

SCANNED

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

IN THE MATTER OF:

ASSOCIATION FOR DEMOCRATIC REFORMS & ANR. ... PETITIONER

Versus

ELECTION COMMISSION OF INDIA & ANR. ... RESPONDENTS

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ADVOCATE FOR THE RESPONDENT NO. 2/ ECI: AMIT SHARMA

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

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ASSOCIATION FOR DEMOCRATIC
REFORMS & ANR.

... PETITIONERS

Versus

ELECTION COMMISSION OF INDIA & ANR. ... RESPONDENTS

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1

I, Binod Kumar, S/o H.L. Choudhary, aged 47 years, Secretary, Election Commission of India, having office at Nirvachan Sadan, Ashoka Road, New Delhi - 110001, do hereby solemnly affirm and state as under:

1. I am the Secretary of the Election Commission of India and as such am well acquainted with the facts and circumstances of the case and competent to affirm the present counter affidavit on behalf of the Respondent No. 1 ("the Answering Respondent").

I state that I have read and understood the contents of the Synopsis & List of Dates, Writ Petition and Application(s) and the reply thereto is as under.

3. At the outset, I deny all the averments, submissions, contentions as well as the allegations contained in the present Writ Petition to the extent they relate to the Answering Respondent herein,



save and except those that are expressly and specifically admitted hereinafter.

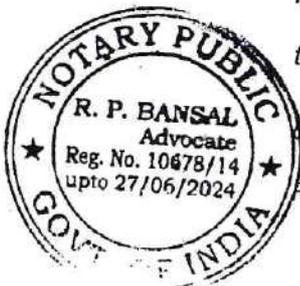
4. **PRELIMINARY SUBMISSIONS:**

At the outset, the Answering Respondent craves leave of this Hon'ble Court to make preliminary submissions relevant to the subject matter of the present Writ Petition as under:-

- 4.1 The Answering Respondent submits that the present Writ Petition under reply has been filed before this Hon'ble Court under Article 32 of the Constitution of India, seeking the following reliefs:

"In the above circumstances, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a. *Issue an appropriate writ, order or direction directing the Respondent No. 1 to conduct actual and accurate reconciliation of data before the declaration of the final result of any election.*
- b. *Issue an appropriate writ, order or direction directing the Respondent No. 1 to provide the following information in the public domain for the 2019 Lok Sabha elections and for all future elections: (i) statutory forms 17C, Form 20, Form 21C, Form 21D & Form 21 E.*
- c. *Issue an appropriate writ, order or direction directing the Respondent No. 1 to investigate the discrepancies which had taken place in the 17th Lok Sabha election results.*
- d. *Issue an appropriate writ, order or direction directing the Respondent No. 1 to formulate a robust procedure for all future*

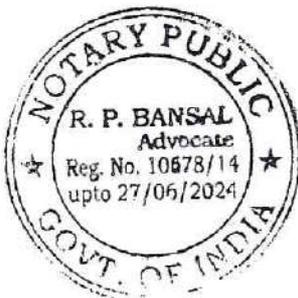


elections for the investigation of all discrepancies in election data.

e. Pass such other and/or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

4.2 The aforementioned prayers have been sought by the Petitioners on the ground that actual and accurate data was not taken into account before declaration of result in elections. Additionally, the Petitioners have also sought directions on the ground that there were discrepancies in the 'Voter Turnout App'. It is, however, respectfully submitted by the Answering Respondent herein that the aforementioned grounds are highly misleading and blatantly incorrect in nature. Furthermore, the Petitioners have also contended that there were discrepancies in the voter turnout data available on the 'Voter Turnout App' and the votes counted.

4.3 In this context, it is pertinent to mention that the voter turnout data, as available on the 'Voter Turnout App', is only tentative or provisional in nature whereas the votes are counted and reported as per the statutorily-created mechanisms as narrated below. Therefore, it must be pointed out that the Petitioners have based their unfounded allegations on the fallacious assumption that the data available on the 'Voter Turnout App' was the basis for declaration of results. Comparing the incomparable, the Petitioners have erroneously equated the declaration of results, which is done only on the basis of data recorded in the statutory



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forms, with the estimated tentative data available on the 'Voter Turnout App'.

4.4 It is pertinent to point out that under the scheme of the Representation of the People Act 1951, the Returning Officer (hereinafter referred to as "RO") shall declare the result on the basis of statutory data recorded in the relevant forms. In a number of landmark judgments, most notably *N.P. Ponnuswami v. Returning Officer, Namakkal* [AIR 1952 SC 64], the Hon'ble Supreme Court of India had held that the decision of the RO in accepting or rejecting is not subject to any review or revision by any authority, until the process of election is over and the same can be challenged only by an EP after the completion of the election. The declaration of result is done by the RO of the constituency on the basis of the data recorded in the statutory forms, i.e. Form 17C and Form 21C. The above position was also duly clarified by the Answering Respondent in the Press Note dated 01.06.2019 issued in relation to the Voter Turnout Data during the General Elections to the Lok Sabha 2019. It is, therefore, humbly submitted that the doubts placed by the Petitioners on the credibility or accuracy of the electoral results are completely misplaced as the statutory forms themselves are designed to bring forward discrepancies, if any, and the results are declared only when no discrepancy is noted in any of the forms.



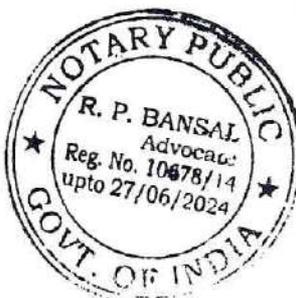
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A true copy of the Press Note dated 01.06.2019 issued by the Election Commission of India is annexed herewith and marked as ANNEXURE^{C/A} at pages 36 to 37.

4.5 It is pertinent to note at this juncture that Form 17C consists of two parts and Part I is filled at the time of poll and Part II is filled at the conclusion of counting. On one hand in Part I, Column 7 is meant for objectively noting whether the number votes recorded in the voting machine tally with the number of voters who casted valid votes, and on the other in Part II, at the bottom of the table recording the number of votes casted in favour of each candidate there is an objective noting as to whether the total number of votes counted tallies with the total number of votes polled as recorded in Part I of Form 17C.

4.6 It is humbly submitted that the Answering Respondent has issued detailed instructions vide Letter dated 21.05.2019 for dealing with a situation where any discrepancy is noted in any of the two places noted above.

In case any discrepancy is noted in Part I of Form 17C, it signifies that either the data of mock poll was not erased from the Control Unit or the VVPAT paper slips pertaining to the mock poll were not removed either partially or fully. As this part of Form 17C is filled at the time of Polling, these issues are identified on the Poll day itself and a list of such polling stations is shared with the contesting candidates.



In case any discrepancy is noted in Part II of Form 17C, it signifies that the Close-Result-Clear (CRC) Protocol after mock

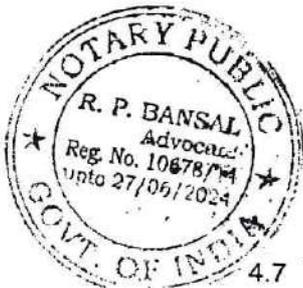
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poll was not correctly done in respect of such a polling station during actual poll.

In both such cases, the Control Unit is kept aside during the counting of votes, i.e. these polling stations are not taken up for counting during the regular round-wise counting of the Control Units and the Tables allocated to such polling stations are kept vacant during the counting of that particular round. The exact details and reasons for the scenario are explained by the RO/ARO to the contesting candidates/election agents/counting agents present in the counting hall. Then after the completion of the counting of all rounds with Control Unit, the counting for these polling stations is conducting by counting the VVPAT / paper trail.

Moreover, it has further been clarified by the Answering Respondent that the above procedure shall be invoked in all such cases in Lok Sabha Elections however for State Assembly Elections it shall not be invoked in all such cases where the winning margin is more than the total votes polled in all such polling stations.

It is also noteworthy that the observation of prescribed protocols during the counting process is ensured by a 'Counting Supervisor' while the Election / Counting Agents of the contesting candidates keep a thorough vigil as stakeholders who also provide their acknowledgment on Part II of Form 17C.



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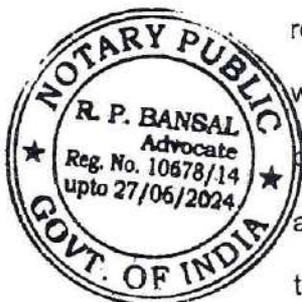
Therefore, it is humbly submitted that insofar as accuracy and credibility of the results is concerned, the statutory processes

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and mechanisms that work under the oversight of the Answering Respondent ensure 100% accuracy and credibility of the results.

4.8 Moreover, it is submitted that General Elections in India are territorial constructs restricted to electors or contesting candidates of the particular AC/PC. However, the statutory scheme envisages that any elector is empowered to institute an Election Petition.

4.9 Further, it is humbly submitted that Article 329(b) of the Constitution of India read with the Representation of the People Act, 1951 creates a bar against '*calling any election in question except by way of an Election Petition*'. It is humbly submitted that in view of the above, in so far as the present Petition generally and casually calls the accuracy of elections in question making sensational allegations to the effect that the results of elections are announced in a hurry by the Answering Respondent at the cost of accuracy, it is barred by the operation of Article 329(b) the jurisprudence on which is well settled since *N. P. Ponnuswamy vs. Returning Officer, Namakkal Constituency & Ors.* [AIR 1952 SC 64 : 1952 SCR 218] and the same is not being repeated here for the sake of brevity. It is humbly submitted that the casual questing of the accuracy of the election results as done in the present Petition comes in direct conflict with the spirit of the constitutional bar contained in Article 329(b) by way of which a categorical bar has been imposed on casual allegations on electoral integrity and election results that have a tendency to erupt in view of the sensational nature of the matter.



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A true copy of the Instruction sent by the Election Commission of India to the Chief Electoral Officers of all States and Union Territories vide Letter bearing No. 51/8/7/2019-EMPS dated 21.05.2019 is annexed herewith and marked as ^{C/2} ANNEXURE at pages 38 to 40.

4.10 In this context, it is pertinent to refer to the relevant provisions of Conduct of Election Rules, 1961 (hereafter "CER, 1961"), which are as under:

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

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

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



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

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

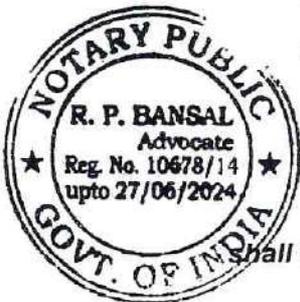
(b) Part II of Form 17C completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and

(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.



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(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;

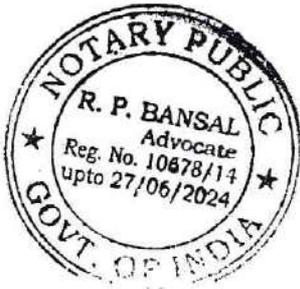
(c) announce the amendments so made by him; and

(d) complete and sign the result sheet."

