repeated.
- Proper Security arrangement shall be made for movement of EVM/VVPAT and awareness centers.

ANNEXURE-18**Potential Errors**

- Irregularity on use of Dummy Symbols. Hence, it shall be ensured that VVPAT slips print as per dummy ballot papers, before using for awareness purpose.
- VVPATs should be connected at the time of commissioning of the EVMs otherwise EVM will not accept a VVPAT at a later stage. Hence, the candidate setting process in EVMs should be done using Ballot Unit and VVPAT connected.
- Ensure to lock paper roll while transporting the VVPAT from one place to another, otherwise, VVPAT may go into error mode.
- Do not switch on the VVPAT in broad daylight or directly under a bulb or halogen lamp at the time of awareness as the VVPAT may go into error mode. Hence, ensure that awareness on EVM and VVPAT shall be done in shaded/closed area.
- Do not repeatedly switch ON and OFF the VVPAT as it will deplete the battery as well as paper roll.
- Switch OFF the CU when connecting or disconnecting the EVMs/VVPATs and do not pull the cable for disconnecting.
- Non-adherence of SoP on Awareness of EVMs and VVPATs.

ANNEXURE - 19**Register for Preparation of EVMs****Name of State/UT:****Name of District:****Name of Assembly/Parliamentary Constituency:****No. and Name of Assembly Segment (in case of PC):****Address of EVM-VVPAT Preparation hall:****Date:.....**

Sl. No.	Name of Candidate	Name of Representative of Candidate with Party Affiliation, if any	Identity Document No. with Date	Signature of Candidate/His representative	Remarks, if any

Note: If a candidate or his representative is absent the proof of due service of notice to the candidate should be pasted in the register.

(Name and signature of engineers of BEL/ECIL with ID No.)

(Name, designation, signature of officers nominated by District Election Officer)

ANNEXURE - 20

Part-I
Certification of EVMs by BEL/ECIL

Name of State/UT:

Name of District:

Name of Assembly/Parliamentary Constituency:

No. and Name of Assembly Segment (in case of PC) :

Address of EVM-VVPAT Preparation Hall:

Date:.....

It is certified that tests prescribed by BEL/ECIL to ascertain that all components are original were carried out on the Ballot Unit listed below on.....(date). On the basis of these tests it is certified that all components of the Ballot Unit listed below are original.

BU Identification No.

(Name & Signature of BEL/ECIL engineers with ID No.)

Part-II**Register for Sealing of Ballot Unit of EVMs using Pink Paper Seal****Name of State/UT:****Name of District:****Address of Preparation hall:****Date:**

It is certified that the sealing of the Ballot Units using Pink Paper Seals has been done in my presence. I have put my signature on the Pink Paper Seals after sealing of the Ballot Units and I am satisfied with the sealing of the Ballot Units.

Sl. No.	Unique ID of Ballot Unit	Pink Paper Seal Serial No.

Sl. No.	Name of Candidate	Name of Representative of Candidate with Party Affiliation, if any	Identity Document No. with Date	Signature of Candidate/his representative

ANNEXURE - 21**INSTALLATION OF PAPER ROLL IN VVPAT**

- a) Open the Paper Roll compartment by opening the side latches and by lifting the top cover. Observe the Paper Roll Compartment which holds the Paper roll.
- b) Remove “Spindle” from its position by pulling towards upward direction.
- c) Insert “Spindle” into “Thermal Paper Roll”.
- d) Place the “Thermal Paper Roll” with “Spindle” into its position (i.e Paper Roll compartment) and press it towards down.
- e) Insert “Thermal Paper Roll” edge into the “Guide -Paper Entry”. Ensure that the plain paper should be on the top surface and the printed band should be on the lower surface of the Paper.
- f) Move the paper into the slot by rotating the paper feed knob clock wise.

**Paper Roll Installation steps**

ANNEXURE - 22**Mock Poll certification during Preparation of EVMs****Date:.....****Name of State/UT:****Name of District:****Name of Assembly/Parliamentary Constituency:****Name of Assembly Segment (in case of PC) :****Address of EVM-VVPAT Preparation hall:**

It is certified that during commissioning of EVMs and VVPATs, mock poll of 1000 votes have been cast on 5% randomly selected EVMs, as well as VVPATs. The electronic result tallied with paper count, picked up by me. There are no discrepancies between the votes polled during the mock poll.

Sl. No.	Name of Candidate	Name of Representative of Candidate with Party Affiliation, if any	Identity Document No. with Date	Signature of Candidate/his representative	Remarks, if any

ANNEXURE-23**HANDLING OF NON-FUNCTIONAL CU-BU-VVPAT DURING POLL (PREPARATION OF POLLING OFFICIALS FOR FAULT HANDLING) - SUGGESTIONS**

Certain contingencies may arise during the polling process which may require certain actions. These are as follows: -

- a. In case the CU or the BU does not work properly:** (i) Switch off the CU and don't switch it on again (ii) Replace the complete set of EVM and VVPAT by another set of BU, CU and VVPAT **(iii) However, in such case only one vote to each contesting candidate including NOTA should be polled in the mock poll.** (iv) Continue the poll with the new EVM set, after clearing mock poll data and removing printed paper slips from VVPAT Drop Box.
- b. In case Display Panel of the CU displays "Link Error":**
 - (i) Check that the cable connections are proper by visual inspection (don't remove and reconnect the connectors);
 - (ii) If "Link Error" still persists, replace the complete set of EVM and VVPAT.
- c. In case the printed paper slip has not been cut and is hanging from the paper roll:** Replace the Printer, but no effort should be made to make it fall into the drop box. It should be allowed to remain hanging, as it is not to be counted at the time of counting of the ballot slips. The details of such an occurrence should be clearly recorded in the Presiding Officers diary in the following format:
 - i. The date and time of the occurrence.
 - ii. The name of the voter and his serial number in part in the electoral roll who was allowed to cast his vote after replacement of VVPAT.
 - iii. Whether the voter cast his vote after replacement of VVPAT or went away without casting his vote.
 - iv. The Total number of votes cast before the occurrence.
- d. In case a voter alleges after recording his/her vote that the printed paper slip generated by the printer has shown the name or symbol of a candidate other than the one he/she voted for:** Action should be taken as per provisions of Rule 49MA of the Conduct of Elections (Amendment) Rules, 2013:
 - (i) Obtain a declaration from the complainant in the Declaration Form (**Annexure-25**) under his/her signature/thumb impression;
 - (ii) Proceed to the voting compartment along with the complainant and polling agents present in the polling station at that moment;
 - (iii) The voter shall be asked to cast a test vote in favour of any candidate and make second entry related to that elector in the Form-17A;
 - (iv) Observe carefully whether the Printer has printed the paper slip correctly;
 - (v) If the complaint of the elector is found genuine, the Presiding Officer shall report the facts immediately to the RO and stop further polling at the station;

- (vi) If the complaint of the elector is found false, make a remark to that effect against the second entry relating to that elector in Form-I 7A mentioning the serial number and name of the candidate for whom such test vote has been recorded and obtain the signature or thumb impression against such remark. Further make necessary entries regarding such test vote in item 5 in Part-I of Form -I 7C.

ANNEXURE - 24**CHECK LIST OF ADDITIONAL ITEMS OF POLLING MATERIALS TO BE PROVIDED TO THE POLLING PARTY**

- | | | |
|----|---|-------------|
| 1. | Envelope made of thick black paper
(For sealing printed paper slips of Mock Poll) | : 2 Nos. |
| 2. | Form of declaration by elector under rule 49MA of the
Conduct of Elections Rules, 1961 | : 10 copies |
| 3. | Small roll of half inch width transparent cello tape
(For securing connecting cable to the leg of table) | : 1 No. |
| 4. | Pink Paper Seals for sealing black envelop | : 2 No. |

ANNEXURE - 25

Voting Compartment–Dimensions & Cascading of Ballot Units

SELF-ADHESIVE STICKERS-THREE SIDES

**भारत निर्वाचन आयोग****मतदान कम्पार्टमेंट****ELECTION COMMISSION OF INDIA
VOTING COMPARTMENT**

Name of Election:

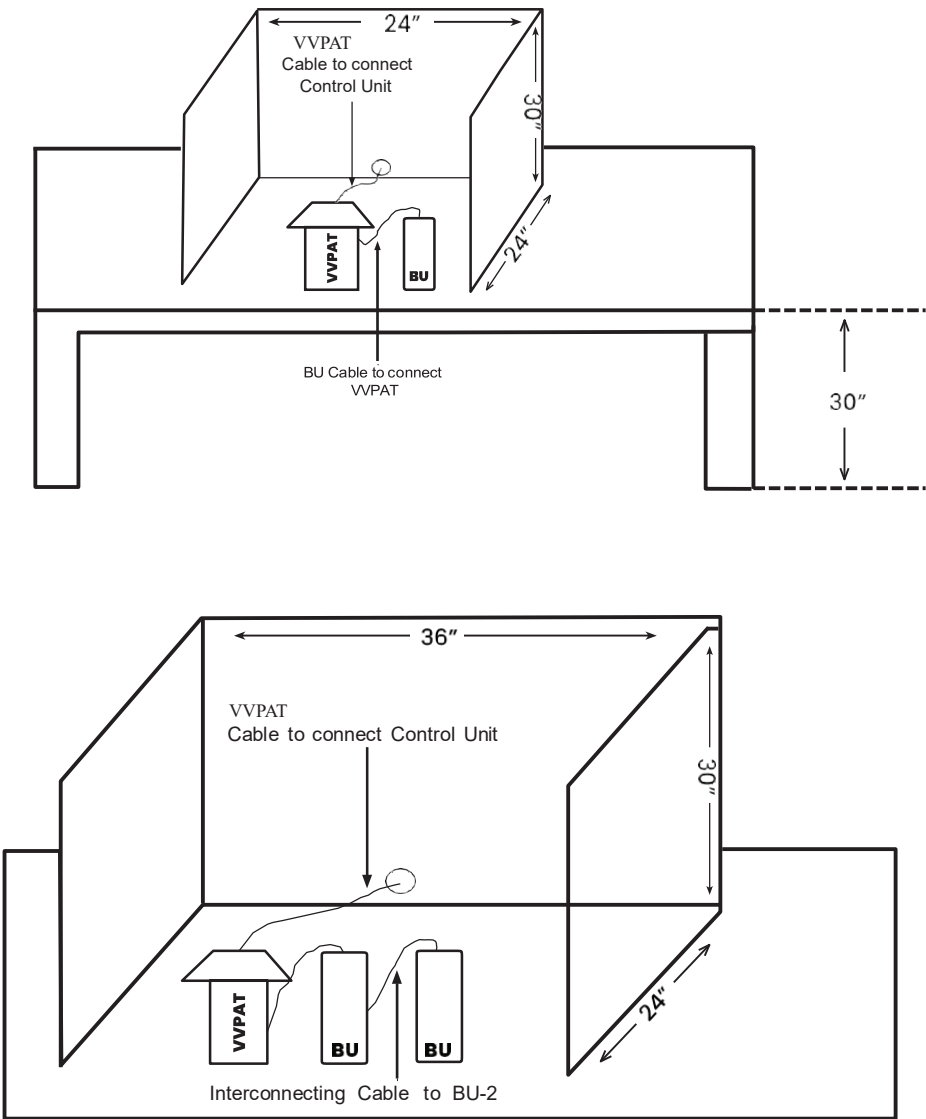
Name of State/UT:

AC/PC No. and Name:

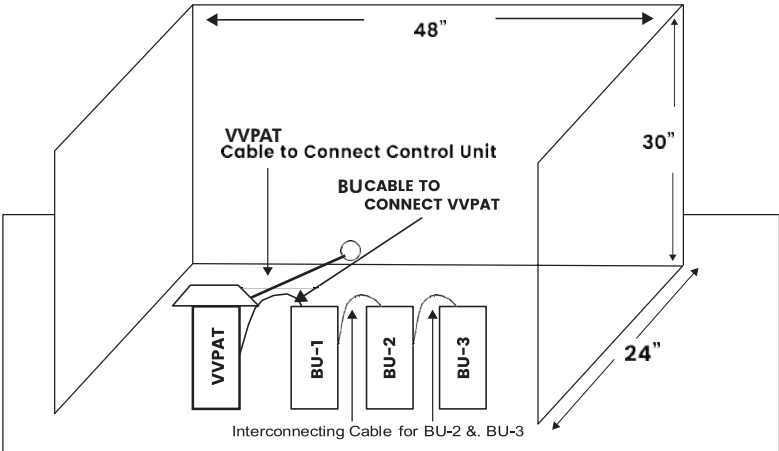
Date of Poll:

Polling Station No. and Name :

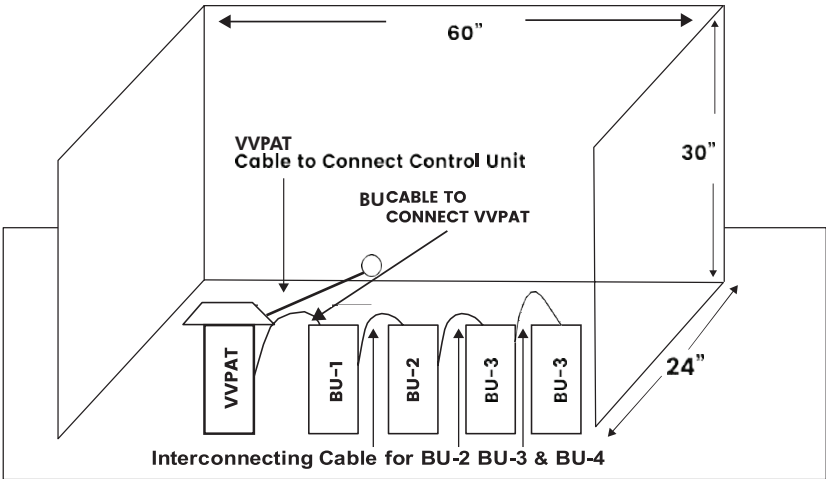
Note : The font and size printed on the stickers shall be clearly legible and readable.



CASCADING OF TWO BALLOT UNITS



CASCADING OF THREE BALLOT UNITS



CASCADING OF FOUR BALLOT UNITS

ANNEXURE- 26

General/Bye-Election to.....

SL No. and Name of Parliamentary/Assembly Constituency

No. and Name of Polling Station.....

**FORM OF DECLARATION BY ELECTOR
UNDER RULE 49MA OF CONDUCT OF ELECTIONS RULES, 1961**

- (1) I hereby solemnly declare and affirm under sub-rule (1) of Rule 49 MA of the Conduct of Elections Rules 1961 that the paper slip generated by the printer attached to the Balloting Unit has shown the name and/or symbol of a candidate other than the candidate for whom I voted by pressing the concerned blue button against the name and symbol of the candidate of my choice on the Balloting Unit. I am ready to cast a test vote again to show that the allegation made by me is true and bona fide.
- (2) I am aware of the penal provisions of Section 177 of the IPC that I shall be liable to be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if the declaration given by me in para-1 above to the Presiding Officer appointed under Section 26 of the RPAct, 1951 is found to be incorrect.

Signature/Thumb impression of the Elector

Name of the Elector.

Father/Mother/Husband's Name.....

Part No. of elector roll.

SI. No. of elector in that Part.....

SI. No. in Register of Voters (Form 17A).....

Dated.....

Certified that the above declaration was made and subscribed by the elector above named before me.

Dated.....

Signature of the Presiding Officer

ANNEXURE-27

PRESIDING OFFICER'S REPORT
PART-I: MOCK POLL CERTIFICATE

Name of election:(to be pre-printed)

No. and Name of AC/AS(to be pre-printed)

No. and Name of PC(to be pre-printed)

Polling Station No. and Name :

(a) Conduct of mock poll and verification of mock poll data

Sl. No.	Name of Candidate including NOTA (to be pre-printed)	No. of Votes Cast During Mock Poll	No. of Vote Displayed in CU on Checking the Result	No. of VVPAT Printed Paper Slips Against Candidates	Result Displayed in CU and Printed Paper Slip Count Tallied with Each Other (Yes/No)	Signature of Polling Agents with Party Abbreviation/ Independent
1						
2						
3						
4						
5						
6						
7						
8						
9						
	NOTA					
	TOTAL					

(b) 'CLEAR' button on the Control Unit has been pressed to clear mock poll data (Yes/ No)

If Yes, then write the above sentence in ink.....

(c) All paper slips taken out from VVPAT after mock poll (Yes/No)

(d) Empty VVPAT shown to all polling agents (Yes/No)

(e) Before actual poll ensure that no printed paper slip is in VVPAT Drop Box and shown to polling agents (Yes/No)

(f) 'TOTAL' button on the Control Unit has been pressed to show total vote'0' to polling agents (Yes/

No)

- (g) Mock poll VVPAT slips stamped with 'MOCK POLL SLIP' and sealed in black envelope and then sealed with Pink Paper Seal (Yes/No)
- (h) Following polling agents witness the above process and certify that mock votes tallied, mock votes erased from the Control Unit and mock poll VVPAT slips removed from the VVPAT after mock poll and sealed in black envelope.

Sl. No.	Name of Polling Agent	Name of Party	Name of Candidate	Signature of Polling Agent

- (i) Time display on the Control Unit is.....minutes more/less than Indian Standard Time (IST), if any.
- (j) Signature of Micro-Observer (if posted at the polling station)

Name and Signature of the Presiding Officer

- (1) It is, hereby, certify that before commencement of actual poll, 'TOTAL' button of the Control Unit has been pressed in the presence of all polling officials to ensure that '**Total Vote is O**'. Tick the appropriate observation:
 - (i) Control Unit shows total vote 'O' OR
 - (ii) Control Unit shows total vote more than 'O' (means mock poll votes not cleared), hence, clear the mock poll data.

(Signature of Presiding Officer)

Following Polling officers witness the above process and certify that mock votes erased from the Control Unit and mock poll VVPAT slips removed from the VVPAT before start of actual poll:

Sl. No.	Name of Polling Officer	Signature

PART-II: POWER PACK REPLACEMENT IN CU

**(TO BE FILLED DURING MOCK POLL, POLL & AFTER COMPLETION OF POLL
DEPENDING ON CASE/SITUATION)**

Name of election:(to be pre-printed)

No. and Name of AC/AS(to be pre-printed)

No. and Name of PC(to be pre-printed)

Polling Station No. and Name :.....

- (a) Details of replacement of Power Pack of the Control Unit during mock poll/ actual poll (strike out which one is not applicable)
- (i) Unique ID of Control Unit:
 - (ii) Reason for replacement of Power Pack of the Control Unit:.....
 - (iii) Unique ID of old address tag that was cut by the Presiding Officer to replace the Power Pack of the Control Unit:.....
 - (iv) Unique ID of new address tag used by the Presiding Officer to seal the Battery Section of the Control Unit:.....
- (b) Following polling agents witness the replacement of power pack from the Control Unit:

Sl. No.	Name of Polling Agent	Name of Party	Name of Candidate	Signature of Polling Agent

Repeat the above information in same format, if multiple replacements happen.

Signature of Presiding Officer

Signature of Sector Officer

PRESIDING OFFICER'S REPORT**PART-III: PRESSING OF CLOSE BUTTON
AFTER COMPLETION OF POLL**

Name of Election.....(to be pre-printed)

No. & Name of AC/AS(to be pre-printed)

No. & Name of PC.....(to be pre-printed)

Date of Poll.....(to be pre-printed)

Number & Name of Polling Station:

It is certified that I have pressed the “Close Button” of the Control Unit at the end of poll in the presence of the following:

Sl. No.	Name and Designation of Polling Officer	Signature

Sl. No.	Name of Polling Agent	Name of Party	Name of Candidate	Signature of Polling Agent

Signature of the Presiding Officer

PART-IV:**EVM/VVPAT REPLACEMENT DURING MOCK POLL (TO BE FILLED IF THERE IS ANY REPLACEMENT DURING MOCK POLL)****Name of election:**(to be pre-printed)**No. and Name of AC/AS**(to be pre-printed)**No. and Name of PC**.....(to be pre-printed)**Polling Station No. and Name :**.....

(a) Details of Electronic Voting Machine and VVPAT used- (BU- Ballot Unit, CU- Control Unit and VVPAT- Voter Verifiable Paper Audit Trail)

Sl. No.	Particulars	BU	CU	VVPAT	Signature of Sector Officer, in case of Replacement
1	Unique ID of units given at the time of dispersal				
2	(a) Tick(✓) which one found non functional during mock poll				
	(b) Reason for non-functioning (mention error/code noticed in CU)				
3	Unique ID of unit(s) given as replacement during mock poll				

(b) Following polling agents witness the replacement process:

Sl. No.	Name of Polling Agent	Name of Party	Name of Candidate	Signature of Polling Agent

(Signature of Presiding Officer)

PART-V:**EVM REPLACEMENT DURING POLL****(TO BE FILLED IF THERE IS ANY REPLACEMENT DURING POLL)****Name of election:**.....(to be pre-printed)**No. and Name of AC/AS:**.....(to be pre-printed)**No. and Name of PC**(to be pre-printed)**Polling Station No. and Name:**

a) Replacement of EVM and VVPAT during actual poll process

Sl. No.	Particulars	BU	CU	VVPAT
1	(a) Unique ID of unit(s) found non-functional during actual poll			
	(b) Time of occurrence of defects			
	(c) No. of votes recorded in the Control Unit by the time the unit(s) got non-functional			
	(d) Reason for non-functioning (mention error/code noticed in CU)			
	(e) Beep Sound is heard	Yes/No		
	(f) Unique ID of new unit(s) provided as replacement			
	(g) Time of re-starting poll			
2	Remarks, if any			

b) Following polling agents witness the replacement process during actual poll:

Sl. No.	Name of Polling Agent	Name of Party	Name of Candidate	Signature of Polling Agent

Repeat the above information in same format, if multiple replacements happen.

Signature of Presiding Officer**Signature of Sector Officer**

ANNEXURE - 28

CERTIFICATE
FOR SECTOR OFFICERS/ ZONAL MAGISTRATE etc.

- a) Name of election:
- b) No. and Name of Parliamentary/ Assembly Constituency:
- c) No. and Name of Parliamentary Constituency:
 (In case of Parliamentary Constituency)

(To be filled at the time of dispersal)

- a) Name of Sector Officer/Zonal Magistrate:
- b) Cell No.:
- c) Polling Station Nos. assigned :
- d) Date and Time of receiving Reserve EVMs/VVPATs.....
- e) Details of reserve EVMs and VVPATs provided

Sl. No.	Unique ID of BU	Unique ID of CU	Unique ID of VVPAT

(To be filled on Poll day)

- (a) At the time of mock poll on poll day

Sl. No.	No. & Name of Polling Station	Unique ID of Units Replaced at Polling Station			Unique ID of Units Provided at Polling Station			Signature of Presiding Officer
		BU	CU	VVPAT	BU	CU	VVPAT	

- (b) At the time of Actual poll on poll day

Sl. No.	No. & Name of Polling Station	Unique ID of Units Replaced at Polling Station			Unique ID of Units Provided at Polling Station			Signature of Presiding Officer
		BU	CU	VVPAT	BU	CU	VVPAT	

- (c) At the time of deposition of EVMs and VVPATs at Reception Centre

- (i) Date and Time of Deposition of the Reserve EVMs/VVPATs
- (ii) Detail of unused/Non-functional unused EVMs and VVPATs deposited at reception centre

Sl. No.	Unique ID of BU	Unique ID of CU	Unique ID of VVPAT

It is certified that the above information is correct.

(Signature)

Name of Sector Officer Designation

It is certified that I have received the unused/Non-functional unused EVMs and VVPATs as mentioned above from the Sector Officer (Name)

(Signature)

Name of RO/ ARO

ANNEXURE-29**CERTIFICATE**

I.....(name), Returning Officer of.....(No. and name of AC/PC) of.....

(district) in.....(State/UT) for the election to.....

(General/Bye-election to AC/PC) hereby certify that all the unused reserve EVMs and VVPATs and Non-functional unpolled EVMs and VVPATs in respect of my AC/PC have been received from all the Sector Officer, the number tallied and accounted for and all these units have been safely stored in the earmarked strong-rooms, as per the extant instruction of the Commission.

(Signature)

Name of RO

Date:

Place:

ANNEXURE - 30**Mandatory verification of paper slips of VVPAT of 05 randomly selected polling stations****(Separate for each polling station)**

Name of State/UT:

No. and Name of Assembly/Parliamentary Constituency:

No. and Name of Assembly Segment (in case of PC):

SL No. and name of Polling Station:

Unique ID of Control Unit:

Unique ID of VVPAT:

It is to certify that mandatory verification of paper slips of VVPAT of 05 randomly selected polling station has been conducted as per the instructions of the Commission.

Name of Candidate	No. of Votes Cast		Discrepancy, if any
	As per EVM	As per Printed Paper Slips	
1			
2			
3			
NOTA			
TOTAL VOTES			

Signature of Counting Agents

1.

2.

3.

Signature of Counting Supervisor

Signature of Returning Officer**Signature of General Observer**

ANNEXURE- 31**Mandatory verification of paper slips of VVPAT of 05 randomly
selected polling stations****(To be sent to the Commission through the Zonal Secretary concerned)**

Name of State/UT:

No. and Name of Assembly/ Parliamentary Constituency:

No. and Name of Assembly Segment (in case of PC):

SL No. and name of Polling Stations:

1.

2.

3.

4.

5.

It is to certify that the entire process of mandatory verification of counting of paper slips of VVPATs of randomly selected 05 polling stations has been conducted under my close and direct oversight with strict compliance of the Commission's instructions.

-Signature-

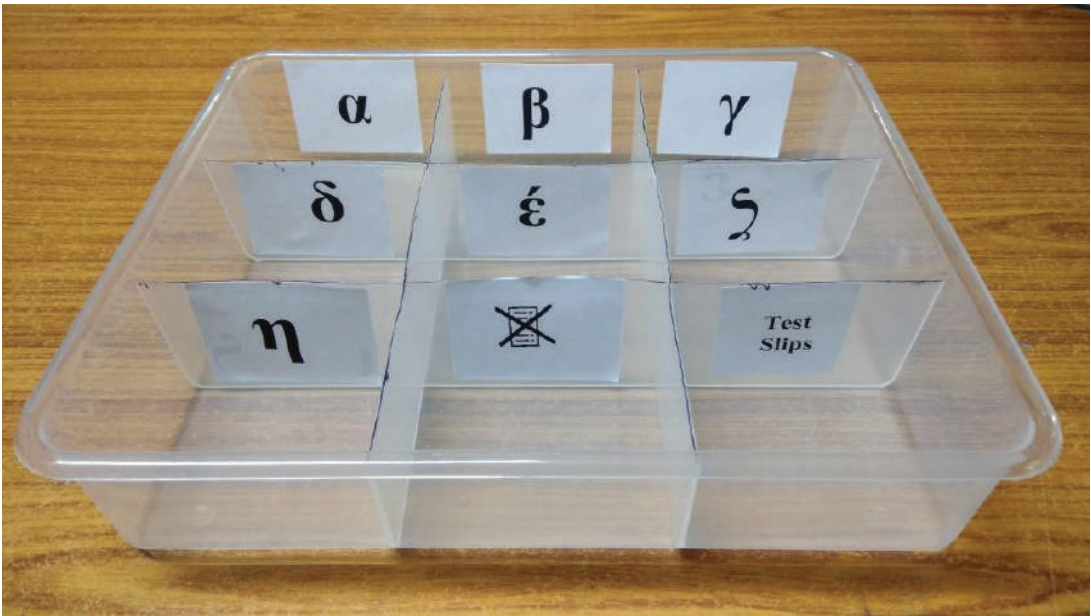
(Name of ECI Observer)

Observer Code:.....

ANNEXURE - 32



Sample Container -14 inch X 10 inch X 5 inch (length X breadth X height)



Sample Pigeonholes (Size of each compartment 6 inch X 4 inch X 4 inch)

ANNEXURE - 34**FORM 17C**

[See rules 49S and 56C(2)]

PART I-ACCOUNT OF VOTES RECORDED

Election to House of the People/Legislative Assembly of the State/Union Territory
 fromconstituency.

Number and Name of Polling Station:

Identification Number of voting

Control Unit

Machine used at the Polling Station:

Balloting Unit

Printer (if used)

1. Total number of electors assigned to the Polling Station
2. Total number of voters as entered in the Register for Voters (Form 17A)
3. Number of voters deciding not to record votes under rule 49-O
4. Number of voters not allowed to vote under rule 49M
5. Test votes recorded under rule 49MA (d) required to be deducted-

(a) total number of test votes to be deducted:	Total No.	SLNo.(s) of elector(s) in Form 17A

(b) Candidate(s) for whom test vote(s) cast:	SL No.	Name of candidate No. of votes

6. Total number of votes recorded as per voting machine:
7. Whether the total number of votes as shown against item 6 tallies with the total number of votes as shown against item 2 minus numbers of voters deciding not to record votes as against item 3 minus number of voters as against item 4 (i.e. 2-3-4) or any discrepancy noticed:
8. Number of voters to whom tendered Ballot papers were issued under rule 49P:
9. Number of tendered Ballot papers:

	SL No.
	Total From To
(a) received for use	
(b) issued to electors	
(c) not used and returned	
10. Account of papers seals

		Signature of polling agents
1. Paper seals supplied for use:	Total No.....	1
	SL No. from	To
2. Paper seals used:	Total No.....	2
	SL No. from	To
3. Unused paper seals returned to Returning Officer:	Total No.....	3
	SL No. from	To
4. Damaged paper seal, if any:	Total No.....	4
	SL No. from	To

Date

Place

Signature of Presiding Officer
 Polling Station No.....

PART II- RESULT OF COUNTING

Sl. No. of Candidate	Name of Candidate	No. of Votes As Per Count of Printed Paper Slips of VVPAT	No. of Test Votes to be Deducted as per Item 5 of Part-I	No. of Valid Votes (3-4)
(1)	(2)	(3)	(4)	(5)

1.
2.
3.
4.
5.
6.

Total
Whether the total number of votes shown above tallies with the total number of votes shown against item 6 of Part I or any discrepancy noticed between the two totals.

Place.....

Date.....

Signature of Counting Supervisor

Name of candidate/election agent/counting agent

Full signature

1.
2.
3.
4.
5.
6.
7.

Place.....

Date.....

Signature of Returning Officer

ANNEXURE - 35**Appointment of Officer for shredding VVPAT slips**

It has been confirmed that no EP/Court Case is pending with regard to election _____
(Name of Election).

I hereby nominate Smt./Sh.....(name and designation), Officer in-charge responsible to shred VVPAT Paper slips pertaining to mock poll and actual poll
_____(Name of election).

The Officer shall submit a certificate that all VVPAT paper slips pertaining to mock poll and actual poll of (name of election) have been shredded by using Paper Shredding Machine in his/her presence, within 7 days of issuing of this order.

By Order,

(District Election Officer)

Name of District:.....

ANNEXURE - 36**CERTIFICATE**

I,....., District Election Officer, ... , hereby, certify that all the VVPAT paper slips pertaining to mock poll and actual poll of.....

(name of election), which are not involved in any Election Petition or Court Case, have been shredded out as per Commission's letter No. 51/8NVPAT/2019-EMS, dated 23rd September, 2019.

I, further certify that all the VVPAT paper slips pertaining to mock poll and actual poll of

.....(name of election, if any), which are involved in Election Petition or Court Case, have been kept, as per the Commission's instructions.

(District Election Officer)

Name of District:.....

ANNEXURE - 37

CERTIFICATE

I, hereby, certify that certificates regarding disposal of all the VVPAT paper slips pertaining to mock poll and actual poll of (name of election), which are not involved in any Election Petition or Court Case, have been received from all District Election Officers in the State. VVPAT paper slips pertaining to mock poll and actual poll of

(name of election) of the following district(s), have not been disposed of due to pendency of Election Petition or Court Case:

- 1
- 2.
- 3.

(Chief Electoral Officer)

Name of State/UT:

**Instructions issued after publication of EVM Manual
(Edition December, 2022) till June, 2023**

Sl. No.	Letter No.	Date	Subject	
1.	51/8/NO Meeting/2023-EIMS	11 th April, 2023	SoP for State Level EVM Nodal Officers	Officers
2.	51/8/3/2023-EIMS	17 th April, 2023	Sop for movement of EVMs and VVPATs through the State/UT that are under going elections.	
3.	51/8/WH-Inspection/2023-EMS	4 th May, 2023	Storage and safety arrangements of EVMs and VVPATs – Monthly/Quarterly Inspection of EVM Warehouse	

739

NOTES

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

740

NOTES

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

741

// True Copy //



भारत निर्वाचन आयोग Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi-110001
"Greater Participation for a stronger democracy"

742

HEADNOTES:

1. The principle of the public nature of elections emerging from Article 38 in conjunction with Article 20.1 and 20.2 of the Basic Law (Grundgesetz – GG) requires that all essential steps in the elections are subject to public examinability unless other constitutional interests justify an exception.
2. When electronic voting machines are deployed, it must be possible for the citizen to check the essential steps in the election act and in the ascertainment of the results reliably and without special expert knowledge.

**Judgment of the Second Senate of 3 March 2009
on the basis of the oral hearing of 28 October 2008
– 2 BvC 3/07, 2 BvC 4/07 –**

in the proceedings regarding the complaints requesting the scrutiny of an election

I. of Dr. W...

- authorised representative: 1. Prof. Dr. ...,
2. lawyers ...

– against the resolution of the German Bundestag of 14 December 2006 – WP 145/05 – (Bundestag document (Bundestagsdrucksache – BTDrucks) 16/3600) – 2 BvC 3/07 –,

II. of Prof. Dr. W...

- authorised representative: Prof. Dr. ...
- against the resolution of the German Bundestag of 14 December 2006 – WP 108/05 – (Bundestag document 16/3600) – 2 BvC 4/07 –.

RULING:

1. The Ordinance on the Deployment of Voting Machines in Elections to the German Bundestag and of the Members of the European Parliament from the Federal Republic of Germany (Federal Voting Machine Ordinance (Bundeswahlgeräteverordnung – BWahlGV)) of 3 September 1975 (Federal Law Gazette (Bundesgesetzblatt – BGBl) I p. 2459) in the version of the Ordinance Amending the Federal Voting Machine Ordinance and the European Election Code (Verordnung zur Änderung der Bundeswahlgeräteverordnung und der Europawahlordnung) of 20 April 1999 (Federal Law Gazette I p. 749) is not compatible with Article 38 in conjunction with Article 20.1 and 20.2 of the Basic Law insofar as it does not ensure monitoring that complies with the constitutional principle of the public nature of elections.
2. The use of the electronic voting machines of N.V. Nederlandsche Apparatenfabriek (Nedap) of type ESD1, hardware versions 01.02, 01.03 and 01.04, as well as of type ESD2, hardware version 01.01, in the elections to the 16th German Bundestag was not compatible with Article 38 in conjunction with Article 20.1 and 20.2 of the Basic Law.
3. The complaints requesting the scrutiny of an election are rejected in other respects.
4. The Federal Republic of Germany is ordered to reimburse to the complainant re 1. the full amount of the necessary expenses from these proceedings and to reimburse to the complainant re 2. three-quarters of his necessary expenses

A.

The complaints requesting the scrutiny of an election relate to the permissibility of the deployment of computer-controlled voting machines, which are also referred to as electronic voting machines or “election computers”, in the elections to the 16th German *Bundestag*.

I.

1. Roughly two million persons eligible to vote in Brandenburg, Hesse, North Rhine-Westphalia, Rhineland-Palatinate and Saxony-Anhalt cast their votes in the elections to the 16th German *Bundestag* via computer-controlled voting machines which are manufactured by the Dutch company Nedap and have been sold in Germany since 1999 as a central component of the “Integral Election System” (IWS) of H. GmbH. The type designations of these voting machines are composed of a name for the device generation (ESD1 or ESD2), as well as in each case of a version number for the hardware (HW) and for the software (SW). The types ESD1 (HW 1.02; SW 2.02), ESD1 (HW 1.02; SW 2.07), ESD1 (HW 1.03; SW 3.08), ESD1 (HW 1.04; SW 3.08) and ESD2 (HW 1.01; SW 3.08) have so far been used in elections to the German *Bundestag*.

These voting machines are controlled via a microprocessor and a software program. The votes cast are exclusively stored on an electronic storage medium and are counted electronically by the voting machine at the end of the election day. After the electronic ascertainment of the results, the voting machine shows the total votes cast for the respective electoral proposals; the results can be printed out via a printer that is integrated into the voting machine. The software program which controls the registration of the ballot and the ascertainment of the results is to be found on two electronic storage modules (so-called EPROMs; EPROM = Erasable Programmable Read-Only-Memory) which are installed in the device under a screwed-on cover and are secured by two seals applied by the manufacturer. The votes cast at the voting machine – including the linkages (first vote and connected second vote) – are stored on a removable cassette-like storage medium – the so-called vote storage module, also referred to as “electronic ballot box” (see Schönau, *Elektronische Demokratie*, 2007, p. 53). The data of the voting slips, the attribution of the individual keys to the electoral proposals, as well as the date of the election and the polling station, are also stored on the vote storage module.

The voting machines have a keypad (“the voter *tableau*”) over which an insertion sheet is placed portraying a voting slip imitating the official voting slip. Above the key field one finds a display (LCD display) which guides the voter through the election procedure and enables him or her to examine her or her entries. The keypad and the LCD display are flanked by two vision-shielding panels on either side. On the reverse of the voting machine are the abovementioned printer and a slot for the vote storage

module. The voting machines are linked with a control unit on the returning committee's table. The control unit shows the returning committee the casting of the votes by the respective voter such that the display of the number of voters increases by one. After the voter has cast his or her votes, the voting machine is blocked for further balloting until the returning committee releases it for the next voter.

An element of the "Integral Election System" sold by H. is a programming and reading out device which enables the local authority to prepare the vote storage modules in conjunction with a personal computer prior to the elections and to read out the ballot information from the storage module after the election and to make it available for further data processing. The storage modules can be read out once more after the election day with the aid of a voting machine. The software of the "Integral Election System" also makes it possible to print the stored votes at a computer as voting slips with the corresponding crosses.

An individual identification number of the individual voting machine, as well as the version numbers of the hardware and the software, and two checksums which are constituted by a checksum algorithm contained in the voting machine software, can be shown and printed on the voting machine. These data can be compared with the information on the nameplate of the voting machine and in the declaration of identity.

