



LEGAL HISTORY OF EVMs AND VVPATs

A compilation and analysis of case laws



भारत निर्वाचन आयोग
Election Commission of India
Nirvachan Sadan, Ashoka Road, New Delhi-110001





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PREFACE

This booklet will essentially service as a practical guide in making the understanding and awareness about the legal aspects surrounding the Electronic Voting Machines (EVM) / Voter Verifiable Paper Audit Trail (VVPAT) better. The subject matter is presented in such a way that this book could be readily used by various internal stakeholders connected to the Election Commission of India like the Chief Electoral Officers, District Election Officers, other Election related officials of the states and UTs, and so on. Further, this booklet serves as a ready reckoner to the legal practitioners of the country and assists the Hon'ble Courts in cases relating to the Electronic Voting Machines.

The booklet provides a useful insight into the relevant statutory framework governing EVMs and VVPATs. The utility of the booklet is in extracting the significant rulings and observations of the Hon'ble Supreme Court and High Courts. Above all, it is an effort of the Election Commission of India to inform and educate the public at large and stakeholders in the electoral process, the evolution of Electronic Voting Machines/VVPATs in India from a legal perspective.

CHAPTER 1: EVM INCEPTION & MILESTONES

1. Electronic Voting Machine (EVM) was first conceived in 1977. Its prototype developed by Electronics Corporation of India Ltd. (ECIL), Hyderabad, a PSU under Department of Atomic Energy, in 1979 was demonstrated by the Election Commission of India before the representatives of political parties on August 06, 1980.
2. After reaching a wide consensus on its introduction, the ECI issued directives under Article 324 of the Constitution of India for the use of EVMs and on 19th May, 1982 EVMs were used on a pilot basis to conduct elections. The law was amended by the Parliament in December 1988 and a new Section 61A was included in the Representation of the People Act 1951, thereby empowering the ECI to use EVM. The amendment came into force on 15th March, 1989.
3. After convincing demonstration of prototypes developed, Bharat Electronics Ltd. (BEL), Bangalore, a Defence Ministry PSU, was selected along with ECIL to manufacture the EVM.
4. The Government of India instituted an Electoral Reforms Committee (ERC) in January 1990, consisting of representatives from several national and state-level political parties under the chairmanship of Mr. Dinesh Goswami. The ERC recommended the examination of EVM by a team of technical experts.
5. A Technical Expert Committee (TEC) was formed under the chairmanship of Mr. S. Sampath, Chairman, RAC, DRDO with eminent scientists like Dr. P.V. Indiresen (IIT, Delhi), Dr. Rao C. Kasarbada (ER&DC, Trivandrum) in the list among others. In April 1990, the Expert Committee unanimously recommended the use of EVMs without any further loss of time marking it technically sound, secure and transparent.
6. In 1998, a general consensus was reached on the use of EVMs for conducting Indian elections. In 1998, EVMs were used in 16 Legislative ACs across three states of Madhya Pradesh, Rajasthan, and Delhi.

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7. The use of EVMs further expanded in 1999 to 46 Parliamentary Constituencies (PC), and later, in February 2000, EVMs were used in 45 ACs in Haryana state assembly polls. In 2001, the state assembly elections in Tamil Nadu, Kerala, Puducherry, and West Bengal were completely conducted using EVMs. All state assembly elections thereafter witnessed the use of this machine.
 8. In 2004, the EVMs were used in all 543 Parliamentary Constituencies for the elections to the Lok Sabha. A new technologically advanced voting system completely replaced the erstwhile voting method of using ballot papers.
 9. A number of technological changes were made in the EVMs in 2001 and the machines were further upgraded in 2006. The pre-2006 era EVMs are known as 'M1 EVMs', while EVMs manufactured between 2006 to 2010 are called 'M2 EVMs'. The latest generation of EVMs, produced since 2013 are known as 'M3 EVMs'.
 10. To improve the transparency and verifiability in poll process, the conduct of Election Rules, 1961 were amended and notified on 14th August 2013, thereby, Voter Verifiable Paper Audit Trail (VVPAT) was introduced. They were first used in the by-election for 51-Noksen AC in Nagaland.

CHAPTER 2 : FIRST USAGE OF EVM

EVM was first used by the Election Commission in fifty polling stations for election to **No. 70 Parur Assembly Constituency in Kerala on May 19, 1982.**

The returned candidate had secured 30450 votes, out of which 11268 votes were cast manually, according to the conventional method provided in the Conduct of Election Rules, 1961 (“**Rules**”) made under the Representation of the People Act, 1951 (“**Act**”), and 19182 votes were cast by means of electronic machines. Votes by the mechanical process were cast in 50 out of the 85 polling stations.

Voting by way of EVM was done in pursuance of the direction issued by the Commission under Article 324 of the Constitution, by virtue of a notification published in the Kerala Gazette on May 13, 1982.

Interestingly, prior to issuing the said notification, the Commission had sought sanction of the Government of India, which was refused.