4.11 Therefore, the statutory scheme of the conduct of elections provides for a complete code in the CER, 1961 under the responsibility of the Returning Officer. Regarding vote, it consists of the following forms:

a. Form 17-C:

i. Part One: Presiding Officer shall prepare an account of votes recorded in the particular form, at the close of poll, as per Rule 49S of Conduct of Election Rules 1961. The form shall be enclosed in a separate cover. A true copy of entries made in the form shall be furnished to every polling agent present at the close of poll, after obtaining a receipt from the said polling agent and attesting the same.

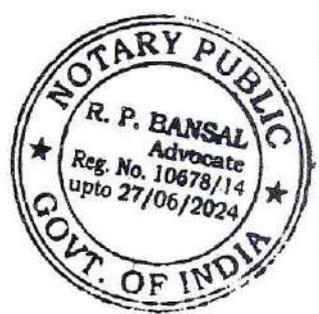


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ii. Part Two: Returning Officer shall record number of votes polled by each candidate by pressing the 'Result' button provided in the control unit. The same is then recorded separately in the form. The form is then signed by the counting supervisor, candidates and/or counting agents of candidates as mandated under Rule 56C of the Conduct of Election Rules 1961. It must be mentioned whether total number of votes shown in Part II on Form 17C tallies with Part I on Form 17C or whether there are any discrepancies between the two totals.

b. Form 20: Final Result Sheet that is used to record the result of voting at notified polling stations, as per Rule 59, Conduct of Election Rules 1961. Uploaded by concerned CEOs on their respective websites (Para 4.15).

c. Form 21E: Return certificate is given by the Returning Officer to every winning candidate under Rule 64, Conduct of Election Rules 1961. Based on EVM votes and postal votes, the form is prepared in which a breakup of voter turnout is tallied to obtain a final turnout for each constituency. Copies of the same are signed and sent across to the CEO and the Commission (Para 4.16).



In these vote calculation forms, there is no space or scope for intervention, during the period of elections, by any authority. Result of an election can only be challenged as spelt out in Section 80 of the Representation of People Act through an Election Petition. For brevity, Section 80 specifies:

"80. Election petitions.—No election shall be called in question except by an election petition presented in accordance with the provisions of this Part."

4.12 Therefore, a perusal of the aforementioned provisions clearly points out that at the close of the poll, the presiding officer prepares an account of votes recorded in Part-I of Form 17-C as per the requirement under Rule 49S of the Conduct of Election Rules 1961. The same is then made *available to every polling agent present at the close of the poll by the presiding officer, after obtaining a receipt and attestation.*

4.13 Additionally, it is submitted that at the time of count, the Returning Officer has the votes recorded in an EVM counted by pressing the 'Result' button provided in the control unit. The same is then recorded in Part-II of Form 17-C, which is then signed *by the counting supervisor and also by the candidates or their election agents or their counting agents* as per the mandate under Rule 56C of the Conduct of Election Rules 1961.

It is also relevant to mention herein that Part-II of Form 17-C also provides that the Counting Supervisor ought to mention whether the total number of votes shown in Part-II on Form 17-C tallies



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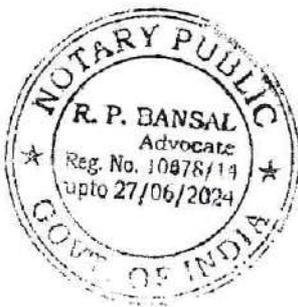
with the total number of votes shown against Item 6 of Part-I on Form 17-C or whether any discrepancy is noticed between the two totals.

4.14 It is, thus, submitted that the data recorded in the Form 17-C at the close of the poll is the basis on which the total number of votes polled at any polling station as well as the votes polled by each contesting candidate therein is ascertained. It is further submitted that the recorded data is statutory in nature. The results of the election are only declared by the RO thereafter as per Rule 64 of the Conduct of Election Rules 1961.

4.15 Therefore, it is wholly incorrect and entirely misleading to suggest or contend that the results of any elections are declared based on the provisional data on the 'Voter Turnout app' or even before the actual authentic data on vote count has been prepared.

4.16 In fact, the petitioner wrongfully presumes that the vote related data is not in the public domain. The statutory scheme specifies that Form 17-C (Part-I) is to be shared with all candidates and/or their polling agents immediately, Form 17-C (Part-II) is to be shared with all counting agents while booth-wise data of Form 20 is available on the website of the concerned CEOs. Thus, it is submitted that given the existing system of checks and balances in the statutory scheme, putting up the data given on Form 17-C on the website is neither feasible nor desirable.

Therefore, the fact that the statutory data on the relevant form is immediately made available to the candidates or representatives



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further safeguards the sanctity of the electoral process. In cases where the aforementioned process is not adhered to, the unsuccessful candidates or their representatives would be the first to challenge/question the same. Therefore, it is not as if the results are declared based on provisional figures or data but are actually declared based on the statutory data recorded in Form 17-C.

4.17 In this context, it is pertinent to point out herein that Form 21-C is the format for the declaration of result which is done by the concerned Returning Officer (RO) as per Section 64 of the CER, 1961. In this regard, it is relevant to refer to Section 64 of the CER, 1961, which provides as under:-

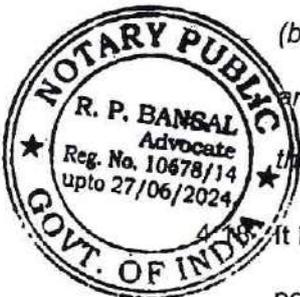
"64. Declaration of result of election and return of election.—

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."*

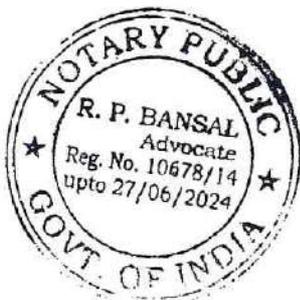
It is submitted that Form 20 is the Final Result Sheet declared as per the provision of Rule 59 of CE Rules, 1961 and it is used for



recording the result of voting at notified polling stations. Form 20A is another form for recording the Final Result Sheet and it is prepared as per Rule 56B (7) of the CE Rules, 1961 for constituencies specified under Rule 59A of CE Rules, 1961.

4.19 It is submitted that the declaration of result is the assigned statutory responsibility of the RO, which cannot be superimposed by the Election Commission of India under the law. Further, it is submitted that with the intention of completing and certifying the return of election, Form 21-E under the CER 1961 contains various data such as total number of electors, total number of valid votes polled, total number of rejected votes, total number of tendered and number of votes polled by each candidate. The said Form 21-E is also made available to the candidates and/or their agents and the same is subject to Rule 93(3) of the CE Rules, 1961. Thus, the candidates and/or agents are also made aware about the exact ballot count through the said Form 21-E.

4.20 Therefore, it is submitted that the counting and declaration of results is done by the RO only after following due procedure as specified in the statutes. The counting process is conducted in the presence of the contesting candidates and/or their counting agents as well. At the end of each round of counting, after the satisfaction of candidates, counting for the next round is taken up. Thus, there is no space and scope for any outside intervention under the statute either.

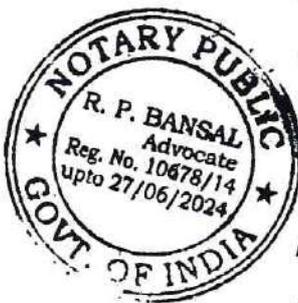


A flow chart depicting the collection of data through the statutory mechanism and due procedure as specified in the statutes is annexed herewith and marked as ANNEXURE^{c/3} at pages 41 to 42
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4.21 In addition, it is submitted that the petition is based on surmise and conjecture that presumes the Voter Turnout App data to be statutory in nature, clearly ignoring the disclaimer attached to it. It is submitted that the 'Voter Turnout App' contained a clear disclaimer issued by the Election Commission of India at all times. The disclaimer attached to the Voter Turnout App clearly states that "*This provisional voter turnout data is made available by ROs on regular intervals, which is collated by Chief Electoral Officers and ECI for wider dissemination and to ensure transparency in information dissemination*".

4.22 In this context, it is also relevant to refer to the Press Note dated 01.06.2019 issued by the Election Commission of India in relation to the Voter Turnout Data for General Elections 2019 to the Lok Sabha, which, inter-alia, provided as follows:-

"The provisional voter turnout data is displayed as percentage figure on Election Commission of India (ECI) Web site and Voter Helpline Mobile App on the poll day as uploaded by the Returning Officer(RO)/Assistant Returning Officer (ARO) based on the approximate percentage turnout figures obtained from Sector magistrates who in-turn get it periodically over phone/ in person from about 10 Presiding officers. After scrutiny of documents by the RO, provisional number of General voters' turnout is compiled and uploaded on the ECI website based on

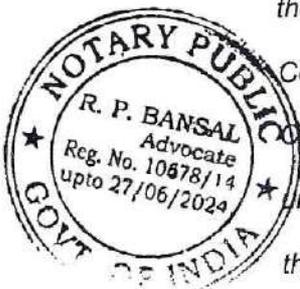


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the Polling Station wise tentative voter turnout data reported by the Presiding Officers, with male/female voter breakup, added together to get the PC wise provisional voter turnout. All these figures are provisional, based on estimates which are subject to change as is made clear from the disclaimer on the website that "the data is estimated and subject to change". This provisional voter turnout data is made available by ROs on regular intervals, which is collated by Chief Electoral Officers and ECI on the web site for wider dissemination and to ensure transparency in information dissemination.

At the time of counting, postal ballots received up to 8 AM on Counting day are first pre-counted and valid Postal ballots are then taken up for after actual counting for both of the categories a. the Service voters and b. the polling personnel deployed for the poll duties. The Postal ballot count is added to the EVM General voters' count to give the final votes polled in every PC and the votes secured candidate wise and the winning candidate is given return certificate in form 21E by the Returning Officers.

Based on both the EVM votes and Postal Ballots counted, the Returning Officer prepares Form 21E and Index Card in which the breakup of voter turnout, including tendered votes for the Constituency, is tallied to get the final voter turnout for each Constituency. Form 21E is the return of election as specified under rule 64 of the Conduct of Election Rules, 1961, for which the sole authority is the Returning Officer concerned. Also, INDEX CARD in use since last over five decades, is prepared by

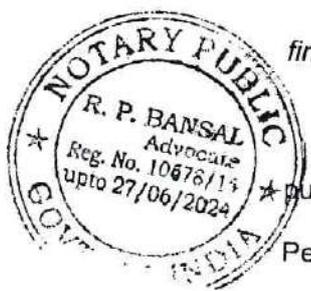


the Returning officer to furnish the voting data (including postal ballot data), polled and counted, after the declaration of the Result, which becomes the final authenticated data for all purposes including analysis and research. For General Elections 2019, Commission has already directed all the Returning Officers on 26th March 2019 to send the INDEX CARDS within 15 days of the declaration of the Result.