2. An attempt was already made in Germany in the nineteen-sixties to replace the manual counting of the voting slips linked to the traditional election event using more rational methods and by deploying voting machines. According to § 35.3 of the Federal Electoral Act (*Bundeswahlgesetz – BWG*) of 7 May 1956 (Federal Law Gazette I p. 383 – Federal Electoral Act), the Federal Minister of the Interior was able to permit officially authorised vote counting devices to be used instead of voting slips. The Ordinance on the Use of Vote Counting Devices in Elections to the German *Bundestag* (*Verordnung über die Verwendung von Stimmzählgeräten bei Wahlen zum Deutschen Bundestag*) of 24 August 1961 (Federal Law Gazette I p. 1618) was handed down on this basis. § 35.3 of the Federal Electoral Act was rescinded by means of the Act Amending the Federal Electoral Act (*Gesetz zur Änderung des Bundeswahlgesetzes*) of 24 June 1975 (Federal Law Gazette I p. 1593), and replaced by a more detailed provision on "balloting with voting machines", which since the promulgation of the new version of the Federal Electoral Act of 1 September 1975 (Federal Law Gazette I p. 2325) can be found in § 35 of the Federal Electoral Act. The Ordinance on the Deployment of Voting Machines in Elections to the German *Bundestag* (Federal Voting Machine Ordinance) (*Bundeswahlgeräteverordnung – BWahlGV*) of 3 September 1975 (Federal Law Gazette I p. 2459) provided in § 1 that mechanically or electrically driven voting machines may be used in elections to the German *Bundestag* if their type is authorised and their use was approved.

On the basis of the Ordinance on the Use of Vote Counting Devices of 24 August 1961 (Federal Law Gazette I p. 1618) and of the Federal Voting Machine Ordinance of 3 September 1975 (Federal Law Gazette I p. 2459), voting machines were initially

authorised and used in Germany which worked on the basis of (electro)mechanical counting devices (see Schreiber, *Handbuch des Wahlrechts zum Deutschen Bundestag*, 7th ed. 2002, § 35, marginal no. 5). These voting machines worked mechanically; a count was mechanically increased by activating a button or by placing an election token in an opening allotted to the respective electoral proposal. They did not catch on since the cost of procuring, transporting, storing and maintaining the devices was compared to a relatively minor gain in time, and the devices could frequently only be deployed in elections with a small number of electoral proposals (see *Bundestag* document 8/94, p. 2).

These disadvantages were to be avoided by the deployment of electronic voting machines. In 1997, Nedap applied to the Federal Ministry of the Interior for a type approval for an electronic voting machine which it manufactured. The Federal Voting Machine Ordinance of 3 September 1975 (Federal Law Gazette I p. 2459), at that time most recently amended by Ordinance of 15 November 1989 (Federal Law Gazette I p. 1981) was not amenable to examine and approve such a device type. After the *Physikalisch-Technische Bundesanstalt*, referring to this circumstance in an examination report of 8 September 1998, had made a positive evaluation of the Nedap voting machine in technical terms and a test of the voting machine in Cologne had been assessed as satisfactory, the Federal Ministry of the Interior decided to make it possible to deploy computer-controlled voting machines in the European elections in June 1999. For this reason, amendments were also prepared to § 35 of the Federal Electoral Act and the Federal Voting Machine Ordinance for the deployment of computer-controlled voting machines in future *Bundestag* elections.

§ 35.1 of the Federal Electoral Act in the version promulgated on 23 July 1993 (Federal Law Gazette I p. 1288, 1594), most recently amended by Act of 1 July 1998 (Federal Law Gazette I p. 1698, 3431), applicable at that time was worded as follows:

Voting machines with separate counting devices may be used in place of voting slips, election envelopes and ballot boxes to make the casting and counting of the votes easier.

The words “with separate counting devices” were deleted with the Act on General and Representative Election Statistics in Elections to the German Bundestag and in the Election of Members of the European Parliament from the Federal Republic of Germany (*Gesetz über die allgemeine und die repräsentative Wahlstatistik bei der Wahl zum Deutschen Bundestag und bei der Wahl der Abgeordneten des Europäischen Parlaments aus der Bundesrepublik Deutschland*) of 21 May 1999 (Federal Law Gazette I p. 1023). The amendment to § 35 of the Federal Electoral Act was regarded as being necessary in order to be able to adjust the Federal Voting Machine Ordinance to technical developments in voting machines (see *Bundestag* document 14/401, p. 5).

The Ordinance Amending the Federal Voting Machine Ordinance and the European Election Code of 20 April 1999 (Federal Law Gazette I p. 749) already entered into

force on 24 April 1999 and amended a large number of provisions of the Federal Voting Machine Ordinance in order to create the preconditions for the deployment of computer-controlled voting machines. The words “including computer-controlled” were added in § 1 of the Federal Voting Machine Ordinance after the words “electrically driven”. Further amendments were effected where the Federal Voting Machine Ordinance had previously used the term “counting devices”. § 2.6 of the Federal Voting Machine Ordinance was added, obliging the manufacturer to enclose a declaration of identity.

3. § 35 of the Federal Electoral Act applied to the elections to the 16th German *Bundestag*, in the version of the Federal Electoral Act promulgated on 23 July 1993 (Federal Law Gazette I p. 1288, corrected p. 1594), most recently amended by the Eighth Competence Adjustment Ordinance (*Achte Zuständigkeitsanpassungsverordnung*) of 25 November 2003 (Federal Law Gazette I p. 2304). 15

The provision read as follows: 16

§ 35 17

Voting with voting machines

(1) Voting machines may be used in place of voting slips and ballot boxes to make it easier to cast and count the votes. 18

(2) Voting machines within the meaning of subsection 1 must guarantee that the ballot remains secret. Their type must be authorised for use in elections to the German *Bundestag* officially for individual elections or generally. The Federal Ministry of the Interior shall decide on authorisation on request by the manufacturer of the voting machine. The use of an officially authorised voting machine shall require approval by the Federal Ministry of the Interior. Approval may be issued for individual elections or in general terms. 19

(3) The Federal Ministry of the Interior is herewith empowered to hand down by means of a legal ordinance which shall not require the consent of the *Bundesrat* more detailed provisions regarding 20

1. the preconditions for the official approval of the type of voting machine, as well as for the withdrawal and revocation of approval, 21

2. the procedure for the official approval of the type, 22

3. the procedure for the examination of a voting machine for construction corresponding to the officially approved type, 23

4. the public testing of a voting machine prior to its use, 24

5. the procedure for the official authorisation of the use, as well as for the withdrawal and revocation of the authorisation, 25

6. the particularities related to the elections caused by the use of voting machines. 26

The legal ordinance shall be handed down in agreement with the Federal Ministry of Economics and Labour in cases falling under nos. 1 and 3. 27

(4) § 33.1 sentence 1 and § 33.2 shall apply *mutatis mutandis* to the operation of a voting machine. 28

The provisions of the Federal Voting Machine Ordinance of 3 September 1975 (Federal Law Gazette I p. 2459), which were most recently amended by ordinance of 20 April 1999 (Federal Law Gazette I p. 749), relevant to the proceedings at hand, relate to the approval of voting machines and their deployment in elections. The voting machines require a type approval and a use authorisation (see § 1 of the Federal Voting Machine Ordinance). According to § 2.2 sentence 1 of the Federal Voting Machine Ordinance, the type approval may be granted if the voting machine corresponds to the Guidelines for the Construction of Voting Machines (*Richtlinien für die Bauart von Wahlgeräten*) according to Annex 1 to the Federal Voting Machine Ordinance. These guidelines regulate in particular the technical requirements to be made on the voting machines, and contain detailed stipulations for the identification, technical structure and functioning of the voting machines. Statements are made in this context on the portrayal of the electoral proposals, on operation and operability, on the ballot, on the storage of votes and on the creation of backups. The examination of the compliance of the voting machine with the above guidelines is a matter for the *Physikalisch-Technische Bundesanstalt*. 29

The use of approved-type voting machines requires authorisation prior to each election (§ 4.1 sentence 1 of the Federal Voting Machine Ordinance). Only those voting machines may be used which, once the election date has been set, have been examined by the manufacturer or the local authority using the operating manuals and maintenance regulations and with regard to which it has been ascertained that they are functional (§ 7.1 sentence 1 of the Federal Voting Machine Ordinance). In the constituencies in which voting machines are used, the local authority is to familiarise the head of the returning committee and his or her deputies with the voting machines prior to the elections and to familiarise them with their operation (§ 7.3 of the Federal Voting Machine Ordinance). Prior to the commencement of the election act, the local authority assigns the devices to the head of the returning committee with the necessary operating manuals and the declaration of the manufacturer according to § 2.6 of the Federal Voting Machine Ordinance that the device is constructed identically to the tested, approved type sample (see § 8 of the Federal Voting Machine Ordinance). Prior to the commencement of the ballot, the returning committee must ascertain amongst other things that the counting and storage devices are set to zero or have been erased (§ 10.1 no. 3 of the Federal Voting Machine Ordinance) and must close the voting machine needed (§ 10.2 of the Federal Voting Machine Ordinance). Prior to reading the displays of the votes counted by a voting machine, the number of the ballot records in the voter list is to be added to the number of election slips taken in and compared with the number of votes displayed (§ 13 of the Federal Voting Machine Ordinance). Deviations are to be noted and explained in the election record 30

(§ 13 sentence 3 of the Federal Voting Machine Ordinance). If the total of the counter results displayed does not tally with the number of the total votes cast as displayed, the returning committee must show the difference and note it in the election record (§ 14.5 of the Federal Voting Machine Ordinance). The head of the returning committee, the local authority and the district returning officer must ensure on completing the tasks of the returning committee and returning the voting machines that the voting machines used or the vote storage devices removed from them and the election record with the Annexes are not made available to unauthorised parties until the *Land* (state) returning officer has revoked the blocking and sealing of the voting machines and of the vote storage devices (see § 16.2 and § 17.3 of the Federal Voting Machine Ordinance).

4. The Federal Ministry of the Interior issued type approvals for the voting machines used in the elections to the 16th German *Bundestag*. On 15 August 2005, it announced the authorisation of the use of computer-controlled voting machines made by Nedap in the elections to the 16th German *Bundestag* with details on hardware versions, storage module types and software versions (Federal Gazette (*Bundesanzeiger*) no. 158 of 23 August 2005, pp. 12747-12748). Invoking company secrets of Nedap, the Ministry however refused to make available to the interested public documents which Nedap had provided to the *Physikalisch-Technische Bundesanstalt* for the examination of the samples, or test reports of the *Physikalisch-Technische Bundesanstalt*.

31

5. The decision as to whether voting machines are acquired, and in which constituencies they are used, is a matter for the towns and local authorities. As a reason for the acquisition and the deployment of voting machines, in addition to the more rapid calculation of the election result and to the anticipated cost savings, it is stated that it is virtually impossible to inadvertently cast invalid votes; cases of doubt as to the validity of individual votes because of ambiguous markings on the voting slip and unintended errors in counting the votes are said to be virtually ruled out (see Schreiber, *Handbuch des Wahlrechts zum Deutschen Bundestag*, 7th ed. 2002, § 35, marginal no. 2). The recruitment of voluntary election assistants is also said to be made much easier because less time is needed to ascertain the election result (see Schönau, *Elektronische Demokratie*, 2007, p. 50). These advantages are said to be evident in particular in local elections, which in many *Länder* (states) were said to have been made more complex because of possibilities of cumulative voting and voting for candidates from different party lists.

32

II.

1. With their complaints requesting the scrutiny of an election, both complainants target the Federal Electoral Act and the Federal Voting Machine Ordinance insofar as they facilitate the deployment of computer-controlled voting machines. They complain of the authorisation of the use and deployment of the voting machines; furthermore, the type approvals which were issued for the Nedap voting machines used in the

33

Bundestag election are said to be unlawful. The complainant re 2. complains over and above this that the proceedings of the German *Bundestag* suffered from a number of faults.

a) aa) The complainant re 1. objected to the result of the elections to the 16th German *Bundestag* in 30 constituencies in Brandenburg, Hesse, North Rhine-Westphalia, Rhineland-Palatinate and Saxony-Anhalt referred to in greater detail. He moved to ascertain the constituencies in which computer-controlled voting machines had been used, and the number of the votes cast with these voting machines, and to repeat the elections in the constituencies concerned. The deployment of computer-controlled voting machines was said to have violated the principle of the public nature of elections and the principle of the official nature of elections. Over and above this, the voting machines were said not to be compatible with the Guidelines for the Construction of Voting Machines.

34

The principle of the public nature of elections was said to guarantee the proper implementation of the elections and the correct constitution of Parliament. The monitoring of the election act was said to have to encompass above all ensuring that the marking of the vote took place secretly and that the votes cast by the voters were inserted into the ballot box without a change, that the votes were not subsequently altered and that only the votes from the ballot box were counted at the end of the election. In the deployment of the voting machines complained of, effective monitoring by the public and by the returning committee were said to be prevented since a major part of the election act and the investigation and ascertainment of the election result were said to take place inside the voting machine.

35

If voting machines were deployed, it was said to only replace the public nature of elections possible in an election with voting slips if equivalent and publicly verifiable control mechanisms existed, such as a paper record of the votes cast printed by the voting machine which the voter could inspect. Corresponding control possibilities were however said not to be available to the public in deployment of the Nedap voting machines.

36

It was said not to be possible for the public to check the trustworthiness of the software installed in the voting machines. The examination by the *Physikalisch-Technische Bundesanstalt* and the type approval were said not to have taken place publicly; also, the voting machines were said not to be made available to the interested public for independent examination. The source code software of the voting machines was said not to be open. Ultimately, it was said also not to be possible to examine whether the copies of the software used in the polling stations were identical to the sample examined by the *Physikalisch-Technische Bundesanstalt* and whether they were free of manipulations. It was said to be possible to effect authentication by a chain of characters ("hash value") being calculated for each original program and the copy and then compared, so that agreement between the two values was said to document the authenticity of the software. This was however said not to be reliably

37

guaranteed in the voting machines which were the subject of the complaint since the checksums displayed and printed when the device was launched were calculated by the software installed in the voting machine itself, so that it was alleged not to be ruled out that the calculation of the checksums provided the expected chain of characters because of a prior deliberate manipulation of the software.

The particular danger in computer-controlled voting machines was said to lie in the fact that elections could be much more effectively influenced via manipulation of the software by the device manufacturer than in ballot box elections. For instance, it was said to be possible for faulty software to allot a certain share of the votes cast to a certain party regardless of the election decision by the respective voter or for the total votes cast to be divided among the parties standing for election according to a set proportion. Manipulations were said to be possible both by politically or financially motivated “insiders”, in particular employees of the manufacturer, and by external third parties who gained access to the computers used by the manufacturer (for instance via viruses or trojans); they were said with regard to the complexity of the software used not always to be discovered even in careful quality control effected by the manufacturer. Although it was said to be necessary to prevent unauthorised access to the devices between the elections through suitable security measures, no such monitoring was said to take place in Germany; there were also said to be no suitable regulations in force that were able to guarantee protected storage of the voting machines.

38

It was said that the proceedings for the examination of the type sample by the *Physikalisch-Technische Bundesanstalt* and the approval of the type by the Federal Ministry of the Interior should be public as a part of the preparations for the elections. Any interests of the manufacturer in protecting its business secrets should be subordinate to the principle of democracy. For a lack of a possibility to check the device independently, the publication of the control documents and reports of the *Physikalisch-Technische Bundesanstalt* and of the source code of the voting machine software was said to be the only possibility in order to be able to judge the integrity of the elections. The non-publication of the control reports and documents and of the source code was hence said to constitute an electoral error.

39

It was said not to be compatible with the “principle of the official nature of the elections” that the functionality of the voting machines could only be examined by the manufacturer (§ 7.1 of the Federal Voting Machine Ordinance), and that there was no official control of freedom from manipulation of the voting machines. Over and above the declaration of identity, there was said to be no authentication of the software implemented on the individual voting machines, so that the election bodies had to rely on effective quality assurance by the manufacturer and on there being no manipulation after the examination had been carried out by the manufacturer. The tests carried out by the district returning officer in the context of preparation for the election and by the returning committee in the polling station were said not to be suited to recognise any manipulations.

40

The voting machines were said not to be compatible with the “Guidelines for the Construction of Voting Machines” (Annex 1 to § 2 of the Federal Voting Machine Ordinance). They neither complied with the general state-of-the-art, nor were they constructed in compliance with the rules of technology for systems with grievous consequences in case of misconduct (letter B no. 2.1 subsection 1 of the Guidelines for the Construction of Voting Machines). In contravention of to letter B no. 1 item 2 of the Guidelines for the Construction of Voting Machines, the software used was said not to be clearly identifiable. 41

It is also said to be objectionable that § 35 of the Federal Electoral Act only calls for the ballot to be held in secret, but not for adherence to the other electoral principles. The examinability of the election result provided for in Article 41 of the Basic Law was said to be undermined if as a result of the type it were no longer to be possible to establish whether the outcome of the election had been reached lawfully. 42

bb) The complainant re 2. also submitted an objection to the elections to the 16th German *Bundestag*. 43

He takes the view that the deployment of the computer-controlled voting machines in at least 1,921 polling districts and 39 constituencies in five *Länder* had violated the principle of democracy, the principle of the rule of law and the principles of the public and official nature of elections. The deployment of the voting machines was said to violate the Federal Electoral Act and the Federal Voting Machine Ordinance from multiple points of view. Neither § 35 of the Federal Electoral Act, nor the Federal Voting Machine Ordinance, were said to comply with the constitutional principles of the law on elections of the public and official nature of elections. 44

The complainant re 2. moved *inter alia* for a finding that the election results in the constituencies designated by the complainant re 1., in the constituencies that were manifest from a “Customer overview [of Nedap] on the 2005 *Bundestag* election” provided by the Federal Statistical Office and in all other constituencies in which voting machines of the impugned nature might have been deployed, had come about unlawfully and were hence allegedly invalid. It was said that the elections needed to be repeated in these constituencies. Furthermore, the complainant re 2. applied for the publication of the examination documents of the *Physikalisch-Technische Bundesanstalt* regarding the voting machines to which the complaint referred, as well as for the holding of an oral hearing as soon as possible and the summons of specific witnesses and experts. 45

The more detailed statements of the complainant re 2. correspond to the objection submitted by the complainant re 1. 46

cc) The Federal Ministry of the Interior moved to reject the objections. 47

The public nature of the ballot was said to have been guaranteed in the deployment of the voting machines. The public was said to be able to check that only entitled voters were granted access to the voting booth. The returning committee was able to 48

check by reading the control unit that each voter had in fact voted and had only done so once. Moreover, it was said that the principle of the public nature of elections was not guaranteed without restriction. It was said to be in conflict with the goal of forming a viable people's representation in a short time. The Federal Electoral Act was said to attach greater significance to the goal of elections being held in good time and to ascertaining the outcome of the election within a reasonable time than to detailed monitoring by the public.

The public nature of the vote counting was said to have been guaranteed. The public was said to be able to check how the result of the constituency ascertained by the voting machine on conclusion of the election act was printed by the returning committee and included in the election record. The returning committee and each election observer were said to be able to compare the ballot records in the voter register and the valid and invalid first and second votes registered by the voting machine, and hence to ascertain whether the device had covered and added all the votes cast. It was said to be not possible to physically cover the individual votes; a totalling procedure which was verifiable for the public was however said not to be necessary since protection against falsification of the election result was said to be ensured by a number of other measures guaranteeing the reliability of the result as with ballot box elections. For instance, the voting machine was examined thoroughly prior to being approved by the *Physikalisch-Technische Bundesanstalt*. Comprehensive monitoring by local authorities and returning committees also took place in the run-up to the elections. The local ascertainment of the results was said to guarantee that manipulations on the part of individuals could at most impact the outcome of the election in the respective constituency.

49

Public monitoring was said to be only one factor among many in order to prevent irregularities in the elections, albeit an important one. No measure was said to be able to prevent manipulations or unintentional falsification of the election result by itself. All measures together were however said to guarantee very broad protection of the elections against election falsifications.

50

Since the principle of the public nature of elections had not been violated, it was said not to be necessary to bring forward the public nature of elections by publishing the control results of the *Physikalisch-Technische Bundesanstalt* and the source code for the voting machine software. The fundamentally public nature of the preparations for the election and of the election itself could be restricted for reasons of the protection of private data or of operational and business secrets. The type approval, the examinations of the voting machines by the *Physikalisch-Technische Bundesanstalt*, as well as the conclusive examination by the local authorities, were said to replace monitoring by the public in this respect.

51

The paper record called for by the complainants for subsequent checking of the storage of the votes was said to be by no means non-contentious in expert circles because of its disadvantages. It was said that such a record could be manipulated just

52

like any paper product. Further, it was impossible for a paper record to eliminate a lack of trust in the viability of the voting machine since it was created by the voting machine.

Since the preparation and implementation of the elections were said to be public tasks, it was said to be irrelevant whether this was actually expressed in a “principle of the official nature of the elections”. It was only required that the state bodies provided the facilities and resources and took responsibility for organising the elections. It was said to be unobjectionable that private individuals effected individual actions; in this respect, the state bodies only had to carry out the monitoring required. For instance, the official voting slips were printed by private printers and the election notifications and postal voting documents were sent via private postal companies. It was said to always have been sufficient that the election authority classed the enterprises commissioned as trustworthy in each case. The same was said to apply to the manufacture and supply of voting machines with a declaration of identity of the manufacturer.

53

The voting machines were said to be compatible with the Guidelines for the Construction of Voting Machines. The voting machine software was said to be identifiable at any time by virtue of a comparison of the version number and the checksums with the information contained in the declaration of identity. Also the authenticity of the software was said to be guaranteed by a combination of protective measures.

54

Certainly, any electoral errors were said not to be relevant to mandates. Not concrete information had been put forward indicating that different election results had been achieved in specific polling stations because of the deployment of voting machines than would have been the case with a ballot box election.

55

dd) The German *Bundestag* rejected the election objections by resolution of 14 December 2006. The resolution recommendation of the Committee for the Scrutiny of Elections of 30 November 2006 (*Bundestag* document 16/3600, Annexes 1 and 2) considered the objections of both complainants to be manifestly unfounded.

56

The constitutionality of individual provisions of electoral law was said not to be amenable to a review by the German *Bundestag* since the German *Bundestag* and the Committee for the Scrutiny of Elections were not called on to find provisions of electoral law unconstitutional.

57

The deployment of the voting machines was said to have violated neither the concrete form given to the principle of the public nature of elections in non-constitutional law (§§ 10 and 31 of the Federal Electoral Act; § 54 of the Federal Electoral Code (*Bundeswahlordnung – BWO*), nor a principle of the public nature of elections going beyond this. The principle of the public nature of elections was said certainly not to entail each individual act being subject to an individual check. The public nature of the ballot was also said to be heavily restricted in postal voting. The election was said to be operated in the voting machines which were the subject of the complaint in princi-

58

ple in the same manner as in the ballot box election. Although marking of the voting slip and the ballot were carried out on one single device in the voting booth, the act of balloting was said to be transparent for the returning committee and the public since only the voter who had submitted his or her election notification card was able to vote using the voting machine.

In legal reality, when it came to the deployment of voting machines the concrete election act of voting was said to be in a conflict of interests between the principle of secret elections and that of the public nature of elections. It was said to be acceptable against this background that in the deployment of computer-controlled voting machines each sub-act of vote registration was not transparent to all. It was said to be one of the particularities of the advance in technology that one could presume that the systems deployed were viable if they had been examined in a special procedure prior to their deployment. This was said to be all the more valid given that the necessary monitoring took place in all other procedural steps, and hence the results that were obtained could be examined to determine their plausibility. The only decisive aspect was said to be whether the public had the fundamental possibility to become convinced of the viability of the election procedure. This was said to be accounted for by voting with voting machines: In particular, the public was able to check the printout of the result of the constituency ascertained by the voting machine and the transfer of the result into the election record, and hence the counting as a whole. By means of the comparison of the ballot records in the register of voters with the valid and invalid first and second votes registered by the device, as prescribed by § 14 of the Federal Voting Machine Ordinance, it was said also to be possible to check whether the voting machine had recorded all the votes and added them correctly. All the stored votes could be printed out as voting slips with the corresponding crosses and subsequently counted by hand.

59

The proceedings for type approval were said not to give rise to an election error. There was also said not to be a right to inspect the source code of the voting machine software with regard to the principle of the public nature of elections since the protection of the operational secrets of the manufacturer of the voting machines was said to outweigh the interest of the public in revealing the source code.

60

According to the convincing descriptions contained in the statement made by the Federal Ministry of the Interior, the voting machines which were the subject of the complaint were said to have complied with the provisions of the Federal Voting Machine Ordinance and with the Guidelines for the Construction of Voting Machines. According to the statements of the Federal Ministry of the Interior, manipulations were said to be theoretically possible, but hardly conceivable in practice. There were said to be no indications of deliberate manipulations or accidental alterations to the voting machines used in the *Bundestag* election forming the subject of the complaint. Even if none of the security measures mentioned were able by themselves to prevent manipulations, all the measures together were said to guarantee a very high degree of security against manipulation of the voting machines.

61

Where the complainant was complaining about a shift of state tasks towards private parties, this was said not to constitute an electoral error, even if the submission was assumed to be correct. In particular, the fact that the preparation and implementation of elections was a public task did not force the conclusion to be drawn that all necessary acts may only be carried out by officials. The necessary state control was said to be ensured. 62

Since no electoral error was therefore ascertainable, it was said not to be necessary to investigate any impact on the result of the ballot and on the distribution of seats in the German *Bundestag*. No oral hearing was set regarding the objection of the complainant re 2. according to § 6.1a no. 3 of the Law on the Scrutiny of Elections (*Wahlprüfungsgesetz – WahlPrüfG*), old version. 63

b) Both complainants have submitted a complaint requesting the scrutiny of an election to the Federal Constitutional Court (*Bundesverfassungsgericht*). 64

aa) The complainant re 1. moves to rescind the resolution of the German *Bundestag* of 14 December 2006 and to declare the elections to the 16th German *Bundestag* invalid in the constituencies referred to in the objection procedure insofar as computer-controlled voting machines were used there, and to order a repeat of the elections with voting slips and ballot boxes. Alternatively, he moves for a finding that the use of software-controlled voting machines in elections to the German *Bundestag* is not compatible with the Basic Law, furthermore as an alternative that the deployment of voting machines is not compatible with the Basic Law unless the transparency of the elections for the public, the examinability of the correctness of the election result and security against manipulation is guaranteed in a manner corresponding to elections with voting slips and ballot boxes. 65

The complainant re 1. repeats and expands his submission from the objection procedure, and submits the following as a supplement: 66

The deployment of the electronic voting machines, because of their technical and constructional security faults, was said to have violated the principles of electoral law set out in Article 38 of the Basic Law, the unwritten constitutional principles within electoral law of the public and official nature of elections, as well as the non-constitutional provisions of electoral law. 67

The public nature of the elections was also said to have been violated by virtue of the fact that the monitoring had been shifted to a non-public approval procedure and the publication of the examination results, examination documents, construction characteristics and of the source code of the devices had been refused. An evaluation of the votes cast that was verifiable by the public was said not to be possible because the individual votes could not be physically recorded. 68

The Federal Voting Machine Ordinance was said to contain serious faults insofar as it built on the principle of the declaration of identity; for there was said to be no monitoring as to whether the devices actually used corresponded to the software and 69

hardware checked by the *Physikalisch-Technische Bundesanstalt*.

It was said not to be compatible with the principle of official nature of the implementation of the election for the state election authorities to relinquish control over the entire course of events, including the technical details. Democracy and the rule of law were said rather to demand that the entire election events, ranging into the ramifications of the technical details, could be traced both by state bodies and by the people. The design of the election procedure, the monitoring and the parliamentary and judicial examinability of the election results, were said to be subject to the state's reserve as core state tasks.

70

The technical and constructional security faults in the voting machines were said to violate the principles of electoral law as to the freedom, equality and secrecy of the elections. If votes were diverted, electronically "caught" and "spied on", the freedom of the elections was said to be placed at risk. Equality was also said to be affected if it was not sure whether the vote that had been cast had been counted at all, and if so whether it was counted correctly. What is more, it was said that the secrecy of elections could suffer damage were manipulations to occur. It was said to be sufficient for a violation of the principles of electoral law that a situation had been created by the deployment of electronic voting machines in which the errors described were possible.

71

The restrictions of the principles of electoral law were said not to be justified by contrary constitutional provisions. Nedap's company secrecy interests that are protected by fundamental rights had to be subordinated to the interest of the public in information and to the public monitoring which was fundamental to democracy. The gain in democracy (rapidity of ascertaining the election results and increased level of security of the election procedure), linked with the deployment of computer-controlled voting machines, was also said to be unable to justify the impairment of public elections.

72

The election errors were said to be relevant to mandates. Major alterations were said to be possible in the mandate structure because of the major part of the votes affected by the election errors. The complainant re 1. was said not to bear the burden of proof for the elections having led to a different result without voting machines than had in fact been the case in the constituencies in which voting machines had been deployed. For the election errors which had been complained of, in particular the violation of the principle of the public nature of elections, were said to have eliminated the actual possibility to demonstrate a manipulation in concrete terms.

73

bb) The complainant re 2. is essentially moving to rescind the rejection of his objection by the German *Bundestag* and to repeat the elections in the constituencies designated in the written objection of 15 October 2005, as well as basically to establish the unconstitutionality of § 35 of the Federal Electoral Act and the Federal Voting Machine Ordinance.

74

The complainant re 2. challenges both the constitutionality of the legal basis for the

75

deployment of computer-controlled voting machines (§ 35 of the Federal Electoral Act and the Federal Voting Machine Ordinance), and the concrete deployment of the Nedap voting machines in the elections to the 16th German *Bundestag*. The electronic voting machines used were said to violate as to their construction and functioning the principles of electoral law of the public and official nature of elections and Article 38.1 sentence 1 of the Basic Law, as well as the Federal Voting Machine Ordinance. The procedures for the approval of the voting machines by the *Physikalisch-Technische Bundesanstalt* and the Federal Ministry of the Interior which were the subject of complaint were also said not to comply with the principles of democracy and the rule of law, as well as with the principles of electoral law of the public nature of elections and the sovereign implementation of elections.

As grounds, the complainant re 2. repeats the arguments that he already submitted in the objection procedure before the German *Bundestag*. He additionally alleges that the equality of elections had been violated by differing treatment of voting slip voters and voting machine voters since the principles of democracy and the rule of law, as well as of the public and official nature of the elections, were said to apply to the same degree to voting slip voters and to voting machine voters, and that the legislature had not provided legal provisions for the deployment of the electronic voting machines which were identical and equivalent to those in the Federal Electoral Code for voting slip elections. Insofar as it was not possible to rule out that because of the technical shortcomings of the voting machines there might be discrepancies between the ballot intended by voters and the ballot registered by the voting machine, the principle of equality between “successful” and “unsuccessful” voters was said to have been violated.

76

He also objects to the proceedings before the German *Bundestag*. The length of the proceedings was said not to be acceptable. The German *Bundestag* was said to have taken its decision on the basis of an insufficiently verified set of facts. The impugned resolution of the German *Bundestag* was said to have not come into being effectively for a lack of a quorum since 40 Members at most had attended the ballot. The deliberations of the Committee for the Scrutiny of Elections were said to have taken place in camera. The Rules of Procedure of the German *Bundestag* (*Geschäftsordnung des Deutschen Bundestages – GO-BT*) were said to be unconstitutional because they had not provided for the hearings, deliberations and rulings of the committee in the election scrutiny procedure to be held in public. Despite an explicit motion, no date had been set for an oral hearing.

77

2. The complaints requesting the scrutiny of an election were served on the German *Bundestag*, the *Bundesrat*, the Federal Government, all *Länder* Governments, the federal associations of the parties represented in the German *Bundestag* (CDU, SPD, The Greens, FDP, Linkspartei, CSU) and the federal returning officer. The *Physikalisch-Technische Bundesanstalt* and the Federal Office for Information Security were afforded the opportunity according to § 27a of the Federal Constitutional Court Act (*Bundesverfassungsgerichtsgesetz – BVerfGG*) to make a statement on

78

the technical questions that had been put forward.

a) The federal returning officer considers the deployment of the electronic voting machines to be lawful. 79

b) The Federal Ministry of the Interior has extended and supplemented its statements from the objection procedure before the German *Bundestag* on the use of the voting machines allegedly having been constitutional and lawful. 80

The public nature of elections was said to be overstretched if it were to be demanded that anyone should be able to verify the entire election events, including the preparations for the election, right down into the ramifications of the technical details and the entire state activity in an election, including the type approval of the voting machines, and that the other preparatory work of the election bodies and other institutions were subject to public monitoring. 81

The local organisation was said to be one of the most important means to prevent manipulations in the use of voting machines. Since the local authorities decided on their own responsibility on the acquisition of the voting machines and were said to be responsible for the proper storage of the voting machines, and for their examination prior to deployment, manipulation of the voting machines was said to require, in addition to the appropriate technical skills, a knowledge of the manner in which each individual local authority stored the voting machines and how the security measures could be overcome. The local organisation was said to also include the ascertainment of the results in the respective polling station. This meant that it was not possible to manipulate the voting machine during transportation. Impacts of any irregularities were hence restricted to the election result in the respective constituency. 82

c) The *Physikalisch-Technische Bundesanstalt* explained the examination concept on which the type sample check was based, and stated that the security requirements should be judged in the context of the implantation of the voting machines into the proven processes in traditional elections. The arguments of the complainant were said not to take this into account. 83

3. a) The Chaos Computer Club e.V. refers in its statement to an examination of the security and manipulability of Nedap election computers which was implemented in 2006 in cooperation with the Dutch initiative “We do not trust voting computers” (“*Wij vertrouwen stemcomputers niet*”). The software and the hardware of the Dutch ES3B type, which in the view of the study’s authors differed only slightly from the ESD 1 and ESD 2 types used in Germany, was said to have been susceptible to manipulation with relatively little effort. The test indicates that the processes and programming methods analysed by reconstructing the source code of the voting machine were trivial and only constituted the state-of-the-art of the early nineteen-nineties. 84

The voting machines could be manipulated by the votes cast for an electoral proposal being altered prior to their storage, so that they would be stored on the vote storage module as votes cast for another party. This was said not to require any knowledge of 85

the list place of the party or of the candidate. A further manipulation variant was said to consist in already providing for a preset percentage final result for a specific electoral proposal prior to commencement of the elections without this coming to light in a test election. It was said to be possible in practice to exchange the software without encountering difficulties. The storage media could be removed from the voting machine, read out, deleted and re-programmed using widely available tools. A person with a modicum of technical knowledge could exchange a storage medium within less than five minutes after brief training; someone with experience could have effected a swap in about one minute. Manipulations to the hardware were also simple without this being identifiable by any testing procedure used or proposed by Nedap or by the *Physikalisch-Technische Bundesanstalt*.

All in all, the tests had shown that the Nedap voting machines did not meet the requirements of the Federal Voting Machine Ordinance. The dynamics of the development in the potential for attack and manipulation were said to constitute one of the main risk factors of computer-aided election procedures. In contradistinction to established procedures, it was possible at any time for attack methods to be developed which were as yet unknown and the consequences of which were not foreseeable which remained unrecognised and made it possible to falsify an election. None of the fundamental difficulties in the use of computer-controlled voting machines was said to be solvable by technical means with sufficient reliability since greater technical security measures would of necessity lead to more complex systems which could be examined by even fewer people.

86

b) The Federal Ministry of the Interior takes the view that the statement of the Chaos Computer Club showed all in all an over-evaluation of technical security requirements as to the voting machines. There was said to be no way to guarantee absolute security against falsification in elections. Ballot box election and postal voting was said to be theoretically susceptible to manipulation in a similar way to elections with voting machines. Any technical security measure could be circumvented with the corresponding effort.

87

The criticised manipulation possibilities still in existence despite a protected environment were said not to differ from the risks also existing in classical elections. The existing regulations were said to be adequate.

88

4. In the oral hearing, the Senate furthermore heard Dr. Jörn Müller-Quade, European Institute for Systems Security (*Europäisches Institut für Systemsicherheit*) in Karlsruhe, and Melanie Volkamer, Institute of IT-Security and Security Law (*Institut für IT-Sicherheit und Sicherheitsrecht*) of the University of Passau, as experts. Dr. Müller-Quade particularly made a statement on the question of whether and to what degree manipulation to the hardware or software could be discovered by subsequent examinations of the voting machines. Ms Volkamer explained how the concurrence of the software with the samples installed in the individual voting machines could be examined prior to the elections.

89

Insofar as the complainant re 2. objects to the proceedings before the German *Bundestag*, his complaint requesting the scrutiny of an election is unsuccessful. 91

The complaints requesting the scrutiny of an election are well-founded insofar as they complain about the Federal Voting Machines Ordinance permitting the use of computer-controlled voting machines without ensuring effective monitoring of the election act and effective subsequent monitoring of the ascertainment of the result. In this respect, there is a violation of the principle of the public nature of elections under Article 38 of the Basic Law in conjunction with Article 20.1 and 20.2 of the Basic Law. The use of Nedap's computer-controlled voting machines was also not compatible with the principle of the public nature of elections. Both election errors however do not lead to the elections being declared invalid in the constituencies designated by the complainant. 92

It can remain open whether the constructive characteristics of the voting machines, and hence also the type approvals and the use authorisation, were compatible with the requirements contained in the Federal Voting Machine Ordinance, and in particular in the Guidelines for the Construction of Voting Machines, and with the principles of electoral law under Article 38.1 sentence 1 of the Basic Law. The same applies as to the complaints that the voting machines used had not been subject to adequate official monitoring, that the examination of the samples by the *Physikalisch-Technische Bundesanstalt* and that the type approval procedure had not taken place in public, as well as that the examination reports and documents of the *Physikalisch-Technische Bundesanstalt*, and the source code of the voting machine software, had not been made available to the public. 93

I.

