

PIL in the Supreme Court on mechanism of declaration of election results by the Election Commission of India, voter discrepancies:

On 4th November, 2019, Association for Democratic Reforms (ADR) and Common Cause filed a petition in the Supreme Court of India to seek directions from the Supreme Court to order the Election Commission of India to completely stop the practice of announcing election results based on provisional and estimated data, prior to an actual and accurate reconciliation of data. Even for Lok Sabha 2019 Elections, the Election Commission had announced election results in all constituencies on 23rd May 2019, based on estimated data. This is verified by Election Commission's Press Note dated 01 June 2019 that stated **"...the final data on votes counted has been made available within a few days of declaration of results...."**

My Voter turnout App: During Lok Sabha General Elections 2019, the Election Commission of India had for the first time introduced a real-time reporting of the voter turnout for every single constituency that went to polls through a mobile app called the ***"My Voter turnout App"***. The said app displayed the number of voters at every single constituency that went to polls. While for the first 6 phases of the election the app displayed the exact number of voters, in the last phase i.e. the 7th phase of voting only percentage figures were given and previous data was removed by the Election Commission. Moreover, as per the research conducted by a team of experts and ADR, serious discrepancies were found between the number of voters in different constituencies (i.e. the voter turnout data collated and provided by the Election Commission) and the number of votes counted. The Election Commission has so far failed to give any reasonable explanation on mismatch and the clean-up of certain data from its website. Even [the Manual on Conduct of Elections with EVM-VVPAT released by Election Commission in February, 2019](#) did not provide for a situation where there are discrepancies during the counting process. This indeed has caused serious doubt in the mind of citizens about the entire process of counting and result declaration.

It is not only a legal requirement of the Election Commission of India to declare final election results based on actual genuine data but it is also a constitutional duty as envisaged under Article 324 read with Article 19 (1) (a) of the Indian Constitution. There cannot be a valid justification in declaring the election results before releasing the final and authentic data on vote count. [In order to uphold and preserve the sanctity of elections, it is undeniably imperative that election results are accurate. To](#)

maintain the veracity of elections and to uphold voter's confidence an accurate election result should be given importance over a few days of delay. [The citizens must also know that the results are accurate Election results which rely on mere estimates and assumptions and without any statutory backing defeats the very purpose of elections.](#) Therefore, based on our petition, **on 13th December, 2019, the Supreme Court of India had issued notices to the Election Commission of India and Union of India.**

ADR's petition seeks following relief from the Supreme Court of India:

1. Election Commission should conduct actual and accurate reconciliation of data before the declaration of the final result of any election.
2. Election Commission of India should provide the following information in the public domain for the 2019 Lok Sabha elections and for all future elections: statutory forms 17C (Account and number of votes recorded) , Form 20 (Final Result Sheet) , Form 21C, 21D (the candidate to whom the largest number of valid votes have been given), Form 21 E (return of election) and index cards (contains details and break up of voter turnout)
3. Election Commission of India should investigate the discrepancies which had taken place in the 17th Lok Sabha election results.
4. Election Commission of India should formulate an efficient, transparent, rational and robust procedure/mechanism by creating a separate department/grievance cell for investigation of discrepancies in election data for all future elections.

Application filed on 27th February, 2020:

An application was filed against the 'mysterious rush and urgency' shown by the Election Commission of India by destroying the VVPAT slips used in 2019 Lok Sabha elections in ***just four months after the results were declared.*** This was in contravention of the rules prescribed under the Conduct of Election Rules, 1961. **Rule 94 (b) of the Conduct of Elections Rules, 1961** states that, "**the used or printed slips in any election shall be retained for one year from the date of declaration of the results of the election. and shall thereafter be destroyed.**" The Election Commission of India in its another letter (***Letter No. 51/8/EVM/2019-EMP***) to all the CEOs of States and Union Territories dated 23rd September, 2019 had clearly instructed that VVPAT slips pertaining to mock poll and actual poll ***cannot be disposed of if any election petition or court case is pending in the competent court and the paper slips shall be kept in the custody of District Election Officers till the final disposal of the Election petition or Court case.*** ADR's petition has been pending in the Supreme Court since November, 2019.

Therefore, on 27th February, 2020 ADR and Common Cause filed an application in the Supreme Court to direct the Election Commission of India to;

- Not to destroy or dispose of VVPAT paper slips generated in any election in the last one year and to retain the same at least for a period of one year in consonance with the rules of Conduct of Elections Rules, 1961;
- To retain all other documents pertaining to the 17th Lok Sabha elections held in April, 2019.

ADR and Common Cause have not challenged the final result of 2019 General Elections. However, the issues and irregularities that arose in the conduct of Lok Sabha 2019 elections indeed demand a careful legal insight by the Supreme Court of India in order to effectuate free and fair elections, survival of democracy and for the enforcement of fundamental rights.