In earlier elections, it used to take months to collect such authenticated election data from all the ROs. Even in 2014, it took between 2 to 3 months after the declaration of results to collect and collate such data in authenticated form. Due to the innovative IT initiatives taken by the Commission this time, the final data on votes counted has been made available within a few days of declaration of results. The reconciliation of voters' data for all PCs have been completed in all states and the Index Forms of all 542 PCs are expected to reach ECI from Returning Officers shortly, which after compilation, shall be immediately be made Public by the Election Commission.

As made out clear in above paras, the provisional voter turnout data reported on ECI Website is only the tentative number of voters and not the final nos. therefore it is incorrect inference to find Ghost voters when there are none."

It is to be noted that the above Press Note, which is in public domain, has been admitted and acknowledged by the Petitioners in the Writ Petition under reply.

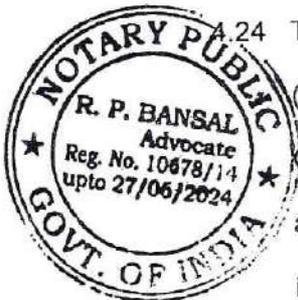


4.23 In this regard, it is pertinent to mention herein that the 'My Voter Turnout App' was also used during the bye-polls held in West Bengal and Uttarakhand on 25.11.2019, containing the following disclaimer:

"This provisional voter turnout data is made available by ROs on regular intervals, which is collated by Chief Electoral Officers and ECI for wider dissemination and to ensure transparency in information dissemination".

It is further submitted that the 'Voter Turnout App' contained the above disclaimer *at all times*. i.e. the said disclaimer was shown on the 'Voter Turnout App' since the beginning and till the end. Therefore, it is significant to note that the Election Commission of India took appropriate caution in informing the voters that the data shown on the 'Voter Turnout App' is provisional or estimated in nature and is not to be mistakenly identified as the final data.

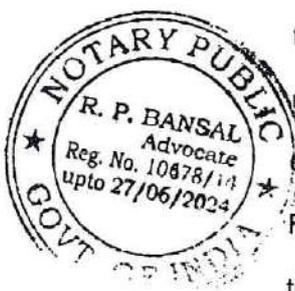
A screenshot of the disclaimer on the 'Voter Turnout App' for bye-polls held in West Bengal and Uttarakhand on 25.11.2019 is annexed herewith and marked as ANNEXURE/C/14 at pages to 43 .



4.24 Thus, the contention of the Petitioners that the Respondent No. 1 (i.e. the Answering Respondent herein) declared results of the General Elections 2019 to the Lok Sabha on provisional figures and without determining the exact Ballot count is blatantly incorrect and highly misleading in view of the above explanation, which is based on relevant statutory provisions.

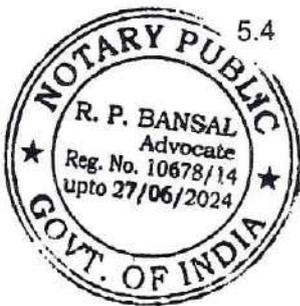
REPLY ON MERITS:

- 5. Insofar as the prayer (a) of the Writ Petition under reply is concerned, it is stated that the said direction sought by the Petitioners is based on an erroneous assumption that the Election Commission of India did not employ a prescribed system for compilation, reconciliation and publication of poll data; and that the election results were declared by the Election Commission of India before the compilation of the actual authentic data on vote count.
- 5.1 In this context, it is reiterated that the declaration of result is done by the concerned Returning Officer (RO) on the basis of the statutory data recorded in the aforementioned Form 17-Cand on the basis of Form 21-C, as per Section 64 of the CER, 1961;Hence, there is no need for any reconciliation of data for declaration of result.
- 5.2 The aforementioned issue has been raised by the Petitioners on the ground that there are discrepancies in the voter turnout data available on the 'Voter Turnout App' and the votes ultimately counted. However, the aforementioned issue raised by the Petitioners is misconceived and misleading. It is submitted the the 'Voter Turnout App' has been developed to ensure that the users are able to obtain real-time information about the estimated voter turnout on their mobile devices during elections. Further, the application is designed to show the estimated voter turnout for each state which could then be broken down further into districts and constituencies as well. It is pertinent to note that



there is no date-entry provision in the said application as it is only meant for the dissemination of the estimated voter turnout percentages.

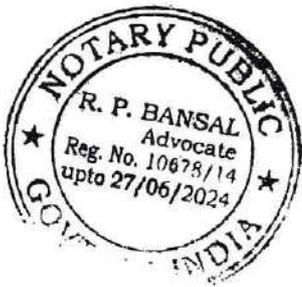
5.3 It is submitted that the voter turnout data, as available on the 'My Voter Turnout App', is only tentative or provisional in nature, similarly results displayed in the result sheet on the Election Commission of India's website are also provisional and subject to change, whereas the results declared by the returning officer are declared based on the statutorily crated mechanisms (Form 17-C, Form 20, Form 21-C, Form 21-D, Form 21-E, etc.). In fact, the Petitioners themselves have admitted and acknowledged the disclaimer issued by the Election Commission of India in the Result Sheet, wherein it is noted that *"the trends displayed are based on the data entry done by ARO/RO as and when they complete these rounds and is subject to change. Only Result signed and declared by Returning Officer has the statutory validity"*. Hence, doubts placed by the petitioners on the credibility of electoral results stands on a baseless premise wherein estimated provisional data is erroneously placed on the same metrics as the actual authentic data.



5.4 As already stated above, the Election Commission of India had clarified the same in its Press Note issued on 01.06.2019, wherein it had stated that the provisional voter turnout data is displayed as percentage figure on Election Commission of India Website and Voter Helpline Mobile App on the poll day as uploaded by the Returning Officer/Assistant Returning Officer

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based on the approximate percentage turnout figures obtained from Sector magistrates who in-turn get it periodically over phone/ in person from about 10 Presiding Officers. After scrutiny of documents by the Returning Officer, provisional number of General voters' turnout is compiled and uploaded on the Election Commission of India website based on the Polling Station wise tentative voter turnout data reported by the Presiding Officers, with male/female voter breakup, added together to get the Polling Constituency wise provisional voter turnout. All these figures are provisional, based on estimates which are subject to change as is made clear from the disclaimer on the website that *"the data is estimated and subject to change"*. This provisional voter turnout data is made available by Returning Officers on regular intervals, which is collated by Chief Electoral Officers and the Election Commission of India on the website for wider dissemination and to ensure transparency in information dissemination. Data recorded on the mobile application was different from the correct data, which was later ratified through statutory mechanisms, due to multiple reasons. In some cases, polling stations were located in inaccessible areas with no mobile network due to which data was either not received or was received with a significant lag of few hours. Moreover, collection of such data by phone calls was always prone to noise resulting in different data being recorded. Furthermore, on rare occasions, Sector Officers/Returning Officers would extrapolate figures of



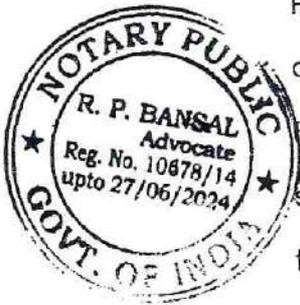
inaccessible polling stations. Lastly, the possibility of data entry and computation errors could not be ruled out.

5.5 To understand the functioning of the 'Voter Turnout App', it may be relevant to refer to the Letter dated 15.04.2019 issued by the Election Commission of India to all CEO's, wherein the Election Commission of India categorically specified that the mechanism involves simple entry of *estimated cumulative percentage turnout* through the web portal or mobile app during the currency of the poll, which is not final or conclusive but is only tentative. It was also categorically stated therein that the said App was available only to display *Estimated Voter Turnout* to all users. It was further stated therein that there is no data entry provision in Voter Turnout App, as it is only meant for dissemination of estimated Voter turnout percentages.

True copy of the Letter bearing D.O. No. 485/Comp/2019(HP), dated 15.04.2019, issued by the Election Commission of India is annexed herewith and marked as ANNEXURE-C/5 at pages

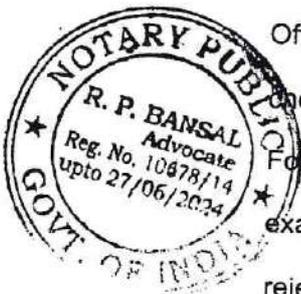
44 to 54

5.6 It is submitted that as per Rule 64 of the Conduct of Election Rules, 1961 the result of parliamentary as well as assembly constituencies are declared by the Returning Officer. The Returning Officer acts as per the prescribed rules and fills the statutory forms and declares the result also in the prescribed form. There is no scope of any deviation from the prescribed rules and forms and the same is also ensured by the checks and balances in the form of presence of election observers and



stakeholders, supplying of copies to stakeholders, public notice, etc.

- 5.7 It is further submitted that the Election Commission of India merely collects the details of the election results already notified in particular constituencies by the Returning Officers and gets the same verified at the state level through CEOs and then compiles and reconciles the data and makes the same available at its website for statistical and other public uses. In order to expedite the availability of such data, some ICT initiatives have been taken and estimated data is now being made available on real time basis to infuse greater transparency in the electoral process, better monitoring of poll, etc. However, the said data is affixed with a disclaimer about its non-statutory nature and therefore, it cannot be taken to be final in nature.
- 5.8 It is submitted that after every election, Index Cards are sent to the Chief Electoral Officers (CEOs) of States/Union Territories where elections are held. The CEOs forward the Index Card to the concerned Returning Officers. The Returning Officers then fill up the election data in physical Index Card as well as in the Suvidha software and send the same to the CEO. The Returning Officers, while filling the information in the Index Cards, cross-check the data with the relevant statutory forms (Form 17-C, Form 21-C, Form 21-D, Form 21-E, etc.). Accordingly, for example, the number of candidates nominated, nominations rejected, withdrawn, and contested should be checked with the report of the Returning Officer and Forms 3-A, 4 and 7-A.



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Similarly, the name of elected candidates are verified from Forms 21-C and 21-E and party affiliation of contesting candidates are verified with Forms 7-A.

5.9 The Returning Officer, after filling up the Index Cards, both in hard copy and in Suvidha software, verifies the data with relevant forms and sends the Index Cards to CEO. The CEO counter-signs the physical Index Card after verifying the data and sends the counter-signed Index Cards to the Election Commission of India after 15 days of completion of election.

5.10 On receipt in the Election Commission of India, the Index Cards are again checked and verified with Statistical Report generated through Suvidha Software. If any errors are noticed in the physical Index Cards or digital data collected through Suvidha software, the same are rectified. The final and corrected Statistical reports are uploaded on the Election Commission of India's website with the following disclaimer:

"This report is based on Index Cards data made available by concerned Returning Officers on the basis of statutory data maintained in the forms. In case of any dispute, the data maintained in the Statutory Forms by the concerned Returning Officer shall prevail".