The complaint requesting the scrutiny of an election of the complainant re 2. is unsuccessful insofar as the complainant complains of the length of the proceedings before the German *Bundestag* and that the Committee for the Scrutiny of Elections had not deliberated in public and wrongly had not set an oral hearing. The complaint that the German *Bundestag* had not been quorate on accepting the resolution recommendation of the Committee for the Scrutiny of Elections is also not well-founded. 94

In the context of the complaint proceedings, the Federal Constitutional Court reviews the impugned resolution of the German *Bundestag* in formal and substantive terms. Faults in the proceedings of the German *Bundestag*, as they are claimed by the complainant, can only be relevant to the complaint if they are material and deprive it of the basis for its decision (see Decisions of the Federal Constitutional Court (*Entscheidungen des Bundesverfassungsgerichts* – BVerfGE 89, 243 (249); 89, 291 (299)). No such procedural violations are recognisable here. 95

1. Even if the proceedings took more than one year between the submission of the objection to the election and the decision of the German *Bundestag*, this does not yet 96

constitute a grievous procedural error. The length of the proceedings by itself does not remove the basis for the decision (see Federal Constitutional Court (*Bundesverfassungsgericht* – BVerfG, judgment of the Second Senate of 3 July 2008 – 2 BvC 1/07, 7/07 –, *Neue Zeitschrift für Verwaltungsrecht* – NVwZ 2008, p. 991 (992)).

2. The fact that the Committee for the Scrutiny of Elections refrained from holding an oral hearing on the complainant's objection to the election, and also deliberated in camera in other respects, also does not constitute a grievous error removing the basis for the decision of the German *Bundestag*. 97

a) According to § 6.1a no. 3 of the Law on the Scrutiny of Elections in the version of 24 August 1965 (Federal Law Gazette I p. 977 (Law on the Scrutiny of Elections, *Wahlprüfungsgesetz* – *WahlPrG*, old version)), which applied at the time of the decision on the complainant's objection, the committee was able to refrain from holding an oral hearing if the preliminary review revealed that the objection was manifestly unfounded. Since the amendment of § 6.1 of the Law on the Scrutiny of Elections by the Act Amending the Law on the Scrutiny of Elections of 6 June 2008 (Federal Law Gazette I p. 994), a date for an oral hearing is only to be set if the preliminary examination reveals that this can be expected to further promote the proceedings. 98

An objection is manifestly unfounded if no aspect is recognisable at the time of the decision which may help it to succeed (see BVerfGE 89, 243 (250); 89, 291 (300)). The evaluation is not conditional on the unfoundedness of the appeal being evident; it may also be the result of a prior thorough examination (see BVerfGE 82, 316 (319-320) on the regulation of § 24 of the Federal Constitutional Court Act with identical content). 99

Even if there may be reasons according to the submission of the complaint suggesting that the objection was not manifestly unfounded, in particular with regard to compliance with the Guidelines for the Construction of Voting Machines, refraining from holding an oral hearing is certainly not so grievous that the decision of the German *Bundestag* would be deprived of its basis by these means. It based its decision primarily on the deployment of computer-controlled voting machines not violating the principle of the public nature of elections and the concrete non-constitutional provisions contained in electoral law. In this respect, the German *Bundestag* has addressed the complainants' arguments in detail and made a detailed statement on the questions raised. Where it deals with the question of the approval of the Nedap voting machines used in the *Bundestag* election, it takes as a basis the statement of the Federal Ministry of the Interior, according to which manipulations are theoretically possible but, because of the bundle of technical and organisational security measures, are ruled out to the same degree as in classical voting slip elections. 100

b) In contradistinction to the view taken by the complainant re 2., the Committee for the Scrutiny of Elections was not obliged to deliberate in an open hearing. 101

The Law on the Scrutiny of Elections regulates in the provisions on oral hearings 102

(§§ 6 et seq. of the Law on the Scrutiny of Elections) the preconditions under which the proceedings of the Committee for the Scrutiny of Elections are held in public. If an oral hearing is not waived, the hearing takes place in public. According to § 10.1 of the Law on the Scrutiny of Elections, the Committee for the Scrutiny of Elections deliberates in secret on the result of the oral hearing. According to the system of the Act, this applies in the same way if an oral hearing is waived. No constitutional aspects are evident which might oblige the legislature to enact any different regulation when legislating on the scrutiny of elections (Article 41.3 of the Basic Law).

3. The complaint of the complainant re 2. that the resolution of the German *Bundestag* of 14 December 2006 had allegedly not effectively come into being for a lack of a quorum is also unsuccessful. The German *Bundestag* decides with a simple majority on the recommendation for a resolution of the Committee for the Scrutiny of Elections (§ 13.1 sentence 1 of the Law on the Scrutiny of Elections). According to § 45.1 of the Rules of Procedure of the German Bundestag, the *Bundestag* is quorate if more than half of its members are present in the plenary. The *Bundestag* is regarded as being quorate regardless of the number of its members present until it is found to not be quorate in the proceedings prescribed in § 45.2 of the Rules of Procedure of the German Bundestag. This provision does not come up against any constitutional reservations (see BVerfGE 44, 308 (314 et seq.) on the provisions of § 49.2 of the Rules of Procedure of the German Bundestag, old version, the content of which is largely identical).

As is shown by the record of the session, the German *Bundestag* unanimously accepted the resolution recommendation of the Committee for the Scrutiny of Elections on 14 December 2006 (see Minutes of plenary proceedings 16/73, Stenographic Record p. 7259 B). It cannot be derived from the minutes how many delegates were present in the house when the ballot was held. There is no record that it had been doubted, or indeed ascertained, whether the German *Bundestag* was quorate. There is hence no indication that the Bundestag was not quorate.

II.

1. In the context of a complaint requesting the scrutiny of an election according to § 13 no. 3 and § 48 of the Federal Constitutional Court Act, the Federal Constitutional Court has not only to guarantee compliance by the competent election bodies and the German *Bundestag* with the provisions of federal election law, but also to review whether the provisions of the Federal Electoral Act comply with the requirements of the constitution (see BVerfGE 16, 130 (135-136); BVerfG, judgment of the Second Senate of 3 July 2008 – 2 BvC 1/07, 7/07 –, *Neue Zeitschrift für Verwaltungsrecht* 2008, p. 991 (992)). This examination also covers the validity of legal ordinances.

2. The deployment of computer-controlled voting machines is in particular to be reviewed against the standard of the public nature of elections (Article 38 in conjunction with Article 20.1 and 20.2 of the Basic Law).

The public nature of elections is a fundamental precondition for democratic political will-formation. It ensures the correctness and verifiability of the election events, and hence creates a major precondition for the well-founded trust of the citizen in the correct operation of the elections. The state form of parliamentary democracy, in which the rule of the people is mediated by elections, in other words is not directly exercised, demands that the act of transferring state responsibility to parliamentarians is subject to special public monitoring. The fundamentally required public nature of the election procedure covers the electoral proposal procedure, the election act (broken regarding the ballot by the secret nature of elections) and the ascertainment of the election result (see BVerfG, judgment of the Second Senate of 3 July 2008 – 2 BvC 1/07, 7/07 –, *Neue Zeitschrift für Verwaltungsrecht* 2008, p. 991 (992) with further references).

107

a) The basis for public elections is formed by the fundamental constitutional options for democracy, the republic and the rule of law (Article 38 in conjunction with Article 20.1 and 20.2 of the Basic Law).

108

aa) In a representative democracy, the elections of the people's representation constitute the fundamental act of legitimisation. The ballot in the elections to the German *Bundestag* forms the major element of the process of will-forming from the people to the state bodies, and hence at the same time constitutes the basis for political integration. Compliance with the election principles applicable to this, and confidence in compliance with them, hence constitute preconditions for a viable democracy. Only by the possibility of monitoring whether the elections comply with the constitutional election principles is it possible to ensure that the delegation of state power to the people's representation, which forms the first and most important part of the uninterrupted legitimisation chain of the people to the bodies and office-holders entrusted with state tasks, does not suffer from a shortcoming. The democratic legitimacy of the elections demands that the election events be controllable so that manipulation can be ruled out or corrected and unjustified suspicion can be refuted. This is the only way to facilitate the well-founded trust of the sovereign in the correct formation of the representative body. The obligation incumbent on the legislature and on the executive to ensure that the election procedure is designed constitutionally and is implemented properly is not sufficient by itself to impart the necessary legitimacy. Only if the electorate can reliably convince itself of the lawfulness of the transfer act, if the elections are therefore implemented "before the eyes of the public" (see Schreiber, *Handbuch des Wahlrechts zum Deutschen Bundestag*, 7th ed. 2002, § 31 marginal no. 2) is it possible to guarantee the trust of the sovereign in Parliament being composed in a manner corresponding to the will of the voters that is necessary for the functioning of democracy and the democratic legitimacy of state decisions (see North Rhine/Westphalia Constitutional Court (*Verfassungsgerichtshof Nordrhein-Westfalen* – NRW VerfGH), judgment of 19 March 1991 – VerfGH 10/90 –, *Neue Zeitschrift für Verwaltungsrecht* 1991, p. 1175 (1179); Hanßmann, *Möglichkeiten und Grenzen von Internetwahlen*, 2004, p. 184).

109

bb) In a republic, elections are a matter for the entire people and a joint concern of all citizens. Consequently, the monitoring of the election procedure must also be a matter for and a task of the citizen. Each citizen must be able to comprehend and verify the central steps in the elections reliably and without any special prior technical knowledge. 110

cc) The public nature of the elections is also anchored in the principle of the rule of law. The public nature of the state's exercise of power, which is based on the rule of law, serves its transparency and controllability. It is contingent on the citizen being able to perceive acts of the state bodies. This also applies as to the activities of the election bodies. 111

b) The principle of the public nature of elections requires that all essential steps in the elections are subject to public examinability unless other constitutional interests justify an exception. Particular significance attaches here to the monitoring of the election act and to the ascertainment of the election result. 112

An election procedure in which the voter cannot reliably comprehend whether his or her vote is unfalsifiably recorded and included in the ascertainment of the election result, and how the total votes cast are assigned and counted, excludes central elements of the election procedure from public monitoring, and hence does not comply with the constitutional requirements. 113

c) Despite the considerable value attaching to the constitutional principle of the public nature of elections, it does not ensue from this principle that all acts in connection with the ascertainment of the election result must take place with the involvement of the public so that a well-founded trust in the correctness of the elections can be created. For instance, activities of the district returning officer with which according to § 76.1 of the Federal Electoral Code the – public – ascertainment of the election result is prepared by the district election committee are not constitutionally obliged to be subject to the principle of the direct public nature of elections (see BVerfG, judgment of the Second Senate of 3 July 2008 – 2 BvC 1/07, 7/07 –, *Neue Zeitschrift für Verwaltungsrecht* 2008, p. 991 (992)). 114

d) The requirements as to the examinability of the election events apply to the implementation of parliamentary elections regardless of the responsibility of the state bodies which have a constitutional structure (see BVerfGE 20, 56 (113); 41, 399 (414); Seifert, *Bundeswahlrecht*, 3rd ed. 1976, p. 130). 115

It is primarily a matter for the legislature to regulate how the retraceability of the essential steps in the election procedure is ensured. Article 38.3 of the Basic Law empowers and obliges the legislature to determine the details of the structure of electoral law (in particular the election system and the election procedure) and compliance with the principles of electoral law (see Magiera, in: Sachs, *GG*, 5th ed. 2009, *Art. 38*, marginal nos. 106 et seq. and 113 et seq.). The design of the technical aspects of the election events also falls within the regulatory mandate under Article 38.3 of the Basic 116

Law (see Morlok, in: Dreier, GG, Vol. 2, 2nd ed. 2006, Art. 38, marginal no. 127), and hence the decision on deployment of voting machines and the determination of the more detailed preconditions for their deployment. Details may be regulated by means of a legal ordinance on the basis of a statutory authorisation (see Magiera, in: Sachs, GG, 5th ed. 2009, Art. 38, marginal no. 114).

The legislature is entitled to broad latitude when lending concrete shape to the principles of electoral law within which it must decide whether and to what degree deviations from individual principles of electoral law are justified in the interest of the uniformity of the entire election system and to ensure the state policy goals which they pursue (see BVerfGE 3, 19 (24-25); 59, 119 (124); 95, 335 (349)). The Federal Constitutional Court only reviews whether the legislature has remained within the boundaries of the latitude granted to it by the Basic Law, or whether it has violated a valid constitutional election principle by overstepping these boundaries. It is not a matter for the Court to find whether the legislature has found solutions which are expedient or desired in terms of legal policy within the latitude to which it is entitled (see BVerfGE 59, 119 (125)). 117

3. The deployment of voting machines which record the voters' votes in electronic form and ascertain the result of the election electronically is hence only compatible with the Basic Law subject to strict preconditions. 118

a) When electronic voting machines are deployed, it must be possible to check the essential steps in the election act and in the ascertainment of the results reliably and without special expert knowledge. 119

The necessity of such monitoring emerges not lastly from the susceptibility to manipulation of electronic voting machines and their amenability to error. In these, the acceptance of the voters' votes and the calculation of the election result is based on a calculation act which cannot be examined from outside or by persons without special computer knowledge. Errors in the voting machine software are hence difficult to recognise. Over and above this, such errors can affect not only one individual election computer, but all the devices used. Whilst manipulations or election falsifications are virtually impossible in classical elections with voting slips under the conditions of the valid provisions, including the provisions on the public nature of elections – or at least are only possible with considerable effort and with a very high risk of discovery which has a preventive impact – a major impact may in principle be achieved with relatively little effort by encroachments on electronically controlled voting machines. Manipulations of individual voting machines can already influence not only individual voters' votes, but all votes cast with the aid of this device. The scope of the election errors which are caused by alterations and malfunctions of a single software program affecting multiple devices is even wider. The major scope of the effect of possible errors in the voting machines or targeted election falsifications requires special precautions to be taken in order to comply with the principle of the public nature of elections. 120

aa) The voter himself or herself must be able to verify – also without a more detailed 121

knowledge of computers – whether his or her vote as cast is recorded truthfully as a basis for counting or – if the votes are initially counted with technical support – at least as a basis for a subsequent re-count. It is not sufficient if he or she must rely on the functionality of the system without the possibility of personal inspection. It is hence inadequate if he or she is exclusively informed by an electronic display that his or her ballot has been registered. This does not facilitate sufficient monitoring by the voter. Equal viability must also apply to the election bodies and to interested citizens.

The consequence of this is that the votes may not be stored exclusively on an electronic storage medium after the ballot. The voter may not be required to trust solely in the technical integrity of the system after the electronic ballot. If the election result is ascertained by computer-controlled processing of the votes stored in an electronic storage medium, it is not sufficient if only the result of the calculation process as implemented in the voting machine can be taken note of using a summary paper print-out or an electronic display. By these means, voters and election bodies can only examine whether the voting machine has processed as many votes as voters have been admitted to operate the voting machine in the elections. It is not easily recognisable in such cases whether there have been programming errors in the software or targeted election falsifications through manipulation of the software or of the voting machines.

122

bb) The legislature is not prevented from using electronic voting machines in the elections if the constitutionally required possibility of a reliable correctness check is ensured. In particular, voting machines are conceivable in which the votes are recorded elsewhere in addition to electronic storage. This is for instance possible with electronic voting machines which print out a visible paper report of the vote cast for the respective voter, in addition to electronic recording of the vote, which can be checked prior to the final ballot and is then collected to facilitate subsequent checking. Monitoring that is independent of the electronic vote record also remains possible when systems are deployed in which the voter marks a voting slip and the election decision is recorded simultaneously (for instance with a “digital election pen”, see on this Schiedermaier, *Juristenzeitung* 2007, p. 162 (170)), or subsequently (e.g. by a voting slip scanner; see on this Schönau, *Elektronische Demokratie*, 2007, pp. 51-52; Khorrami, *Bundestagswahlen per Internet*, 2006, p. 30) by electronic means in order to evaluate these by electronic means at the end of the election day.

123

It is certainly ensured in these cases that the voters are in charge of their ballot and that the result of the election can be reliably checked by the election authorities or by interested citizens without any special prior technical knowledge. Whether there are still other technical possibilities which create trust on the part of the electorate in the correctness of the proceedings in ascertaining the election result based on verifiability, and which hence comply with the principle of the public nature of elections, need not be decided here.

124

b) Restrictions on possibilities for citizens to monitor the election events cannot be

125

compensated for by sample devices in the context of the type approval procedure or in the selection of the voting machines specifically used in the elections prior to their deployment being subjected to verification by an official institution as to their compliance with certain security requirements and their proper technical performance. The monitoring of the essential steps in the election promotes well-founded trust in the correctness of the election certainly in the necessary manner that the citizen himself or herself can reliably verify the election event.

For this reason, a comprehensive bundle of other technical and organisational security measures (e.g. monitoring and safekeeping of the voting machines, comparability of the devices used with an officially checked sample at any time, criminal liability in respect of election falsifications and local organisation of the elections) is also not suited by itself to compensate for a lack of controllability of the essential steps in the election procedure by the citizen. 126

Accordingly, neither participation by the interested public in procedures of the examination or approval of voting machines, nor a publication of examination reports or construction characteristics (including the source code of the software with computer-controlled voting machines) makes a major contribution towards ensuring the constitutionally required level of controllability and verifiability of the election events. Technical examinations and official approval procedures, which in any case can only be expertly evaluated by interested specialists, relate to a stage in the proceedings which is far in advance of the ballot. The participation of the public in order to achieve the required reliable monitoring of the election events is hence likely to require other additional precautions. 127

c) The legislature can permit exceptions to the principle of the public nature of elections to a restricted degree in order to bring other constitutional interests to fruition, in particular the written principles of electoral law from Article 38.1 sentence 1 of the Basic Law. For instance, restrictions of public monitoring of the ballot with postal voting (§ 36 of the Federal Electoral Act) can be justified with the aim of achieving as comprehensive participation in the elections as possible, thereby complying with the principle of generality of elections (see BVerfGE 21, 200 (205); 59, 119 (125)). When deploying computer-controlled voting machines, however, no contrary constitutional principles are recognisable which are able to justify a broad restriction of the public nature of elections and hence the controllability of the election act and the ascertainment of the results. 128

aa) Where the deployment of computer-controlled voting machines aims to rule out inadvertent incorrect markings on voting slips, unwanted invalid ballots, unintentional counting errors or incorrect interpretations of the voters' intention when votes are counted (see Schreiber, *Handbuch des Wahlrechts zum Deutschen Bundestag*, 7th ed. 2002, § 35, marginal no. 2) which repeatedly occur in classical elections with voting slips, this serves the interest of the implementation of the equality of elections under Article 38.1 sentence 1 of the Basic Law. What weight attaches to this purpose 129

can however be left open. It certainly does not justify by itself forgoing any type of verifiability of the election act. Unintentional counting errors or incorrect interpretations of the voters' intention can also be ruled out by voting machines if supplementary monitoring by the voter, the election bodies or the public is made possible in addition to electronic recording and counting of the votes. Corresponding monitoring is for instance possible with electronic voting machines which record the votes not only in electronic form in the voting machine, but at the same time in a form which is independent of this (see II. 3. a) bb above). Apart from this, user errors – such as pushing the “invalid” key presuming that this made it possible to correct an erroneous entry – cannot be ruled out in the voting machines approved for the elections to the 16th German *Bundestag*.

bb) The principle of the secrecy of elections certainly does not constitute a counter constitutional principle which can be used as a basis for a broad restriction of the controllability of the election act and of the ascertainment of the results. There is no “conflict of interest” between the principle of secret elections and the principle of the public nature of elections which might justify such restrictions (*Bundestag* document 16/3600, Annex 1, p. 20). 130

The principle of secret elections guarantees that the voter alone is aware of the content of his or her election decision, and obliges the legislature to take the necessary steps to protect the election secret (see H.H. Klein, in: Maunz/Dürig, *GG*, Art. 38, marginal no. 110 [March 2007]; Pieroth, *Juristische Schulung – JuS* 1991, p. 89 (91)). The secrecy of elections constitutes the most important institutional protection of the freedom of elections (see BVerfGE 99, 1 (13)). In historic terms, secret elections may have been a caesura in the public nature of the election procedure because they renounced the open ballot in order to protect the freedom of election (see Breidenbach/Blankenagel, *Rechtliche Probleme von Internetwahlen*, Berlin 2000, pp. 34-35). Under the regime of the Basic Law, which explicitly prescribes elections as secret in order to protect their freedom, however, the principle of the public nature of elections from the outset does not apply to the act of the ballot. If the public nature of the elections is not ruled out in order to enable the ballot to be cast unobserved, the election procedure is subject to the principle of the public nature of elections (see H.H. Klein, in: Maunz/Dürig, *GG*, Art. 38, marginal no. 113 [March 2007]; Seifert, *Bundeswahlrecht*, 3rd ed. 1976, Art. 38, marginal no. 35). Accordingly, the impact of the principle of secrecy of elections is not to restrict the principle of the public nature of elections for the ballot act. It also does not justify a restriction of public monitoring in the casting of the – previously secretly marked – vote carrier or in the ascertainment of the results. This already follows from the fact that it does not oppose additional precautions enabling the voter to monitor whether his or her vote is recorded in an unfalsified manner as a basis for a subsequent re-count. 131

cc) Finally, the goal of being able to form a viable people's representation in a short period does not constitute a restriction of the principle of the public nature of elections in the deployment of computer-controlled voting machines. The clarification of the 132

correct composition of the people's representation within a suitable period is one aspect which can be taken into account when shaping the election procedure and the election scrutiny procedure (see BVerfGE 85, 148 (159)). The matter of the assembly of a new *Bundestag* in good time (see Article 39.2 of the Basic Law) is however not endangered by sufficient precautions being taken to ensure public elections. There is no constitutional requirement for the election result to be available shortly after closing the polling stations. What is more, the past *Bundestag* elections have shown that the preliminary official final result of the elections can as a rule be submitted in a matter of hours, even without the deployment of voting machines. The interest in rapidly clarifying the composition of the German *Bundestag* is therefore not a constitutional interest that is suited to impose restrictions on the public nature of the election event.

4. The normative level on which the questions related to the deployment of voting machines are to be regulated is determined in line with the requirements of the parliamentary reservation and the requirements which are placed on the authorisation to issue legal ordinances (Article 80.1 sentence 2 of the Basic Law). 133

a) The parliamentary reservation rooted in the principle of the rule of law and in the principle of democracy requires that the major decisions are to be taken by the legislature in fundamental normative areas, especially in the area of the exercise of fundamental rights, insofar as this is amenable to state regulation (see BVerfGE 49, 89 (126-127); 61, 260 (275); 80, 124 (132); 101, 1 (34)). The obligation to legislate relates here not only to the question of whether a certain article must be regulated by law at all, but also to how far these individual regulations have to go (see BVerfGE 101, 1 (34)). 134

According to Article 80.1 sentence 2 of the Basic Law, the content, purpose and scope of the authorisation to issue legal ordinances must be laid down in the statute concerned. The legislature itself must decide which questions are to be regulated by the legal ordinance, within what limits and with what goal (see BVerfGE 2, 307 (334); 5, 71 (76-77); 23, 62 (72)). The wording of the authorisation need not be formulated as precisely as possible; it must constitutionally only be sufficiently determined (see BVerfGE 55, 207 (226); 58, 257 (277); 62, 203 (209-210)). It is sufficient if the limits of the authorisation are determinable by interpretation using the interpretation principles that are generally recognised; the goals of the statute, the context together with other provisions and the genesis of the statute are significant here (see BVerfGE 8, 274 (307); 23, 62 (73); 55, 207 (226-227); 80, 1 (20-21)). In detail, the requirements as to the level of determinedness depend on the particularities of the respective object of regulation and on the intensity of the measure (see BVerfGE 58, 257 (277-278); 62, 203 (210); 76, 130 (143)). Whilst less stringent requirements are to be made with circumstances that are highly varied and subject to rapid change, more stringent requirements apply to the degree of determinedness of the authorisation with those regulations which are linked to more intensive encroachments on legal positions which are protected by fundamental rights (see BVerfGE 58, 257 (278); 62, 203 (210)). 135

b) Because of their particularities, regulations relating to the deployment of voting machines are reserved for parliamentary decision insofar as they relate to the major requirements for the deployment of such devices. This includes the decisions on the permissibility of the deployment of voting machines and the fundamental prerequisites for their deployment. These decisions cannot be left to the institution adopting the ordinance. 136

The more detailed preconditions for the approval of voting machines and the procedures to be complied with here, the details of the use of the voting machines in the elections and the guarantee of the principles of electoral law in the concrete deployment of voting machines, by contrast, do not require any detailed parliamentary regulation, but can be regulated by the institution adopting the ordinance. The respective requirements of the voting machines depend heavily on the nature of the respective voting machine, and hence do not already have to be legislated in detail at the level of the parliamentary statute. Thus, for instance, the requirements for the deployment of electronically operated voting machines differ from those for the deployment of exclusively mechanical voting machines. Because voting machines are subject to ongoing technical development, a rapid adjustment of the law is better guaranteed if the detailed regulations are transferred to the institution adopting the ordinance. 137

III.

According to these standards, the authorisation to hand down ordinances contained in § 35 of the Federal Electoral Act does not give rise to any profound constitutional objections. 138

1. The parliamentary legislature was not obliged over and above the regulation contained in § 35 of the Federal Electoral Act to regulate the deployment of computer-controlled voting machines since the major questions in connection with the deployment of computer-controlled voting machines are determined in § 35 of the Federal Electoral Act. Where § 35 of the Federal Electoral Act authorises the adoption of the Federal Voting Machine Ordinance, the content, purpose and scope of the authorisation that has been issued is adequately regulated (Article 80.1 sentence 2 of the Basic Law). 139

The parliamentary legislature made the fundamental decision in § 35.1 of the Federal Electoral Act for the deployment of voting machines. By restricting the deployment of the voting machines to facilitating the casting and counting of votes, the legislature clearly determined the goal of the authorisation to issue ordinances. It made it clear by deleting the words “with separate counting devices” in 1999 that § 35 of the Federal Electoral Act also covers the deployment of computer-controlled voting machines. 140

The fundamental prerequisites for the deployment of the voting machines are named in § 35.2 sentences 2 to 5 and 35.3 of the Federal Electoral Act, in particular the official type approval and the official authorisation of the use of the voting machines. Of the constitutionally guaranteed election principles, only the secrecy of the 141

ballot and the keeping of the secrecy of elections are explicitly spoken of in § 35.2 sentence 1 of the Federal Electoral Act. The other principles of electoral law are regulated in § 1.1 sentence 2 of the Federal Electoral Act. They therefore certainly also apply to the deployment of voting machines in the elections to the German *Bundestag*. Finally, the legislature provided in § 35.3 sentence 1 no. 6 of the Federal Electoral Act that the Federal Ministry of the Interior may regulate the particularities in connection with the elections brought about by the use of voting machines. This provision forms not only a sufficient normative basis in order to account for the constitutional particularities of the deployment of computer-controlled voting machines. It also makes it recognisable for citizens that an election with voting machines may entail modifications in comparison with the classical ballot box election. It is not constitutionally required that all details of the content of a legal ordinance can be derived from the respective basis for the authorisation. The latitude which can be granted to the institution adopting the ordinance in this respect is also to be measured accounting for the complexity of the material and the dynamics of development processes in voting machines. The parliamentary legislature is hence certainly not constitutionally obliged to make detailed regulations for the deployment of electronic voting machines.

2. § 35 of the Federal Electoral Act is compatible with the principle of the public nature of elections. 142

a) It is not constitutionally objectionable that § 35.1 of the Federal Electoral Act permits voting machines “in place of voting slips and ballot boxes”. For § 35.1 of the Federal Electoral Act does not rule out with this wording the approval and use of voting machines with control devices which record the votes in addition to (electronic) recording in the voting machine in a manner controlled by the voter. According to the systematic status of § 35.1 of the Federal Electoral Act, the words “in place of voting slips and ballot boxes” refer to the classical election procedure set out in § 34 of the Federal Electoral Act in which exclusively official voting slips and ballot boxes are used. § 35.1 of the Federal Electoral Act, by contrast, does not rule out the adoption of provisions which provide for devices for a verifiability of the election result that is independent of the electronic recording and evaluation of votes. 143

b) It is unobjectionable for the principle of the public nature of elections contained in § 35 of the Federal Electoral Act to not be explicitly listed once more as a precondition for the authorisation and use of computer-controlled voting machines. These requirements emerge directly from the constitution, and hence are also binding on the institution adopting the ordinance in lending concrete form to § 35 of the Federal Electoral Act. Independently of this, it also emerges from other provisions of the Federal Electoral Act that the use of voting machines is only permissible if the principle of the public nature of elections is adhered to. § 31 of the Federal Electoral Act determines that the election act is public. § 35.3 sentence 1 no. 4 of the Federal Electoral Act permits regulations to be made on the open testing of a voting machine prior to its use. 144

The Federal Voting Device Ordinance is unconstitutional on grounds of a violation of the principle of the public nature of elections from Article 38 in conjunction with Article 20.1 and 20.2 of the Basic Law. It does not already encounter legal reservations because the expansion of the area of application of the Federal Voting Device Ordinance to cover computer-controlled voting machines effected by the Ordinance Amending the Federal Voting Device Ordinance of 20 April 1999 (Federal Law Gazette I p. 749) had exceeded the framework of the provision on authorisation of § 35 of the Federal Electoral Act. The Federal Voting Machine Ordinance does not however contain any provisions ensuring that only those voting machines are approved and used which comply with the constitutional preconditions of the principle of the public nature of elections.

145

1. Insofar as the Ordinance Amending the Federal Voting Machine Ordinance of 20 April 1999 (Federal Law Gazette I p. 749) with effect from 24 April 1999 regulates the preconditions for the deployment of computer-controlled voting machines, it remains within the authorisation contained in the version of § 35 of the Federal Electoral Act still applicable on 24 April 1999. The latter permitted the use of voting machines “with separate counting devices” (§ 35.1 of the Federal Electoral Act). The subsequent deletion of the words “with separate counting devices” was considered necessary “in order to adjust the Federal Voting Device Ordinance to technical developments in voting machines” (*Bundestag* document 14/401, p. 5). This exception from the legislative procedure to amend § 35.1 of the Federal Electoral Act cannot however exert a decisive influence on the interpretation of the provision in the version which it had prior to the amendment. The expansion of the area of application of the Federal Voting Machine Ordinance to cover computer-aided voting machines was compatible with the wording of this earlier version. The term “counting device” only requires that item numbers, flow volumes or other values are calculated and shown automatically (see Duden, *Das große Wörterbuch der deutschen Sprache*, 3rd ed. 1999). According to the wording, this therefore also covers electronic or software-controlled counting devices in computer-controlled voting machines. The characteristic “separate counting devices” is intended in the view of the institution adopting the ordinance to refer merely to the requirement of “independent counting of first and second votes”; such independent counting of first and second votes is also possible with computer-controlled voting machines using an electronic counting device. Even if the legislature was not yet able to consider deployment of microprocessor-controlled voting machines in the original version of § 35.1 of the Federal Electoral Act (see Breidenbach/Blankenagel, *Rechtliche Probleme von Internetwahlen*, Berlin 2000, p. 7), neither the wording nor the purpose of § 35 of the Federal Electoral Act in the version applicable on entry into force of the Ordinance Amending the Federal Voting Machine Ordinance on 24 April 1999 suggest that these voting machines were intended to be ruled out from the legislative authorisation of the institution adopting the ordinance.

146

2. The Federal Voting Machine Ordinance violates the principle of the public nature

147

of elections under Article 38 in conjunction with Article 20.1 and 20.2 of the Basic Law because in the use of computer-controlled voting machines it guarantees neither effective monitoring of the election act nor the reliable verifiability of the election result. This shortcoming cannot be remedied by means of an interpretation in conformity with the constitution.

a) The public nature of elections requires in the deployment of computer-controlled voting machines that the essential steps in the election act and the ascertainment of the results can be reviewed reliably and without special expert knowledge. Such provisions are not contained in the Federal Voting Machine Ordinance. 148

It particularly does not emerge from the Federal Voting Machine Ordinance that only voting machines may be deployed which enable the voter in casting his or her vote to ensure reliable monitoring of whether his or her vote is recorded in an unfalsified manner. The ordinance also does not make any concrete content and procedural requirements as to reliable subsequent monitoring of the ascertainment of the results. 149

The obligation to seal computer-controlled voting machines and the containers in which the vote storage media are located after ascertaining the election result (§ 15.3 of the Federal Voting Machine Ordinance), as well as to ensure that the vote storage media are not accessible to unauthorised parties (§ 16.2 of the Federal Voting Machine Ordinance), is not sufficient in this respect. Even if the vote storage media can be read out once again at any time after the election day with the aid of a voting machine, the object of such a re-count is only the electronically stored votes, with regard to which neither voters nor the returning committee can examine whether they were recorded without falsification. The citizen cannot examine the essential steps in the ascertainment of the results if the re-count again takes place inside a voting machine. 150

In addition, the counting of the ballot records entered in the list of voters and of the election slips which have been accepted, as well as the comparison with the numbers for the total first and second votes at the voting machine shown (see § 13 of the Federal Voting Machine Ordinance) only facilitates monitoring as to whether the voting machine has processed as many votes as voters have been admitted for the operation of the voting machine. This does not guarantee the public monitoring of the essential steps in the election act and the ascertainment of the results. 151

b) The Federal Voting Machine Ordinance cannot be interpreted in conformity with the constitution such that only voting machines may be deployed which comply with the principle of the public nature of elections. 152

An application of the Federal Voting Machine Ordinance in conformity with the constitution such that type approval and use authorisation may only be issued by the Federal Ministry of the Interior if effective monitoring of election acts and ascertainment of the results is guaranteed (see Schiedermaier, *Juristenzeitung* – JZ 2007, p. 162 (170)) would overstep the boundaries of an interpretation in conformity with the constitution. In principle, the institution handing down the ordinance has various pos- 153

sibilities at its disposal to ensure that the central steps in ballot and vote counting can be checked. Since the Federal Voting Machine Ordinance in its current version does not make it possible to recognise what such monitoring should look like, there is no constitutionally required provision, and hence there are no adequate indications which an interpretation in conformity with the constitution could take as its starting point.

It must also be taken into consideration here that the Federal Ministry of the Interior, as the institution handing down the ordinance, as it has also clearly confirmed in its statements in the proceedings at hand, considers the possibilities for monitoring which are constitutionally necessary for effective monitoring of election acts and ascertainment of the results to be neither legally required nor expedient. 154

V.

The computer-controlled voting machines used in the elections to the 16th German *Bundestag* also did not meet the requirements made by the constitution as to the use of electronic voting machines. 155

The use of the Nedap electronic voting machines of Type ESD1 hardware versions 01.02, 01.03 and 01.04, as well as of Type ESD2 hardware version 01.01, violates the principle of the public nature of elections (Article 38 in conjunction with Article 20.1 and 20.2 of the Basic Law) because these voting machines did not facilitate effective monitoring of the election act or the reliable verifiability of the election result. 156

The votes were exclusively recorded on an electronic storage medium after the ballot. Neither the voter nor the returning committees, nor the citizens present in the polling station, were able to check whether the votes cast were recorded by the voting machines without falsification. Using the display on the control unit, the returning committees could only recognise whether the voting machines registered a ballot, but not whether the votes were recorded by the voting machines without changing the content in any way. The voting machines did not provide a possibility to record the votes independently of the electronic record on the vote storage module enabling the respective voter to check his or her ballot. 157

The essential steps in the ascertainment of the results by the voting machines also could not be verified by the public. Since the ascertainment of the results exclusively formed the object of a data processing procedure running inside the voting machines, it was possible for neither the election bodies nor the citizens participating in the ascertainment of the results to verify whether the valid votes cast were correctly allotted to the electoral proposals and the votes accounted for by the individual electoral proposals in total were correctly ascertained. It was not sufficient that the result of the computing process implemented in the voting machine could be taken note of using a summary paper printout or an electronic display. A public examination by means of which the citizen could have reliably verified the ascertainment of the election result himself or herself without prior special technical knowledge was hence ruled out. 158

It may remain open whether the further complaints are well-founded. The complainants complain amongst other things that the characteristics of the voting machines and of the software used do not meet the requirements of the Federal Voting Machine Ordinance, in particular the Guidelines for the Construction of Voting Machines (Annex 1 to § 2 of the Federal Voting Machine Ordinance). The voting machines used were also said not to have been subject to sufficient official monitoring and examination of the samples by the *Physikalisch-Technische Bundesanstalt*, and that the type approval procedure should have been designed differently. The complainants hence ultimately object to the deployment of the computer-controlled voting machines used in the elections to the 16th German *Bundestag*. Even if these complaints were well-founded, in addition to the finding of the violation of the principle of the public nature of elections from Article 38 in conjunction with Article 20.1 and 20.2 of the Basic Law, these election errors would not take on any particular weight.

159

VII.

The election errors that were ascertained do not lead to the complaints requesting the scrutiny of an election being permitted or to the repetition of the elections in the constituencies designated.

160

1. The election error emerging from the fact that the type approvals for Nedap computer-controlled voting machines were granted, that the use of these voting machines in the elections to the 16th German *Bundestag* was approved and that the voting machines were indeed deployed in the elections without an effective legal basis, has no relevance to mandates. Approval and use of voting machines despite inadequate design of the legal basis do not lead as such to an influence on the election result.

161

2. The election error emerging from the fact that computer-controlled voting machines were approved and deployed the characteristics of which were not compatible with the requirements of effective verifiability of the election events, even if its relevance to mandates were to be assumed, does not lead to a partial declaration of invalidity of the elections to the 16th German *Bundestag*.

162

a) In the cases in which an election error may have had an impact on the distribution of mandates in the *Bundestag*, the election scrutiny decision of the Federal Constitutional Court is subject to the principle of the least incisive encroachment. The decision may only go so far as is demanded by the election error that has been ascertained. In principle, the requirement of the protection of the status quo of an elected people's representation (see BVerfGE 89, 243 (253)), which finds its legal basis in the principle of democracy, must be weighed up with the impact of the election error that has been ascertained. Simple influences on the election carrying no weight whatever do not therefore lead to the invalidity of an election. The encroachment on the composition of an elected people's representation by a decision under the law that regulates the

163

scrutiny of elections must be justified in light of the interest in conserving the elected people's representation (see BVerfG, judgment of the Second Senate of 3 July 2008 – 2 BvC 1/07, 7/07 –, *Neue Zeitschrift für Verwaltungsrecht* 2008, p. 991 (997) with further references). Even where an election error that is relevant to mandates can be restricted to certain mandates, in other words where the whole election did not have to be declared invalid, a weighing up is to be undertaken which may come out in favour of the interest in protecting the status quo.

b) The interest in the protection of the status quo of the people's representation composed in trust in the constitutionality of the Federal Voting Machine Ordinance outweighs the election errors that have been ascertained. Given that there are no indications that voting machines worked incorrectly or might have been manipulated, and hence that the election result would have been different in the constituencies concerned without the deployment of the computer-controlled voting machines, its possible impact on the composition of the 16th German *Bundestag* can be regarded as marginal at most. Such uncertain impacts do not justify the partial declaration of the invalidity of the elections to the 16th German *Bundestag* applied for. It should also be taken into account here that the violation of the constitution that was ascertained did not take place with intent, but when the legal situation was still unclear. Under these circumstances, after the above there is no election error making the continuation of the elected people's representation appear untenable. 164

B.

With regard to the fact that the complainants rightly complain of the unconstitutionality of the use of computer-controlled voting machines, the necessary expenses which they have incurred are to be refunded to them according to §§ 18 and 19 of the Law on the Scrutiny of Elections in conjunction with § 34a.3 of the Federal Constitutional Court Act in this respect. Accordingly, the complainant re 1. is to be refunded the necessary expenses in full, and the complainant re 2., whose complaints are partly unfounded, is to be refunded three-quarters of the necessary expenditure. 166

Judges: Voßkuhle, Broß, Osterloh, Di Fabio, Mellinghoff, Lübbecke-Wolff, Gerhardt, Landau

Bundesverfassungsgericht, Urteil des Zweiten Senats vom 3. März 2009 - 2 BvC 3/07

Zitiervorschlag BVerfG, Urteil des Zweiten Senats vom 3. März 2009 - 2 BvC 3/07 - Rn. (1 - 166), http://www.bverfg.de/e/cs20090303_2bvc000307en.html

ECLI ECLI:DE:BVerfG:2009:cs20090303.2bvc000307

// True Copy //



779

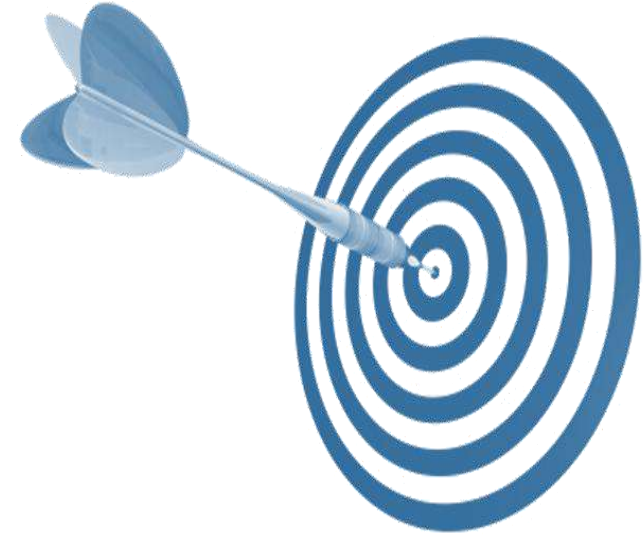
ANNEXURE C/42

PRESENTATION ON EVM & VVPAT

September 2019.

AGENDA

1. History
2. Technical Expert Committee (TEC)
3. Technical Security
4. Administrative safeguards
5. Debate around EVMs- Explained
6. Aspersions Vs. Confidence
7. Past Judgements
8. VVPAT



781

HISTORY OF EVM

Four Decades and more

782

HISTORY OF EVM – 40 YEARS

1977

CEC- S L Shakdar talked about introducing an Electronic machine.

1980-81

EVMs developed and demonstrated by ECIL and BEL.

1982-83

EVMs used first time in 50 polling stations of Parur AC in Kerala. And then in 11 Assembly Constituencies: 8 states, 1UT.

1984

SC suspends EVM usage: cannot be used till RP Act is amended.

1988

RP Act amended: enabling use EVMs wef 15.03.1989.

2018

SC dismissed petition asking for return to Ballot papers!

Since 2000, EVMs have been used in all elections: 4 Lok Sabha and 122 State Legislative Assemblies. Till date, >315 crore votes cast on EVMs.

783

TECHNICAL EXPERT COMMITTEE

INDEPENDENT EVALUATION

784

TEC- HISTORY & ROLE

**1st Technical
Expert Committee
(TEC) formed**

January, 1990

April 1990

**Recommended use of
the EVMs unanimously**

**TEC constituted for
evaluation of upgraded
EVMs Submitted an
Evaluation Report in 2006**

December 2005

November 2010

Current TEC

- Approves EVM Design
- Vets and seals the software
- Recommends continuous design improvement
- Monitors Secure Manufacturing

Past TECs

Composition of First Technical Expert Committee on EVMs – 1990

1. Professor S. Sampath, Chairman Technical Advisory Committee, Defence Research & Development Organization (DRDO), Ministry of Defence.
2. Professor P.V. Indiresan of the IIT Delhi.
3. Dr. Rao C. Kasarabada, Director, Electronic Research & Development Centre (ERDC), Trivandrum.

Composition of Second Technical Expert Committee – Dec 2005

1. Prof P.V. Indiresan, Ex-Director, IIT Madras as Chairman of TEC.
2. Prof. D.T. Shahani of IIT Delhi.
3. Prof. A.K. Agarwala of IIT Delhi.

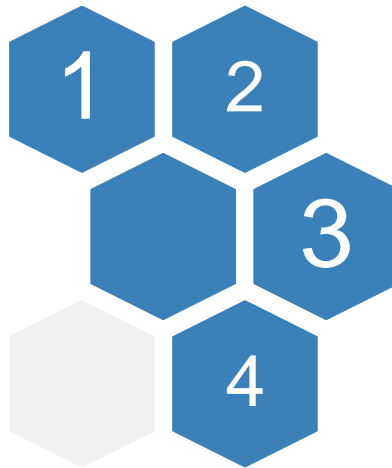
786

PRESENT TEC COMPOSITION

4 Eminent Professors from IITs: Renowned Experts in their Fields.

Prof D T Shahani,
Prof Emeritus, IIT-Delhi

Prof A K Aggarwala,
IIT Delhi



Prof Rajat Moona,
Director IIT Bhilai,
Former Director General CDAC

Prof Dinesh K Sharma,
Prof Emeritus, IIT Bombay

787

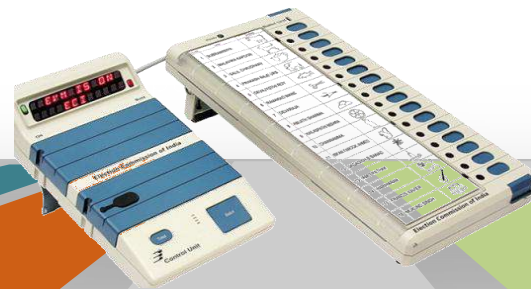
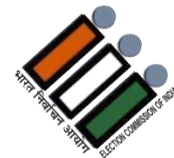
TECHNICAL SECURITY

DESIGN, PROCESS AND MANUFACTURING



788

1. SECURED DESIGN FEATURES



**Standalone
Machine**

**No Radio
Frequency
transmission or
reception
possible:
No wireless
communication
possible**

**One Time
Programmable
(OTP) chip:
Software cannot
be modified**

**Dynamic
Coding
of Key
Press**

**Date and Time
Stamping of
every key press**



2. SECURE DEVELOPMENT & MANUFACTURING

789

- ❑ Manufactured by Premium PSUs- BEL & ECIL: Both deal with manufacturing of sensitive equipment critical to the safety and security of the Nation and have strong security protocols.
- ❑ In-house SOFTWARE Developed. Fully vetted by TEC. Never sub-contracted.
- ❑ Secure Manufacturing: 3-level Physical/Process access Control, Regular frisking, Outside e-gadgets prohibited, CCTV Coverage, Access Data and Process Data logging, Alarm and Alert generation.
- ❑ Third Party Testing by Standardisation Testing and Quality Certification (STQC) as per Standards & Quality Process set by TEC. Software is also tested & checked by STQC for authentication.

790

ADMINISTRATIVE SAFEGUARDS

SECURE HANDLING &
MANAGEMENT OF EVMS/VVPATs

791

ADMINISTRATIVE SAFEGUARDS

1. Stakeholder Participation
2. Allocation & Secure Movement
3. First Level Checking
4. Randomization
5. Candidate Setting
6. Mock Poll
7. Poll Day Checks
8. Poll Closure & Transportation
9. Storage & Security
10. Counting Day Protocol

1. STAKEHOLDER PARTICIPATION

Active Participation of & Witness by Political-Parties/Candidates in **All Processes**

Opening & Sealing
of EVM Warehouses
& Strong-rooms

Conduct mock poll
and receive mock
poll results



First Level Check (FLC)
& Candidate Setting

List of EVMs after 1st & 2nd
randomization shared

Sign on Paper Seals on
EVMs after all processes



*Participation During
FLC*

2. ALLOCATION & MOVEMENT

Planned Allocation

EVMs are allocated to poll going State by the Commission.

Received by District Election Officer (DEO) who is personally responsible for secured storage.

EMS used for inventory management of all EVMs nationwide for the sake of transparency.

Secured Transportation

- Movement of EVMs/VVPATs mandatorily managed through EVM Management System (EMS).
- Only Containerized/Sealed Trucks used.
- All Trucks sealed with Lock and Paper Seals.
- Mandatory GPS tracking of EVM vehicles.
- All movement under 24X7 Police Escort.
- Videography done of shifting process.
- Political parties informed in advance about the opening, stocking and sealing of warehouses while moving EVMs/VVPATs.

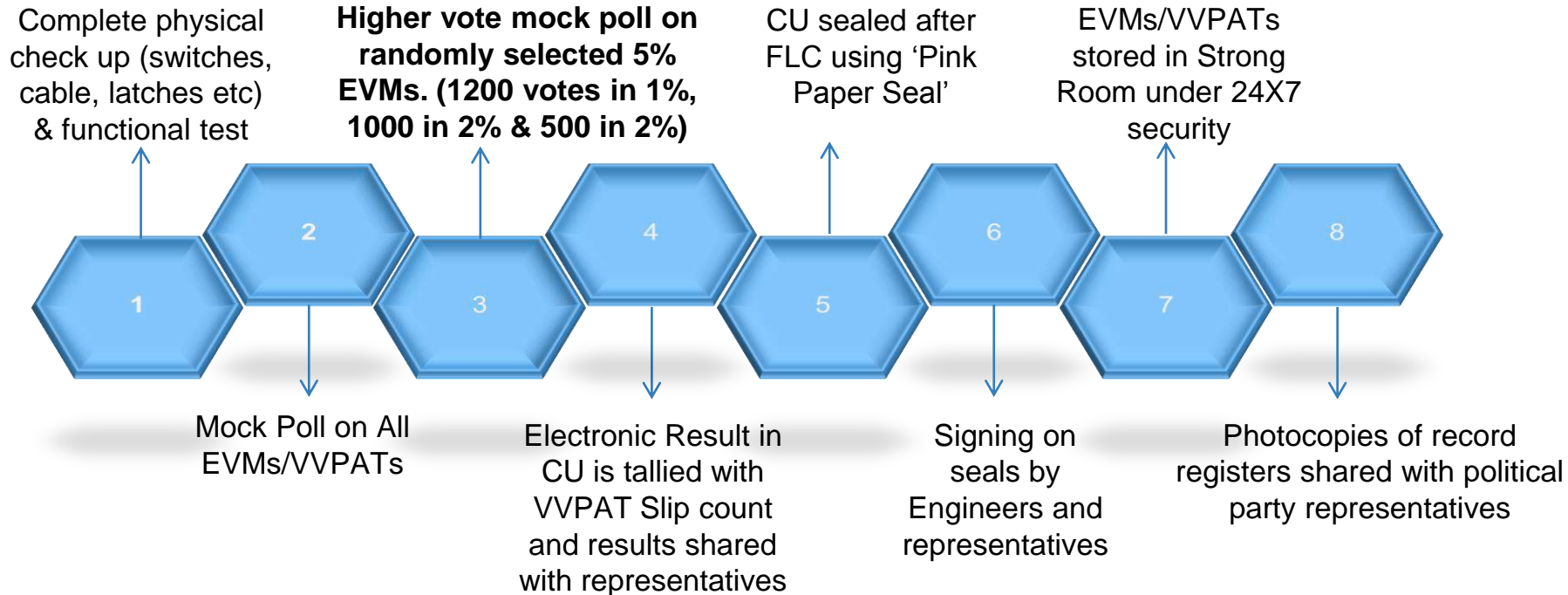
794

3. FIRST LEVEL CHECKING (FLC)

- FLC is mandatorily done in the presence of representatives of political parties.
- Fully sanitized hall under videography and full security.
- Full functionality and behavioural check is done on every EVM.
- Defective (non-functional) EVMs are kept aside and not used in election.
- FLC status captured in EMS.



FLC PROCESS



- EVMs are **Randomized twice** using EMS.
- No human intervention in randomisation.
- Only FLC approved EVMs as per EMS get picked up for first randomisation.

1st Randomization



- Done after FLC
- To allocate EVMs from district, randomly, to a particular AC/AS.
- In presence of representatives of political parties.
- List of AC/AS-wise Randomized EVMs shared with political parties.

4. RANDOMIZATION

(2/4)

- EVMs are **Randomized twice** using EMS.
- No human intervention in randomisation.
- Only FLC approved EVMs recorded in EMS get picked up for first randomisation.

1st Randomization

2nd Randomization

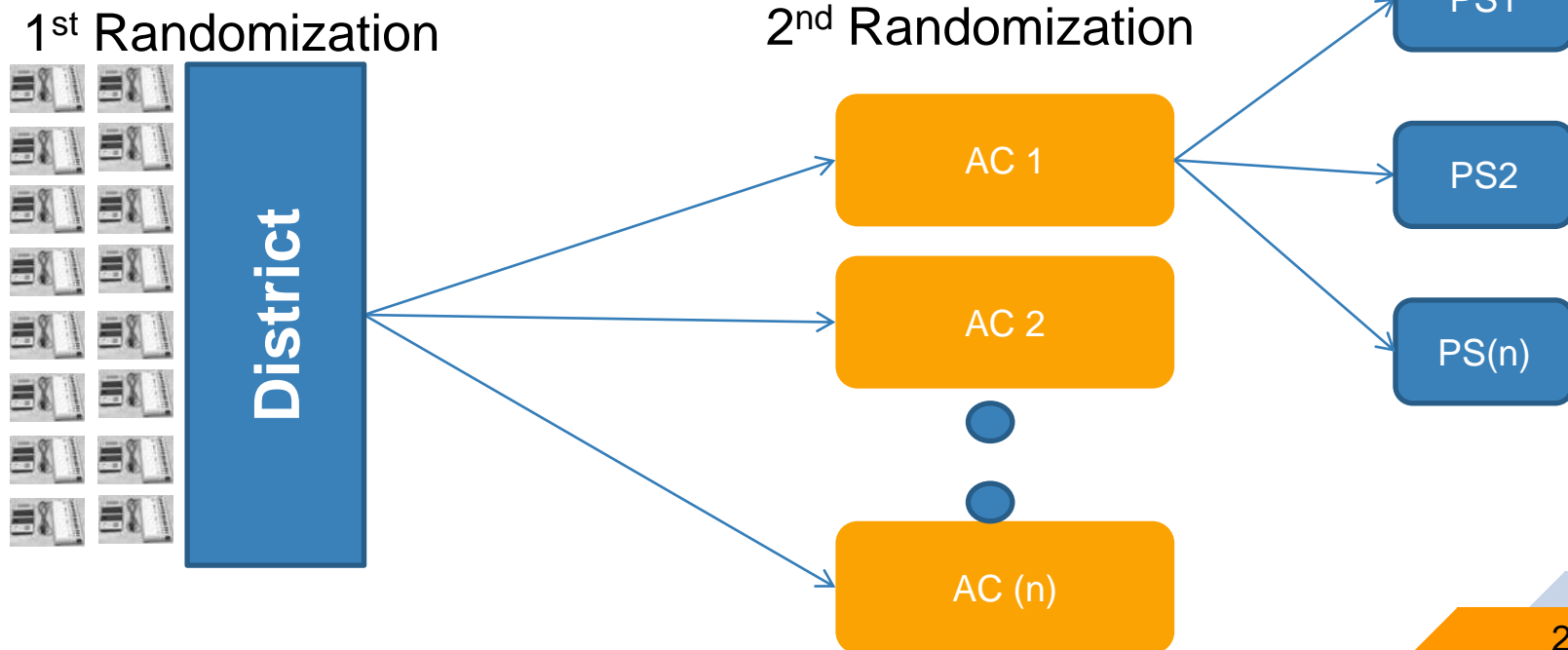
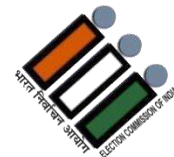


- Done just before 'candidate setting'.
- To allocate EVMs available in an AC/AS to polling stations.
- In presence of candidates/election agents and list shared.

4. RANDOMIZATION

798

(3/4)



4. RANDOMIZATION- THE FOUNDATION OF EVM SECURITY (4/4)



- Till first randomization- no one knows **which EVM is going to which Constituency.**
- Till nomination finalization- no one knows **the sequence of names on the ballot paper.**
- Hence, till candidate setting **no one (not even RO/DEO/CEO/Commission) knows which button on which BU will be assigned to which candidate**, making even an attempt to tamper absolutely futile.
- Till 2nd Randomization- no one knows **which EVM will go to which PS.**
- Added to this is the **3 stage Randomization** of polling officials to different polling stations.

800

5. CANDIDATE SETTING

The Process

Insert ballot paper in the Ballot Unit & Set Number of Candidates

Seal Ballot Unit

Mock Poll on Every EVM with VVPAT + 1000 vote on 5% EVMs with VVPATs



Security Measures

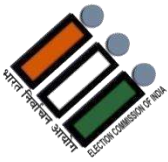
- 1 Done only **after** finalization of the names of contesting candidates.
- 2 **Fully sanitized hall** under videography and full security.
- 3 Done in the **presence of candidates** or their agents.

6. MULTIPLE MOCK POLLS



- Each EVM undergoes mock poll during FLC, and again during Candidate Setting. In addition 10% EVMs are randomly picked up for higher vote (500-1200) mock poll.
- 10% EVMs randomly taken out for Training and Awareness undergo Mock Polls several times. During LSE 2019 approx 9 crore mock votes cast and checked on around 1 lakh EVMs during awareness camps.
- Before start of actual poll, Mock poll on each EVM with at least 50 votes in the presence of polling agents.

7. POLL DAY CHECKS



- Polling Agents
- Central Armed Police Force (CAPF) and Micro Observers deployed at polling stations.
- Web Casting/CCTVs
- Frequent visits (Sector Officers /Senior officers/ Observers)
- 2 hourly reporting of votes polled
- Media vigil



803

8. POLL CLOSURE & TRANSPORTATION



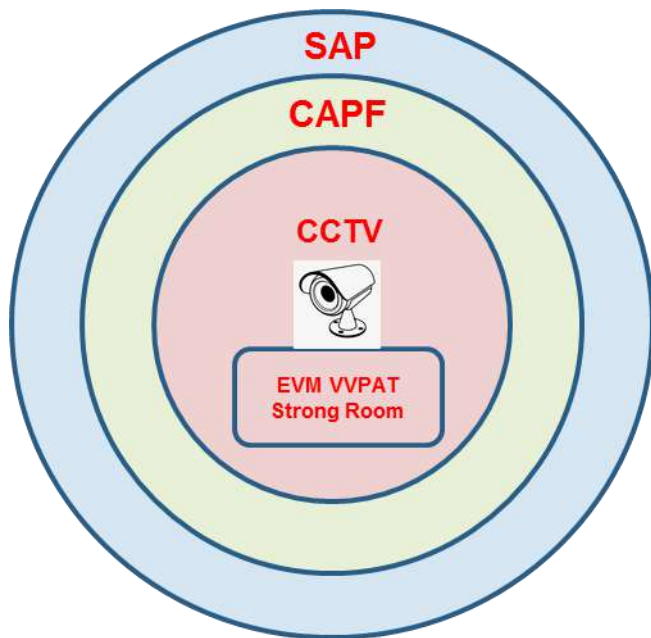
Poll Closed on EVM by pressing CLOSE button – EVM cannot accept any further vote.



EVMs sealed in carrying cases & polling agents sign on them.

EVMs transported back to the reception centres under armed escort. Candidates' representatives are allowed to follow them.

9. SECURE STORAGE IN STRONGROOMS TILL COUNTING



- Polled EVMs kept in strong room, sealed in the presence of the Candidates and Observer.
- Facilitation for Candidates to watch the Polled EVM Strong Room 24/7.
- *Starting from FLC of EVMs to Counting of votes, EVMs are kept in Strong-room with full 24/7 security.*

- EVM Warehouse/Strongroom with **only One Entry Point**.
- Entry secured by a **Double Lock System** with DEO & Dy DEO, each having custody of keys of one lock each.
- **24X7 Armed security.**
- **The opening & closing of EVM warehouse ONLY in presence of Political party representatives- advance written intimation mandatory.**
- Every EVM/VVPAT moved is managed by ECI through EMS.

Post Polling:

- Polled EVMs/VVPATs are stored in strong room having double lock system.
- Candidates allowed to put their **own seals on locks.**

Various layers of security of polled EVMs/VVPATs

1. **Unique ID of BUs, CUs & VVPATs** shared with political parties/candidates.
2. **Sealing of CU and BU with Pink Paper Seals** at FLC and commissioning respectively on which political parties and candidates put their signatures.
3. **Sealing of EVMs/VVPATs** before starting actual poll on which polling agents also put their signatures.
4. **Seals on carrying cases** of EVMs/VVPATs after closing of poll on which polling agents also put their signatures.

5. **Double lock system** at the door of strong room on which candidates also put their own seals.
6. **CCTV feed** to Candidates Camping Area to monitor strong room.
7. **Two Cordoned** round-the-clock security (Inner perimeter manned by CAPF and Outer perimeter by State Armed Police).
8. **Log-book and videography** of officers inspecting the two cordons daily.
5. **24/7 security arrangement** for unused EVMs also.

11. COUNTING DAY PROTOCOL

- On the day of counting, strong room opened in the presence of Candidates, RO and Observer under videography.
- Round-wise CUs are brought to the counting tables from Strongrooms **under CONTINUOUS CCTV Coverage**.
- Unique ID number of the CU & the signed seals are verified and shown to the polling agents.
- EVMs & VVPATs are stored back in Strong Room in the presence of candidates/their representatives till the completion of the Election Petition period.



809

ELECTION PETITION PERIOD

REGISTERING COMPLAINT

810

ELECTION PETITION PERIOD

- Election Petitions can be filed within 45 days of result declaration.
- EVMs (BU+CU) & VVPATs remain under sealed conditions till EP position is ascertained.
- EVMs and VVPATs under EP, are kept under safe custody of DEO (Strong Room) till final disposal of EP.
- Print on VVPAT Slips remains for 5 years.
- Remaining EVMs and VVPATs not in EP are now free for re-use.

811

EVM Management System (EMS)

- In house EVM Stock Management Software
- Barcode of every EVM is scanned into EMS every time it moves from one Warehouse to another
- All EVM Allocations done on EMS
- FLC status(OK/Rejected) captured in EMS
- EVMs Randomisation twice on EMS
- EVM sent for repair captured in EMS
- EVMs under EP marked in EMS



812

DEBATE AROUND EVMs-EXPLAINED!

CLARIFICATION ON ALL ISSUES



813 DOUBTS CREATED AROUND EVM

How EVMs are registering votes only for BJP: Kejriwal

Continued from

Charges against BJP spread further on Monday as the Election Commission's official website reported that the party's chief secretary had allegedly tampered with the official EVMs. The report also mentioned that the party's chief secretary had allegedly tampered with the official EVMs. The report also mentioned that the party's chief secretary had allegedly tampered with the official EVMs.



Hacked EVM

Vote Stuffing after Poll Closure

Remotely Altered Control Unit Display

इलैक्ट्रॉनिक वोटिंग मशीनों की टैपिंग का मुद्दा फिर चर्चा में

Altered software code

International Comparison

Memory Manipulation

Replaced Microcontroller or Memory chips





NO POSSIBILITY OF EVM HACKING

‘**Hacking**’ is unauthorised access to or control over computer network security systems for some illicit purpose.

In the case of ECI EVMs, the word ‘**Hacking**’ is **not applicable** for following reasons:

- The EVM is a **stand-alone** machine and is not connected to any network through wire or wirelessly.
- The SW programme in the OTP Microcontroller can **neither be read nor modified**.

815

NO POSSIBILITY OF REMOTELY ALTERED DISPLAY THROUGH WIRELESS COMMUNICATION

It is alleged this can be done by either replacing the original display module with another display fitted with a wireless device or inserting an extra circuit board which can communicate with an external unit via a wireless device and tamper the result by controlling the CU display used for declaring the result.



- Such a modification would require unfettered access to the EVM after FLC – **Ruled out.**

816

MEMORY MANIPULATION RULED OUT

- It is alleged that voting data can be altered by clipping a Memory Manipulator IC to the memory chip where Vote data is stored.
- This would need,
 - Full and free access to CUs after the Polling is over- **Ruled Out !!**
 - **Breaking** the seals and locks of the strong room in the presence of two layers of security plus the representatives of the candidates camping near the strong room- **Ruled Out !!**



REPLACEMENT OF MICROCONTROLLER/MEMORY CHIP or MOTHERBOARD IMPOSSIBLE

Administrative Safeguards

- Chip replacement would require access to EVM Warehouses – **Ruled Out.**
- Any chip replacement before FLC will get caught during FLC.
- Chip Replacement after FLC would require access to Strong Rooms and breaking of EVM Pink Paper seals– **Ruled Out.**

Technical Security

- BUs and CUs communicate only amongst themselves and go into error mode if connected to any other machine. Thus, **any modified EVM (with microcontroller /memory changed) would not be usable** even if someone is able to hypothetically bypass security arrangements and modify EVM.

818

TAMPERED SOURCE CODE “TROJAN” RULED OUT

- It is alleged that Trojan can be introduced in the following manner
 - by reprogramming the chip, or
 - by the chip manufacturer during fusing of the software.
- Re-programming **Ruled Out** as these are OTP chips.
- Code tampering by the chip manufacturer **Ruled Out** as it will get caught during the code integrity check.



NO POSSIBILITY OF VOTE STUFFING AFTER POLL CLOSURE

Administrative safeguards

- Poll closed by pressing the “CLOSE” button on the CU after last vote, Representatives of candidates who are present signs on the seals.
- EVM seals checked on counting day.

What if seals broken and votes stuffed while transporting?

- EVM does not accept any votes after CLOSE button pressed in CU.

What if CLOSE button not properly pressed and Votes Stuffed while transporting?

- Poll Closure time recorded in the PO's diary and any votes polled in the EVM after this time can be identified due to time stamping of key presses.

820

DEFECTIVE VS TAMPERED

821

DEFECTIVE/NON-FUNCTIONING VS MANIPULATION/TAMPERED (1/2)

- **Tampered** machine is one which would behave in a predefined biased manner to favor someone.
- **Malfunctioning** machine is one which would randomly behave erroneously, but without a predefined biased manner.
- **Defective or Non-functioning** machine is one which becomes in-operative.
- While 1-2% EVMs may become Defective/Non-functional (and are replaced with good EVMs), **no case of Malfunctioning EVM (i.e. one recording wrong vote) ever reported.**
- **Question of Tampering absolutely ruled out** due to several layers of technical and administrative safeguards.

822 DEFECTIVE/NON-FUNCTIONING VS MANIPULATION/TAMPERED (2/2)

Defective/Non-functional	Manipulation/Tampering
An EVM can be said defective/non-functional, if they do not work due to any mechanical/electronic fault.	An EVM can be said manipulated/Tampered, if someone has made unauthorised alteration to interfere in its working. The same is ruled out due to technical security implemented in EVM and administrative safeguards prescribed by ECI.
Dictionary meaning- 'Failing to work or function properly'.	Dictionary Meaning- 'to interfere in an illegal & disruptive manner or to make alterations or adjustments, especially <u>secretly</u> so as to <u>subvert</u> an intended purpose or function.
EVMs, like any other machines can become non functional. Such defects get detected during the 3 mock polls and are replaced.	A tampered EVM must <u>behave in a pre-defined and biased manner to favour a particular candidate</u> and this partisan behaviour of the machine must be replicable/demonstrable.
All such defective EVMs are <u>promptly removed</u> from the election process and replaced with a full functional EVM.	No evidence of any incident of any EVM Tampering, ever has been produced.

❖ **However, No incident of EVM tampering ever found.**

DEFECTIVE EVM PROTOCOL

Defective EVMs

EVMs that fail to function due to any mechanical, structural or physical defect like faulty switches, broken button, faulty connections etc.

However, these **NEVER record Wrong Vote**.

- EVMs are checked for defects 3 times - during FLC, candidate setting, before start of poll.
- Serial Numbers and defects of these EVMs are noted and EVMs are sent to the manufacturers for analysis and repair.
- Manufacturers follow same security protocols during repair as they do for manufacturing new EVMs.

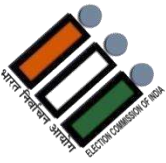
824

Electronic Voting in Other Countries



VARIOUS FORMS OF ELECTRONIC VOTING IN OTHER COUNTRIES

825



Electronic Voting (Fully /Partially)

- **19 Countries** using electronic voting in some form through EVMs (Direct Recording Machines), some with Paper Trail.
- India, USA, Canada, Australia, Belgium, Bulgaria, Italy, Switzerland, Mexico, Brazil, Chile, Peru, Venezuela, Armenia, Namibia, Nepal, Bhutan, Bangladesh.



Electronic Counting

- **13 Countries** are using e-technology for counting of votes
- Argentina, Brazil, Venezuela, Dominican Republic, Lithuania, Bulgaria, Belgium, Australia, South Korea, Philippines, Mongolia, Bhutan, Namibia.

Country Specific Details

Other countries using EVMs (DRMs):

USA, Australia, Belgium, Bulgaria, Italy, Switzerland, Canada, Mexico, Argentina, Brazil, Chile, Peru, Venezuela, Namibia, Nepal, Bhutan, Armenia, Bangladesh.

❖ Currently, in the **USA**, **the Direct Recording Machines are used in 27 states**, among which **paper audit trails are used in 15 states**.

❖ The other voting methods include: **Optical Scan Paper Ballot Systems, Ballot Marking Devices, and the Punch Card Ballot**.

827

Why Some Countries Discontinued Electronic Voting



ECI EVM	Foreign EVM
Standalone	Mostly networked
Manufactured in Premium PSUs	Manufactured entirely by private entities
Verified and certified by an independent Technical Experts Committee	No such robust and independent certification/ checks
Data is stored internally and not transferrable by any device	Voting data recorded in the DRM is transferred by means of CD, etc
Full end to end security protocol and administrative safeguards for the use, storage, transportation and tracking	No such protocols, e.g. in Ireland
Administrative and physical security as per legal framework across the country.	No such legal framework, e.g. in Netherlands
Voter verifiability and auditability of every vote cast	Lack of such facility in the NEDAP machines-un-Constitutional by German Supreme Court as lacked public examinability

829

ASPERSIONS VS CONFIDENCE

Between MAR-DEC 2017

830

BHIND FINDINGS

Commission's enquiry found 4 buttons of BU pressed in the following order and VVPAT printed corresponding slips-

Button no	Symbol	Name of Candidate
03	Handpump	Raju Pal
04	Lotus	SatyaDev Oanchori
03	Handpump	Raju Pal
01	Hand	Ambuj Shukla

It is pertinent to mention here that it is completely false to say that multiple times slips of lotus were printed during the demo on 31st March as alleged.

831

Between March-May 2017

120 Petitions Received

41 alleging wrong results

17 Related to SEC

Evidence Sought from 24

Reply by 3

Evidence by none

- Commission organized an EVM Challenge on **3rd June 2017.**
- All National and State Political Parties invited to participate in the Challenge.
- Parties allowed to pick EVMs/VVPATs of their choice from the 5 poll-gone States (UP, Punjab, UK, Goa, Manipur), which were securely held in the Strongrooms under 24*7 armed security.
- Parties given opportunity to demonstrate EVM manipulation/tampering in the votes recorded in the EVMs/VVPATs of their choice, as variously alleged earlier.

- **NO Political Party participated** in the Challenge.
- **Only 2 parties i.e. NCP & CPI-M reported to venue, ONLY TO UNDERSTAND THE EVM PROCESS BETTER** and were given detailed briefing.
- The credibility and integrity of ECI-EVMs has always remained perfectly intact and unscathed.

Aspersions in the 5 State Assembly Elections Nov-Dec 2018:

834

(1/2)

Allegation/Aspersion		Fact	Action Taken
1.	In Khurai (Madhya Pradesh) some reserve EVMs and VVPATs reached the strong room 48 hours after the polling was completed.	Violation of ECI instructions for deposition of all Reserve EVMs/VVPATs on the same day. However no impact on secured storage of polled EVMs.	Returning Officer and Assistant Returning Officer of Khurai were suspended.
2.	CCTV cameras outside the EVM strong room in Bhopal, MP did not function from 8.19 am to 9.35 am on 30 th November, 2018 - allegations of manipulations.	Due to power failure in the area, the recording could not be done. However no impact on secured storage of polled EVMs, as there are 7 layered security.	An inverter and a generator were installed in order to ensure continuous power supply.
3.	A Security personnel allegedly found using Laptop outside EVM strong room in Bemetara district of Chhattisgarh.	Laptop can never connect to an EVM. Manipulation in EVMs stored inside Strongroom by laptop outside the building absolutely ruled out.	Sub-inspector of the 175 th battalion of the BSF was replaced.

Aspersions in the 5 State Assembly Elections Nov-Dec 2018:

835

(2/2)

	Allegation/Aspersion	Fact	Action Taken
4.	A sector officer with Reserve EVM at a private hotel owned by a candidate in MP.	Sector Officer halted at night at a private hotel-Violation of ECI instruction. However all seals were intact, and the Reserve EVM not used.	EVM taken out of election system. Sector Officer suspended.
5.	1 EVM was alleged to be found at a candidate's residence in Pali, Rajasthan.	Sector Officer had gone to his house, which was close to the candidate's house. Violation of ECI Instructions. However all seals were intact, and the Reserve EVM not used.	EVM taken out of election system. The Sector Officer was suspended and the Returning Officer, Pali was transferred.
6.	01 reserve EVM found lying on road in Baran district (Kishanganj AC) in Rajasthan.	Fallen from the jeep while transpoting. Violation of secure EVM transportation protocol.	EVM taken out of election system. Patwari and Inspector were suspended.

836

Aspersions in the Lok Sabha Elections 2019: (1/5)

Allegation/Aspersion		Fact	Action Taken
1.	Transporting of unused EVMs from Tezpur to the office of DC Kamrup (Rural), without inviting political parties at Kamrup.	Tezpur DEO failed to inform Kamrup (Rural) DEO before shifting of “Unused EVMs/VVPATs” to State Central Warehouse at Kamrup.	The Commission conducted an enquiry in the matter. Disciplinary action has been taken against DEO, Tezpur.
2.	News 18 alleged that EVMs found in the vehicle of City Magistrate Jhansi (Uttar Pradesh).	The said news pertained to unused EVMs, which were brought for storing in the strong room situated at Bhojla Mandi, Jhansi (Uttar Pradesh).	The said EVMs/VVPATs verified in front of the complainant candidates and they were fully satisfied. Thereafter, the said EVMs/ VVPATs stored in the respective strong rooms (different from Polled EVM Strong Rooms).

Aspersions in the Lok Sabha Elections 2019: (2/5)

Allegation/Aspersion	Fact	Action Taken
3. Suspicious movement of EVMs in 60-Dumariganj PC of Uttar Pradesh.	The EVMs under question were unused EVMs. As per ECI instructions unused EVMs/VVPATs were being stocked at central locations for quickly shifting to subsequent phases whenever required.	The matter was explained to the contesting candidates by the District Election Officer and they were satisfied.
4. Suspicious movement of 50 Ballot Units from Coimbatore to Theni, 20 VVPATs from Coimbatore to Erode and 20 Control Units and 30 VVPATs from Tiruvallur to Theni.	Poll in the State of Tamil Nadu was held on 18.4.2019 and on 6 th & 7 th May, 2019, the unused reserve EVMs and VVPATs were moved under intimation to the political parties for the purpose of use in expected repoll in some polling stations. Some of the representatives of the political parties were also present during the actual shifting.	There was no violation of any instructions of the Commission, as the movement of EVMs was done as per instructions of the Commission.

Allegation/Aspersion	Fact	Action Taken
5. In mock poll at polling station No.31 of 34-Cuncolim AS of South Goa PC, 8 additional votes in favour of BJP instead of INC.	During mock poll, there was no complaint from the polling agents that the votes shown on VVPAT slip having any mismatch. However repeat Mock poll done, again with no mismatch between EVM and VVPAT slips count.	However, the set of machines was replaced with reserve set of machines and poll was held after conduct of mock poll to the satisfaction of candidates' representatives.
6. Pressing any button on EVM, vote goes to BJP. No Written complaint, just a vague statement in an interview to TV 9/TV 18 Lokmat News channels on 18/4/2019 at Solapur.	DEO clarified that the complaint is wrong and no such thing happened anywhere in Solapur PC.	A clarification was given to Lokmat TV 9 & TV 18 News channels. They immediately stopped broadcasting the wrong news.

Aspersions in the Lok Sabha Elections 2019: (4/5)



Allegation/Aspersion	Fact	Action Taken
<p>7. Theft of DVRs from the intermediate strong room of Umred AS of Ramtek PC on 12th/13th April, 2019. Allegation of wilful default in providing security to EVMs enabling the miscreants to lay their hands on EVMs and tamper with EVM.</p>	<p>DVRs and TVs installed at police guard room were not uninstalled while polled machines were shifted from intermediate strongroom, Umred to main strong room at Nagpur. Later DVRs found on 4th May, 2019 near temporary strong room, Umred. Forensic test of DVR established that there was no attempt to tamper with EVM.</p>	<p>Departmental action has been taken against the ARO & Tehsildars and explanation of DEO, Nagpur called. 1 year increment withheld for Police Inspector.</p>
<p>8. News item that in PS in Lumani of Zunhebotu district, Nagaland only one button on ballot unit was getting lighted and the VVPAT slips showing the symbol of only one party regardless of the buttons pressed.</p>	<p>Sector Magistrate visited the said PS and investigated. It was found that the EVM was functioning normally and no variation was observed.</p>	<p>The facts of the matter were shared with the media during the press conference after the poll was over.</p>

840

Aspersions in the Lok Sabha Elections 2019: (5/5)

Allegation/Aspersion		Fact	Action Taken
9.	EVMs kept at Badaun strong room have been tampered after breaking the seal of the strong room.	No such incident occurred.	CEO UP issued Press Note on 3rd May 2019 clarifying that no such incident actually occurred.
10.	Complaint that at PS No. 151 of 139—Kovalam AS of Thiruvananthapuram PC, Kerala, there was discrepancy between the button that was being pressed and the vote that was being actually cast.	No such incident occurred. Polling agents and polling parties inside the polling station were not even aware that such a news was spreading outside.	Sector Officer and ARO visited the PS. There was no issues. It was clarified by the DEO that such an information was false. Observer also arrived and explained to the candidates the false nature of the widespread complaint.