It is further submitted that the 'Voter Turnout App' is an ICT initiative taken by the Election Commission of India for the first time in the 2019 General Elections to the Lok Sabha to infuse greater transparency in the poll process and to disclose estimated poll statistics to the public on real time basis and,

hence, it was not possible to authenticate the data before publication. Data from the 'Voter Turnout App' was reconciled by the respective Chief Electoral Officers of the States and Union Territories and was thereafter published on the website of the Election Commission of India on 04.06.2019. Authenticated data is made available to the public when the data recorded in statutory forms, i.e. Form 21-E and Election Index Cards, is received, collected and compiled by the Election Commission of India and as such the final compiled data based on Index Cards was uploaded on the website of the Election Commission of India on 11.10.2019.

6. Insofar as the prayer (b) of the Writ Petition under reply is concerned, it is stated that the original copy of these Forms is preserved in respective strong rooms after the elections and a copy is supplied to the candidates/their agents. However, these documents would be accessible by anyone seeking the same by way of appropriate application(s) under Rule 93(2) and (3) of the CER, 1961, which provides as under:-

"Rule 93. Production and inspection of election papers. –

xxxxx

(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.

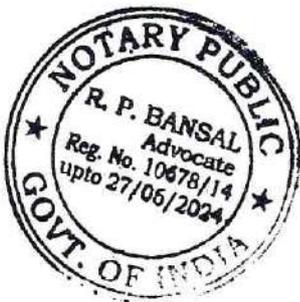


(3) Copies of the returns by the returning officer forwarded under rule 64, or as the case may be, under clause (b) of sub-rule (1) of rule 84 shall be furnished by the returning officer, district election officer, chief election officer or the Election Commission on payment of a fee of two rupees for each copy".

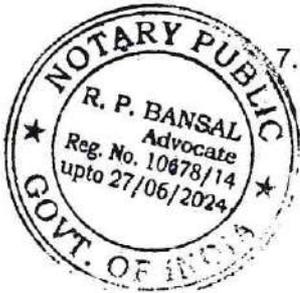
6.1 It is further submitted that the data contained in these Forms are mainly the details of votes polled and the result of counting, which are put in public domain by the Election Commission of India after duly collating and authenticating the figures from all constituencies.

6.2 In this context, it is submitted that the Election Commission of India has prescribed a format for reporting election data and it is referred to as "Index Card". These Index Cards are sent by the Election Commission of India to all District Election Officers (DEOs), through concerned CEOs, who are required to fill the same and verify the same on the basis of the statutory forms. These Index Cards are then sent by respective DEOs to the concerned CEO, who also verify the same and then forward them to the Election Commission of India. Upon receipt of the Index Cards, the Election Commission of India collates the data and this final data is then published on the website. It is further submitted that the data in respect of Form 20 is uploaded by concerned CEOs in their respective website.

True copy of the Screenshot of Form 20 uploaded on the website of CEO, Bihar in respect of General Election 2019 is annexed herewith and marked as ANNEXURE-C/6 at pages 55 to 57 .



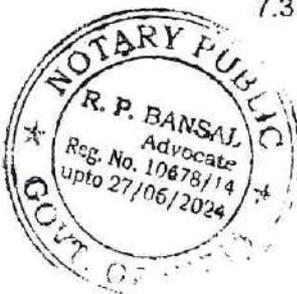
- 6.3 In so far as Form 17-C is concerned, the said form consists of two parts of which Part I is the Account of Votes Recorded and it is prepared polling station wise and bears the signature of the polling agents as well as the Presiding Officer of the concerned polling station whereas Part II is the Result of Counting and this part is signed by the Counting Supervisor and counter-signed by the Returning Officer. In order to appreciate the scale of the election process, it is pertinent to note that in General Elections of 2019, a total of 10,37,848 polling stations were created for conducting elections in 543 Parliamentary Constituencies and an equal number of Form 17-C have been prepared during the General Elections as well.
- 6.4 Therefore, as the final data uploaded by the Election Commission of India on its website is prepared on the basis of the data contained in these statutory forms, the details and content of the said Forms are already in the public domain.
7. Insofar as the prayer (c) of the Writ Petition under reply is concerned, it is submitted that the said prayer of the Petitioners is mistaken and incorrect.
- 7.1 It is submitted that the understanding of the Petitioners that large scale discrepancies had taken place during the declaration of results during the 17th Lok Sabha Elections is grossly erroneous. As already pointed out above, the said prayer has been made by the Petitioners on the ground that there were discrepancies in the voter turnout data available on the 'Voter Turnout App' and the votes ultimately counted. It is reiterated that the voter turnout



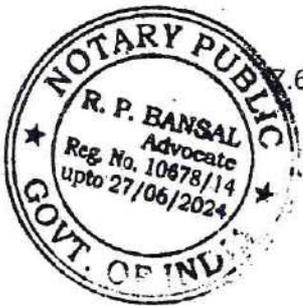
data, as available on the 'Voter Turnout App', is only tentative or provisional in nature whereas results are declared based on the statutorily created mechanisms (Form 17-C, Form 20, Form 21-C, Form 21-D, Form 21-E, etc.).

7.2 It is also submitted that if any discrepancy is noted by the Election Commission of India, appropriate enquiry is always conducted into the same and will be conducted whenever discrepancies are noted or brought to the attention of the Election Commission of India. However, the discrepancies which are being contended by the Petitioners are merely a comparison between a tentative voter turnout data made available by the Election Commission of India on a real-time basis and the verified, conclusive and statutory data of votes counted. The voter turnout data, as already pointed out above, has no statutory backing and there is no statutory requirement to declare the same. Furthermore, it was always stated and clarified by the Election Commission of India that the said data is merely indicative of the trend and is not conclusive.

7.3 It is further submitted that the data on the 'Voter Turnout App' on 28.05.2019 was provisional and not final. Furthermore, the compiled data published on the website of the Election Commission of India on 04.06.2019 was the data of 'Voter Turnout App' reconciled by the respective of Chief Electoral Officers of the States and Union Territories. The final reconciled data based on Index Cards was published on the website of the Election Commission of India only on 11.10.2019.



- 7.4 It is reiterated that the Election Commission of India has prescribed a format for reporting election data and it is referred to as "Index Card". These Index Cards are sent by the Election Commission of India to all District Election Officers (DEOs), through concerned CEOs, who are required to fill the same and verify the same on the basis of the statutory forms. These Index Cards are then sent by respective DEOs to the concerned CEO, who also verify the same and then forward them to the Election Commission of India. Upon receipt of the Index Cards, the Election Commission of India collates the data and this final data is then published on the website. As these forms are to be filled in hand and these documents are required to undergo a three tier scrutiny, this process takes time. Therefore, final authenticated and collated data was published only on 11.10.2019 and the data on the 'Voter Turnout app' was merely provisional in nature.
- 7.5 It is further stated that no discrepancy was noted by the Election Commission of India in the data received in the Index Cards from 542 Parliamentary Constituencies.
- 7.6 The Petitioners have specifically made allegations about data mismatch in the results of the following constituencies:
- (i) Guntur (Andhra)
 - (ii) Vishakhapatnam (Andhra Pradesh)
 - (iii) Anantnag (Jammu and Kashmir)
 - (iv) Khunti (Jharkhand)
 - (v) Koraput (Odisha)
 - (vi) Machhlishahr (Uttar Pradesh)

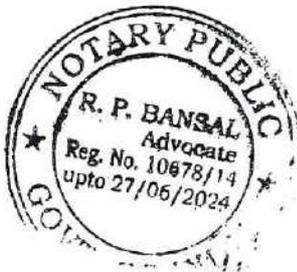


7.7 Insofar as the allegation of voter turnout data mismatch in relation to the aforementioned constituencies is concerned, it may be submitted that the data published on the website of the Election Commission of India is correct and matching with the data in the statutory forms (i.e. Form 21-E and the Election Index Card).

7.8 The factual position regarding the total votes polled in relation to the aforementioned six (6) Parliamentary Constituencies is being annexed herewith in the form of a table. A perusal of the same read with the fact that the data on the 'Voter Turnout App' was provisional in nature clearly reveals that there was/is no discrepancy in relation to the aforementioned six (6) Parliamentary Constituencies either.

True copy of the Table showing the Total Votes Polled in relation to the Parliamentary Constituencies of Guntur, Visakhapatnam, Anantnag, Khunti, Koraput and Machhlishahris annexed herewith and marked as **ANNEXURE-C/7** at pages **58 to 60**

7.9 In case of Anantnag, this Parliamentary Constituencies is one of the Parliamentary Constituencies where migrant voters have cast their votes from different parts of the country. In the common format of the data posted on the website, there is no separate column for migrant voters. In case of Anantnag, the number of the EVM votes of migrant voters has been included in the column meant for postal voters. Otherwise, data of Anantnag Parliamentary Constituencies as reported on the website of the Election Commission of India is correct and



matches with the data in the Index Card. The total EVM votes for Anantnag as per the Petitioners (in the table in the present Writ Petition) are 114683. Adding the number of migrant voters (i.e. 8166) to the same, the total EVM vote in respect of Anantnag Parliamentary Constituency is 122849, which is corroborated by the aforementioned table annexed herein as Annexure-C/4.

7.10 Insofar as the decrease in Voter Turnout Data for Anantnag Parliamentary Constituency is concerned, it is reiterated that the data on Voter Turnout App was provisional and when the final authenticated data became available to Election Commission of India, the same was uploaded on its website.

7.11 Moreover, the Election Commission of India had already published the reconciled and final data on its website way before the date of filing of the present Writ Petition and therefore, reliance being placed on earlier data, which came with an appropriate disclaimer, is nothing but a misguided and ill-intentioned attempt to challenge and question the trustworthiness of the election results. It is disheartening to see the present Petitioners resort to such tactics, despite being aware about the statutory provisions and rules that govern the election mechanism.

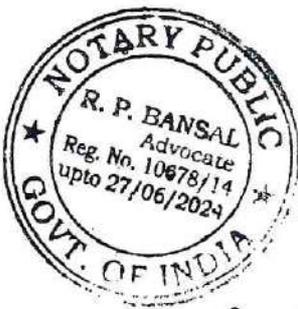


Insofar as the prayer (d) of the Writ Petition under reply is concerned, it is submitted that the said prayer of the Petitioners is misconceived. It is stated that the Petitioners have suggested in the Writ Petition under reply that the Election Commission of India should be directed to evolve a procedure or mechanism by

creating a separate department for investigating the discrepancies in election data and for responding to electors queries on the same. In so far as the prayer of issuance of writ for creation of a department is concerned, it may be submitted that the Election Commission of India is an independent Constitutional body which takes prompt action whenever and wherever need arises, and the Election Commission of India would take all necessary measures to investigate the discrepancies, if the need arises. However, as demonstrated and elaborated hereinabove, since there is no real discrepancy in the poll data, there is no need for any large-scale inquiry. In fact, the said prayer of the Petitioners is based on the misconceived ground or assumption that there were large-scale discrepancies in the results of the 2019 General Elections to the Lok Sabha. The Answering Respondent has already clarified hereinabove that the same was not the case.