841

PAST JUDGEMENTS

JUDGEMENTS

❑ Karnataka High Court 1999

'This invention is undoubtedly a great achievement in the electronic and computer technology and a national pride'.

❑ Madras High Court 2001

'There is also no question of introducing any virus or bugs for the reason that the EVMs cannot be compared to personal computers.'

❑ Kerala High Court 2002

The High Court recorded its appreciation on the efficiency of the mechanism of detecting votes cast by impersonators. Upheld by the Hon'ble Supreme Court in 2003.

Forensic Checking and Secured Storage

❑ **Bombay High Court: Order dated 23.02.2018:**

The Bombay High Court ordered a detailed **Forensic Examination** of the EVMs from CFSL, Hyderabad for checking any manipulation etc. **The CFSL report clearly ruled out any tampering, alteration or manipulation in the EVMs.**

❑ **High Court of Madhya Pradesh: Order dated 05.12.2018:**

In Writ Petition (Civil) No. 28016/2018 Naresh Saraf Vs ECI & Anr, Hon'ble High Court of Madhya Pradesh expressed satisfaction at the **Security and Storage Protocols** for EVMs and VVPATs established by the ECI and rejected petition to give directions for any changes.

Hon'ble Supreme Court: Dismissed Ballot Paper Request

❑ Order dated 22.11.2018:

In Writ Petition (Civil) No. 1332/2018, Nyaya Bhoomi & Anr Vs ECI, Hon'ble Supreme Court dismissed the petition requesting for return to Ballot paper system.

Upon hearing the counsel the court made the following **ORDER-**

“Having heard learned counsel for the petitioners and upon perusing the relevant material, we are not inclined to entertain the writ petition. The same is, accordingly, dismissed.”

845

The Hon'ble Supreme Court on VVPAT counts

❑ Order dated 08.04.2019:

- *"We are certain that the system ensures accurate electoral results."*
- *"Verification of VVPAT slips of 5 Polling Stations per Assembly Constituency or Assembly Segment in a Parliamentary Constituency would lead to greater satisfaction."*
- **Review Petition** against above order dismissed on 07.05.2019.

❑ Order dated 21.05.2019:

The Supreme Court on 21.05.2019 dismissed a PIL seeking counting of VVPAT slips of all EVMs while **rebuking** the petitioner NGO **for making a "mockery of democracy"** by moving the court despite a clear ruling by the apex court directing counting of VVPAT slips of five Polling Stations per assembly segment.

846

VOTER VERIFIABLE PAPER AUDIT TRAIL (VVPAT)

847

VVPAT



VVPAT- allows the voters to verify that their votes are cast as intended.

VVPAT

- Voter Verifiable Paper Audit Trail is an independent system, attached with the Electronic Voting Machines, that allows the voters to verify that their votes are cast as intended.
- When a vote is cast, the elector shall be able to view through the transparent window of the VVPAT, the printed paper slip showing the **serial no**, **name** and the **symbol** of the candidate of his choice.
- The slip is visible through the VVPAT window after which it automatically gets cut and falls in the sealed drop box of the VVPAT.
- Since June 2017, VVPATs are being used in all Elections.

HISTORY OF VVPAT

- **4th October 2010:** An all-party meeting agreed to incorporate VVPAT with EVM.
- **14th August 2013:** The Conduct of Elections Rules 1961 amended to use VVPAT.
- **September 2013:** First used in Bye-election for 51-Noksen AC in Nagaland.
- **October 2013:** Hon'ble Supreme Court allowed ECI to introduce the VVPAT system in a phased manner.
- **4th March 2017:** **Goa** became the first State where **100% coverage of VVPATs with EVMs** during Goa Legislative Assembly Election, 2017.
- **12th August 2017:** In all party meeting, the Commission committed to ensure 100% coverage of VVPATs in all future elections.
- **April-May 2019:** **100% Deployment of VVPATs** in Lok Sabha Elections 2019.

850

VVPAT Complaint – Rule 49MA

In case a voter complains of wrong printing by VVPAT:

- He will report to Presiding Officer.
- Presiding Officer will take a declaration explaining that if found false he can be penalized.
- PO will then record in 17A and permit him to cast a 'test vote' in presence of PO and Polling Agents.
- If found false PO will record in 17A and 17C so that the test vote is not counted.
- If found true then PO will stop poll and report to RO.
- **Since the introduction of VVPATs, more than 83 crore voters have cast their votes with full satisfaction & ONLY 17 (seventeen) complaints received u/r 49MA, which were all FOUND TO BE FALSE.**

851

VVPAT RECOUNTING PROCESS

- Counting of votes according to Rule 56C of Conduct of Election Rules, 1961.
- After announcement of result any candidate/ his agent may apply in writing to the RO for counting of paper slips of VVPAT under **Rule 56D**.
- The RO shall pass a speaking order on whether the slip counting to be allowed.
- Till date, in **16 (Sixteen)** instances RO has allowed slip counting since 2017. **All counts matched.**

VVPAT RECOUNTING PROCESS

- Between Dec 2017- Dec 2018 VVPAT slip count done in 1500 randomly selected PS and all these counts matched.
- In 2019 Lok Sabha Elections 20,687 VVPATs counted and around 1.25 crore slips matched with EVM count. A total count variance of only 0.0004% found in 8 VVPATs, that too due to human errors and not machine errors, which are being looked into.

853

Why Going Back to Ballot not a Solution

1. Average around 2000 invalid votes in each Constituency when ballots used.
2. Vote stuffing was very easy with Ballot papers. EVMs designed to allow only 4 votes per minute ruling out vote stuffing.
3. Counting of Ballot Papers was always prone to manual errors. EVM counting both quick and accurate.
4. Retrograde step in the era of Technology when even financial transactions done electronically.
5. Ballot papers are made of wood pulp and hence made at a cost to environment.



854

THANK YOU

// True Copy //



LEGAL HISTORY OF EVMs AND VVPATs

A compilation and analysis of case laws



भारत निर्वाचन आयोग
Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi-110001

857



LEGAL HISTORY OF EVMs AND VVPATs

A compilation and analysis of case laws



भारत निर्वाचन आयोग
Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi-110001

CONTENTS

		Page No.
	Preface	1
Chapter 1	EVM Inception & Milestones	2-3
Chapter 2	First usage of EVM	4-7
Chapter 3	Legislative amendment to enable usage of EVM	8
Chapter 4	Legal provisions regarding EVM/VVPAT	9-26
Chapter 5	Judicial Decisions on EVM/VVPAT	27-53
Chapter 6	Conclusion	54
	Appendix	55-56
	Additional information on EVMs/VVPATs	57-58

PREFACE

This booklet will essentially service as a practical guide in making the understanding and awareness about the legal aspects surrounding the Electronic Voting Machines (EVM) / Voter Verifiable Paper Audit Trail (VVPAT) better. The subject matter is presented in such a way that this book could be readily used by various internal stakeholders connected to the Election Commission of India like the Chief Electoral Officers, District Election Officers, other Election related officials of the states and UTs, and so on. Further, this booklet serves as a ready reckoner to the legal practitioners of the country and assists the Hon'ble Courts in cases relating to the Electronic Voting Machines.

The booklet provides a useful insight into the relevant statutory framework governing EVMs and VVPATs. The utility of the booklet is in extracting the significant rulings and observations of the Hon'ble Supreme Court and High Courts. Above all, it is an effort of the Election Commission of India to inform and educate the public at large and stakeholders in the electoral process, the evolution of Electronic Voting Machines/VVPATs in India from a legal perspective.

CHAPTER 1: EVM INCEPTION & MILESTONES

1. Electronic Voting Machine (EVM) was first conceived in 1977. Its prototype developed by Electronics Corporation of India Ltd. (ECIL), Hyderabad, a PSU under Department of Atomic Energy, in 1979 was demonstrated by the Election Commission of India before the representatives of political parties on August 06, 1980.
2. After reaching a wide consensus on its introduction, the ECI issued directives under Article 324 of the Constitution of India for the use of EVMs and on 19th May, 1982 EVMs were used on a pilot basis to conduct elections. The law was amended by the Parliament in December 1988 and a new Section 61A was included in the Representation of the People Act 1951, thereby empowering the ECI to use EVM. The amendment came into force on 15th March, 1989.
3. After convincing demonstration of prototypes developed, Bharat Electronics Ltd. (BEL), Bangalore, a Defence Ministry PSU, was selected along with ECIL to manufacture the EVM.
4. The Government of India instituted an Electoral Reforms Committee (ERC) in January 1990, consisting of representatives from several national and state-level political parties under the chairmanship of Mr. Dinesh Goswami. The ERC recommended the examination of EVM by a team of technical experts.
5. A Technical Expert Committee (TEC) was formed under the chairmanship of Mr. S. Sampath, Chairman, RAC, DRDO with eminent scientists like Dr. P.V. Indiresen (IIT, Delhi), Dr. Rao C. Kasarbada (ER&DC, Trivandrum) in the list among others. In April 1990, the Expert Committee unanimously recommended the use of EVMs without any further loss of time marking it technically sound, secure and transparent.
6. In 1998, a general consensus was reached on the use of EVMs for conducting Indian elections. In 1998, EVMs were used in 16 Legislative ACs across three states of Madhya Pradesh, Rajasthan, and Delhi.

-
7. The use of EVMs further expanded in 1999 to 46 Parliamentary Constituencies (PC), and later, in February 2000, EVMs were used in 45 ACs in Haryana state assembly polls. In 2001, the state assembly elections in Tamil Nadu, Kerala, Puducherry, and West Bengal were completely conducted using EVMs. All state assembly elections thereafter witnessed the use of this machine.
 8. In 2004, the EVMs were used in all 543 Parliamentary Constituencies for the elections to the Lok Sabha. A new technologically advanced voting system completely replaced the erstwhile voting method of using ballot papers.
 9. A number of technological changes were made in the EVMs in 2001 and the machines were further upgraded in 2006. The pre-2006 era EVMs are known as 'M1 EVMs', while EVMs manufactured between 2006 to 2010 are called 'M2 EVMs'. The latest generation of EVMs, produced since 2013 are known as 'M3 EVMs'.
 10. To improve the transparency and verifiability in poll process, the conduct of Election Rules, 1961 were amended and notified on 14th August 2013, thereby, Voter Verifiable Paper Audit Trail (VVPAT) was introduced. They were first used in the by-election for 51-Noksen AC in Nagaland.

CHAPTER 2 : FIRST USAGE OF EVM

EVM was first used by the Election Commission in fifty polling stations for election to **No. 70 Parur Assembly Constituency in Kerala on May 19, 1982.**

The returned candidate had secured 30450 votes, out of which 11268 votes were cast manually, according to the conventional method provided in the Conduct of Election Rules, 1961 (“**Rules**”) made under the Representation of the People Act, 1951 (“**Act**”), and 19182 votes were cast by means of electronic machines. Votes by the mechanical process were cast in 50 out of the 85 polling stations.

Voting by way of EVM was done in pursuance of the direction issued by the Commission under Article 324 of the Constitution, by virtue of a notification published in the Kerala Gazette on May 13, 1982.

Interestingly, prior to issuing the said notification, the Commission had sought sanction of the Government of India, which was refused.

Usage of EVMs and election of the returned candidate was challenged, which was ultimately decided by the Hon’ble Supreme Court in **A.C. Jose v. Sivan Pillai, 1984 SCR (3) 74 (decided on March 05, 1984).**

Briefly, the arguments put forth by the Commission before the Hon’ble Supreme Court were thus:

- The Commission being a creature of the Constitution itself, its plenary powers flow directly from Article 324 and it will prevail over any Act passed by the Parliament or Rules made thereunder.
- The manner of voting was a matter coming within the ambit of Articles 324 and Article 327 would be deemed to be subsidiary to the power contained in Article 324 and if there was any conflict between a law enacted by the Parliament and the powers given to the Commission regarding regulating the conduct of elections to Parliament that law must yield to Article 324, otherwise the very object of Article 324 would be defeated.

-
- Article 324 is a Code in itself and was couched in a very plain and simple language which admits of no ambiguity and, if so construed, it gives full powers and authority to the Commission to give any direction in connection with the conduct of elections.
 - Section 59 of the Act and Rule 49 of the Rules framed under the Act authorizes the Commission to give direction to hold voting by the use of a voting machines.
 - The process of voting by machines eliminates a number of drawbacks of voting by ballot boxes.

Ratio of the Hon'ble Supreme Court:

- Article 324 authorizes the Commission to exercise powers of superintendence, direction and control of preparation of electoral rolls and the conduct of elections to Parliament and State legislatures, but the Article has to be read harmoniously with the Articles 325 to 329 and the powers that are given to the Legislatures under entry No. 72 in the Union List and entry No. 37 of the State List of the Seventh Schedule to the Constitution.
- The Commission in the garb of passing orders for regulating the conduct of elections cannot take upon itself a purely legislative activity which has been reserved under the scheme of the Constitution only to Parliament and the State legislatures.
- Reliance was placed on the decision of a 5 – Judge Constitution Bench in **Mohinder Singh Gill v. The Chief Election Commissioner (1978) 1 SCC 405** to hold that two limitation at least are laid on its plenary character in the exercise of powers under Article 324. Firstly, when Parliament or any State Legislature has made valid law relating to or in connection with elections, the Commission shall act in conformity with, not in violation of such provision but where such law is silent, Article 324 is a reservoir of power to act for the avowed purpose of, not divorced from pushing forward a free and fair election with expedition. Secondly, the Commission shall be responsible to the rule of law, act bona fide and be amenable to the norms of natural

justice in so far as conformance to such canons can reasonably and realistically be required of it as fair play-in- action in a most important area of the constitutional order, viz., elections.

- Reliance was also placed on the decision of a 6 – Judge Bench in **N.P. Ponnuswami v. Returning Officer, 1952 SCR 218** to hold that before an election machinery can be brought into operation, there are three requisites which require to be attended to, namely,
 - (1) there should be a set of laws and rules making provisions with respect to all matters relating to, or in connection with, elections, and it should be decided as to how these laws and rules are to be made;
 - (2) there should be an executive charged with the duty of securing the due conduct of elections; and
 - (3) there should be a judicial tribunal to deal with disputes arising out of or in connection with elections.
- An absolute and uncanalised power given to the Commission without providing any guidelines would destroy the basic structure of the Rule of Law.
- When the Act and the Rules, prescribed a particular method of voting, the Commission cannot innovate a new method and contend that use of the mechanical process was not covered by the existing law and, therefore, did not come in conflict with the law in the field.
- Where there is an Act and express Rules made thereunder it is not open to the Commission to override the Act or the Rules and pass orders in direct disobedience to the mandate contained in the Act or the Rules. The powers of the Commission are meant to supplement rather than supplant the law in the matter of superintendence, direction and control as provided by Article 324.
- Section 59 of the Act uses the words “ballot in such manner as may be prescribed”, which means prescribed by the Rules made

under the Act. In this connection, reference was made to Rule 22 which relates to the form of ballot paper and its contents. Rule 23 requires the Returning officer to record on the counterfoil of the ballot paper the electoral roll number of the elector as entered in the marked copy of the electoral roll. Rule 27 refers to the return of ballot paper after an elector has recorded his vote or made his declaration. Rule 30, which prescribes the contents of ballot papers, is completely contrary to the concept of ballot by machine. Similarly, Rules 33, 38, 39 and 40 seem to be wholly inconsistent with the mechanical process but seem to adopt the conventional method. These Rules are binding on the Commission and it cannot by an executive fiat either override them or act contrary to the statutory provisions of the Rules. On a proper and detailed analysis of these Rules it is clear that the Act by framing the Rules completely excluded the mechanical process which, if resorted to, would defeat in a large measure the mandatory requirements of the Rules.

- In 1951 when the Act was passed or the Rules were made, the system of voting by machine was not in vogue in this country. Therefore, the word 'ballot' in its strict sense would not include voting by the use of voting machines.

It was ultimately held that the order of the Commission regarding casting of ballot by machines in some of the polling stations was without jurisdiction. The election of the returned candidate with respect to the 50 polling stations where the voting machines were used was set aside.

The Hon'ble Supreme Court refrained from making any comment on either the defects or advantages of EVMs.

Incidentally, the Hon'ble Supreme Court was informed by the Commission that at eleven elections held under the Act, the mechanical device was used and in nine, no challenge has been raised. The Hon'ble Court observed that this judgment will not affect those nine elections in any manner.

CHAPTER 3: LEGISLATIVE AMENDMENT TO ENABLE USAGE OF EVM

Subsequent to the Hon'ble Supreme Court's Judgment in **A.C. Jose v. Sivan Pillai**, 1984 SCR (3) 74, the Commission recommended the Government of India to bring legislative amendment in order to provide legal sanction for the use of EVMs.

Consequently, Section 61A was inserted in the year 1989 in the Representation of the People Act, 1951 which reads as follows:

Section 61A. Voting machines at elections —

Notwithstanding anything contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify.

Explanation — For the purposes of this section, “voting machine” means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.

The constitutional vires of Section 61A of the Act was challenged and eventually upheld by the Hon'ble Supreme Court in **All India Anna Dravida Munnetra Kazhagam v. Chief Election Commissioner, Special Leave Petition (Civil) 2824 – 25 of 2001 (decided on April 23, 2001)**.

The Hon'ble Supreme Court distinguished the decision in **A.C. Jose v. Sivan Pillai**, 1984 SCR (3) 74 by stating that in **A.C. Jose case**, EVMs were sought to be used by way of an executive order which was not permissible being contrary to the Rules. It was held that after introduction of Section 61A in the Act, usage of EVMs cannot be challenged on the basis of the said ruling.

CHAPTER 4: LEGAL PROVISIONS REGARDING EVM & VVPAT

Along with introduction of Section 61A to the Representation of the People Act, 1951, several amendments were made to the Act and Conduct of Election Rules, 1961 to enable smooth usage of EVMs/ VVPAT (Voter Verifiable Paper Audit Trail).

Relevant statutory provisions under the Representation of the People Act, 1951 are as follows:

Section 58. Fresh poll in the case of destruction, etc., of ballot boxes

- (1) If at any election —
 - (a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained; or
 - (aa) any voting machine develops a mechanical failure during the course of the recording of votes; or
 - (b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll, the returning officer shall forthwith report the matter to the Election Commission.
- (2) Thereupon the Election Commission shall, after taking all material circumstances into account; either—
 - (a) declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or
 - (b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or

that the mechanical failure of the voting machine or the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

- (3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

Section 135A. Offence of booth capturing —

- (1) Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.

Explanation — For the purposes of this sub-section and section 20B, “booth capturing” includes, among other things, all or any of the following activities, namely: —

- (a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;
- (b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from free exercise of their right to vote;
- (c) coercing or intimidating or threatening directly or indirectly any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
- (d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;
- (e) doing by any person in the service of Government, of all or any

of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

(2) An offence punishable under sub-section

(a) shall be cognizable.

Section 169. Power to make rules —

(1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the form of affidavit under sub-section (2) of section 33A;

(aa) the duties of presiding officers and polling officers at polling stations;

(aaa) the form of contribution report;

(b) the checking of voters by reference to the electoral roll;

(bb) the manner of allocation of equitable sharing of time on the cable television network and other electronic media;

(c) the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability;

(d) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorized or appointed for duty at a polling station at which he is not entitled to vote;

(e) the procedure to be followed in respect of the tender of vote by a person representing himself to be an elector after another person has voted as such elector;

-
- (ee) the manner of giving and recording of votes by means of voting machines and the procedure as to voting to be followed at polling stations where such machines are used;
 - (f) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote;
 - (g) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election;
 - (gg) the procedure as to counting of votes recorded by means of voting machines;
 - (h) the safe custody of ballot boxes, voting machines, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;
 - (hh) the material to be supplied by the Government to the candidates of recognised political parties at any election to be held for the purpose of constituting the House of the People or the Legislative Assembly of a State;
 - (hhh) any other matter required to be prescribed by this Act.
- (3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything

previously done under that rule.

Relevant legal provisions under the Conduct of Elections Rules, 1961 (Statutory Rules and Order) read with Conduct of Elections (Amendment) Rules, 2013 are as follows:

Rule 49A. Design of Electronic Voting Machines —

Every electronic voting machine (hereinafter referred to as the voting machine) shall have a control unit and a balloting unit and shall be of such designs as may be approved by the Election Commission.

Rule 49B. Preparation of voting machine by the returning Officer —

- (1) The balloting unit of the voting machine shall contain such particulars and in such language or languages as the Election Commission may specify.
- (2) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.
- (3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.
- (4) Subject to the foregoing provisions of this rule, the returning officer shall —
 - (a) fix the label containing the names and symbol of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;
 - (b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

Rule 49C. Arrangements at the polling stations —

- (1) Outside each polling station there shall be displayed prominently—

-
- (a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and
 - (b) a copy of the list of contesting candidates.
- (2) At each polling station there shall be set up one or more voting compartments in which the electors can record their votes free from observation.
 - (3) The returning officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.
 - (4) Without prejudice to the provisions of sub-rule (3), the returning officer may, with the prior approval of the Election Commission, provide one common voting machine for two or more polling stations located in the same premises.

Rule 49E. Preparation of voting machine for poll —

- (1) The control unit and balloting unit of every voting machine used at polling station shall bear a label marked with —
 - (a) the serial number, if any, and the name of the constituency;
 - (b) the serial number and name of the polling station or stations as the case may be;
 - (c) the serial number of the unit; and
 - (d) the date of poll.
- (2) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the polling agents and other persons present that no voter has been already recorded in the voting machine and it bears the label referred to in sub-rule (4).
- (3) A paper seal shall be used for securing the control unit of the voting machine, and the presiding officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling

agents present as the desirous of affixing the same.

- (4) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefor in the control unit of the voting machine and shall secure and seal the same.
- (5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the “result button” without breaking the seal.
- (6) The control unit shall be closed and secured and placed in full view of the presiding officer and the polling agents and the balloting unit placed in the voting compartment.

Rule 49L. Procedure for voting by voting machines —

- (1) Before permitting an elector to vote, the polling officer shall—
 - (a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form 17A.
 - (b) obtain the signature or the thumb impression of the elector on the said register of votes; and
 - (c) mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote;
 - (d) give details of the document produced by the elector in proof of his/her identification.

Provided that no elector shall be allowed to vote unless he has his signature or thumb impression on the register of voters.

- (2) Notwithstanding anything contained in sub-rule (2) of rule 2, it shall be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the register of voters.

Rule 49M. Maintenance of secrecy of voting by electors within the polling station and voting procedures —

- (1) Every elector who has been permitted to vote under rule 49L shall

maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

- (2) Immediately on being permitted to vote the elector shall proceed to the presiding officer or the polling officer incharge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit; for recording of elector's vote.
- (3) The elector shall thereafter forthwith—
 - (a) proceed to the voting compartment;
 - (b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and
 - (c) come out of the voting compartment and leave the polling station.
- (4) Every elector shall vote without undue delay.
- (5) No elector shall be allowed to enter the voting compartment when another elector is inside it.
- (6) If an elector who has been permitted to vote under rule 49L or rule 49P refuses after warning given by the presiding officer to observe the procedure laid down in sub-rule (3) of the said rules, the presiding officer or a polling officer under the direction of the presiding officer shall not allow such elector to vote.
- (7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the elector's name in the register of voters in Form 17A by the presiding officer under his signature.

Rule 49MA. Procedure in case of complaint about particulars printed on paper slip –

- (1) Where printer for paper trail is used, if an elector after having recorded his vote under rule 49M alleges that the paper slip generated

by the printer has shown the name or symbol of a candidate other than the one he voted for, the presiding officer shall obtain a written declaration from the elector as to the allegation, after warning the elector about the consequence of making a false declaration.

- (2) If the elector gives the written declaration referred to in sub-rule (1), the presiding officer shall make a second entry related to that elector in Form 17A, and permit the elector to record a test vote in the voting machine in his presence and in the presence of the candidates or polling agents who may be present in the polling station, and observe the paper slip generated by the printer.
- (3) If the allegation is found true, the presiding officer shall report the facts immediately to the returning officer, stop further recording of votes in that voting machine and act as per the direction that may be given by the Returning Officer.
- (4) If, however, the allegation is found to be false and the paper slip so generated under sub-rule (1) matches with the test vote recorded by the elector under sub-rule (2), then, the presiding officer shall –
 - (a) make a remark to that effect against the second entry relating to that elector in Form 17A mentioning the serial number and name of the candidate for whom such test votes has been recorded;
 - (b) obtain the signature or thumb impression of that elector against such remarks; and
 - (c) make necessary entries regarding such test vote in item 5 in Part I of Form 17C.

Rule 49N. Recording of votes of blind or infirm electors-

- (1) If the presiding officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognise the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for

recording the vote on his behalf and in accordance with his wishes:

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.

- (2) The presiding officer shall keep a record in Form 14A of all cases under this rule.

Rule 49Q. Presiding Officer's entry in the voting compartment during poll —

- (1) The presiding officer may whenever he considers it necessary so to do, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.
- (2) If the presiding officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.
- (3) Whenever the presiding officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

Rule 49R. Closing of poll —

- (1) The presiding officer shall close a polling station at the hour fixed in that behalf under section 56 and shall not thereafter admit any elector into the polling station:

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

-
- (2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the presiding officer and his decision shall be final.

Rule 49S. Account of votes recorded —

- (1) The presiding officer shall at the close of the poll prepare an account of votes recorded in Form 17C and enclose it in a separate cover with the words 'Account of Votes Recorded' superscribed thereon.
- (2) The presiding officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form 17C after obtaining a receipt from the said polling agent therefor and shall attest it as a true copy.

Rule 49T. Sealing of voting machine after poll —

- (1) As soon as practicable after the closing of the poll, the presiding officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit and from the printer, where printer is also used, so however, that the paper slips contained in the drop box of the printer shall remain intact.
- (2) The control unit and the balloting unit and the printer, where it is used, shall thereafter be sealed, and secured separately in such manner as the Election Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the units without breaking the seals.
- (3) The polling agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

Rule 49U. Sealing of other packets —

- (1) The presiding officer shall then make into separate packet, —
- (a) the marked copy of the electoral roll;
 - (b) the register of voters in Form 17A;
 - (c) the cover containing the tendered ballot papers and the list in Form 17B;

-
- (d) the list of challenged votes; and
 - (e) any other papers directed by the Election Commission to be kept in a sealed packet.
- (2) Each packet shall be sealed with the seal of the presiding officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

Rule 49V. Transmission of voting machines, etc., to the returning officer —

- (1) The presiding officer shall then deliver or cause to be delivered to the returning officer at such place as the returning officer may direct,—
- (a) the voting machine;
 - (b) the account of votes recorded in Form 17C;
 - (c) the sealed packets referred to in rule 49U; and
 - (d) all other papers used at the poll.
- (2) The returning officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

Rule 49W. Procedure on adjournment of poll —

- (1) If the poll at any polling station is adjourned under sub-section (1) of section 57, the provision of rules 49S to 49V shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under section 56.
- (2) When an adjourned poll is recommended under sub-section (2) of section 57, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.
- (3) The returning officer shall provide the presiding officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the electoral roll, register of voters in Form 17A and a new voting machine.
- (4) The presiding officer shall open the sealed packet in the presence of

the polling agents present and use the marked copy of the electoral roll for marking the names of the electors who are allowed to vote at the adjourned poll.

- (5) The provisions of rule 28 and rules 49A to 49V shall apply in relation to the conduct of an adjourned poll before it was so adjourned.

Rule 49X. Closing of voting machine in case of booth capturing —

Where the presiding officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and shall detach the balloting unit that from the control unit.

Rule 55C. Scrutiny and inspection of voting machines—

- (1) The returning officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.
- (2) Before the votes recorded in any control unit of voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.
- (3) The returning officer shall satisfy himself that none of the voting machines has in fact been tampered with.
- (4) If the returning officer is satisfied that any voting machine has in fact been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in section 58, or section 58A or section 64A, as may be applicable in respect of the polling station or stations where that machine was used.

Rule 56C. Counting of votes —

- (1) After the returning officer is satisfied that a voting machine has in fact not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked “Result”

provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.

- (2) As the votes polled by each candidate are displayed on the control unit, the returning officer shall have,—
 - (a) the number of such votes recorded separately in respect of each candidate in Part II on Form 17C;

Provided that the test vote recorded, if any, for a candidate, as per item 5 in Part I of Form 17C, shall be subtracted from the number of votes recorded for such candidate as displayed on the control unit.

- (b) Part II of Form 17C completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and
 - (c) corresponding entries made in a result sheet in Form 20 and the particulars so entered in the result sheet announced.

Rule 56D. Scrutiny of paper trail –

- (1) Where printer for paper trail is used, after the entries made in the result sheet are announced, any candidate, or in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to count the printed paper slips in the drop box of the printer in respect of any polling station or polling stations.
- (2) On such application being made, the returning officer shall, subject to such general or special guidelines, as may be issued by the Election Commission, decide the matter and may allow the application in whole or in part or may reject in whole, if it appears to him to be frivolous or unreasonable.
- (3) Every decision of the returning officer under sub-rule (2) shall be in writing and shall contain the reasons therefor.
- (4) If the returning officer decides under sub-rule (2) to allow counting of

the paper slips either wholly or in part or parts, he shall-

- (a) do the counting in the manner as may be directed by the Election Commission;
- (b) if there is discrepancy between the votes displayed on the control unit and the counting of the paper slips, amend the result sheet in Form 20 as per the paper slips count;
- (c) announce the amendments so made by him; and
- (d) complete and sign the result sheet.

Rule 57C. Sealing of voting machines —

- (1) After the result of voting recorded in a control unit has been ascertained candidate-wise and entered in Part II of Form 17C and Form 20 under rule 56C, the returning officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix the seals thereon so however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result and where printer for paper trail is used, the returning officer shall seal the paper slips in such manner, as may be directed by the Election Commission.
- (2) The control unit and the paper slips so sealed shall be kept in specially prepared boxes on which the returning officer shall record the following particulars, namely: —
 - (a) the name of the constituency;
 - (b) the particulars of polling station or stations where the control unit has been used;
 - (c) serial number of the control unit and printer wherever used;
 - (d) date of poll; and
 - (e) date of counting;
 - (f) the provisions of rules 60 to 66 shall, so far as may be, apply

in relation to voting by voting machines and any reference in those rules to, —

- (ff) ballot paper shall be construed as including a reference to such voting machine;
- (fff) any rule shall be construed as a reference to the corresponding rule in Chapter II of Part IV or, as the case may be, to rule 55C or 56C or 57C.

Rule 92. Custody of ballot boxes and papers relating to election –

- (1) All voting machines used at an election shall be kept in the custody of the concerned district election officer.
- (2) The district election officer shall keep in safe custody-
 - (a) the printed paper slips sealed under the provisions of rule 57C.
 - (b) The packets containing registers of voters in Form 17A.

Rule 93. Production and inspection of election papers—

- (1) While in the custody of the district election officer or, as the case may be, the returning officer—
 - (a) the packets of unused ballot papers with counterfoils attached thereto;
 - (b) the packets of used ballot papers whether valid, tendered or rejected;
 - (c) the packets of the counterfoils of used ballot papers;
 - (cc) the printed paper slips sealed under the provisions of rule 57C.
 - (d) the packets of the marked copy of the electoral roll or, as the case may be, the list maintained under sub-section (1) or sub-section (2) of section 152; and
 - (dd) the packets containing registers of voters in form 17A;
 - (e) the packets of the declarations by electors and the attestation of

their signatures; shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent court.

- (f) The control units sealed under the provisions of rule 57C and kept in the custody of the district election officer shall not be opened and shall not be inspected by, or produced before, any person or authority except under the order of a competent court.
- (2) Subject to such conditions and to the payment of such fee as the Election Commission may direct, —
 - (a) all other papers relating to the election shall be open to public inspection; and
 - (b) copies thereof shall on application be furnished.
- (3) Copies of the returns by the returning officer forwarded under rule 64, or as the case may be, under clause (b) of sub-rule (1) of rule 84 shall be furnished by the returning officer, district election officer, chief electoral officer or the Election Commission on payment of a fee of two rupees for each copy.

Rule 94. Disposal of election papers —

- (1) Subject to any direction to the contrary given by the Election Commission or by a competent court or tribunal—
 - (a) the packets of unused ballot papers shall be retained for a period of six months and shall thereafter be destroyed in such manner as the Election Commission may direct;
 - (aa) the voting machines kept in the custody of the district election officer under sub-rule (1A) of rule 92 shall be retained intact for such period as the Election Commission may direct and shall not be used at any subsequent election without the prior approval of the Election Commission;
 - (b) the other packets referred to in sub-rule (1) of rule 93 shall be retained for a period of one year and shall thereafter be

destroyed:

Provided that packets containing the counterfoils of used ballot papers and the printer paper slips, if any, shall not be destroyed except with the prior approval of the Election Commission;

- (c) all other papers relating to the election shall be retained for such period as the Election Commission may direct.

Rule 95. Power of the Election Commission to issue directions —

Subject to the other provisions of these rules, the Election Commission may issue such directions as it may consider necessary to facilitate the proper use and operation of the voting machines.

CHAPTER 5: JUDICIAL DECISIONS ON EVM & VVPAT

SUPREME COURT OF INDIA**1. People's Union for Civil Liberties v. Union of India, (2013) 10 SCC 1****Date of Order: September 27, 2013**

This Writ Petition was filed under Article 32 of the Constitution of India challenging the vires of Rules 41(2) and (3) and 49-O of the Conduct of Elections Rules, 1961 to the extent that these provisions violate the secrecy of voting which is fundamental to the free and fair elections and is required to be maintained as per Section 128 of the Representation of the People Act, 1951 and Rules 39 and 49-M of the Rules.

The Petitioner had sought inclusion of necessary provision in the ballot papers as well as in EVMs for secrecy/ protection of right of not to vote.

Contentions of the Election Commission of India:

It was argued on behalf of the Commission that inasmuch as secrecy is an essential feature of “free and fair elections”, Rules 41(2) and (3) and 49-O of the Rules violate the requirement of secrecy. In the larger interest of promoting democracy, a provision for “None of the Above” or “NOTA” button should be made in the EVMs/ballot papers. It was contended that such an action, apart from promoting free and fair elections in a democracy, will provide an opportunity to the elector to express his dissent/disapproval against the contesting candidates and will have the benefit of reducing bogus voting.

Hon'ble Court's ruling:

The Hon'ble Supreme Court took note of the submissions put forth by the Commission and observed that the implementation of the “None of the Above” (NOTA) button will not require much effort except for allotting the last panel in the EVM for the same.

The Hon'ble Court also held that the Rules 41(2) and (3) and Rule

49-O of the Rules are ultra vires Section 128 of the Representation of the People Act, 1951 and Article 19(1)(a) of the Constitution to the extent they violate secrecy of voting.

Further, the Commission was directed to provide NOTA button in EVMs so that the voters, who come to the polling booth and decide not to vote for any of the candidates in the fray, are able to exercise their right not to vote while maintaining their right of secrecy. It was observed that the Commission can implement the same either in a phased manner or at a time with the assistance of the Government of India. The Commission was further directed to undertake awareness programmes to educate the masses. The Government of India was also directed to provide necessary help for implementation of the above directions.

2. Subramanian Swamy v. Election Commission of India, (2013) 10 SCC 500

Date of Order: October 8, 2013

This Civil Appeal was filed against the Judgment dated 17.01.2012 passed by the Hon'ble High Court of Delhi in Subramanian Swamy v. Election Commission of India, WP (C) No. 11879 of 2009 [2012 SCC OnLine Del 314] whereby the High Court disposed of the petition by disallowing the prayer for issuance of a writ of mandamus directing the Election Commission of India to incorporate a system of "paper trail/paper receipt" in the electronic voting machines as a convincing proof that the EVM has rightly registered the vote cast by a voter in favour of a particular candidate.

Contentions of the Election Commission of India:

The Election Commission filed a detailed affidavit highlighting the steps taken in this regard. The Hon'ble Court was apprised of the fact that EVMs used in India are unique and they are of such high-end technology that they cannot be hacked/ tampered.

The Commission submitted that it is exploring possibility of incorporating voter verifiable paper audit trail (VVPAT) system as part of EVMs to make election system more transparent. It was submitted that a

Technical Experts Committee has approved and finalized VVPAT design.

It was also submitted before the Hon'ble Court that in order to implement new system, the Conduct of Election Rules 1961 will require certain amendments. To this effect, the Commission had addressed a letter to the Legislative Department of the Ministry of Law and Justice regarding these amendments including Rules 49-A to 49-X, 66-A, 55-C, 56-C, 57-C and Form 17C of the Conduct of Election Rules, 1961, as well as introduction of Rules 49-MA and 56-D in the said Rules. Accordingly, the Ministry of Law and Justice notified the amendments to the Conduct of Election Rules, 1961 in the Gazette of India vide Notification No. SO 2470(E) dated 14.08.2013 to enable the use of VVPAT with EVMs.

It was also argued that the Election Commission has decided to increase the use of VVPAT units in a phased manner

Hon'ble Court's ruling:

The Hon'ble Supreme Court held that "paper trail" is an indispensable requirement of free and fair elections. The confidence of the voters in EVMs can be achieved only with the introduction of the "paper trail". EVMs with VVPAT system ensure the accuracy of the voting system. It was held that 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 VVPATs system because vote is nothing but an act of expression which has immense importance in a democratic system.