- 8.1 In this context, it is once again reiterated that the final and corrected Statistical reports are uploaded on the website of the Election Commission of India with the following disclaimer:

"This report is based on Index Cards data made available by concerned Returning Officers on the basis of statutory data maintained in the forms. In case of any dispute, the data maintained in the Statutory Forms by the concerned Returning Officer shall prevail".

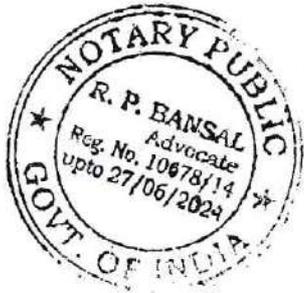


9. In the above background, it is submitted that the Election Commission of India is always open to bringing about any

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improvements that would further the cause of free and fair elections. It was in this light that the Election Commission of India had introduced the 'Voter Turnout App' to simplify the data entry of two-hourly voter turnout and help in timely dissemination of the information on a real-time basis. Insofar as the grievances and reliefs prayed for in the instant writ petition are concerned, the same are misconceived and misleading. The instant writ petition is devoid of facts and runs against the statutory scheme of the conduct of elections, for reasons already elaborated hereinabove.

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



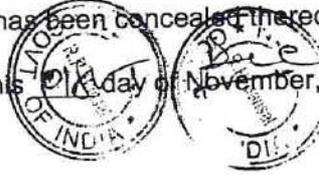
DEPONENT

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

VERIFICATION

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

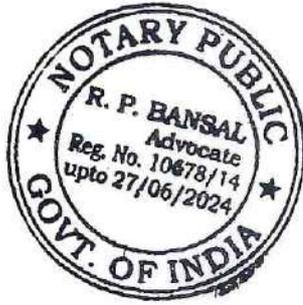
Verified at New Delhi, on this 01st day of November, 2021.



[Signature]
Identified by

[Signature]
DEPONENT

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



ATTESTED
Notary Public, Delhi
(As Presented)
[Signature]
01/11/2021

ANNEXURE - C1
Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. ECI/PN/61/2019

Dated: 1st June, 2019

Press Note

ECI PRESS RELEASE ON VOTER TURNOUT DATA

Two categories of votes are counted to arrive at the final result of General Elections 2019, first is Votes polled in EVM by General voters from over 91.1 Crores electors at Polling Stations and second category is Postal Ballots returned from over 18 Lakh Service voters and also from the polling personnel deployed for the poll duties, outside their Parliament Constituency in case of single elections and all polling personnel in case of simultaneous elections as was the case recently when besides the election to 17th Lok Sabha, the Assembly elections for four states namely Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim to Lok Sabha and Vidhan Sabha also went for poll.

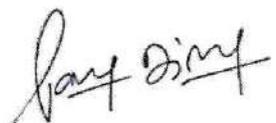
The provisional voter turnout data is displayed as **percentage figure** on Election Commission of India (ECI) Web site and Voter Helpline Mobile App on the poll day as uploaded by the Returning Officer(RO)/Assistant Returning Officer (ARO) based on the approximate percentage turnout figures obtained from Sector magistrates who in-turn get it periodically over phone/ in person from about 10 Presiding officers. After scrutiny of documents by the RO, **provisional number of General voters' turnout** is compiled and uploaded on the ECI website based on the Polling Station wise tentative voter turnout data reported by the Presiding Officers, with male/female voter breakup, added together to get the PC wise provisional voter turnout. All these figures are provisional, based on estimates which are subject to change as is made clear from the disclaimer on the website that "**the data is estimated and subject to change**". *This provisional voter turnout data is made available by ROs on regular intervals, which is collated by Chief Electoral Officers and ECI on the web site for wider dissemination and to ensure transparency in information dissemination.*

At the time of counting, postal ballots received up to 8 AM on Counting day are first pre-counted and valid Postal ballots are then taken up for after actual counting for both of the categories a. the Service voters and b. the polling personnel deployed for the poll duties. The Postal ballot count is added to the EVM General voters' count to give the final votes polled in every PC and the votes secured candidate wise and the winning candidate is given return certificate in **form 21E** by the Returning Officers.

Based on both the EVM votes and Postal Ballots counted, the Returning Officer prepares **Form 21E** and **Index Card** in which the breakup of voter turnout, including tendered votes for the Constituency, is tallied to get the final voter turnout for each Constituency. Form 21E is the return of election as specified under rule 64 of the Conduct of Election Rules, 1961, for which the sole authority is the Returning Officer concerned. Also, INDEX CARD in use since last over five decades, is prepared by the Returning officer to furnish the voting data (including postal ballot data), *polled and counted*, after the declaration of the Result, which becomes the final authenticated data for all purposes including analysis and research. For General Elections 2019, Commission has already directed all the Returning Officers on 26th March 2019 to send the INDEX CARDS within 15 days of the declaration of the Result.

In earlier elections, it used to take months to collect such authenticated election data from all the ROs. Even in 2014, it took between 2 to 3 months after the declaration of results to collect and collate such data in authenticated form. Due to the innovative IT initiatives taken by the Commission this time, the final data on votes counted has been made available within a few days of declaration of results. The reconciliation of voters' data for all PCs have been completed in all states and the Index Forms of all 542 PCs are expected to reach ECI from Returning Officers shortly, which after compilation, shall be immediately be made Public by the Election Commission.

As made out clear in above paras, the provisional voter turnout data reported on ECI Website is only the tentative number of voters and not the final nos. therefore it is incorrect inference to find Ghost voters when there are none.


(PAWAN DIWAN)
Under Secretary

// TRUE COPY //

ELECTION COMMISSION OF INDIA

ANNEXURE C/2

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

38

No. 51/8/7/2019-EMPS

Dated: 21st May, 2019

To

The Chief Electoral Officers of
All States and Union Territories.

Subject: 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- counting of votes thereof and mismatch in Mandatory Verification process- regarding.

Sir,

In continuation of existing instructions on the captioned subject, I am directed to state that during the past and ongoing General Elections to Lok Sabha and simultaneous elections to State Legislative Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim, 2019, there have been some instances of human error in properly deleting the Mock poll data from the Control Units and removal of mock-poll slips from the VVPAT at some polling stations. In some cases, the Presiding Officers either failed to delete the data of mock poll from the Control Unit or failed to remove the VVPAT paper slips pertaining to mock poll from the drop box of the VVPAT.

2. The Commission has considered the matter and directed that the following procedure shall be adopted during counting in all such cases:

a) In all 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), the concerned Control Unit (s) shall be kept aside during counting of votes 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. The list of all pre-identified polling stations shall be shared with the contesting candidates before the commencement of process of counting.

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 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 that particular round. The exact details and reasons for such a scenario shall be explained by the RO/ARO to the contesting candidates/election agents/counting agents present in the counting hall.

c) In all cases falling under (a) and (b) above, the corresponding VVPATs shall be counted for these polling stations after completing all counting rounds with CUs.

3. 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 per para 2 (a) & (b), 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 per 2 (a) and (b) above, the counting of the respective VVPAT paper slips only 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.

(ii) Even in cases where VVPAT paper slips pertaining mock poll have not been taken out from the drop box of the VVPAT, still 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.

(iii) The VVPAT slip count result of all these polling stations shall be added to the candidate-wise tally and the final result compiled.

3. Since, in the aforesaid cases the Control Units(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.

4. **Mandatory Verification of VVPAT Slips:**

a) The purpose of mandatory counting and matching result of VVPATs and CUs from 5 randomly selected polling stations is to audit and test if any EVM records votes differently vis-a-vis the slips printed by the corresponding VVPAT attached to it. However, there are multiple scenarios owing to human error or non-adherence to the extant instructions by the polling staff

during actual polls in which the total VVPAT Slip count may vary from the CU count. A few illustrative scenarios are cases where VVPAT slips are not fully removed from the VVPAT after mock poll or CRC not done in CU after mock poll or other such cases of human error.

b) In case there is any mismatch between electronic candidate-wise result of the Control Unit and the candidate-wise VVPAT slips manual count, recounting of the VVPAT slips of that particular VVPAT shall be conducted till the recount is tallied with the EVM count or one of the previous VVPAT slips count. However, in all such cases before taking up the recount, VVPAT slips pertaining to the candidates whose result of CU count and VVPAT count is not tallying, counting supervisor shall recheck the election symbols of each VVPAT slip carefully of each bundle one-by-one and ensure that all bundles contain the VVPAT slip of the candidate concerned only. Recount shall be taken up, only after following the above process.

c) Even after following the above process, if the electronic count of the Control Unit and VVPAT slips manual count still do not tally, the VVPAT slip count will prevail as per Rule 56D(4)(b) of the Conduct of Elections Rules, 1961 and result sheet shall be amended and final result announced accordingly.

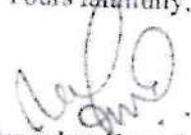
d) Detailed report in respect of all cases of mandatory VVPAT Slip verification, as well as VVPAT slip count done under Rule 56 D shall be submitted to the Commission through the CEO immediately after the completion of the counting process in the prescribed format.

e) A thorough analysis/enquiry shall be conducted in due course in all cases where the VVPAT slip count failed to tally with the electronic result of the CU and the exact reasons, technological, procedural, systemic, human error or lapses in compliance shall be ascertained and appropriate action(s) taken by the Commission.

5. Further, it must be ensured that the Serial no. of all EVMs used for polling shall be counter-checked by counting agents and a certificate to this extent shall be obtained from them at the time of counting.

6. The above instructions shall be strictly adhered to and brought to the notice of all concerned, including the Counting Observers.

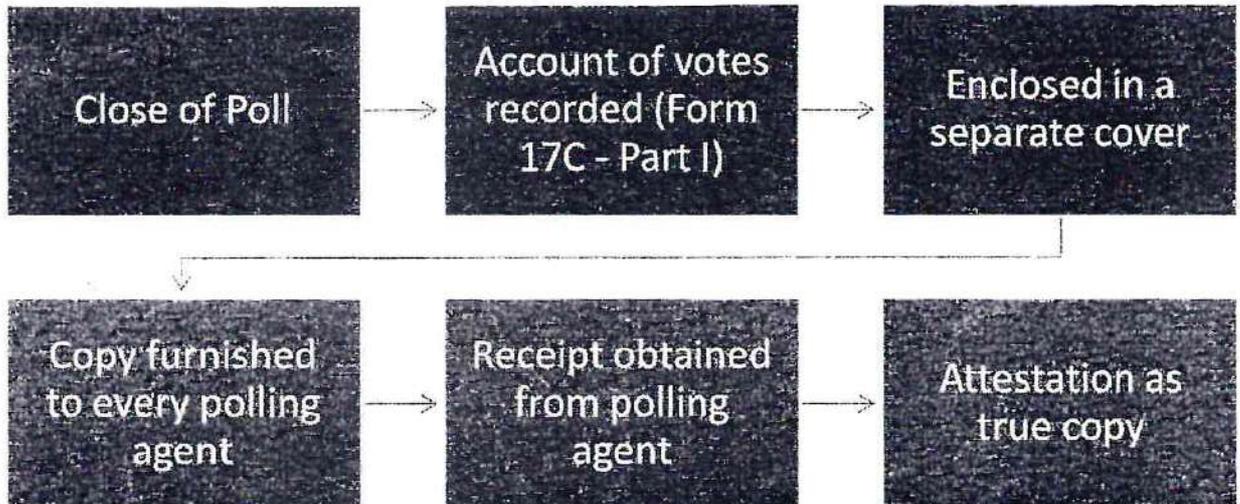
Yours faithfully,


(Madhusudan Gupta)
Under Secretary

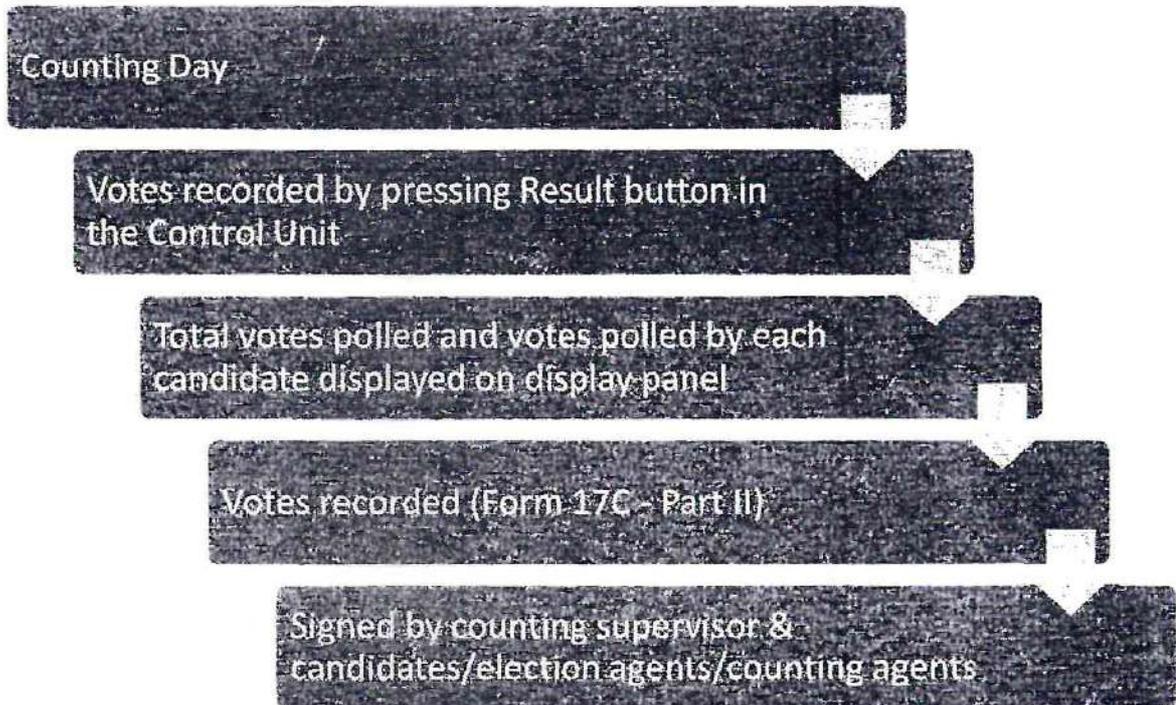
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Polling Day: Form 17C (Part-I)

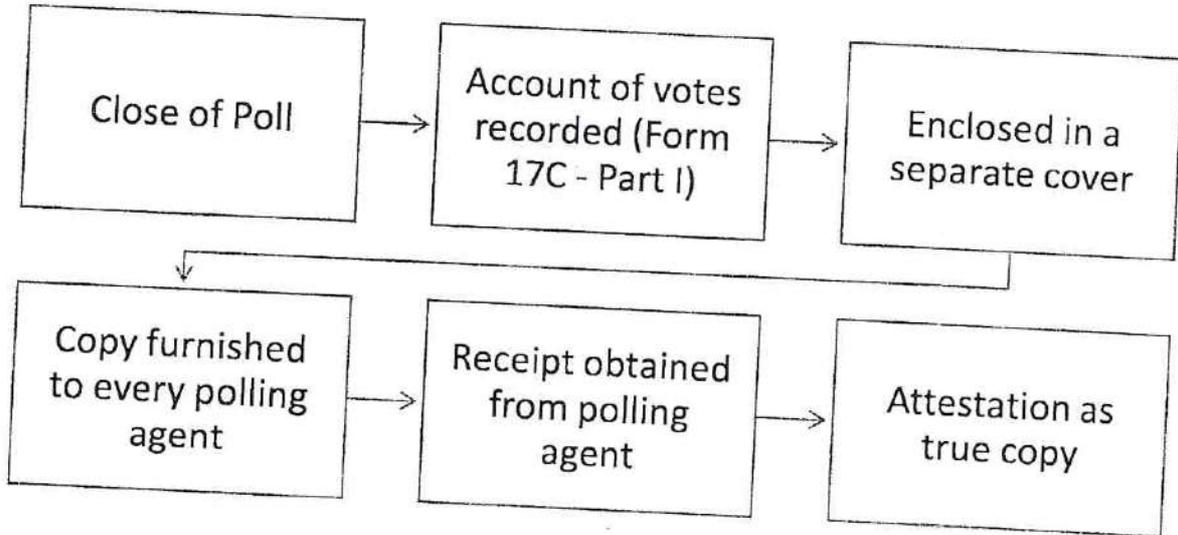
ANNEXURE C/3



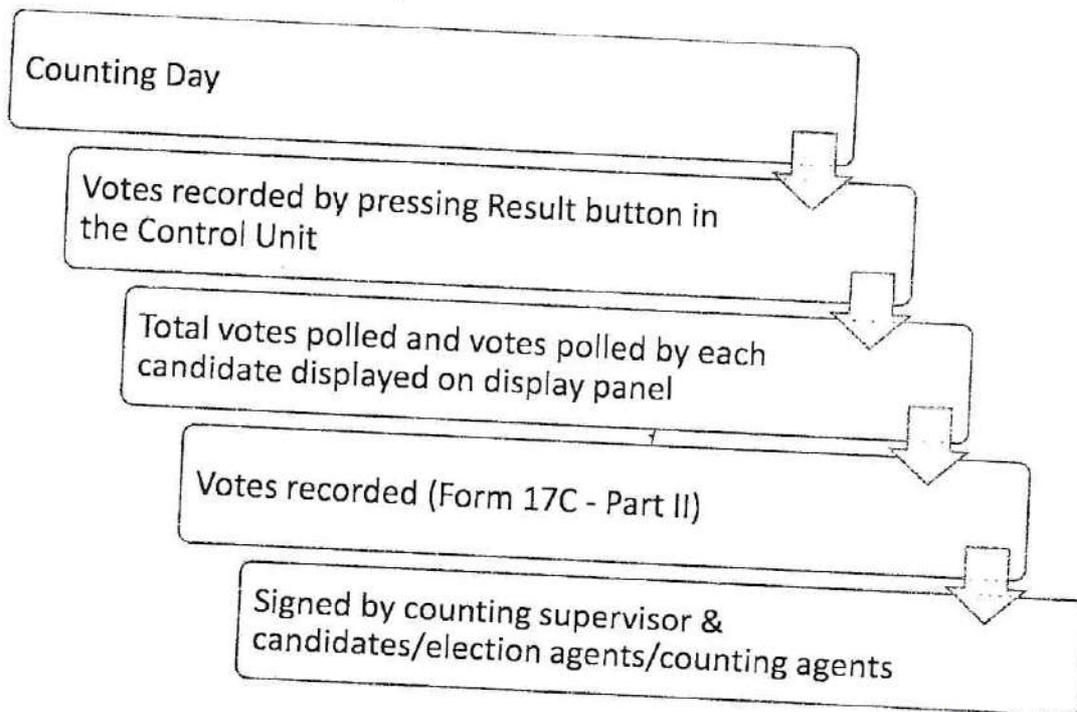
Counting Day: Form 17C (Part-II)



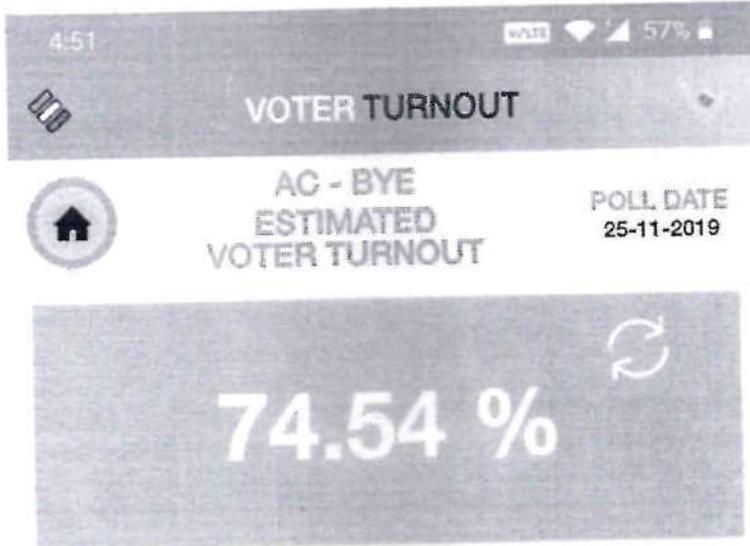
Polling Day: Form 17C (Part-I)



Counting Day: Form 17C (Part-II)



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ANNEXURE - C/4

43

STATE WISE REPORT

State	Estimated Turnout
West Bengal	78.44 %
Uttarakhand	47.48 %

DISCLAIMER

This provisional voter turnout data is made available by ROs on regular intervals, which is collated by Chief Electoral Officers and ECI for wider dissemination and to ensure transparency in information dissemination.



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डॉ. संदीप सक्सेना
उप निर्वाचन आयुक्त
DR. SANDEEP SAXENA
Deputy Election Commissioner



ANNEXURE - C/5

भारत निर्वाचन आयोग
Election Commission of India

D.O. No.485/Comp/2019(HP)
Dated 15th April, 2019

Dear CEOs,

You are aware that the Election Commission of India very closely monitors the electoral turnout during the poll day. The information regarding 'Voter Turnout' is widely disseminated during the Poll day to the media and the general public. On the basis of the feedback during the 1st phase of the Lok Sabha elections held on 11th April 2019, where poll turnout was not promptly updated by ROs/AROs, the ECI has now revamped the mechanism to collect the poll day turnout.