The Hon'ble Court took note of the pragmatic and reasonable approach of the Election Commission and considering the fact that in general elections all over India, the Election Commission has to handle one million (ten lakh) polling booths, the Commission was permitted to introduce VVPAT in gradual stages or geographical-wise in the ensuing general elections. It was held that the area, State or actual booth(s) are to be decided by Commission and that it is free to implement the same in a phased manner.

The Hon'ble Court appreciated the efforts and good gesture made by Election Commission in introducing VVPAT system. For implementation

of such a system in a phased manner, the Government of India was directed to provide required financial assistance for procurement of units of VVPAT.

3. **Reshma Vithalbhai Patel v. Union of India, (2018) 18 SCC 675** **Date of Order: October 8, 2013**

This appeal arose out of the decision passed by the Hon'ble High Court of Gujarat in *Reshma Vithalbhai Patel v. Union of India* 2017 SCC OnLine Guj 1395. Before the High Court, a Public Interest Litigation was filed seeking inter alia the following prayers:

- (a) Issuance of an appropriate writ, order or direction directing that ballot papers be used in the 2017 Gujarat Assembly Election in place of EVMs.
- (b) In case continuation of EVMs is deemed fit to be used in the Assembly Election, issuance of an appropriate writ, order or direction for incorporating a system of “paper trail/paper receipt” in the Electronic Voting Machines.
- (c) Directing that the EVMs with VVPAT system be tested, verified and audited by competent independent technical experts'/ agency having expertise in such evaluation.

Contentions of the Election Commission of India:

The Election Commission has reiterated its commitments to 100% coverage of VVPATs in all future elections to Parliament and State legislative Assemblies by way of: (a) Status Paper on EVMs and VVPATs published on its website on 09.05.2017; (b) All Political Meet conducted on 12.05.2017 where parties were informed of the resolution to ensure 100% coverage of VVPATs in all future elections; and (c) a Press Note dated 03.06.2017 to this effect.

Hon'ble Court's ruling:

The Hon'ble Supreme Court observed that the Commission's affidavit leaves no room for any doubt that all future elections will be held using VVPATs.

4. **Nyaya Bhoomi & Anr. v. Election Commission of India, Writ Petition (Civil) 1332/ 2018**

Date of Order: November 22, 2018

This Writ Petition was filed seeking direction to Election Commission to hold 2019 General Election and State Assembly Polls with ballot papers instead of EVMs.

The writ petition was vehemently opposed by the Commission.

Hon'ble Court's ruling:

The Hon'ble Court dismissed the Writ Petition.

5. **N. Chandrababu Naidu v. Union of India, (2019) 15 SCC 377**

Date of Order: April 8, 2019

This Writ Petition was filed seeking the following reliefs:

- (a) Quashing and setting aside Guideline No. 16.6 of the Manual on EVM and VVPAT as framed and issued by the Commission.
- (b) Issuance of writ directing that minimum of 50% randomized VVPAT paper slip verification of EVM shall be conducted in every General and Bye-Elections.

Contentions of the Election Commission of India:

The Election Commission submitted that Indian Statistical Institute [ISI], an expert body, has stated that verification of VVPAT paper trail of 479 (randomly selected) EVMs would generate over 99% accuracy in the election results. And, as per Guideline No. 16.6, verification of VVPAT paper trails 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 Election Commission pointed out infrastructure difficulties, including manpower availability, at that point of time, in increasing the number of EVMs for verification. It was contended that 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 verification of VVPAT paper trail of 50% of the EVMs is done as

sought for by the Petitioner, the declaration of result of election could be delayed by 5-6 days.

Hon'ble Court's ruling:

The Hon'ble Court observed that neither the satisfaction of ECI nor the system in vogue today, is being doubted by the Court insofar as fairness and integrity is concerned. However, having regard to the need to generate the greatest degree of satisfaction in all with regard to the full accuracy of the election results, it was held that 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. It was also held that random selection of the machines that would be subjected to the process of VVPAT paper trail verification, in terms of the guidelines in force, shall apply to the VVPAT paper trail verification.

6. Tech for All v. Election Commission of India, Writ Petition (Civil) 692 / 2019

Date of Order: May 21, 2019

This Public Interest Litigation was filed seeking 100 % verification of VVPAT against the EVM outcomes.

The writ petition was vehemently opposed by the Commission.

Hon'ble Court's ruling:

While dismissing the PIL, the Hon'ble Court lambasted the Petitioner for making a 'mockery of democracy' by moving the Court despite a clear ruling *N. Chandrababu Naidu v. Union of India*, (2019) 15 SCC 377 directing the counting of VVPAT slips of five EVMs per assembly segment. The Hon'ble Court also underscored that it was unethical to move such a petition when the polls were already over.

7. C.R. Jaya Sukin v. Election Commission of India, Special Leave Petition (Civil) 13278/ 2021

Date of Order: September 05, 2022

This SLP arose out of the decision dated August 03, 2021 passed by

the Hon'ble High Court of Delhi in C.R. Jaya Sukin v. Election Commission of India & Ors., Writ Petition 6635/ 2021.

Before the Hon'ble High Court, a Public Interest Litigation was filed seeking inter alia the following prayer:

“Issue a writ of mandamus or any other appropriate Writ or Order or Direction or any suggestion or observation or particularly the nature of Writ, by giving direction to the Respondents No.1 to stop the use of Electronic Voting Machine (EVM) and use ballot paper in any forthcoming elections.”

Contentions of the Election Commission of India:

The EVMs have been approved by the Election Commission of India after due deliberation and also have a sanction by the Parliament under Section 61A of the Representation of the People Act, 1951.

Hon'ble Court's ruling:

While dismissing the PIL, the Hon'ble High Court observed that the Petitioner was unable to place any material on record to show alleged drawbacks or that EVMs can be manipulated. Thus, the PIL was dismissed with costs.

The Hon'ble Supreme Court upheld the decision of the Hon'ble High Court and dismissed SLP.

8. Madhya Pradesh Jan Vikash Party v. Election Commission of India, Special Leave Petition (Civil) 16870/ 2022

Date of Order: September 30, 2022

This SLP arose out of the decision dated December 14, 2021 passed by the Hon'ble High Court of Madhya Pradesh, Principal Bench at Jabalpur in Writ Petition 26671/2021. The Writ Petition was filed seeking directions for ruling out discrepancies in the Electronic Voting Machines (EVM). Before the Hon'ble High Court, the Petitioner sought inter alia with the gist of prayers as under:

- To command the respondents to take effective measures to rule out the discrepancies in the Electronic Voting Machines, stated in the petition to conduct the free and fair upcoming assembly and general elections with the purity of the electoral process or may be directed to conduct the

election with the other alternative mode in accordance with law;

- To command the respondents to take effective measures to comply the rule 49E (2), wherein it is mandatory to show the storage empty and to ascertain the polling agents that there is no prior voting recorded earlier;
- To command the respondents to disclose the approved hardware configuration of the electronic voting machines and approved size, shape, colour and number of components, before the representatives of the candidates of the political parties;
- To issue a writ in the nature of mandamus commanding respondents to allow the technical experts/engineers of the petitioner political party with necessary equipment's at the time of first level checking, commissioning, candidate setting randomization and at the time of symbol loading to check and examine the fairness of all the stages of electoral process;
- To direct the respondent to demonstrate the source code/programming/software to examine that there is not such a programming which benefits the particular candidates or to the candidates of a particular party;
- To direct the respondent to permit the petitioner on the polling day, to examine the EVMs with its technical experts/engineers in respect of software/ source code/programming or microchip as well as any bluetooth or wireless device, may not be available in the machines which benefits the special candidate or particular political party as per rule 49 (E)(2) of the election conduct rule 1961;
- To direct the respondent to certify each and every machine that it is original and there is no tempering or manipulation;
- To direct the respondent to conduct the examination from their own regular employee/technical engineer or expert at the time of FLC/ commissioning/ randomization/ symbol loading just after the EVMs come into the possession of election commission;
- Even otherwise without the aforesaid measured & reliefs claimed hereinabove in the EVM and VVPAT, respondent shall kindly be restrained from using electronic voting machines & VVPAT in the upcoming elections going to be conducted in future or Electronic voting machines be banned in the conduct of elections, due to the large scale discrepancies available in the machines as mentioned in the petition.

Hon'ble Court's ruling:

The Hon'ble Court observed that EVMs have been utilized in country for decades now but periodically issues are sought to be raised. This is one such endeavor in the abstract. It appears that party which may not have got much recognition from the electorate now seeks recognition by filing petitions! The court is of the view that party which may not have got much recognition from the electorate seeks recognition by filing such frivolous petitions. Thus, the SLP was dismissed with costs Rs.50,000/-.

BOMBAY HIGH COURT

1. **Abhay B. Chajed v. Smt. Madhuri Misal 2017 SCC OnLine Bom 739**

Date of Order: May 05, 2017

In this election petition, Petitioner had sought examination of EVMs used during the 2014 assembly election.

Contentions of the Election Commission of India:

The Commission heavily relied on reports of the technical experts committee to assert reliability of EVMs and introduction of VVPATs

Hon'ble Court's ruling:

The Hon'ble Court directed that forensic scan of EVMs used in the 2014 Assembly Elections, specifically booth number 185 in Parvati (Assembly Constituency), Pune be conducted. This Order laid down the questions to be put forth to Central Forensic Science Laboratory [CFSL], Hyderabad.

2. **Abhay B. Chajed v. Smt. Madhuri Misal 2018 SCC OnLine Bom 267**

Date of Order: February 23, 2018

The Commission submitted that pursuant to Hon'ble Supreme Court's Order in Subramanian Swamy v. Election Commission of India, (2013) 10 SCC 500, the Commission and Ministry of Law & Justice have taken steps to in respect of usage of VVPAT.

Hon'ble Court's ruling:

The Hon'ble Court observed that in report by CFSL Hyderabad, the

analysts have mentioned that there is no evidence of tampering, altering or any other manipulation which could be detected. The Commission has also assured that there will be phase wise use of VVPAT in view of the financial burden and technical availability. Therefore, the Hon'ble Court held that it cannot be said that there is non-compliance with the provisions of the Rules or Orders by the Election Commission of India.

DELHI HIGH COURT**1. Election Commission of India v. Central Information Commission, 2009 SCC OnLine Del 3515**

Date of Order: November 04, 2019

The Election Commission of India had filed this Writ Petition against the Order dated 06.06.2008 passed by the Central Information Commission directing disclosure of information in EVMs such as date and time, votes polled, vote tally and any other information which were noted down from the EVM machines, including any spare machines that were used, Form 17C etc. under the Right to Information Act, 2005.

Contentions of the Election Commission of India:

The Commission contended that the aforesaid information cannot be made available as it is not held by or under control of the Commission as per provisions of the Representation of Peoples. Act, 1951 and Conduct of Election Rules, 1961.

Rule 93 stipulates that ballot papers in physical form cannot be inspected or produced before any person or authority except under the order of a competent court. Rule 93(1A) which deals with data stored in the control unit in electronic form, states that the control unit cannot be opened, inspected or produced before any person or authority except upon an order of a competent court. Use of the word “shall” in said Rule; “shall...not opened except under the orders of a Competent Court.”, makes the provision imperative or obligatory.

Hon’ble Court’s ruling:

The Hon’ble Court held that right to information is an important right. At the same time, maintaining secrecy and confidentiality of the ballot papers, etc. is also an equally valuable right.

It was observed that the enactment of RTI Act has not occasioned an absolute right to citizen of India to ask for full details of electronic data

relating to ballot papers stored in the control unit of the EVMs.

It was held that an application under the RTI may lie only with respect to information which the public authority can access. No confirmation of information can be made unless the data stored in the control units is encoded and downloaded. This is prohibited in the Election Rules. The Election Commission would be acting contrary to the express provisions of the Election Rules. Insisting for the information on the basis that it is mere “confirmation” and not “information” would only amount to indirectly achieving something which is directly prohibited.

It was also held that taking recourse to the RTI Act, secrecy of the data stored in the control unit of the EVMs will be obliterated and will be open to verification and examination in spite of strict and stringent provisions to the contrary in the Representation of the People Act and the Rules.

It was held that once the EVMs are sealed it is no longer open to the Election Commission to de-seal them and re-examine the data stored in the control unit except when the pre-conditions mentioned in the relevant rules are satisfied. This requires an order of a competent court/tribunal which is passed only when the stringent conditions are satisfied.

The Hon’ble Court observed that the aggrieved party is not left remediless and that in case of an election petition, the competent court can always direct furnishing of information on being satisfied that the parameters specified by the Supreme Court for furnishing of information and re-examination of data stored in the EVMs are met.

2. Hans Raj Jain v. Election Commission of India 2020 SCC OnLine Del 149

Date of Order: January 13, 2020

The Public Interest Litigation was filed with prayers seeking directions to the Election Commission to inspect record of the printed paper slips in the drop box of the printer of VVPAT electronic device, one by one in respect of all Parliamentary Constituencies alleging that there is a great

discrepancy, mismatching in EVM vote polled and counting vote in large scale in the 2019 general elections.

Directions were also sought for usage of appropriate prototype of VVPAT system in future, in which the printer is kept open. The printed ballot will get cut and fall in a tray in front of the printer. The voter will pick it up from the tray, verify it fold it and bring it out of voting compartment and drop the same in a sealed box kept for this purpose in front of the presiding officer before leaving the polling station.

The Petitioner also prayed that the Commission be directed to manually count the printed paper slips in the drop box of the printer in respect of any polling station or polling stations in all future Legislative Assembly elections and/or Parliamentary elections where paper trail has been introduced.

The Election Commission denied the discrepancy alleged by the Petitioner.

Hon'ble Court's ruling:

The Hon'ble Court directed the Election Commission to consider representations in accordance with law, rules, regulations and Government policies applicable to the facts of the case after keeping in mind the various decisions rendered by the Hon'ble Supreme Court in this regard.

3. C.R. Jaya Sukin v. Election Commission of India & Ors., Writ Petition (Civil) 6635/2021

Date of Order: August 08, 2021

This Public Interest Litigation was filed seeking directions to the Commission to stop the use of EVMs in all forthcoming elections and to use ballot paper instead.

Contentions of the Election Commission of India:

EVMs have been approved by the Commission after due deliberation

and also have a sanction by the Parliament under Section 61A of the Representation of the People Act, 1951.

Hon'ble Court's ruling:

The Petition was dismissed with costs of Rs.10,000/- whilst observation that petition is akin to a “publicity interest litigation” and is based on hearsay and baseless allegations.

GUJARAT HIGH COURT**1. Girish M. Das v. Chief Election Commissioner & Ors., 2012 SCC OnLine Guj 4916**

Date of Order: August 30, 2012

This Public Interest Litigation was filed seeking direction upon the Commission to secure to the voters that the Electronic Voting Machines are kept hack-proof, tamper-proof and irrigable and also for passing a direction upon the Election Commission not to hold any election in the State of Gujarat or in Center till the voters are secured and the Court is assured with regard to functioning of the EVMs. It was also prayed that Election Commission be directed to introduce and install camera and clock in EVMs so that any fraudulent voting can be ascertained and the offending voters as well as the polling

The Election Commission opposed the petition.

Hon'ble Court's ruling:

The Hon'ble Court observed that the writ petitioner has failed to point out any action or inaction of any authority that has interfered, infringed or impeded with any of the rights of the petitioner so as to interfere in exercise of the writ jurisdiction under Article 226 of the Constitution of India.

It was held that merely because the election can be conducted in a wiser way or a fairer way, for that reason, Court is not competent to pass any directions upon the Election Commission.

It was held that the courts do not and cannot act as appellate authorities examining the correctness, suitability and appropriateness of a policy. Courts cannot lose sight of the fact that they are not advisers to the other constitutional authorities on the matters of policy, which such competent authorities are entitled to formulate

2. Khemchand Rajaram Koshti v. Election Commission of India & Anr., Writ Petition PIL 36/ 2019

Date of Order: March 19, 2019

The Public Interest Litigation was filed seeking directions to use appropriate technology by which the VVPAT/ paper trail can be preserved for at least a period of 02 years from the date of election.

Contentions of the Election Commission of India:

The Election Commission highlighted the wide range of technical, administrative protocol and procedural safeguards that fortify the EVMs and VVPATs against any sort of tampering or manipulation.

Hon'ble Court's ruling:

It was held that the EVMs are more auditable, accurate, transparent reducing human error. It was observed that the Commission conducted several field trials and involved all stake holders and political parties in evolving an error free EVM.

It was held that as evident from the extensive reproduction of the Status Report on EVMs/VVPATs, the system of registering the vote of the voter and reflection of his vote has become more transparent and apparent to regain the voter's confidence in the system. What essentially was the object of introduction of the VVPATs was the restoring of the voter's confidence by the logging and registering of his vote correctly in the EVM. The Voter Verifier Audit Trail as the name suggests assures the voter of his vote having been correctly recorded in the system. Once the object of the audit of the voter's vote, from his perception is achieved, who is the end consumer of the franchise, the mere apprehension voiced by the candidate, pales into insignificance.

KARNATAKA HIGH COURT**1. Michael B. Fernandes v. C.K. Jaffer Sharief, 2004 SCC OnLine Kar 72**

Date of Order: February 05, 2004

In election petition, efficacy and integrity of the EVM was challenged. It was contended that EVM is vulnerable to tampering. It was contended that an election conducted with the aid of EVM does not ensure the free and fair polling and counting, in view of the inherent defects in the EVMs.

The contentions were refuted by the Election Commission.

Hon'ble Court's ruling:

The Hon'ble Court observed that there has been a tremendous advancement in the electronic technology. A scientist who is one of the co-designer of the electronic voting machine was also examined as a court witness and his evidence unflinchingly supports the feasibility of use of electronic voting machines in the election. The evidence fully inspires the confidence of the Court that the EVMs are fully tamper proof and there is no possibility of manipulation of mischief at the instance of anyone.

The evidence discloses that the EVM has seeming advantage over the traditional manual ballot method. In the manual method, there is possibility of swift rigging at the end of polling time. But when the votes are cast through EVM there has to be necessary minimum time lag between one vote and the next vote. Therefore, when the EVMs are used, the malpractice of rigging swiftly and quickly at the closing hours of the polling time stands avoided.

It was noted that after thorough practical experimentation and research, the present version of EVM is designed. This invention is undoubtedly a great achievement in the electronic and computer technology and a national pride.

MADHYA PRADESH HIGH COURT**1. Krishna Kumar Gupta v. Rajendra Shukla, 2014 SCC OnLine MP 8785**

Date of Order: August 07, 2014

In this Election Petition, contentions were raised relating to irregularities in EVMs concerned, which were opposed by the Election Commission.

Hon'ble Court's ruling:

The Hon'ble Court held that all doubts and queries regarding EVMs have already been answered in FAQs on the website of ECI wherein it has been specifically shown that there is no possibility to vote more than once by pressing button again and again. It was also held that EVMs are full proof device for counting, therefore, the allegation made in the petition in regard to mal-functioning and tampering of EVMs used in counting of votes are baseless.

2. Naresh Saraf v. Election Commission of India, Writ Petition 28106/ 2018

Date of Order: December 06, 2018

This Writ Petition was filed expressing concern over the alleged lack of sufficient security in some districts in respect of polled/unused EVMs and VVPATs in the assembly election in the State.

Contentions of the Election Commission of India:

The Election Commission refuted all allegations and submitted that all necessary instructions were issued well in advance, for the safe upkeep of polled EVMs/ VVPATs and unused/reserved EVMs/ VVPATs at the end of poll.

Hon'ble Court's ruling:

The Hon'ble Court held that careful reading of reports shows that the strong rooms for storing polled EVMs/ VVPATs and warehouses for unused/ reserved EVMs/ VVPATs are separate buildings with separate security arrangements.

It is also clear that the strong room with polled EVMs/ VVPATs were sealed immediately after poll to be opened on the day of counting. These strong rooms are under the security of Central Armed Paramilitary Forces with a triple cordon of security.

Thus, the Hon'ble Court held that no further action is required in this petition.

**3. Amitabh Gupta v. Election Commission of India and Another
2018 SCC OnLine MP 1827**

Date of Order: December 07, 2018

This Petition was filed seeking a direction to count all VVPAT slips along with the counting of votes through EVMs in the ongoing State Assembly elections.

Contentions of the Election Commission of India:

The Commission brought to notice of the Hon'ble Court that the issue relating to counts of votes with VVPATs slips through EVMs has already been declined by various High Courts and the Supreme Court. Further, it was contended that the petition cannot be entertained, in view of the constitutional bar engrafted under Article 329(b) of the Constitution as the election process has already commenced.

Hon'ble Court's ruling:

The Hon'ble Court perused Rule 56-D of the Conduct of Elections Rules, 1961 to hold that in case where the printed paper trail is maintained

by the Election Commission during the election, the candidate or his election agent or counting agent can apply to the Returning Officer to count the printed paper slips in respect of any polling station or stations under sub-rule (2) or Rule 56-D. Upon such application being made, the Returning Officer would decide the matter and may allow the application in whole or in part or reject if it appears to him to be frivolous or unreasonable. Sub-rule (3) or Rule 56-D requires that such decision of the Returning Officer would be in writing and contain reasons. Under sub-rule (4) of Rule 56-D the conclusions of the Returning Officer granting the request for counting of paper slips are specified. It was thus held that the guidelines for mandatory counting of paper slips in one polling station per Assembly constituency is in addition to the powers of the Returning Officer under Rule 56-D to accept the request of a candidate for counting all the paper slips in as many polling stations as the case for such counting is made out.

The Hon'ble Court held that no direction as prayed for by the petitioner, can be granted. It was also held that once the election process has commenced, the writ petition cannot be entertained, in view of constitutional bar under Article 329(b) of the Constitution of India.

MADRAS HIGH COURT**1. All India Anna Dravide Munnetra Kazhagam v. Election Commission of India, 2001 SCC OnLine Mad 1398**

Date of Order: April 10, 2001

This Petition was filed seeking writ of prohibition or direction for prohibiting the ECI from using Electronic Voting Machines in the constituencies in the ensuing General Elections to the Tamil Nadu State Legislative Assembly.

Contentions of the Election Commission of India:

A comprehensive counter was filed by the Election Commission, wherein the functioning of EVMs was narrated in detail. An elaborate mention was made about the design of EVMs and the voting procedure, annexing the manuals prepared by Bharat Electronics Limited (BEL) and Electronics Corporation of India Limited (ECIL).

It was categorically stated that by using the EVMs the need for printing huge quantity of ballot papers is dispensed with saving the cost of paper and printing to a great extent. Voting by EVMs is smooth and easy and the result can be ascertained in few hours.

It was asserted that no rigging is possible.

Hon'ble Court's ruling:

The Hon'ble Court held that there is also no question of introducing any virus or bugs for the reason that the EVMs cannot be compared to personal computers.

To expel doubts as to whether the vote of an elector has been registered, the Hon'ble Court observed that a perusal of the machine manual reveals that whenever a person casts his vote, a beep sound will

be heard to those who are present in the booth concerned, and that is

the signal of the registration of the casting of vote. A safety measure is provided that if the concerned person or agents do not hear any sound, they will inform the Polling Officer to release the lock. The Hon'ble Court also dismissed the contentions on pre-programming of EVMs.

The advantages of using EVMs outweigh the advantages in conventional ballot boxes. Need for printing huge quantity of ballot papers is dispensed with saving on cost of paper and printing. The invalid votes in the old system play a major role in turning the result of the elections. In the EVMs, invalid vote does not arise, and every vote will be accounted. No rigging is possible, and results can be ascertained in a shorter time. In the ballot papers in the conventional system, the voters prefer to write some messages leaving a bad taste and also wasting the whole exercise. This is not possible in the EVMs.

The Hon'ble Court was of the view that the voter cannot dictate that he should be allowed to cast his vote in the method he chooses.

2. M. Varalakshmi v. K. Pandurangan & Ors., 2010 SCC OnLine Mad 5322

Date of Order: October 22, 2010

In this Election Petition, allegations of unreliability of EVMs were raised, which were refuted by the Election Commission.

Hon'ble Court's ruling:

The Hon'ble Court observed that Electronic Voting Machine is a simple and reliable equipment for use in electing a candidate from among many candidates. Voting by EVMs is simpler compared to the conventional system, where one has to put the voting mark on or near the symbol of the candidate of his choice, fold it vertically and then horizontally and thereafter put it into the ballot box. In EVMs, the voter has to simply press

the blue button against the candidate and symbol of his choice and the vote is recorded. Rural and illiterate people had no difficulty in recording

their votes and, in fact they have welcomed the use of EVMs.

3. **T.R. Baalu v. The Election Commission of India & Ors., 2014 SCC OnLine Mad 1171**

Date of Order: May 08, 2014

This Writ Petition was filed for directions to install video-cameras in each and every counting table and the ARO's table and consequently to record and display lively the counting and totaling of counted votes to be entered in Part-II in Form No. 17C, enabling the candidate or his authorized agents to cross-check the votes displayed in the EVM and the total entered in Part-II in Form No. 17C and simultaneously to be displayed/transmitted in the common single screen and also by webcast method in the official website of the Election Commission.

Contentions of the Election Commission of India:

The Commission submitted that the plea made in this Writ Petition to install video-cameras in each and every counting table cannot be countenance in view of the instructions given by the Election Commission in this regard on 30.4.2014 which reads that no camera – still or video media (except the official video camera for officially recording the entire counting process) is allowed to be fixed inside counting halls.

Hon'ble Court's ruling:

The Hon'ble Court held that the Election Commission is entitled to formulate its own method for the purpose of counting of votes from the EVMs and a detailed procedure has been prescribed to all the Counting Halls.

So far as the installation of camera is concerned, taking into account

the various parameters to maintain security and also to ensure that there is secrecy of the ballots and to curb the interference of third parties inside the counting hall, procedure has been prescribed in paragraph No. 3.5 of the instruction of the Election Commission of India dated 30.04.2014. There is no reason to fault the procedure.

The Hon'ble Court found merit in objections raised by the Election Commission by observing that it has to ensure that there is no third-party interference. It was observed that the security during the process of counting of votes in counting halls will be affected if outsiders are allowed. This is one step in the process of free and fair election.

The Hon'ble Court ultimately held that the instructions issued by the Election Commission of India is a self-contained provision for conduct of election and the Court will not interfere with the decision of the Election Commission as to how it should go about conduct of election till the declaration of results.

RAJASTHAN HIGH COURT**1. C.P. Joshi v. Kalyan Singh Chouhan & Anr., 2009 SCC OnLine Raj 2971**

Date of Order: July 10, 2009

In this Election Petition, decoding of EVM was prayed for exclusion of votes allegedly cast by impersonation.

Contentions of the Election Commission of India:

The Commission contended that decoding cannot be obtained without orders of the competent court. The Commission has no power or jurisdiction to ask the manufacturer of EVM, to detach the particulars of the votes polled on the EVM and to establish as to which voter voted for whom.

Hon'ble Court's ruling:

In view of the above submissions, the Hon'ble Court had directed that Election Commission be deleted from array of parties.

UTTARANCHAL HIGH COURT**1. Dr. Ramesh Pandey v. Election Commission of India & another
2017 SCC OnLine Utt 676**

Date of Order: June 02, 2017

The Petitioner had questioned EVM Challenge held by Election Commission on 3.6.2017 as per Press Release dated 20.5.2017.

Contentions of the Election Commission of India:

The Commission submitted that the challenge meant to put to rest all apprehensions about tamperability of EVMs.

Hon'ble Court's ruling:

The Hon'ble Court held that the Election Commission of India is not comparable with any other authority. Article 324 of the Constitution of India has to be given broadest possible meaning.

The Hon'ble Court observed that the Election Commission has successfully held the free and fair elections and the political parties cannot be permitted to lower down the image and prestige of the constitutional body.

However, in the larger public interest, the Hon'ble Court restrain all the recognized National Political Parties, recognized State Political Parties, other political parties, Non-Governmental Organizations (NGOs) and individuals from criticizing the use of EVMs in the then recently conducted elections of the State Assemblies even by approaching the Electronic Media, Press, Radio, Facebook, Tweeter etc. till the decision of the election petitions.

It was left to the wisdom/discretion of the ECI to hold the demonstration/challenge on 3.6.2017 but with a caveat that even after it is held, as scheduled, it will not affect the outcome of the pending election petitions.

CHAPTER 6: CONCLUSION

An analysis of all the afore-said decisions of the Hon'ble Supreme Court and High Courts clearly demonstrates that the Courts, after going through various aspects of the technological soundness and the administrative measures involved in the use of Election Voting Machines, have held that they are credible, reliable and totally tamperproof. The Election Commission of India has been among the pioneers in the introduction of a robust electronic voting system. With the technological landscape changing rapidly over the past decade, ECI too is exploring various advanced voting methods aimed at improving the voter participation and integrity of the voting process.

APPENDIX

Abhay B. Chajed v. Smt. Madhuri Misal 2017 SCC OnLine Bom 739	36
Abhay B. Chajed v. Smt. Madhuri Misal 2018 SCC OnLine Bom 267	36
A.C. Jose v. Sivan Pillai, 1984 SCR (3) 74	4
All India Anna Dravida Munnetra Kazhagam v. Chief Election Commissioner, Special Leave Petition (Civil) 2824 – 25 of 2001	8
All India Anna Dravide Munnetra Kazhagam v. Election Commission of India, 2001 SCC OnLine Mad 1398	48
Amitabh Gupta v. Election Commission of India and Another 2018 SCC OnLine MP 1827	46
C.P. Joshi v. Kalyan Singh Chouhan & Anr., 2009 SCC OnLine Raj 2971	52
C.R. Jaya Sukin v. Election Commission of India, Special Leave Petition (Civil) 13278/ 2021	32
C.R. Jaya Sukin v. Election Commission of India & Ors., Writ Petition (Civil) 6635/2021	40
Madhya Pradesh Jan Vikash Party v. Election Commission of India, Special Leave Petition (Civil) 16870/ 2022	33
Election Commission of India v. Central Information Commission, 2009 SCC OnLine Del 3515	38
Girish M. Das v. Chief Election Commissioner & Ors., 2012 SCC OnLine Guj 4916	42
Hans Raj Jain v. Election Commission of India 2020 SCC OnLine Del 149	39
Khemchand Rajaram Koshti v. Election Commission of India & Anr., Writ Petition PIL 36/ 2019	43

Krishna Kumar Gupta v. Rajendra Shukla, 2014 SCC OnLine MP 8785	45
M. Varalakshmi v. K. Pandurangan & Ors., 2010 SCC OnLine Mad 5322	49
Michael B. Fernandes v. C.K. Jaffer Sharief, 2004 SCC OnLine Kar 72	44
Mohinder Singh Gill v. The Chief Election Commissioner (1978) 1 SCC 405	5
N. Chandrababu Naidu v. Union of India, (2019) 15 SCC 377	31
N.P. Ponnuswami v. Returning Officer, 1952 SCR 218	6
Naresh Saraf v. Election Commission of India, Writ Petition 28106/ 2018	45
Nyaya Bhoomi & Anr. v. Election Commission of India, Writ Petition (Civil) 1332/ 2018	31
People's Union for Civil Liberties v. Union of India, (2013) 10 SCC 1	27
Dr. Ramesh Pandey v. Election Commission of India & another 2017 SCC OnLine Utt 676	53
Reshma Vithalbhai Patel v. Union of India, (2018) 18 SCC 675	30
Subramanian Swamy v. Election Commission of India, (2013) 10 SCC 500	28
T.R. Baalu v. The Election Commission of India & Ors., 2014 SCC OnLine Mad 1171	50
Tech for All v. Election Commission of India, Writ Petition (Civil) 692/ 2019	32

ADDITIONAL INFORMATION ON EVMs/VVPATs

KEY FEATURES OF M-3 EVMs/VVPATs

- **Standalone Machine:** EVM is a standalone system not connected with the external world through any wired or wireless network medium.
- **Unauthorised Access Detection Module (UADM):** UADM embedded in the machine disables EVM permanently, if any attempt is made to access microcontroller or memory.
- **Advanced Encryption Techniques:** Encrypted communication between Control Unit, Ballot Unit and VVPAT cannot be deciphered by tapping cables.
- **Automated self diagnostics on every switch ON:** EVM checks its own health parameters each time it is Switched ON.
- **Strong Mutual Authentication Capability:** The strong mutual authentication capability ensures that no unauthorised device can interact with EVM.
- **No Radio Frequency Transmission or Reception Capability:** Tampering of ECI-EVMs by any wireless coded signal using any protocol (Bluetooth, WIFI, RFID, NFD etc.) is ruled out as EVM does not have any radio frequency (RF) communication capability, hence, cannot communicate through any wireless protocol.
- **One Time Programmable (OTP):** The programme (software) used in these machines is key hashed and burnt into a One Time Programmable (OTP) chip at the time of manufacturing so that it cannot be altered or tampered with.
- **Dynamic Coding of Key Presses:** Every key press is coded dynamically making it impossible for anyone to decode the signals flowing among the Control Unit, Balloting Unit and VVPAT.
- **Real Time Clock for date and time stamping of events:** Every authorised or unauthorised key press is recorded with date and time stamp on real time basis.

SALIENT ASPECTS OF EVMs/VVPATs:

- The ECI-EVMs are manufactured by two PSUs namely Electronics Corporation of India Limited (ECIL), Hyderabad and Bharat Electronics Limited (BEL), Bangalore.
- An independent TEC (a) provides technical advice to build specifications and design of newer versions of EVMs and VVPATs, in order to incorporate the latest technology both in Hardware and Software Design and towards improving Robustness against Tampering and operation in the field. (b) Examines design proposals of manufacturers on EVMs and offers recommendations for improvement. (c) Mentors design process wherever asked. (d) Examines concerns raised on EVM tamperability.
- Standardisation Testing and Quality Certification (STQC) under Ministry of Information and Technology, an accredited third party entity, conducts standardization and certification of ECI EVMs produced by manufacturers.
- EVMs data is stored internally and is non-transferrable to or by any device.
- Commission has evolved end-to-end stringent security protocol and administrative safeguards for the use, storage, transportation and tracking of ECI EVMs.
- Since the introduction of EVMs, it has been used in various elections and different governments are elected successfully by the voters as mentioned in Table 1 & 2 below:

(Please turn over leaf)

Table-I:

Name of State/UT	Elections in which EVMs used					
States	Year	Year	Year	Year	Year	Year
Andhra Pradesh	2004	2009	2014	2019	--	--
Arunachal Pradesh	2004	2009	2014	2019	--	--
Assam	2001	2006	2011	2016	2021	--
Bihar	2000	2005	2010	2015	2020	--
Chhattisgarh	2000	2003	2008	2013	2018	--
Goa	2002	2007	2012	2017	--	2022
Gujarat	2002	2007	2012	2017	--	--
Haryana	2000	2005	2009	2014	2019	--
Himachal Pradesh	2003	2007	2012	2017	--	--
Jammu & Kashmir*	2000	2004	2009	2014	--	--
Jharkhand	2000	2005	2010	2014	2019	--
Karnataka	2004	2008	2013	2018	--	--
Kerala	2001	2006	2011	2016	2021	--
Madhya Pradesh	2003	2008	2013	2018	--	--
Maharashtra	2004	2009	2014	2019	--	--
Manipur	2002	2007	2012	2017	--	2022
Meghalaya	2003	2008	2013	2018	--	--
Mizoram	2003	2008	2013	2018	--	--
Nagaland	2003	2008	2013	2018	--	--
Odisha	2000	2004	2009	2014	2019	--
Punjab	2002	2007	2012	2017	--	2022
Rajasthan	2003	2008	2013	2018	--	--
Sikkim	2004	2009	2014	2019	--	--
Tamil Nadu	2001	2006	2011	2016	2021	--
Telangana	--	--	2014	2018	--	--
Tripura	2003	2008	2013	2018	--	--
Uttar Pradesh	2002	2007	2012	2017	--	2022
Uttarakhand	2002	2007	2012	2017	--	2022
West Bengal	2001	2006	2011	2016	2021	--
NCT of Delhi	2003	2008	2013	2015	2020	--
Puducheery	--	2006	2011	2016	2021	--

Total: 132 State Legislative Assembly Elections

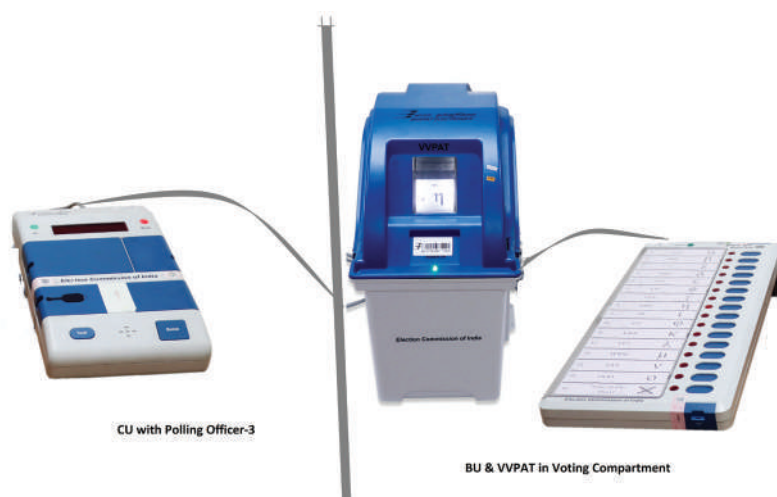
EVMS were also used in all constituencies in General Elections to Lok Sabha in 2004, 2009, 2014 and 2019. *(Please turn over leaf):*

Table-2:

PARTY WITH MAXIMUM NUMBER OF SEATS IN LEGISLATIVE ASSEMBLY ELECTION									
Andhra Pradesh	2004 INC	2009 INC	2014 TDP	2019 YSRCP	Meghalaya	2008 INC	2013 INC	2018 INC	
Arunachal Pradesh	2004 INC	2009 INC	2014 INC	2019 BJP	Mizoram	2008 INC	2013 INC	2018 MNF	
Assam	2006 INC	2011 INC	2016 BJP	2021 BJP	Nagaland	2008 NPF	2013 NPF	2018 NPF	
Bihar	2005 RJD	2010 JD(U)	2015 RJD	2020 RJD	Odisha	2004 BJD	2009 BJD	2014 BJD	2019 BJD
Chhattisgarh	2008 BJP	2013 BJP	2018 INC		Punjab	2007 SAD	2012 SAD	2017 INC	2022 AAP
Goa	2007 INC	2012 BJP	2017 INC	2022 BJP	Rajasthan	2008 INC	2013 BJP	2018 INC	
Gujarat	2007 BJP	2012 BJP	2017 BJP		Sikkim	2004 SDF	2009 SDF	2014 SDF	2019 SKM
Haryana	2005 INC	2009 INC	2014 BJP	2019 BJP	Tamil Nadu	2006 DMK	2011 AIADMK	2016 AIADMK	2021 DMK
Himachal Pradesh	2007 BJP	2012 INC	2017 BJP		Telangana	2014 TRS	2018 TRS		
Jammu & Kashmir	2008 JKNC	2014 JKDPDP			Tripura	2008 CIP(M)	2013 CPI(M)	2018 BJP	
Jharkhand	2005 BJP	2009 BJP & JMM	2014 BJP	2019 JMM	Uttarakhand	2007 BJP	2012 INC	2017 BJP	2022 BJP
Karnataka	2004 BJP	2008 BJP	2013 INC	2018 BJP	Uttar Pradesh	2007 BSP	2012 SP	2017 BJP	2022 BJP
Kerala	2006 CPI(M)	2011 CPI(M)	2016 CPI(M)	2021 CPI(M)	West Bengal	2006 CPI(M)	2011 AITC	2016 AITC	2021 AITC
Madhya Pradesh	2008 BJP	2013 BJP	2018 INC		NCT of Delhi	2008 INC	2013 BJP	2015 AAP	2020 AAP
Maharashtra	2004 NCP	2009 INC	2014 BJP	2019 BJP	Puducherry	2006 INC	2011 AINRC	2016 INC	2021 AINRC
Manipur	2007 INC	2012 INC	2017 INC	2022 BJP					
PARTY WITH MAXIMUM NUMBER OF SEATS IN LOK SABHA ELECTIONS									
	2004		2009		2014		2019		
Max. Seats	INC 145		INC 206		BJP 282		BJP 303		
2 nd Max. Seats	BJP 138		BJP 116		INC 44		INC 52		

INTERESTING FACTS ON EVMS:

- In 1982, when EVM was first used in Kerala, a candidate Sivan Pillai challenged its use even before the election. But Kerala High Court did not entertain his challenge and EVM was introduced as a pilot project. Interestingly, Mr. Pillai, the challenger, won the election when the result was declared. However, Mr. Pillai's opponent challenged the introduction of EVMs thereafter. The said election was re-conducted with paper ballots after Supreme Court ruling in 1984. However, the 1984 SC ruling against EVMs had been on a legal technicality, and not about their fundamental suitability, and the legal glitch was corrected through amendment of the Representation of the People Act 1951 in 1988.
- The introduction of EVMs for voting in India was met with certain reservations considering the then existing large-scale illiteracy and socio-economic backwardness of the country. It was often asserted by the naysayers that the multitudes of poor, illiterate, down-trodden, especially in the rural areas, would face hardships and problems in accessing the EVMs and may get dis-enfranchised out of ignorance, lack of voting education or awareness. But, a joint study of Indian School of Business, Indian Statistical Institute and Brookings Institution in 2017 with the help of post-poll survey data between 2000 and 2005 from the independent Centre for the Study of Developing Societies (CSDS), establishes that introduction of EVMs led to greater participation in electoral process by the marginalised and vulnerable voters such as women, Scheduled Castes and Scheduled Tribe.