2. The mechanism involves simple entry of estimated cumulative percentage turnout through the web portal or mobile app during the currency of the poll. These entries are to be done mandatorily during a designated time slot by the Assistant Returning Officers for the AC segment of the PC from within the New Suvidha Portal. After the end of the poll, New Suvidha Portal allows entry of detailed turnout report, both Lok Sabha and Assembly Election-wise, which includes male, female and other gender numbers against the total number of electors and comparison with corresponding figures of GE 2014 turnout is also done.
3. This new mechanism will simplify the data entry of two-hourly voter turnout and help in timely dissemination of the information on a real-time basis. The step-by-step process, the expected reports based on the data entry and the detailed guidelines are attached herewith, which should be brought to the notice of all concerned urgently.
4. The AROs & ROs should be clearly directed that they are personally held responsible for Voter Turnout data entry. Once the timeslot is passed, then the responsibility of data entry will be that of Returning Officer and in-turn the CEO. It should also be ensured that there is sufficient manpower, communication mechanism from Polling Stations and network availability.
5. As the timely entry of Voter Turnout is vital, I would like you to take special efforts to ensure that Voter Turnout data entry by every ARO is timely and complete starting from Phase-II of Polls on 18th April, 2019 in 97 PCs of 13 States/UTs, 35 ACs of Odisha and in ACs going for bye-elections on that day.

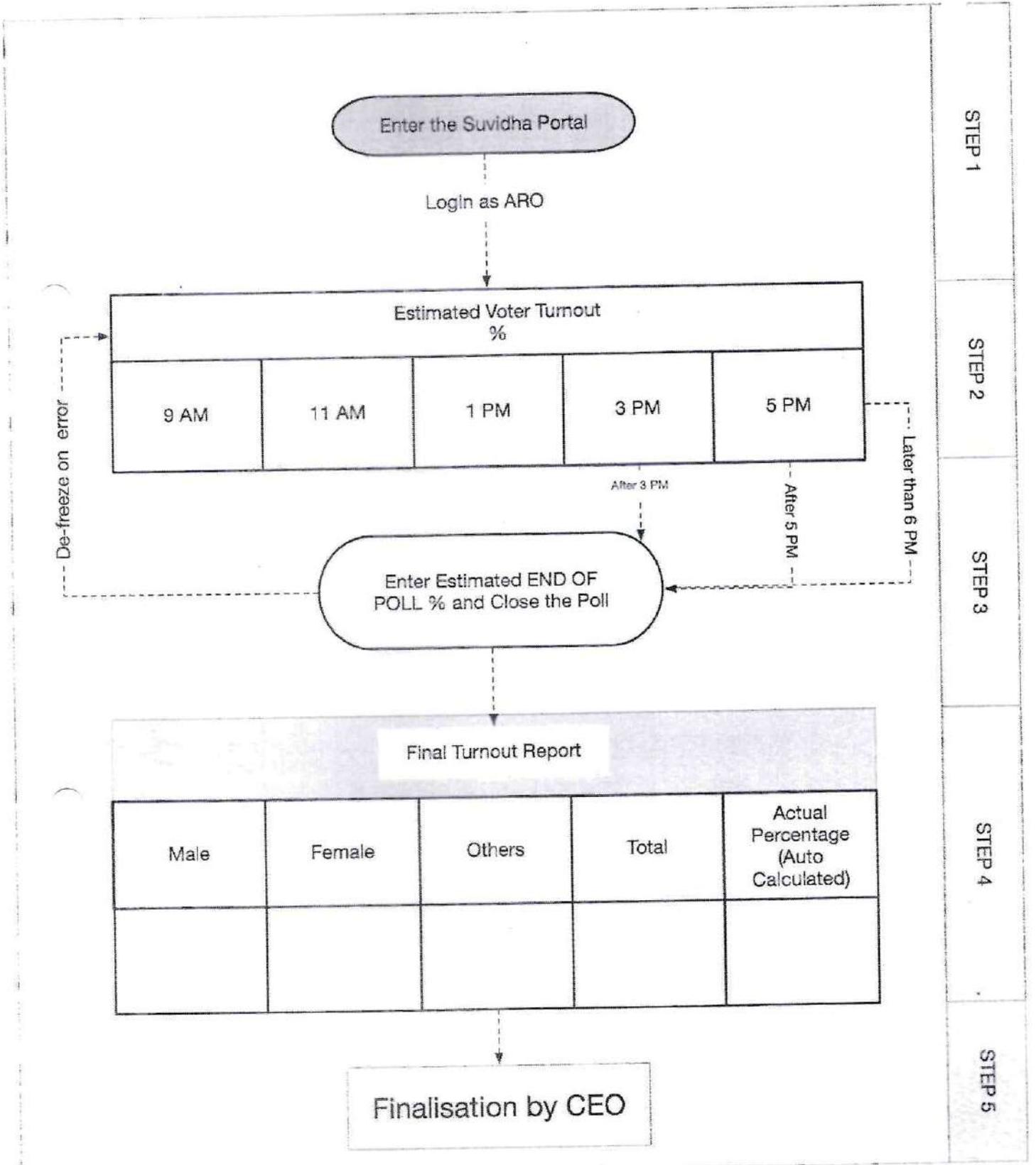
with regards

Yours sincerely,

(Dr. Sandeep Saxena)

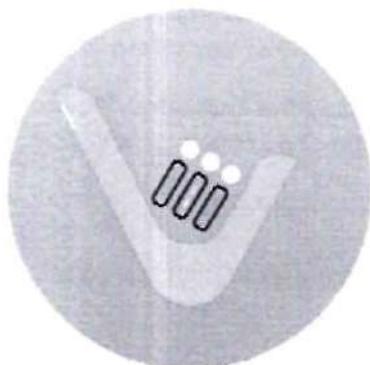
15.4.19

The Chief Electoral Officers
of all States/UTs



Voter Turnout App

ELECTION COMMISSION OF INDIA



The Election Commission of India has launched a new application for poll day turnout reporting. This application is called as 'Voter Turnout' Application. You are aware that the Election Commission of India has been serious regarding Electoral participation during the poll day. The information regarding 'Voter Turnout' is widely disseminated during the Poll day.

The mechanism involves simple entry of estimated cumulative percentage turnout through the web or mobile app during the currency of the poll. These entries are to be done mandatorily on a designated time slot by the Assistant Returning Officers from within the New Suvidha Portal. After the end of the poll, New Suvidha Portal allows entry of detailed turnout report both Lok Sabha and Assembly Election-wise, which includes Male, Female, Others gender numbers against the total number of electors.

This new mechanism will simplify the data entry of two-hourly voter turnout and help in timely dissemination of the information on a real-time basis. The detailed guidelines are attached which should be brought to the notice of all concerned urgently.

This application has the following components & Modules

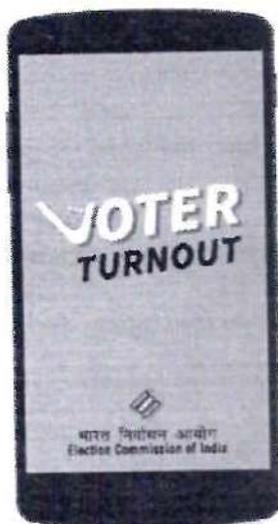
1. Components

1. Suvidha Portal for the data entry of the estimated Voter turnout and final Voter Turnout <https://suvidha.eci.gov.in>
2. 'Suvidha Admin' Mobile App for data entry of the estimated Poll Turnout
3. 'Voter Turnout' Android Mobile app for estimated Voter Turnout Reporting to Citizens

The application has two modules

- Estimated Voter Turnout (Combined together for PC and AC)
- Final Detailed Voter Turnout separately for PC and AC

2. Voter Turnout App



2.1 This is android only mobile app available for displaying of Estimated Voter Turnout to all users. The application is available from the Google Play Store for free download by any citizen.

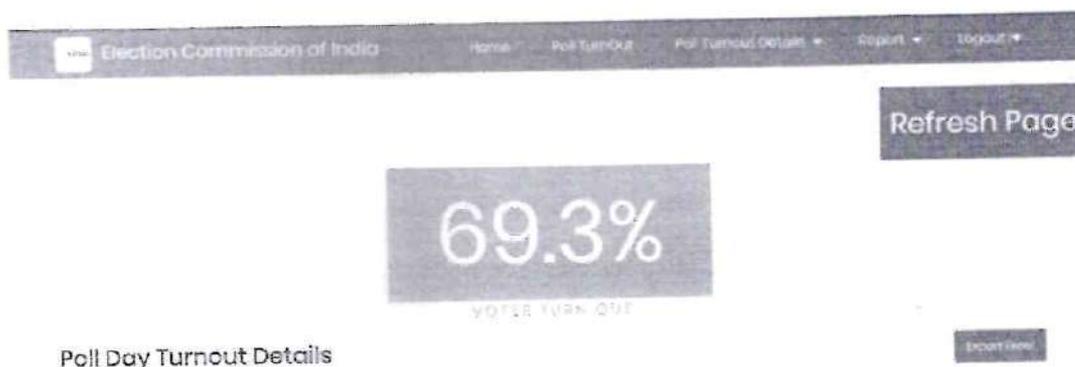
2.2 The application is designed to show the Estimated Voter Turnout for each state which can be drilled down to Parliamentary Constituency level and also to Assembly Constituency level.

2.3. The information is displayed in the real-time from the Voter Turnout Suvridha Server.

2.4 There is no data entry provision in Voter Turnout App, as it is only meant for the dissemination of the estimated Voter turnout percentages.

2.5 After the end of the Poll, when the ARO enters the actual detailed turnout, the application then will display the final Voter Turnout. The results of the final voter turnout are only displayed when the CEO finalises it.

3. Estimated Voter Turnout Entry (Suvridha Web Portal)



3.1 During the currency of the Poll during Poll Day, each ARO of PC will enter the two hourly cumulative poll percentage. In case of simultaneous elections, no separate data entry of RO AC need to be done, and entry by ARO PC will be considered for both during estimated turnout. This will be based on the estimation done by various AROs. This information will be an approximation only, however, the percentage should be as accurate as possible. There will not be a separate entry for Lok Sabha and Assembly elections in Estimated Voter Turnout Entry.

3.2 The entry into the module is mandatory by each ARO on every two hourly intervals. The following will be the slot available for data entry

1. 9 AM
2. 11 AM
3. 1 PM
4. 3 PM
5. 5 PM
6. END OF POLL

3.3 Following are the roles and responsibilities

Official	Role
ARO PC / RO AC	Data entry as per the time slot
RO PC	Ensuring data entry on allotted time slot Generation of Report
CEO	Ensuring data entry on allotted time slot Generation of report
ECI	Generation of Report

3.4 Each ARO is required to make the entries of estimated Voter Turnout through the Suvidha Application or optionally through the 'Suvidha Admin' Android Application. The data will be allowed to be entered in the following timeslots

Poll Turnout Report Timings	Data entry time	Time Allowed (Entry is frozen after the time allotted)
9 AM Report	7.30 AM to 9.30 AM	9.30 AM
11 AM Report	9.30 AM to 11.30 AM	11.30 AM
1 PM Report	11.30 AM to 1.30 PM	1.30 PM
3 PM Report	01.30 PM to 3.30 PM	03.30 PM
5 PM Report	04.30 PM to 5.30 PM	05.30 PM
CLOSE OF POLL	Anytime after 3 PM	Not Frozen

Estimated Turnout Entry Schedule and restrictions

3.5 If the entry is missed based upon the above schedule, no entry will be allowed on that missed time slot. However, the next entry can be made. As the numbers entered are cumulative, the missed entry will not affect the total turnout. After the 3 PM report time slot is over, CLOSE OF POLL button will be enabled. Anytime after 3 PM the ARO can close the poll by entering the estimated turnout %. The remaining time slot i.e. 5 PM entry will be disabled if the CLOSE OF POLL is enabled. However, ARO can de-freeze the CLOSE OF POLL and the entry for 5 PM will again be available for entry. The CLOSE OF POLL percent entry is never timeout and therefore, the entry can be edited anytime afterwards.

3.6 The Estimated Turnout is the estimated percentage entered by the ARO, and the report displayed is an aggregation of the percentages entered by the AROs (and which also includes the missed entries). However, the final turnout percentage may differ from the estimated turnout on account of calculation errors at ARO level, late information from some polling stations and the broad estimation being used to display the estimated turnout report. Therefore, the estimated turnout will be treated as dynamic entries subject to change and will not be the basis of the final turnout percentages calculations.

3.7 Returning Officer and CEOs will take notice of the missed entry and appropriate corrective action should be taken to ensure strict compliance of data entry.

4. Estimated Voter Turnout Entry (Suvidha Admin App)



Suvidha Portal.

4.1 Suvidha Admin Application is an additional option for ARO PC to enter the estimated Voter Turnout on a two-hourly basis as per the above-mentioned timeslot. The data entry can be done from the Suvidha Portal by the ARO PC, optionally the data entry can also be done/edited from the convenience of the mobile app.

4.2 The app is available in the google play store by the name 'SUVIDHA ADMIN APP'.

4.3 The application works by the entry of user name and password. The Username and Password are the same as that of Suvidha Portal.

4.4 This application will only work with ARO PC / RO AC for making the data entry, and only those user who is in the Suvidha Portal can only use this application.

4.5 Returning Officer PC can also login to the application by using the same credentials as that of

4.6 The interface provides an option for entering the cumulative poll turnout percentage which will be sent to the central suvidha server. Each responsible officer

for entering the data shall get the data from each Polling Station under their jurisdiction and calculate the percentage of turnout.

4.7 The Suvridha Admin Application does not provide for entry of data by Presiding Officer / Sector Magistrate/others. Only it is meant for data entry at the level of ARO PC or the RO AC.

4.8 Once the data is entered, it can be edited until the time slot completion. For example, the data entered at 9.15 AM can be edited till 9.30 AM

4.9 Once the timeslot is passed, the data of the previous slots will become un-editable.



4.10. The ARO PC or the RO AC can enter the estimated poll percentage for the next slot and the next slot will only open when the previous slot time is over. For example, the 11 PM slot will open only after 9.30 AM.

4.11 There will be a visible timer for the available timeslot for the data entry.

4.12 The app will send a reminder to the user on various time to enter the data

4.13 If the data is entered in the suvidha web application, the mobile app will display the percentage entered in the web application and the same can also be edited till the available timeslot.

4.14 This way ARO / RO can enter as well as monitor the data entry status from the mobile app. As the data entered by ARO are reflected in the 'Voter

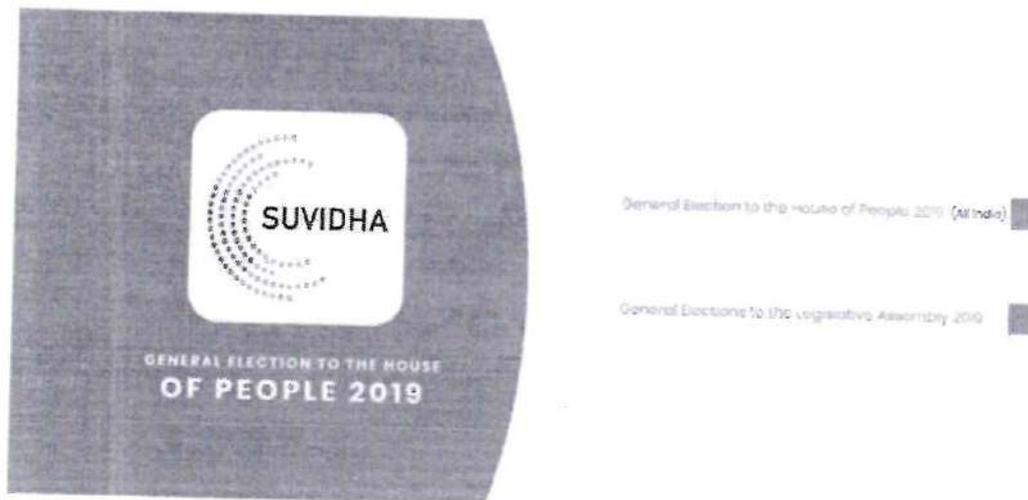
Turnout' public app, the ARO / RO should be careful while entering the data and ensure that near correct data is entered.

6.5 The Non-entry will be taken seriously by the commission, and each ARO PC / RO AC will have to give the written explanation as to why the data entry could not be done for each timeslot. The respective ROs will send a detailed explanation and reason/action taken on non-entry to respective CEOs.

6.6 There will be a single source of truth and no parallel reporting system should be created which has the difference of values than Suvidha Turnout Application.

6.7 The Commission shall only take the Estimated turnout from the Suvidha Portal.

7. Final Turnout Report



7.1 Final Turnout report is to be entered only on the web portal of Suvidha here <https://suvidha.eci.gov.in> by ARO PC / RO AC. Final Turnout report is the data entry of detailed Voter turnout with details such as Make, Female, Others entry. Final Voter Turnout is available on clicking of 'End of Poll' from Estimated Voter Turnout Entry page.

7.2 The report is calculated from the total electors fetched from the ERONET. You can edit the elector's numbers if there are any discrepancies. This set of data should be entered and verified one day before the start of the poll.

7.3 In case of simultaneous elections, the data entry is to be done for both Parliamentary Elections and Assembly Elections. For making the entry of Assembly constituency, the ARO should log in to General Elections to the Legislative Assembly 2019 as shown in the above screen.

7.4 The detailed information each AC segment and AC wise need to be entered by the ARO PC / RO AC

8.2 The reports can be taken out AC wise and PC wise containing the actual electors and the voter turnout.

8.3 In case of Assembly elections, the report can be taken AC wise and District wise.

8.4 The report so taken from the Suvidha Portal will be considered as final.

9. Support

9.1 The technical support will be provided by the ECI ICT Division. A ticket can be created from the support desk located here <https://support.ecitech.in>.

9.2 Appropriate training and handholding should be provided by the SLMTs at the respective CEO office.

9.3 The above instructions and how to do guide should be widely circulated and brought to the notice of all concerned in a timebound manner.

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Form-20

► Assembly/Lok Sabha Election, Form 20

- ❖ Assembly Bye Election, 2021
- ❖ Assembly General Election, 2020.
- ❖ Bye Election-2020.
- ❖ Bye Election-2019.
- ❖ Form-20 Lok Sabha General Election 2019
- ❖ Bye Election-2018.
- ❖ Assembly-General Election 2015.
- ❖ Assembly-bye Election, july-Aug 2014.
- ❖ Lok Sabha General Election, 2014.
- ❖ 131-Kalyanpur Assembly Bye-Election 2013.
- ❖ Assembly General Election, 2010
- ❖ Lok Sabha General Election, 2009
- ❖ Assembly General Election Oct-Nov, 2005
- ❖ Assembly General Election Feb-March, 2005
- ❖ Lok Sabha General Election, 2004

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Lok Sabha General Election 2019, PC wise Result-Form20 Reports

S. No	Parliament Constituency
1	Valmikinagar
2	Paschim Champaran
3	Purvi Champaran
4	Sheohar
5	Sitamarhi
6	Madhubani
7	Jhanjharpur
8	Supaul
9	Araria
10	Kishanganj
11	Katihar
12	Purnia
13	Madhepura
14	Darbhanga
15	Muzaffarpur
16	Vaishali
17	Gopalganj
18	Siwan
19	Maharanjganj
20	Saran
21	Hajipur
22	Ujiarpur
23	Samastipur
24	Begusarai
25	Khagaria
26	Bhagalpur
27	Banka
28	Munger
29	Nalanda
30	Patna Sahib
31	Patliputra
32	Arrah
33	Buxar
34	Sasaram
35	Karakat
36	Jehanabad
37	Aurangabad
38	Gaya
39	Nawada
40	Jamui



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ANNEXURE- C/7

Table 1

PC	Total voters turned up for voting (III.4 of Index Card) (2+3)	Valid EVM vote (IV.7 of Index Card)	NOTA vote in EVM (IV.5 of Index Card)	Total EVM vote (As stated in the Petition of ADR)
	1	2	3	4
GUNTUR	1346210	1340238	5972	1346210
VISAKHAPATANAM	1233026	1216400	16626	1233026
ANANTNAG	114683*	122140	709	122849
KHUNTI	830426	809190	21236	830426
KORAPUT	1076372	1039847	36525	1076372
MACHHLISHAHR	1032111	1021299	10812	1032111

**Excludes the number of migrant voters (8166) who have voted in notified camps.*

Table 2

PC	Total postal votes (2+3) (i.e.V.4+ V.6 of Index Card). (In case of Anantnag : 2+3+4+5)	Total valid postal votes** (V.6 of Index Card)	Postal votes polled for NOTA (V.4 of Index Card)	Valid migrant vote (VIII of Index Card of Anantnag)#	Migrant NOTA votes (VIII of Index Card of Anantnag)#	Total (2+3) (In case of Anantnag: 2+3+4+5)
	1	2	3	4	5	6
GUNTUR	5264	5230	34	0	0	5264
VISAKHAP ATANAM	6728	6708	20	0	0	6728
ANANTNA G	10213***	1819	228	8153	13	10213
KHUNTI	1951	1942	9	0	0	1951
KORAPUT	3789	3753	36	0	0	3789
MACHHLIS HAHR	2814	2796	18	0	0	2814