920

Note

922

// True Copy //



भारत निर्वाचन आयोग
Election Commission of India
Nirvachan Sadan, Ashoka Road, New Delhi-110001

FREQUENTLY ASKED QUESTIONS**On****EVM (CU, BU & VVPAT)****INDEX**

EVM General Section	Qn.1 to Qn.18
EVM Procedures	Qn.19 to Qn.36
EVM Technical Section	Qn.37 to Qn.64
EVM Tamperability	Qn.65 to Qn.69
Judicial Scrutiny	Qn.70 to Qn.73

EVM General Section

Q1. What is an EVM?

Ans EVM stands for Electronic Voting Machine. It is a device used to electronically record and count votes cast in elections. The Indian Electronic Voting Machine (EVM) system is also termed as [ECI-EVM](#), meaning an EVM specifically designed, manufactured and used for Elections as per election procedure and rules framed by Election Commission of India and documented in [manual on EVM](#) and VVPAT, so as to differentiate it from EVMs used in other countries.

ECI-EVM consists of [Ballot Unit \(BU\)](#), [Control Unit \(CU\)](#) and the later added “[Voter Verifiable Paper Audit Trail \(VVPAT\)](#)”. EVMs come under the overall category of DRE voting machines, or Direct Recording Electronic voting machine systems, which is one of the many voting methodologies available worldwide. [ECI-EVMs](#) are considered more efficient and accurate than paper ballots, as they eliminate the possibility of invalid votes due to unclear or improperly marked (stamped) paper ballots, reduce the time required for counting and ensure that a vote is registered for a single candidate only.

For detailed information on various aspects of [ECI-EVM](#), the following documents may be referred:

The [Presentation on EVM](#) booklet is a short comprehensive guide on [ECI-EVMs](#). Starting with a [historical perspective](#) it covers the [technical safeguards](#) and [administrative safeguards](#), procedures governing the secure [design](#), [production](#), [transportation](#), [storage](#) and [deployment](#) of EVMs in elections. The transparent administrative processes of ECI solicit the presence and [participation of recognised political parties](#) at all stages of EVM [deployment](#). The presentation covers the [debate around EVMs](#) and the oft-repeated and misplaced international comparisons. A few slides also cover the [Judicial scrutiny](#) the EVM has endured and passed with flying colours.

The [Manual on EVM](#) contains the gist of all-important instructions on use of BU, CU and VVPAT and serves as a ready reference. The Manual is divided into four parts. [Part 1](#) covers [Storage](#) process and [Movement of EVM](#) during Election and Non-election period, [First Level Checking](#), [First Randomisation](#) and [Training and Awareness](#) on EVMs. [Part 2](#) covers all

processes from [Second randomisation](#) to [Counting of Votes](#). [Part 3](#) gives the [historical perspective](#) and [legal perspective](#) and [Part 4](#) contains Annexures and reporting Formats.

ECI takes special care through pre-poll First Level Checking ([FLC](#)) before [conducting poll](#) to ensure that EVMs to be used are fit for use in elections. A very secure process of [handling EVMs in poll](#) is followed with [participation of recognised political parties](#) / candidates/their representatives.

The EVM [Storage](#) and [Movement of EVM](#) is done through [EVM Management System \(EMS\)](#) to ensure efficient management and control of ECI-EVM stock.

The booklet [Status Paper on EVM](#) covers in brief the [journey of EVMs](#) in India since its conceptualisation in 1977 to the present along with the socio-political feedback on introduction of EVMs. It also highlights various [legal interventions and court cases](#) in its long journey of over four decades. The role of [Technical Expert Committee](#), and various aspects such as [design and manufacturing protocol](#), [EVM safety and security features](#), and [stringent administrative procedure for handling EVMs](#) along with [International comparison](#).

[Appendix 1 and 2](#) of this booklet provide some interesting facts on use of EVMs in elections which clearly bring out all possible permutations of electoral outcomes both favouring and disfavouring National and State Political Parties.

The [Legal History of EVMs](#) booklet provides a useful insight into [EVM inception and milestones](#), [first usage of EVM](#), [Legislative amendment to enable usage of EVM](#), [Legal provisions regarding EVM & VVPAT](#), and [Judicial Decisions on EVM & VVPAT](#).

Q.2 In what way functioning of EVMs is different from the conventional system of voting through paper ballots? Whether technical knowledge is required for casting of vote through EVM?

Ans. In the Paper Ballot system, the list of contesting candidates is printed on a paper (ballot paper) along with serial number, name and symbol of the candidates. There is a specific space allocated for each contesting candidate where a vote can be cast by voter by putting a mark. Thereafter, voter needs to fold the ballot paper in a specified manner and to deposit in the Ballot Box. For Counting votes obtained by that candidate, only correctly marked votes are counted.

Some of the major issues with ballot paper voting are that (i) many votes become invalid due to improper marking/ink smudging (ii) Ballot boxes are also susceptible to “stuffing with spurious votes” by capturing the booth for few minutes. (iii) Voting with pre-marked ballot papers. (iv) Manual counting of votes is prone to errors and mischief and takes a lot of days.

In the [ECI-EVM system of voting](#), the Control Unit is placed with the Presiding Officer (In-Charge CU) and the Ballot Unit(s) and VVPAT are placed inside the Voting Compartment. Instead of issuing a ballot paper, the Polling Officer in-charge of the Control Unit releases the electronic Ballot by pressing the “Ballot Button” on the Control Unit. This enables the voter to cast his/her vote by pressing the “blue button” (Candidate button) on the Ballot Unit against the candidate of his/her choice. When the voter presses a button against the candidate of his/her choice on Ballot Unit, a red LED glows against the chosen candidate’s button on BU. A paper slip showing the serial number, name and the symbol of the candidate of his/her choice is generated and is visible for about 7 seconds through transparent window of VVPAT.

Hence the voter is able to see the “printed slip” and verify that vote is cast as per his/her choice. Thereafter, the printed paper slip gets cut automatically and stored in sealed Drop Box of VVPAT. A loud BEEP is heard from the Control Unit which confirms that the vote is registered successfully. The signal flow at the time of voting between BU, CU & VVPAT is shown in [Annexure-I](#). The VVPAT paper slips can be later used for verifying the electronic count obtained from CU in case of a dispute. This record of VVPAT printed paper slips verified by voter and the process of correlating VVPAT and CU count as per established mandatory verification procedure makes the voting on EVMs trustworthy. Hence it can be seen that no technical knowledge is required for casting a Vote on the EVM and ordinary citizens can easily cast their votes on ECI EVMs.

Advantages of [ECI-EVM](#) voting system:

- (i) As voting is done by pressing a button, there is no invalid vote as in paper ballot system.
- (ii) Booth capturing has been eliminated by technology used in EVMs and administrative procedures such that capturing booth is not worthwhile even if attempted. EVM voting system does not permit more than 4 votes per minute under any circumstances. *Thus it takes too long a time to cast a substantial*

number of votes giving sufficient time to security forces to respond to the Booth Capturing attempt.

- (iii) No possibility of voting after CLOSE button is pressed at the close of poll.
- (iv) It ensures quick, error free and mischief free counting of votes.
- (v) Voter is instantly able to verify that his / her vote has been cast correctly by verifying the VVPAT's printed slip.

Q.3 Whether transportation of EVMs to the polling stations is more difficult compared to the ballot boxes?

Ans. It is easier to transport the EVMs, as compared to ballot boxes as EVMs are lighter, portable and come with custom-made carrying cases for ease of carriage/transport. EVMs are transported under extreme security and following elaborate safeguards.

Q.4 When were EVMs used for the first time in an election?

Ans. Electronic Voting Machines (EVMs) consisting of Ballot Unit (BU) & Control Unit (CU) were used for the first time in the by-elections to Parur Assembly Constituency of Kerala in 1982.

Q.5 When was VVPAT introduced?

Ans. Voter Verifiable Paper Audit Trail (VVPAT) with EVM was used for first time in the by election to Noksen Assembly Constituency of Nagaland in 2013.

Q.6 What is the Model of EVMs used now?

Ans. Presently, the M3 Model of [ECI-EVM](#) and VVPAT are used. Similar to the earlier Models, M3 EVMs / VVPATs are also non-networked, stand-alone units that run on power-packs / batteries of their own.

Q.7 Where are the EVMs manufactured? Are they imported?

Ans. EVMs/VVPATs are not imported but indigenously designed and [manufactured](#) by two Public Sector Undertakings (PSUs) namely Bharat Electronics Limited (BEL), under the Ministry of Defence and Electronics Corporation of India Limited (ECIL), under the Department of Atomic Energy under the guidance of the Technical Experts Committee (TEC) constituted by the Election Commission of India.

Q.8 What is the maximum number of votes which can be cast in EVMs?

Ans. The [ECI-EVM](#) system can record a maximum of 2,000 votes but generally it is used for recording 1500 votes only.

Q9 What is the maximum number of candidates which EVMs can cater to?

Ans. Each Ballot Unit can cater to 16 candidates including NOTA. A total of 24 BUs can be connected to a CU to make a set of EVM. Therefore, when required, one set of EVM can cater up to a maximum of 384 candidates including NOTA.

Q.10 How can EVMs be used in areas where there is no electricity?

Ans. EVM and VVPAT do not require any external power supply. EVM and VVPAT run on their own battery/ power-packs supplied by Bharat Electronics Limited / Electronics Corporation of India Limited. EVM runs on a Power Pack of 7.5 Volts and VVPAT runs on a power-pack of 22.5 Volts

Q.11 What will happen if the EVM in a particular polling station goes out of order during poll?

Ans. During poll, as per defined [Replacement protocol](#), if a BU or CU of a particular polling station goes out of order, (the fault is displayed on CU display) then the full set of BU, CU, and VVPAT is replaced with a new set from the [Reserve EVMs](#) in the presence of the polling agents appointed by the candidates. The votes recorded until the stage when the EVM went out of order, remain safe in the memory of the Control Unit and the VVPAT ballot slips compartment. In case only the VVPAT goes out of order, the votes recorded in the CU remain safe in its memory and therefore the polling is resumed after replacing the non-functional VVPAT with another VVPAT from the Reserve machines. On the counting day, votes recorded in all EVMs used in that polling station are counted to give the aggregate result of that polling station. If the recorded votes in the Control Units cannot be ascertained due to any technical reason, VVPAT slips of the respective Control Units are counted to get the result.

Q.12 Is it true that many petitions have been filed against EVMs in courts? What is the outcome?

Ans. After declaration of result, if candidate has any grievance on the voting in his/her constituency, he/she can file an Election Petition in the court. Over the decades there have been numerous Election Petitions. Multiple courts including the Supreme Court of India have reposed their faith in the Indian EVMs. A comprehensive study in the booklet [Legal history of EVMs](#) provides a useful insight into the relevant statutory framework governing EVMs and VVPATs.

Q.13 Is it possible to use EVMs for simultaneous elections for Parliament and State Legislative Assembly?

Ans. Yes, during simultaneous elections two separate sets of EVMs are required in a polling station; one for the Parliamentary Constituency and the other for the Legislative Assembly Constituency.

Q.14 How long does the Control Unit store the result in its memory?

Ans. The Control Unit can store the result in its memory until the data is deleted or cleared. Post every election, after the Election Petition period ECI ascertains the status of Election Petitions filed with the Hon'ble High Courts and releases the EVMs for further use if no Election Petitions have been filed. In cases where Election Petitions have been filed the related EVMs are retained securely, as per defined protocol, till the final disposal of the petition. In cases if the Hon'ble court orders a recount the control unit can be reactivated by fitting the battery to display the results stored in its memory. Moreover, VVPAT slips are also preserved till final disposal of Election petition.

Q.15 How can a voter be sure that the EVM is working and his/her vote has been recorded.

Ans. As soon as the voter presses the 'blue button' on the BU against the serial number, name and symbol of the candidate of his/her choice, an LED against the candidate button glows red and the VVPAT prints a slip having serial number, name and symbol of the chosen candidate which is visible for about 7 seconds before getting cut and stored in the sealed Drop Box of the VVPAT. A loud beep sound from the CU confirms the registration of the vote. Thus,

there is both audio and visual indication for the voter to be assured that his/her vote has been recorded.

Q.16 Do EVMs malfunction?

Ans. EVMs are electronic machines and like any other machine they are also vulnerable to failures. The failed machines are sent to the factories for rectification. However, there is no question of any machine ‘malfunctioning’ in a way so as to favour a particular candidate, which is called **tampering** as per defined EVM protocol. This scenario is just not possible with the many safeguards incorporated in design of EVM itself.

Q.17 The Ballot Unit has provision for 16 candidates. If in a constituency, there are only 10 candidates and the voter presses any of the buttons from 11 to 16 will these votes not be wasted?

Ans. There is no wastage of any vote in EVMs. The unused BU buttons are masked. For example: if there are only 10 candidates including NOTA in a constituency, the unused ‘Candidate’ buttons provided at Sl. Nos: 11 to 16 will be physically ‘masked’ (covered) at the time of preparation of EVM by Returning Officer. Therefore, there is no possibility of any voter pressing any of the masked buttons at Sl Nos: 11 to 16.

Q18. What is the cost of CU, BU & VVPAT? What is the life of EVM?

Ans. The cost of CU, BU and VVPAT is finalised by the Price Negotiation Committee constituted by the Government of India. The present cost of a BU is Rs.7,991/-, CU is Rs.9,812/- and VVPAT is Rs.16,132/-. The economic life of EVMs is approximately 15 years.

EVM Procedures

Q19. Is there any provision for a Voter to lodge a complaint if the paper slip generated by VVPAT shows the name or symbol of a candidate other than the one he voted for?

Ans. Yes, if an elector after having recorded his/her vote alleges that the paper slip generated by the printer has shown the name or symbol of a candidate other than the one he/she voted for, as per the provisions of [Rule 49MA](#) of Conduct of Elections Rules, 1961, the Presiding Officer obtains a written declaration from the elector as to the allegation, after informing the elector about the consequence of making a false declaration as per Indian Penal Code.

If the elector gives the written declaration referred to in sub-rule (1) of Rule 49MA, the Presiding Officer permits the elector to record a test vote in the voting machine in his/her presence and in the presence of the candidates or polling agents who may be present in the polling station, and observe the paper slip generated by the printer.

If the allegation is found true, the Presiding Officer will report the facts immediately to the Returning Officer, stop further recording of votes in that voting machine and act as per the directions that may be given by the Returning Officer.

If, however, the allegation is found to be false and the paper slip so generated under sub-rule (1) matches with the test vote recorded by the elector under sub-rule (2), then, the Presiding Officer shall:

- Make a remark to that effect against the second entry relating to that elector in [Form 17A, Rule 49L](#) mentioning the serial number and name of the candidate for whom such test vote has been recorded;
- Obtain the signature or thumb impression of that elector against such remarks; and make necessary entries regarding such test vote in item 5 in Part I of Form 17C.

Q20. Where are the EVMs stored during election and non-election period? After announcement of the result, where are the BU, CU and VVPATs kept and for what period?

Ans. EVMs are always in secure [storage](#) during pre-poll, poll and post poll stages.

They are kept in EVM warehouse/Strong room under the custody of District Election Officer at all times.

Also, EVMs are always stored in warehouse/strong room with:

- i). 24x7 CCTV coverage
- ii). Double lock System
- iii). Armed security (Minimum half Section during non-election period and full section during election period)
- iv). Polled EVMs are kept in strong rooms with One Platoon of CAPF security at the inner cordon and State Armed Police at the outer cordon
- v). DEOs conduct Monthly inspections to check the external condition of the EVM warehouse and Quarterly inspections to check the internal condition of the warehouse and submit inspection reports along with photos.
- vi). After announcement of result, in the presence of the candidates/their representatives, BU, CU are sealed in their carrying case and VVPAT slips are taken out from the VVPATs and sealed in black envelopes. The BU, CU and VVPAT slips and other election materials are kept in the Strong Room under the custody of the District Election Officer concerned till the timeframe for filing Election Petition gets over i.e. 45 days from the date of declaration of result. If any Election Petition is filed before the Hon'ble High Court concerned, the respective Units are kept till final disposal of the petition. VVPAT slips are kept as per [Rule 94](#) of the Conduct of Elections Rules 1961.

Q21. Whether representatives of recognised political parties/candidates are present while opening and closing of EVM warehouse/strong room?

Ans. [EVM warehouse/strong room](#) is always opened and closed under prior intimation to and in the presence of the [stakeholders](#) namely representatives of recognised political parties/candidates and under videography.

Q22. Who conducts the First Level Checking of EVMs?

Ans. Before every election all EVMs to be used in an election undergo a thorough physical and functional check to ensure poll worthiness. These checks are called [FLC](#) (First Level Check). [Manpower in FLC](#) consists of only authorized engineers of the manufacturers, namely Bharat Electronics Limited (BEL) and Electronics Corporation of India Limited (ECIL), who conduct the First Level Checking (FLC) of EVMs and VVPATs under control of District Election Officer and direct supervision of Dy. DEO in the presence of representative of recognised Political Parties.

Q23. Ballot boxes are engraved so as to avoid any scope for complaint of replacement of these boxes. Is there any system of numbering EVMs?

Ans. Yes. Each Ballot Unit, Control Unit and VVPAT has a unique Serial Number (ID), which is engraved on the cabinet or on metal plate riveted to the cabinet. While all EVM units are identical in operation and looks their allocation is subject to various process like randomisation, need to be transported and pre-tested (FLC) before polls. Hence for accounting purpose ID is needed for every Unit. For example, EVMs go through [First Randomisation](#), first time to allocate them Assembly Constituency wise and [Second Randomization](#), second time to allocate them Polling Station wise. The list containing unique ID number of EVM (Ballot Unit, Control Unit & VVPAT) to be used in a particular assembly constituency and polling station is provided to the contesting candidates / their agents. The same can be tallied anytime during the polling / counting.

- i) Unique ID of Control Unit also displayed on display panel of Control Unit.
- ii) Unique ID of VVPAT is printed on each VVPAT slip.

Q24. Who loads the Serial numbers, names of candidates and symbols allotted to contesting candidates in VVPAT unit and how?

Ans. Before poll, details like serial number, symbol etc. are allocated to the candidates. During [Commissioning](#) of EVMs or [Preparation of EVMs](#), serial numbers, names of candidates and symbols allotted to them are used to prepare the Ballot sheet on laptop / PC provided by DEO. This sheet is loaded in VVPAT units using Symbol Loading Unit (SLU). The preparation of Ballot sheet and its loading in the VVPAT is done with the help of [Manpower for preparation](#). (Authorised engineers of the manufacturer i.e., ECIL / BEL) in the presence of candidates / their agents. The SLU also facilitates the representatives of recognised political parties / candidates / their agents to simultaneously view symbols being loaded in the VVPAT on a big monitor or TV screen.

Q25. Whether the test printout of the Serial numbers, names of candidates and symbols that are loaded in VVPAT is taken?

Ans. During the [Preparation of VVPAT](#), the test printout of the Serial numbers, names and symbols of candidates loaded in VVPAT is mandated to be taken by the Returning officer /Assistant Returning officer at the time of preparation for cross checking with the ballot paper in Ballot Unit. Thereafter, one vote to each candidate including NOTA is cast to check that the VVPAT is printing the paper slips correctly in respect of all the candidates.

Q26. Whether changing of thermal paper roll of VVPAT is allowed at polling stations?

Ans. Changing of thermal paper roll is strictly prohibited at polling stations. In case, the thermal paper roll gets exhausted by any chance, a reserve VVPAT is used as replacement.

Q27. In the conventional system, before the commencement of poll, the Presiding Officer shows to the polling agents present that the ballot box to be used in the polling station is empty. Is there any such provision to satisfy the polling agents that there are no hidden votes already recorded in the EVMs?

Ans. Yes. On the [Poll Day](#) before the commencement of poll, the Presiding Officer demonstrates to the polling agents present that there are no “hidden” votes already recorded in the CU by pressing the result button on CU. The CU display shows zero vote against all candidates. Similarly, the P.O also opens the ballot compartment of VVPAT and shows to polling agents that it is empty. Thereafter, he/she conducts a [Mock -Poll](#) with at least 50 votes in the presence of the polling agents and tallies the electronic result stored in the CU with VVPAT slip count. After mock poll, the Presiding Officer presses the “Clear Button” to clear the result of the mock poll before commencing the actual poll. Then he again demonstrates to polling agents, by pressing 'Total' button that CU display shows '0' votes and that VVPAT ballot compartment is empty. He then seals the Control Unit and VVPAT in the presence of polling agents before starting actual poll.

Q28. In the conventional system, it will be possible to know the total number of votes polled at any particular point of time. In EVMs 'Result' portion is sealed and will be opened only at the time of counting. How can the total number of votes polled be known on the date of poll?

Ans. In addition to the 'Result' button, there is a 'Total' button on Control Unit of EVMs. By pressing this button any time during poll, the total number of votes polled up to the time of pressing the button will be displayed without indicating the candidate-wise result. At the end of poll, the 'Close' button is pressed after which the machine does not accept any more votes. By pressing the Total button at end of poll, the total number of votes polled in the CU after poll is obtained and recorded by the Presiding Officer in [Form 17-C](#) and Presiding Officer's diary. Copy of Form 17-C is shared with the polling agents of the candidates.

Q29. With ballot boxes counting is done after mixing the ballot papers. Is it possible to adopt this system when EVMs are used?

Ans. Yes, a prototype of the device called 'Totaliser' that can accommodate up to 14 CUs at a time and aggregate votes without revealing the candidate-wise count of individual EVMs used at a particular polling station was considered. However, Totalisers are not in use at present as its technical aspects and other statutory/administrative related issues are under examination and matter is sub-judice.

Q30. Whether counting of printed paper slips of VVPAT is compulsory on the counting day?

Ans. Compulsory counting of printed paper slips of VVPAT is done only in the following cases:

- i) In case a of “no display” of result on the Control Unit, the printed paper slips that have been verified by voters at time of casting votes of the respective VVPAT are counted.
- ii) As directed by the Honourable Supreme court of India, mandatory verification of printed VVPAT paper slips of five randomly selected polling stations of each Assembly Constituency or each Assembly Segment in case of election to the House of the People, before declaring result.

Q31. The integrity of the VVPAT slips and the EVM machines during the entire time after polling and before counting and auditing must be ensured in a manner that is verifiable by all. There should be no trust requirement on the custody chain.

Ans. After the poll, the EVMs are stored in a strong room with a single access door and a two layered security cordon. Agents appointed by the candidates are allowed to keep watch over the EVMs round the clock till the counting. Locks to the strong rooms where the EVMs are stored are sealed with signatures of election officials as well as those of candidates or their representatives. The extant instructions of ECI make sure that all stake holders are involved in all the steps of EVM storage and movement. Thus, there is no implicit trust requirement and all stake holders jointly guard the polled EVMs.

Some of the safeguards to maintain integrity are as under:

- i). List of Serial numbers of EVMs used in the poll is shared with candidates/their agents along with the detail of number of votes polled in respective EVMs to verify the same at the time of counting of votes.

- ii). After poll, EVMs are sealed in their carrying cases at the polling stations in the presence of polling agents and they are also allowed to put their signatures on the seals besides the polling officer.
- iii). The only power source (battery) available for the VVPAT to function is removed at the polling station in the presence of the polling agents after completion of the poll.
- iv). Live feed of CCTV covering entry of Strong Rooms of polled EVMs is given to representatives of candidates camping at counting centre.
- v). Two-tier security arrangements are made at the Strong Room having polled EVMs.
- vi). Further, on counting day the EVM Seals and Serial Nos: are also checked by the counting agents of candidates before start of counting.

As can be seen every aspect of polled EVMs is handled transparently with active participation of representatives of candidates and nothing is left to trust on the custody chain.

Q32. The mere agreement of electronic and VVPAT counts cannot rule out spurious vote injections or deletions in both. What are the safeguards in place on this crucial matter?

Ans. [ECI-EVM](#) is designed in such a way that no vote can be cast once the CLOSE button is pressed. After poll, machines are sealed in their carrying cases at the polling stations in the presence of polling agents and they are also allowed to put their signatures on the seals. Candidates and their Agents are allowed to escort the machines to the collection centres and permitted to watch the Strong Rooms having polled EVMs till the counting day. Further, Poll start time and poll end time is displayed in the Control Unit at every switch ON. Hence, spurious injection or deletion of votes after polling and before counting can be detected. These timings are also recorded in the Presiding Officer's diary and can be cross verified with the time displayed by the EVM. The number of votes as per [Form 17C](#) is also a record of the total votes polled in EVM in that PS, thus completely eliminating the possibility of "spurious injection or deletion" of votes.

Q33. Can the ECI implement an independent review system to review the voting system and the integrity of election process?

Ans. The voting system designs go through an independent review and even an independent audit by Technical Expert Committee. Various design details are also available on the site at a level that the stakeholders may be interested in. The outcomes accepted by voters and candidates are the biggest form of review ([Annexure-II](#) and [Annexure-III](#)).

The **ECI-EVM** voting system goes through an independent review by way of **third party** (STQC) checks. They also go through independent audit by various political parties/candidates/their representatives like in mock polls. The processes are well defined and are put on the website of the ECI for public view.

Q34. What are the provisions to handle any claimed discrepancy in the votes cast?

Ans. The contesting candidates have opportunity to request for the VVPAT slip count under **Rule 56D** of the Conduct of Elections Rules, 1961 after completion of counting of votes from the EVMs. Further, as per existing legislation, **Rule 56D** (4) (b) of the Conduct of Election (Amendment) Rules in case of a discrepancy between the Electronic Count in the CU and the ballot slip count of the VVPAT, the VVPAT slip count shall prevail.

Q35. ECI claims that its EVM protocols are transparent and stake holders are involved in the various processes of EVM preparation in the run up to every Election. How are the political parties and candidates / their representatives involved in EVM processes? What information on EVMs is made available to them?

Ans. The Election Commission of India has put in place an elaborate administrative system of security measures and procedural checks-and-balances aimed at prevention of any possible misuse or procedural lapses on use of EVMs and VVPATs in elections to the State Legislative Assembly and Parliamentary Constituencies. These safeguards are implemented rigorously and transparently with the active involvement of the stakeholders i.e. National and State Recognised Political Parties or candidates/their representatives covering all the activities involving EVMs/VVPATs across the electoral process. All these activities are well documented by way of proceedings, letters, intimation, etc. by the District Election Officers (DEOs), Returning Officers (ROs) and Assistant Returning Officers (AROs) and other field officials. Listed below are the various stages in the electoral process where active participation of political parties and candidates is solicited by ECI for transparency and confidence building of the stake holders:

1. Opening and Closing of EVM warehouse

- a) During non-election period till finalization of list of the contesting candidates, EVM-VVPAT warehouses are opened/closed (for any purpose like movement of EVMs, quarterly inspection etc.) in the presence of the representatives of National and State Recognised Political Parties

- b) With finalization of list of the contesting candidates, candidates and their representatives are involved while opening and closing of EVM-VVPAT warehouses/strong room.
- c) Opening and Closing of EVM warehouse/strong room is done under videography.

2. First Level Checking of EVMs and VVPATs

- a) First Level Checking of EVMs and VVPATs is conducted before every election by the authorised engineers of Bharat Electronics Limited (BEL) and Electronics Corporation of India Limited (ECIL) at DEO level.
- b) For this purpose, National and State Recognised Political Parties at district headquarters are invited in writing by DEO concerned at least two days before the beginning of FLC and a copy is endorsed to state headquarters.
- c) The representatives of National and State Recognised Political Parties are involved to oversee entire FLC process.
- d) Higher Mock-Poll is conducted in 5% randomly selected EVMs (i.e. 1200 votes in 1% EVMs, 1000 votes in 2% EVMs and 500 votes in 2% EVMs). The electronic result of EVM is tallied with the VVPAT slips count. The representatives of National and State Recognised Political Parties are allowed to pick 5% EVMs randomly and also to do Mock-Poll.
- e) List of FLC ok EVMs is shared with all National and State Recognised Political Parties.
- f) The representatives of National and State Recognised Political Parties are allowed to sign the seals, forms, register during FLC.

3. Taking out of EVMs for Training and Awareness after FLC

- a) After completion of FLC, maximum up to 10% EVMs and VVPATs are taken out for awareness and training purpose in the presence of National and State Recognised Political Parties.
- b) The list of awareness and training EVMs is shared with them.

4. Randomization of EVMs.

- a) First Randomization of EVMs is conducted in the presence of National and State Recognised Political Parties to allocate EVMs Assembly constituency/ segment-wise.
- b) List of first randomized EVMs (AC/AS-wise) is shared with National and State Recognised Political Parties.

- c) After finalization of list of contesting candidate, list of first randomized EVMs (AC/AS-wise) is also shared with contesting candidates.
 - d) **Second Randomization** of EVMs is conducted to allocate EVMs polling station wise as well as for marking the **Reserve EVMs** which are to be used for replacement of machines which become non- functional on poll day. List of second randomized EVMs is shared with candidates.
5. **Commissioning** of EVMs.
- a) **Commissioning** of EVMs for use in poll is done in the presence of contesting candidates.
 - b) Candidates/their representatives are allowed to sign the seals used in sealing EVMs
 - c) Higher **Mock-Poll** is conducted in 5% randomly selected EVMs by casting 1000 votes. The electronic result of CU is tallied with the VVPAT slips count. Candidates/their representatives are allowed to pick 5% EVMs randomly and also to do mock poll.
6. Dispersal of EVMs with Polling Parties.
- a) Dispersal of EVMs is done in the presence of the contesting candidates.
7. Mock Poll and Actual Poll on Poll Day
- a) **Mock-Poll** on **Poll day** is conducted at every polling station in the presence of the polling agents nominated by the contesting candidates.
 - b) Polling agents nominated by the contesting candidates are allowed to remain in polling stations to observe polling process.
 - c) Polling agents are allowed to sign the seals used in sealing CU,BU and VVPATs (before commencement of poll and after close of poll).
8. **Transportation** of polled EVMs from Polling Stations to Collection Centre
- a) Candidates/Polling agents are allowed to follow vehicles carrying polled EVMs from polling station to collection centre.
9. **Storage** of Polled EVMs.
- a) Polled EVMs are stored in the strong room in the presence of Candidates/their representatives.
 - b) Candidates/their representatives are also allowed to put their seals on the locks of the strong room.
 - c) Candidates/their representatives are also allowed to monitor storage and security of polled EVMs.

10. Counting Day

- a) Polled EVM Strong Room is opened in the presence of Candidates/their representatives, Returning Officer, ECI Observer on counting day.
- b) **Counting of votes** is done in the presence of candidates and counting agents appointed by them.
- c) After completion of counting of votes, VVPAT slips are taken out from VVPATs and stored in black envelope in the presence of the candidates/their representatives.
- d) After counting of votes, CU, BU and VVPAT slips are kept in the strong rooms in the presence of candidates/their representatives. They are allowed to put their seals on the locks of the strong rooms.

As can be seen from the above, all **stakeholders**, representatives of political parties and candidates witness and participate in all electoral processes on EVMs and are also kept well informed about the status and list of EVMs to be used for various purposes during the election.

Q36. Regarding Lok Sabha, 2019 elections, after the final vote was cast there were video reports from at least 10 different places of new EVMs being moved into strong rooms. The ECI said these were reserve EVMs but provided no evidence for this and no explanation for why they need to be moved just before counting rather than at the time of voting, when there were, in some cases, a period of several weeks between the voting and counting. There were no security officers accompanying the vehicles and why these vehicles were often unnumbered, unofficial vehicles? There have also been reports of irregularities in the counting process.

Ans. As explained in answer to question 35 above information about EVMs being used in an election is shared with political parties / candidates at different stages of preparation for the election and was accordingly done in this case too. All these allegations were false and factually incorrect. A press note No: ECI/PN/56/2019 was issued by the Commission on 21st May 2019 and is still available for reference on ECI website.

EVM Technical Section

Q37. Electronic processes, if they are to be used for voting, should be in sync with changing technologies and technological practices and be subjected to public scrutiny and examinability. Has ECI taken any steps in this regard?

Ans. The design of [ECI-EVM](#) has indeed been periodically updated to take advantage of advancements in technology. For example, the current model (M3) of the ECI-EVM uses public key encryption and digital certificates for mutual authentication by units of the EVM.

Thus, in EVMs, newer models have upgraded technology including security measures commensurate with emerging threats.

The salient features of ECI-EVMs are in public domain as in publications namely, [Presentation on EVM](#), [Manual on EVM](#), [Status Paper on EVM](#) and [Legal History of EVM](#), starting from broad overview go to minute details. Further there are Laws and Rules in above mentioned references that allow voter or candidate to make a complaint or take a legal recourse. ECI also holds open [debates around EVM](#) and election processes time to time.

Q38. In spite of many videos on social media regarding tampering of EVMs, why ECI is keen to use EVMs? What steps is ECI taking to allay the fear that EVMs can be tampered?

Ans. None of the videos showing tampering of EVMs use the [ECI-EVM](#) nor do they follow the procedure prescribed by ECI for polling.

ECI has put in stringent [technical safeguards](#) and [administrative safeguards](#), procedures for the EVMs so that the machines cannot be subjected to [tampering](#) or [manipulation](#) at any time. Further, all the election activities related to the EVMs are carried out in the presence of [stakeholders](#), namely the political parties/candidates in the most transparent manner. Additionally, it is worth noting that EVM units are connected only to each other and cannot be accessed by any external machine. In this sense, the ECI-EVM units are a “stand alone” system.

The BU, CU and VVPAT units are manufactured using a Secure Manufacturing Facility ([SMF](#)). After the program has been loaded into the EVM unit it is one-time-programmed ([OTP](#)), hence re-programming is permanently disabled by the secure processors used in these units.

Each unit of the ECI-EVMs contains an “Unauthorised Access Detection Module (UADM)” which renders the machine unusable if it detects an attempt to open the UADM. Thus, any attempt to modify the machine after its production will fail.

Q39. Is it possible to vote more than once on an EVM by pressing the button again and again?

Ans. No, it is not possible to vote more than once on an ECI-EVM by a particular voter. As soon as a particular button on the Ballot Unit is pressed, the vote is recorded on CU for that particular candidate and a loud beep is emitted for officials and election agents to note that the vote has been completed. Thereafter, the ECI-EVM machine does not respond any further and any subsequent button pressing is ignored. The next vote is enabled on BU only when the Presiding Officer in-charge of the Control Unit releases the Ballot by pressing the Ballot Button on the Control Unit, for the next voter after due verification of his/her identity. This is a distinct advantage of the EVM over the ballot paper system where the Ballot Box can be physically captured and stuffed with votes.

Q40. Is it possible to program the EVMs in such a way that initially some votes will be recorded exactly in the same way as the blue buttons of BU are pressed, but thereafter, votes will be recorded only in favour of one particular candidate irrespective of whether the 'blue button' against that candidate or any other candidate is pressed? Does the Date, Time and Session information available with EVM units not introduce a possible way to bypass the mock poll?

Ans. No. The original program is ported onto the microcontroller during manufacturing at the factory and is done many months before it is deployed in elections. It is impossible to know the name and Serial number of any candidate so much in advance to be able to pre-program the EVM to favour any particular candidate. After loading the original firmware during production, the microcontroller is One Time Programmed (OTP) to eliminate any programmability subsequently. During production in the factories all EVMs are checked to ensure they carry the original programme. Once the original programme is ported onto the microchip and it is One Time Programmed (OTP), it cannot be reprogrammed at all. One machine is used election after election with different sets of alphabetical names of candidates and recognised political parties. Further, before use in any election the First Level Checking and Commissioning of all EVMs is conducted in the presence of recognised political party / candidate representatives. High level mock poll is conducted using 1% randomly selected

EVMs with 1200 votes, 2% randomly selected EVMs with 1000 votes and 2% randomly selected EVMs with 500 votes. The electronic result on CU is tallied with VVPAT slip count to ensure proper functioning of the EVMs during FLC and Commissioning. The EVMs are stand-alone machines which are not accessible from any wired/wireless network nor are they connected with any external devices outside the EVM system. There is no operating system used in these machines. Therefore, there is absolutely no chance of reprogramming or [manipulation](#) of the program of EVM in a particular way to favour a particular candidate or political party. Various [administrative safeguards](#), procedures and the participation of political parties / candidates or their representatives during different processes add strength to the overall robustness and transparency in the use of EVM systems. Till date, slips of 38,156 randomly selected VVPATs have been counted and not a single case of transfer of vote meant for candidate A to candidate B has been encountered. Differences, if any, between CU and VVPAT count have always been traceable to human errors.

Q41. How can one rule out the possibility of recording further votes at any time after close of the poll and before the commencement of counting by interested parties?

Ans. After completion of poll i.e. when the last voter has voted, the Officer in-charge of the Control Unit/Presiding Officer presses the 'Close' button. Thereafter, the EVM does not accept any vote. The poll 'start time' and 'end time' are recorded in the machine as well as by the Presiding Officer. After the close of poll, the Control Unit is switched off and thereafter the Ballot Unit is disconnected from the Control Unit and kept separately in their respective carrying cases and sealed. Further, the Presiding officer has to hand over to each polling agent a copy of the account of total votes recorded in [Form 17-C](#). At the time of counting of votes, the total votes recorded in a particular control unit is tallied with this account and if there is any discrepancy, this can be pointed out by the Counting Agents of candidates.

Q42. The ECI says an EVM can be programmed only once, making hacking unlikely. However, there are reports that it can be programmed several times. There are other reports saying that EVM machines can be manipulated by connecting it to cell phones, Bluetooth devices, replacing parts of it and other forms of manipulation, apart from physical replacement of it by other EVMs.

Ans. The [ECI-EVM](#) use secure controllers which can disable further programming after a step known as one-time-programming ([OTP](#)). The technical information about the micro

controllers is available in public domain and can be accessed on the website of micro controller manufacturers.

- i). Further, **ECI-EVM** is a standalone device without any wired or wireless connectivity outside the EVM systems.
- ii). BU, CU, and VVPAT units have digital certificates, and carry out mutual authentication when connected together. Hence any other look alike machine cannot be connected to the **ECI-EVM**
- iii). There are elaborate and robust **technical safeguards** and **administrative safeguards**, procedures for use of EVMs. Unauthorized access to EVM units during storage, transportations, randomisation, allocation, conduct of FLC, commissioning, conduct of **Mock-Polls**, conduct of main poll, result counting etc. is not possible. All these steps are carried out in the presence of **stakeholders**. Hence, there is no way anybody can approach the machines to attempt modification of the EVMs.
- iv). **Mock-Polls** are routinely held and five percent of randomly selected EVMs undergo a mock poll with a large number of votes where the electronic results from CU are tallied with VVPAT slip count to ensure proper functioning of the EVMs. Hence, there is no question of EVMs being programmed several times, or manipulated by connecting to cell phone, Bluetooth devices, replacing part of it or through any other form of manipulation.

Q43. Whether it is possible to know much beforehand about the sequence of names on the Ballot paper of the BU or about deployment of an EVM in a particular polling station?

Ans. No, the arrangement of names of candidates in the ballot paper of the Ballot Unit is in alphabetical order, first for the National & State Recognised Political Parties, followed by other State Registered Parties, and then by independent candidates. Thus, the sequence in which the candidates' names appear on the Ballot paper of the BU is dependent on the names of the candidates and their party affiliation and keeps changing from one election to another. Therefore, the sequence cannot be ascertained much in advance.

EVMs are allocated to polling station after two stages of randomisation process through EVM Management System, **EMS** software application developed by the Commission. After First Level Checking **FLC** of EVMs, **First Randomization** of EVMs is done at the District Election Officer level to allocate them Assembly Constituency-wise in the presence of the representative of recognised political parties. Thereafter, before

Commissioning of EVMs, **Second Randomisation** of EVMs is done at the Returning Officer level to allocate them Polling Station-wise in the presence of candidates / their agents. Two levels of randomisations eliminate any scope of determining before-hand the polling station-wise deployment pattern of machines.

Q44. Whether the Election Commission has full control of the entire voting process through EVM?

Ans. Yes, Election Commission has full control over entire voting process. All election officials work directly under the direction, supervision and control of Election Commission of India during the election period.

Q45. In case of election dispute is reconstruction of vote for authentication possible in EVM voting?

Ans. In case of election dispute reconstruction of the vote for authentication is possible in EVM-VVPAT system from the data stored in Control Unit of EVM. The same has been demonstrated in the Courts whenever there was a need in cases of election disputes.

Q46. It is claimed that EVM machines can be manipulated by connecting it to cell phones, Bluetooth devices, replacing parts of it and other forms of manipulation, apart from physical replacement of it by other EVMs.

Ans. The claim is baseless and unscientific claim. The technical information about the micro controllers is available in public domain and can be accessed on the website of microcontroller manufacturers. The EVMs / VVPATs use controllers which are One Time Programmable (**OTP**). This feature is activated by a code /command, fed via a software program, and in the first time run at power 'on' sets an internal register to shut off any re-programmability capability. The code / command and procedure are also available in public domain in the datasheets/ application notes on use of these microcontrollers.

If these controllers had internal Bluetooth or Wi-Fi module then information in the form of features, internal block diagram of the microcontrollers, pin assignment and signals at all pins of the module would be available in the data sheets. Also, if such Transmitters or Receivers were available in the microcontrollers then power supply pins, antenna pins, frequency assignment pins, crystal oscillator pins etc that are specific to Bluetooth or Wi-Fi would also be available in data sheets. The microcontrollers used by BEL ECIL do not have such modules and this can be verified by information in their data sheets available in the public

domain. In spite and despite above available technical information the [ECI-EVM](#) is subjected to strong quality checks by electromagnetic testing to verify that no Wi-Fi, Bluetooth or unwanted frequency capability is present.

Hence, [ECI-EVMs](#) are standalone devices without any wired or wireless connectivity with units outside the EVM system. Advanced technical features and robust administrative safeguards are in place to rule out any such possibility of [manipulation](#). The BU, CU and VVPATs have digital certification and carry out mutual authentication when connected together before communicating. Any other lookalike machine, therefore, cannot be connected to ECI EVMs. Apart from the [technical safeguards](#) there are very elaborate and tight [administrative safeguards](#), procedures mandated by ECI to ensure the physical safety and security of the EVMs at all times.

In addition, only the authorised, well-trained engineers on the rolls of the PSUs (BEL / ECIL) are entrusted with the critical task of carrying out the First Level Checking [FLC](#) and loading of symbols, and providing other technical support as per need. The entire process is carried out in a transparent manner in the presence of the [stakeholders](#).

Q47. To conduct free, fair and transparent elections, elections must be conducted assuming that the EVMs may possibly be tampered with. The long-time window-over the cycle of design, implementation, manufacture, testing, maintenance, storage, and deployment-may provide ample opportunity for insiders or criminals to attempt other means of access. There is an overwhelming requirement of trust on such custody chains; such assumptions of trust in various mechanisms make the election process unverifiable. What are the actions taken to address this important aspect?

Ans. The EVMs were introduced for the first time in 1982, forty years ago and have been continuously used since 2000, with all possible permutations of electoral outcomes, both favouring and disavouring all National and State Political Parties ([Annexure-II](#) and [Annexure-III](#)). This would not have been possible if there was even a remote possibility of [tampering](#) the machines. The strong [technical safeguards](#) and stringent [administrative safeguards](#), procedures underwritten by publicly available disclosures of its movement, checking, randomisation and, special disclosures of detail to the National and State Political Parties and Candidates ensure the integrity of the EVMs. The [stakeholder](#) participation is so designed that each step of [ECI-EVM](#) deployment is in full view and participation of all

stakeholders. More than trust on individuals or groups of persons, the system-based safety and security protocols are the foundation of **ECI-EVM** secure handling.

Q48. Can the details of the EVM microcontrollers be explained along with the OTP features?

Ans. Both BEL and ECIL use standard microcontrollers available off the shelf and hence all information on the microcontrollers is available in the public domain via manufacturers' data sheets/ application notes and user manuals. The One Time Programmable (**OTP**) feature is not activated by any hardware or pin-based signal/command at external pins of the microcontrollers, rather this code/ command is fed via a software programme and in the first time "run" at power on sets an internal register to shut off any re-programmability. Once this is done the programme cannot be changed. The procedure is available in public domain in the datasheets / user manuals on use of the microcontrollers.

Q49. It is claimed that the EVMs cannot be assumed to be tamper-proof so the electronic voting system should be redesigned to be software and hard-ware independent in order to be verifiable or auditable. Views on the same?

Ans. If a DRE produces a voter verifiable paper audit trail, it is software independent. The ECI EVM produces a paper audit trail and is therefore software independent.

(a) Firstly, **ECI-EVM** is thoroughly verifiable, as the voter verifies the vote cast on BU for candidate of his choice from the slip printed on paper by VVPAT that has details (Serial number, name and symbol) of the candidate voted for. Secondly the correlation between the ballot slip printed by VVPAT and the vote recorded in the EVM is established statistically with a high degree of confidence by tallying the electronic count of the Control Units with the VVPAT slip counts of five randomly selected polling stations in each assembly constituency/ segment. This is done as mandated by the Hon'ble Supreme Court of India.

(b) Evaluation of **ECI-EVM** design at its formulation stage as well as prototype and pilot stages are done traditionally by testing for worst case considerations, and performance measured on established statistical principles. Hence, EVM design as well as voting through EVM is reliable.

The extant instructions of ECI make sure that all stake holders are involved in all the steps of EVM storage, movement, checking **FLC** and **preparation, Commissioning**, distribution to

polling parties, [Mock-Poll](#) on poll day and during polling itself. This is to ensure transparency and to build trust amongst the public at large.

Q50. VVPAT system should be redesigned to be fully voter-verified. The voter should be able to approve the VVPAT printout before the vote is finally cast and be able to cancel if there is an error. Why shouldn't ECI implement this?

Ans. Every vote is verified by the voter and given the available provision in the statute ([Rule 49 MA](#)) for the voter to report any discrepancy between his choice of vote in the BU and VVPAT slip, such a modified system may be superfluous.

Q51. Testing is never adequate to declare an electronic system as complicated as an EVM fail safe and verified. What are the extra precautions and control mechanisms of ECI on this matter?

Ans. [ECI-EVMs](#) are simple to operate and use, stand-alone and robust vote recording machines. EVMs use advanced cryptographic methods to maintain their overall integrity. EVMs cannot be connected by wires or wirelessly to any unauthorized device. By design the EVMs are safe and tamper-proof. However, to build trust and confidence, various testing/checking/observation and mock poll protocols have been introduced across various stages of EVM deployment. With the addition of VVPATs to the BU & CUs the voter can instantly verify if his vote has been cast as intended. All processes of EVM handling are in full view and participation of [stakeholders](#).

Q52. EVM with VVPAT introduction is no more a standalone device since it has to be connected to Symbol Loading Unit for symbol loading. Sensors, printer, Light mechanism needs drivers along with micro-controller, hence how can it still be called a rudimentary device?

Ans. Symbol Loading Unit (SLU) is part of the EVM infrastructure. The CU, BU with VVPAT still remains a standalone device. In order to print the VVPAT slips, VVPAT needs to have the Symbol information and the Candidate information loaded as data in graphical format. This can only be done through an authorized EVM specific device known as Symbol Loading Unit.

Q53. Does the VVPAT have a programmable memory? If yes, then at what stages in the election process is it accessed by an external device? If no, then where are the names and symbols of the candidates stored in the VVPAT for it to print the same in the VVPAT slip later?

Ans. A VVPAT has two different memories. One, where the program instructions are kept for the microcontrollers, is One Time Programmed (OTP). The VVPAT firmware is stored in the One Time Programmed memory. After the firmware is ported in the microcontroller at the manufacturers' site, no changes in the program are possible subsequently. The other memory is for storing graphical images containing serial number, name, and symbol of the candidates as data. This is done with the help of a symbol loading unit, during the commissioning of VVPATs before each election. Live display of the symbols being loaded into the VVPAT is done during the [Commissioning](#) process in presence of candidates /their representatives to make the process more transparent.

Q54. The voting system design should be subjected to independent (of the government and the ECI) review; and the integrity of the election process should be subjected to an independent audit. The findings should be made public.

Ans. ECI is an independent Constitutional authority in itself. The technical review of EVM is done by TEC of ECI. The printed paper slip of VVPAT is duly verified by the voter and the correlation between the electronic count of Control Unit and corresponding VVPAT slip count is established statistically with high level of confidence level.

Q55. In an EVM, where votes are recorded electronically by the press of a button, and the voter cannot examine what has been recorded, there is no way to provide a guarantee to a voter that his/her vote is cast as intended (recorded correctly in the EVM), recorded as cast (what is recorded in the EVM is what is collected in the final tally) and counted as recorded. This casts doubts on a purely EVM-based system.

Ans i) The voter verifies the vote cast on BU for candidate of his/her choice from the slip printed on paper by VVPAT that has details (serial number, name and symbol) of the candidate voted for. Thus, there is verification that the vote has been cast as intended.

ii) The count from the Control Unit where the vote is recorded and from VVPAT slips are strongly correlated as per the sampling plan advised by reputed experts in statistics. This

correlation process has been accepted by the Hon'ble Supreme Court of India in 2019, wherein as an additional measure for enhancing public confidence, the apex court recommended a higher sampling rate compared to that suggested by the experts. ECI has indeed been following this higher sampling rate.

iii) The vote count reported by the Control Unit and that obtained from a count of VVPAT slips has matched over a large number of machines and over several elections. Till date, slips of 38,156 randomly selected VVPATs, with more than 2.3 Cr votes, have been tallied and not a single case of transfer of vote meant for candidate A to candidate B has been encountered.

After successive elections, the excellent match between the Control Unit count and VVPAT slip count strengthens the correlation between votes cast, votes recorded and votes counted. A close look at the results of Legislative Assembly Elections and the Lok Sabha Elections ([Annexure-II](#) and [Annexure-III](#)) shows how the party with maximum number of seats has changed over time and amply proves the integrity of the EVMs. This should remove all doubts cast on EVM-based systems used in India.

In addition to the technical strengths as summarised above, the extant instructions of ECI make sure that all [stakeholders](#) are involved in all the steps of EVM storage, movement, checking [FLC](#) and [preparation, Commissioning](#), distribution to polling parties, [Mock Poll](#) on poll day and during polling itself. This is to ensure transparency and to build trust amongst the public at large.

Q56. Is there transparency in the counting of votes and ascertainment of the results from the EVM reliably without special knowledge on EVM?

Ans. At time of poll, a voter casts his/her vote by pressing the candidate button of his/her choice and verifies from printed slip of VVPAT which has the details of candidate he/she has voted for. [Counting of votes](#) is conducted in absolute transparency in the presence of all the contesting candidates and counting agents authorised by the candidates. To ascertain the result from the Control Unit, no special knowledge is required. The Counting Officials just press the “RESULT” button of the Control Unit, and Candidate-wise result is automatically displayed on the display panel of the Control Unit. For this only the basic training required for the officials is imparted to them. A list giving Serial Nos. of BU, CU, and VVPAT deployed in all polling stations in the AC/AS is shared with the candidates after the second randomisation. All votes of CUs and VVPATs are counted in the presence of political parties and candidates present after verifying the intactness of seals and serial numbers of the EVMs

with the list of EVMs deployed in the polling stations which was given in advance. Subsequently, the matching of VVPAT slips of five randomly selected polling stations with their CU counts is also done in the presence of all political parties and candidates to establish the correlation between the 'vote cast and vote counted' with a very high level of confidence. The voters can therefore ascertain that their vote has been 'cast as intended, recorded as cast, and counted as recorded' without any expert knowledge. The tallying of a sample of five VVPATs per AC/AS with the CU count has been mandated by the Hon'ble Supreme Court of India. In fact, for the parliamentary general elections this mandate boils down to tallying the ballot slip counts of 20,625 randomly chosen VVPATs with the electronic counts of their Control units. If no mismatch between EVM and VVPAT counts is found in such a sample, then it provides a very high statistical guarantee that the sanctity of the election process is not affected by the use of EVMs. Till date ballot slips of 38,156 randomly selected VVPATs have been tallied with the electronic counts of their Control Units and not a single case of transfer of vote meant for candidate 'A' to candidate 'B' has been encountered. Differences in count if any have always been traceable to human errors like non-deletion of [Mock-Poll](#) votes from Control Unit or non-removal of Mock-Poll slips from VVPAT.

Q57. How ordinary citizens can check the essential steps in the voting process without technical knowledge on EVMs?

Ans. The EVM system is as simple as a basic calculator. No expert knowledge is required to operate or cast votes on EVM. All [ECI-EVM](#) related processes are easy to monitor and are conducted transparently in the presence of [stakeholders](#). Ordinary Citizens are able to check the truthful recording of their votes through verification of printed VVPAT ballot slip by each voter, and the subsequent tallying of VVPAT slips of five randomly selected polling stations of every AC/AS with the electronic count of the corresponding Control Units to establish a strong correlation between the vote cast and the vote counted as cast with an extremely high level of confidence.

In fact, for the parliamentary general elections the mandate of the Hon'ble Supreme Court of India boils down to tallying the ballot slip counts of 20,625 randomly chosen VVPATs with the electronic counts of their Control units. If no mismatch between EVM and VVPAT counts is found in such a sample, then it can be said with near certainty that the sanctity of the election process is not disturbed by the use of EVMs. Till date ballot slips of 38,156 randomly selected VVPATs have been tallied with the electronic counts of their Control Units and not a single case of transfer of vote meant for candidate 'A' to candidate 'B' has

been detected. Differences in count if any have always been traceable to human errors like non-deletion of [Mock-Poll](#) votes from Control Unit or non-removal of [Mock-Poll](#) slips from VVPAT, wherein it is possible to identify and remove the mock poll votes.

Q58. Do BEL /ECIL share the confidential software programme with foreign chip manufacturers to copy it on to microcontrollers used in the EVMs?

Ans. Microcontrollers are ported with firmware by BEL/ECIL inside their factories under high level of security and safeguards. Out of a 4 layered secure manufacturing process ([SMF](#)) the microcontrollers are ported in the L3 area where only designated engineers are authorised access through access cards and biometric scans. No external agency either indigenous or foreign is involved in loading the firmware programme in micro controllers.

Q59. In an EVM, a vote is recorded electronically by press of a button. But the voter cannot examine what has been recorded, there is no way to provide a guarantee to a voter that her/his vote is cast as intended, recorded as cast and counted as recorded. How then, can elections conducted with EVMs be democratic and how then, can India continue to be considered an electoral democracy?

Ans. [ECI-EVM](#) has always been a truthful machine. A close look at the results of Legislative Assembly Elections and the Lok Sabha Elections ([Annexure-II](#) and [Annexure-III](#)) shows how the party with maximum number of seats has changed over time and amply proves the integrity of the EVMs. With the introduction of VVPAT the [ECI EVM](#) system enables voters to immediately verify that their vote is cast as intended by observing the VVPAT ballot slip which contains the name, serial number and symbol of the candidate for whom vote is cast. The votes are counted as recorded in Control Unit. The correlation between the ballot slip printed by VVPAT and the vote recorded in the EVM is established statistically with a very high degree of confidence by tallying the electronic count of the Control Unit with the VVPAT slip count of five randomly selected polling stations in each assembly constituency /segment.

The matter regarding mandatory verification of VVPAT slips count has already been settled by the Hon'ble Supreme Court of India by its order dated 8th April, 2019. In pursuance of that order ECI has been mandatorily verifying VVPAT slips of randomly selected 5 polling stations per assembly constituency/segment (in Parliamentary constituency elections).

It is highlighted that apart from the above, verification of VVPAT slips is done at various stages of the election process in the presence of representatives of recognised political parties/candidates as follows:

- i) During [FLC](#) – in 5% machines selected randomly (1200 votes in 1%, 1000 votes in 2% & 500 votes in 2%)
- ii) During [Commissioning](#) – in 5% machines selected randomly (1000 votes)
- iii) [Mock-Poll](#) before actual poll – in 100% machines (at least 50 votes)

The extant instructions of ECI make sure that all stake holders are involved in all the steps of EVM storage, movement, checking [FLC](#) and preparation ([Commissioning](#)), distribution to polling parties, [Mock-Poll](#) on poll day and during polling itself. This is to ensure transparency and to build trust amongst the public at large.

Q60. With modern data analytics it may require targeting the EVMs in just a few polling stations to swing the election results for a constituency. What are the safeguards against such targeted attacks?

Ans. [ECI-EVMs](#) are absolutely stand-alone machines without any scope for wired or wireless connectivity with any other system/machine. Having no communication channel from outside ensures that there is no mechanism to influence data from outside. Moreover, the firmware of the microcontrollers is One Time Programmed ([OTP](#)) and runs out of a Read only Memory and hence cannot be updated, modified or enhanced in terms of functionality. Therefore, the election results cannot be modified by anyone and the results will be exactly as per votes cast by the voters through process of voting.

In addition to the technical safeguards the [administrative safeguards](#), procedures ensure that unfettered access to EVMs is denied to attackers. The [technical safeguards](#) and [administrative safeguards](#) together ensure the impregnability of EVMs.

Q61. There must be stringent audit of the electronic vote count before the results are declared. The post-counting audit should not be based on ad hoc methods but by counting a statistically significant sample of the VVPAT slips according to rigorous and well-established statistical audit techniques. Why can't the audit/verification/counting of VVPAT slips be done in some cases depending on the margin of victory?

Ans. Firstly, the counting of VVPAT slips is done as per well-established procedure as directed by the Hon'ble Supreme Court of India and is not done in an ad-hoc manner. Further, the statute

also provides an opportunity for the candidates to request for the VVPAT slip count under Rule 56 D of the Conduct of Elections Rules, 1961. The option of filing an Election Petition after declaration of result is also available for the contesting candidates wherein each and every VVPAT slip may be counted as per direction of the Hon'ble Court.

Q62. At the request of the Election Commission, a committee of eminent experts in statistics provided a report describing how many EVMs should be cross-checked and why. The report recommends the cross-checking of only 479 EVMs across the country, independent of how many total EVMs are used (some reports mention that a total of 10.35 lakh EVMs were used in GE 2019). It says that, if a fraction of 2% or more of the EVMs are faulty, cross-checking 479 chosen at random across the country will be sufficient to detect this fact with near certainty. Therefore a) the faulty EVM in a random sample will be detected only if the number of such EVMs in a parliamentary election is more than 20,000; and the presumption that the entire quantity of EVMs used in the country can be considered as the population is incorrect. Can this be elaborated and explained?

Ans. The following two points are raised in the question above:

(i) The margin of error in the report of the Committee was put as 2%. Hence a random sample of size 479 will detect a mismatch between EVM and VVPAT count with 'virtual certainty' only if the number of such mismatches in EVMs in a parliamentary election is more than 20,000.

(ii) The premise of using the whole country as the population is 'profoundly mistaken.'

Regarding the first point-- A general perception is that a small sample will not be able to make any valid inference about a large population. There have been several suggestions that ECI should sample a certain minimum percentage of EVM systems and verify the electronic counts with the slip counts for ensuring that there are no mismatches between EVM and VVPAT counts. The suggested percentage of EVMs to be sampled varies from 10% to 50%.

This of course is completely erroneous as any of the suggested figures of 10% or 30% or 50% has no statistical basis whatsoever and the numbers have no sanctity. The accuracy of the results obtained by a sampling procedure mainly depends on the 'absolute sample size' and not on 'the sample size as a percentage of the population size.' While non-intuitive this is the standard statistical result and is well validated in all standard books on Sampling Theory.

While it is true that a 2% margin of error has been considered in the report but the confidence level considered is also far higher at 99.993665752% (4 sigma level) than considered by most commentators.

Similarly, the question about what to use as the population for the study?

To answer this question, it was first necessary to decide over the level at which the statistical guarantee was required. In this case the basic unit of the study was the EVM machine and it was required to check the working of the EVM through VVPAT counts. It is noteworthy that all EVMs are similar, having come up through the same manufacturing and testing process. Every machine is connected to a VVPAT. Before poll each EVM undergoes FLC and multiple mock polls and verifications as per established protocols in the presence of political parties. It is also to be noted that there is no systematic bias in allotting particular EVMs to particular states / constituency/ booths. Machines are randomised twice, first time for allocating to assembly constituencies and second time for allocating to polling stations.

Thus, the report considered as a unit all the elections that are announced on a given day and typically counted on the same day. This could be any combination of assembly elections in a few states, or Lok Sabha elections along with assembly elections and bye elections and so on. All were considered as one set of elections and since the Statistical unit of study was the EVM, the population consisted of all EVMs being used in a particular set of elections for which counting was done on the same day.

However, the mandate of the Hon'ble Supreme Court to the ECI to tally five randomly chosen VVPAT systems per assembly constituency /segment goes far beyond the recommendation of taking a sample size of 479 as given by the expert committee.

In fact, for the parliamentary elections, this mandate boils down to testing 20,625 randomly chosen VVPAT systems (five in each of the 4125 assembly segments). If no mismatch in the EVM and VVPAT count is found in such a sample, then it can be said with very high level of confidence or with near certainty that the sanctity of the election process is not affected by the use of EVMs.

Q63. The ECI has to define which one is true representation of the will of the voter? Vote recorded on Control Unit or voter verified SLIP in VVPAT? If Counting is based on the Control Unit count what is the use of Verifiable paper SLIP?

Ans. The system of VVPAT has been introduced only for the purpose of greater transparency and enhancing the confidence of voters by way of immediate verification of the printed ballot slip

having the chosen candidate's Name, Serial Number and Symbol and recording of vote in the Control Unit.

As per existing legislation, [Rule 56 C](#) of the Conduct of Elections (Amendment) Rules clearly states that after the returning officer is satisfied that a voting machine has not been tampered with, he shall have the votes counted by pressing the appropriate button marked "Result" provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each candidate on the display panel provided for the purpose in the unit. The candidate wise result so obtained from all control units used in the election is to be tabulated in a result sheet in [Form 20](#) and the particulars so entered in the result sheet announced.

Contesting candidates have the opportunity to request for the VVPAT slip count under [Rule 56D](#) of the Conduct of Elections Rules, 1961 after completion of counting of votes from the EVMs. [Rule 56D](#) (4) (b) clearly states that in case of a discrepancy between the Electronic Count in the Control Unit and the ballot slip count of the VVPAT, the VVPAT slip count shall prevail.

Q64. There must be compliance audit, verifiable by all candidates and interested members of the general public, to ensure the integrity of the VVPAT slips. The VVPAT slips may be trustworthy at the time of voting, but it is necessary to ensure that they remain trustworthy later while auditing.

Ans. Mandatory verification of randomly selected five polling stations per assembly constituency/segment is a strong post audit of the veracity of vote count, all in the presence of stakeholders. Till date, slips of 38156 randomly selected VVPATs have been counted and not a single case of transfer of vote meant for candidate A to candidate B has been encountered. Differences if any have always been traceable to human errors such as not removing votes cast in the mock poll. Moreover, contesting candidates have opportunity to request for the VVPAT slip count under Rule 56 D of the Conduct of Elections Rules, 1961 after completion of counting of votes from the EVMs. Further, aggrieved candidate(s) / voter can challenge the election by way of Election Petition before the competent court where upon directions of the Hon'ble Court each and every VVPAT slip may be counted.

EVM Tampering

Q65. An EVM has not yet been hacked provides no guarantee whatsoever that it cannot be hacked. Therefore, elections must be conducted assuming that the electronic voting machines may possibly be tampered with. What is the view of the Commission?

Ans. Indeed, the design of security mechanisms incorporated in the [ECI-EVM](#) units start with the assumption that attempts may be made to tamper their contents. Based on various scenarios for such attempts, strong security features have been incorporated in the EVM design.

- i). [ECI-EVM](#) design incorporates a "mutual authentication" process so that EVM units cannot connect or communicate with any external device.
- ii). These undergo strict quality checks to ensure that there is no Wi-Fi, or Bluetooth connectivity.
- iii). These are so designed that they can detect an attempt to tamper the unit, and on detection of such an attempt, the EVM unit is set in a mode where it simply cannot be used in a poll. It has to be sent to the factory for enabling it to function as an EVM again.
- iv). Additionally, administrative safeguards and robust security and [stakeholder](#) participation and media scrutiny ensure that there is no other scope for [manipulating](#) the EVMs.
- v). Further, every EVM that is to be deployed for the election process undergoes rigorous testing and three stages of [Mock-Polls](#), coupled with double randomisation of EVMs.
- vi). While ECI supervises and controls the election process, it encourages stakeholder participation across all stages.
- vii). In addition to the above, ECI regularly undertakes the repair of EVMs/VVPATs that may have become non-functional in the field. It conducts pre-checks and preventive maintenance on EVMs to weed out machines likely to fail during elections.

Q66. There are numerous examples of hacking electronic devices through electromagnetic and other channels from all over the world, including of the Software Guard Extensions of sophisticated Intel processors. In view of such possibilities, the claims that the EVM

has no external communication channels appear to be naive, especially considering that so much is at stake.

Ans Designers of [ECI-EVMs](#) are aware that electro-magnetic interference can impair the operation of some electronic devices. Accordingly, sufficient care has been taken in the design and testing of these EVMs to ensure that externally applied fields over a wide spectrum of frequencies do not affect the correct operation of EVMs. Additionally, emissions from the EVM units are monitored to ensure that these do not emit significant levels of RF which could provide an "external communication channel".

During functional testing of EVMs, CU, BU and VVPAT units are subjected to RF fields from 10 kHz to 6 GHz (from 10,000 to 6,000,000,000 cycles per second) in specified steps as per IEC standards. [RF emissions](#) from these units are monitored to rule out the presence of RF communication devices such as Wi-Fi or Blue tooth etc.

These measures ensure that no hidden "external channels" exist and EVM units are indeed a closed system with no communication with external world during their operation.

Q67. The non-verifiability of the EVM and VVPAT based voting protocol makes it impossible to rule out unpredictable manipulations by unpredictable entities, including foreign players. It is essential that all aspects of an election be observed, audited, and independently verified by the public to engender trust. What are the mechanisms of ECI to avoid such a possibility?

Ans Firstly the ECI-EVM is thoroughly verifiable, as the voter verifies the vote cast on BU for candidate of his choice from the slip printed on paper by VVPAT that has details (name, serial number and symbol) of the candidate voted for, and secondly the result as per Control Unit count is strongly correlated to the corresponding VVPAT slips count with a high level of confidence as per sampling plan mandated by Hon'ble Supreme Court of India.

Evaluation of [ECI-EVM](#) design at its formulation stage as well as prototype and pilot stages is done traditionally by testing for worst case considerations, and performance measured on established statistical principles. Hence, EVM design as well as voting through EVM is reliable.

Also, the extant instructions of ECI make sure that all [stake-holders](#) are involved in all the steps of EVM storage, movement, checking [FLC](#) and preparation [Commissioning](#), distribution to polling parties, [Mock-Poll](#) on poll day and during polling itself. This is to ensure transparency and to build trust amongst the public at large.

Q68. “Experts” have declared that the ECI machines are non tamperable and safe but this does not make the EVM+VVPAT verifiable. None of the ECI experts have credentials in computer security and the majority of them are not even computer scientists. In addition to experts the ECI is also dependent on many other entities and organisations-including hardware manufacturers, software developers and testers, system assemblers, and un-modelled custody chains for the integrity, safety and security of its machines and is thus not entirely in control. In this situation what is the need to use EVMs for elections in India?

Ans. Comments on ECI experts are uncalled for. The EVM detractors, self-appointed technical experts and certain social media personnel have repeatedly failed to realise that the EVMs cannot be compared to a computer which runs on an operating system. The microcontrollers of EVMs and VVPATs run on a specific program designed to faithfully record the voters’ choice. That the EVM is a truthful machine has been proved over decades of usage through changes in several governments at the state and central level, whenever the public wanted to. In fact, the EVM has made elections safe and virtually eradicated booth capturing by limiting the rate of vote casting to four votes a minute and thus significantly increasing the time required for stuffing false votes. Invalid votes a bane of the paper ballot system was at times greater than the winning margins and have been completely eliminated by the EVMs. Vote cast is verifiable by voter on VVPAT and the Control Unit-VVPAT vote count matches are done on well-established principles of statistics to provide a very high level of confidence.

Q69. Is the entire process on use of EVMs transparent, free and fair?

Ans. The strong [technical safeguards](#) and elaborate [administrative safeguards](#), procedures put in place by ECI along with encouraging wide participation of all stakeholders at every stage of the election process ensures that the elections are transparent, free and fair.

The elections are transparent as these are conducted openly under the watchful eyes of the public. For example, all processes involving [ECI-EVMs](#) such as [storage](#), [transportation](#), [randomisation](#), [FLC](#), [Commissioning](#), voting procedure, [Counting](#) etc. is conducted in full view and participation of [stakeholders](#) and representatives of recognised political parties. Hence the election is held in transparent way.

Elections conducted with [ECI-EVMs](#) are free since elaborate security arrangements are made at election booths and in their vicinity, so that voters can come and vote freely without influence of inducement, fear or coercion.

Fairness of the election is ensured through the technical design of the EVM system as well as the strong processes followed in election steps.

A vote cast on BU is verified by the voter by viewing the slip printed on VVPAT with the candidate's name, serial number and symbol on it. The voter verified slips are later correlated with Control Unit count during counting as per specified procedure.

The EVMs used for elections are thoroughly tested during First Level Check (FLC) in presence of stakeholders and Mock-Poll is conducted during FLC, commissioning as well as at start of the poll to ensure that EVMs used are functioning properly.

Due to double randomisation of EVM units, which is conducted in the presence of recognised political parties / candidates, it is not known in advance as to which machine will go to which constituency or polling station.

Insider attacks on the machines are prevented through secure manufacturing processes, SMF where all steps used in the manufacturing process are strictly monitored and automatically recorded.

Thus, it can be seen that the strong technical safeguards in EVMs and elaborate administrative safeguards, procedures and security put in place by ECI along with encouraging wide participation of all stakeholders at every stage of the election process ensures that the elections are transparent, free and fair.

Judicial Scrutiny

Q70. It is claimed that ECI is silent in respect of serious discrepancies in the two sets of data (data initially shared by the ECI and the final voter turnout/votes polled data on the EVMs) in 373 constituencies which went to elections in the first four phases of the elections of Lok Sabha, 2019.

Ans. There is no case where any candidate or his agent complained that there is any discrepancy in the total votes polled in EVM and result obtained from the EVM. It is also pertinent to highlight that the voter turnout is a dynamic figure. The final voter turnout is finalised by the Returning Officer when related documents are scrutinised and shared with all the contesting candidates.

Q71. It is well circulated in the Media that according to replies to Right to Information (RTI) queries about two million EVMs were stated to be missing from ECI. Whether it is true or not?

Ans. The matter is sub-judice and necessary clarifications have been provided to the Hon'ble High Court of Bombay. The issue is nothing more than the twisting, selective and wrongful representation of facts by vested interests.

Q72. While banning electronic voting, the German Constitutional Court made the following observation: The use of voting machines which electronically record the voters' votes and electronically ascertain the election result only meets the constitutional requirements if the essential steps of the voting and of the ascertainment of the results can be examined reliably and without any specialist knowledge of the subject...The legislature is not prevented from using electronic voting machines in elections if the possibility of a reliable examination of correctness, which is constitutionally prescribed, is safeguarded. A complementary examination by the voter, by the electoral bodies or the general public is possible for example with electronic voting machines in which the votes are recorded in another way beside electronic storage. How are ECI EVMs different from the voting systems banned by the German Constitutional Court?

Ans. Across the world, both paper ballot voting system as well as EVMs are used for conducting elections as per the preference and mandate of the authorities concerned. The Election Commission of India is a Constitutional Body mandated to conduct elections to State Legislature, both the houses of the Parliament and the offices of the President of India and

Vice-President of India, as per Act and Rules passed by the Parliament of India. Use of ECI-EVMs for conducting elections in India is approved by the Parliament and upheld by various High Courts and Hon'ble Supreme Court of India.

ECI EVMs are manufactured by central government public sector undertakings in a secure manufacturing facility. Rigorous third-party testing is carried out by STQC (Standardization Testing and Quality Certification) at the manufacturing premises before acceptance and dispatch to various states of deployment. Stringent and elaborate protocols as mandated by ECI are followed during EVM movement, storage, and deployment. The German Constitutional Court made its observation in the context of EVMs used in German elections and in relation to German law. Indian EVMs are robust and implement technologies and processes which are different and noncomparable. Hon'ble Supreme Court of India and various High Courts have time and again scrutinised the machines and have reposed their confidence and faith in ECI EVMs.

Q73. The general opinion was that at a time when there had been strong calls for the back to ballot paper system, it was the duty of ECI officials, who were strongly opposed to the demand, to ensure maximum transparency to belie any suspicion over EVMs.

Ans. EVMs are used in the Indian elections as mandated by the Representation of People Act, 1951. Therefore, EVMs are used in Indian elections as per the statutory mandate of Parliament. The same has the backing of judiciary also. The matter of bringing back the manual ballot system and discarding the use of EVMs has been brought up before various courts time and again. However, on all occasions the courts including the Hon'ble Supreme Court of India have dismissed the petitions. In a latest such judgement dated 03/08/2021 ([C.R. Jaya Sukin vs ECI, SLP \(Civil\) 13278/2021](#)), the Hon'ble High Court of Delhi, even imposed cost on the petitioner while dismissing the pleas to stop the use of the EVMs. Further, ECI constantly strives to bring in more transparency and wider participation in the electoral process.