Usage of EVMs and election of the returned candidate was challenged, which was ultimately decided by the Hon’ble Supreme Court in **A.C. Jose v. Sivan Pillai, 1984 SCR (3) 74 (decided on March 05, 1984).**

Briefly, the arguments put forth by the Commission before the Hon’ble Supreme Court were thus:

- The Commission being a creature of the Constitution itself, its plenary powers flow directly from Article 324 and it will prevail over any Act passed by the Parliament or Rules made thereunder.
- The manner of voting was a matter coming within the ambit of Articles 324 and Article 327 would be deemed to be subsidiary to the power contained in Article 324 and if there was any conflict between a law enacted by the Parliament and the powers given to the Commission regarding regulating the conduct of elections to Parliament that law must yield to Article 324, otherwise the very object of Article 324 would be defeated.

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- Article 324 is a Code in itself and was couched in a very plain and simple language which admits of no ambiguity and, if so construed, it gives full powers and authority to the Commission to give any direction in connection with the conduct of elections.
 - Section 59 of the Act and Rule 49 of the Rules framed under the Act authorizes the Commission to give direction to hold voting by the use of a voting machines.
 - The process of voting by machines eliminates a number of drawbacks of voting by ballot boxes.

Ratio of the Hon'ble Supreme Court:

- Article 324 authorizes the Commission to exercise powers of superintendence, direction and control of preparation of electoral rolls and the conduct of elections to Parliament and State legislatures, but the Article has to be read harmoniously with the Articles 325 to 329 and the powers that are given to the Legislatures under entry No. 72 in the Union List and entry No. 37 of the State List of the Seventh Schedule to the Constitution.
- The Commission in the garb of passing orders for regulating the conduct of elections cannot take upon itself a purely legislative activity which has been reserved under the scheme of the Constitution only to Parliament and the State legislatures.
- Reliance was placed on the decision of a 5 – Judge Constitution Bench in **Mohinder Singh Gill v. The Chief Election Commissioner (1978) 1 SCC 405** to hold that two limitation at least are laid on its plenary character in the exercise of powers under Article 324. Firstly, when Parliament or any State Legislature has made valid law relating to or in connection with elections, the Commission shall act in conformity with, not in violation of such provision but where such law is silent, Article 324 is a reservoir of power to act for the avowed purpose of, not divorced from pushing forward a free and fair election with expedition. Secondly, the Commission shall be responsible to the rule of law, act bona fide and be amenable to the norms of natural

justice in so far as conformance to such canons can reasonably and realistically be required of it as fair play-in- action in a most important area of the constitutional order, viz., elections.

- Reliance was also placed on the decision of a 6 – Judge Bench in **N.P. Ponnuswami v. Returning Officer, 1952 SCR 218** to hold that before an election machinery can be brought into operation, there are three requisites which require to be attended to, namely,
 - (1) there should be a set of laws and rules making provisions with respect to all matters relating to, or in connection with, elections, and it should be decided as to how these laws and rules are to be made;
 - (2) there should be an executive charged with the duty of securing the due conduct of elections; and
 - (3) there should be a judicial tribunal to deal with disputes arising out of or in connection with elections.
- An absolute and uncanalised power given to the Commission without providing any guidelines would destroy the basic structure of the Rule of Law.
- When the Act and the Rules, prescribed a particular method of voting, the Commission cannot innovate a new method and contend that use of the mechanical process was not covered by the existing law and, therefore, did not come in conflict with the law in the field.
- Where there is an Act and express Rules made thereunder it is not open to the Commission to override the Act or the Rules and pass orders in direct disobedience to the mandate contained in the Act or the Rules. The powers of the Commission are meant to supplement rather than supplant the law in the matter of superintendence, direction and control as provided by Article 324.
- Section 59 of the Act uses the words “ballot in such manner as may be prescribed”, which means prescribed by the Rules made

under the Act. In this connection, reference was made to Rule 22 which relates to the form of ballot paper and its contents. Rule 23 requires the Returning officer to record on the counterfoil of the ballot paper the electoral roll number of the elector as entered in the marked copy of the electoral roll. Rule 27 refers to the return of ballot paper after an elector has recorded his vote or made his declaration. Rule 30, which prescribes the contents of ballot papers, is completely contrary to the concept of ballot by machine. Similarly, Rules 33, 38, 39 and 40 seem to be wholly inconsistent with the mechanical process but seem to adopt the conventional method. These Rules are binding on the Commission and it cannot by an executive fiat either override them or act contrary to the statutory provisions of the Rules. On a proper and detailed analysis of these Rules it is clear that the Act by framing the Rules completely excluded the mechanical process which, if resorted to, would defeat in a large measure the mandatory requirements of the Rules.

- In 1951 when the Act was passed or the Rules were made, the system of voting by machine was not in vogue in this country. Therefore, the word 'ballot' in its strict sense would not include voting by the use of voting machines.

It was ultimately held that the order of the Commission regarding casting of ballot by machines in some of the polling stations was without jurisdiction. The election of the returned candidate with respect to the 50 polling stations where the voting machines were used was set aside.

The Hon'ble Supreme Court refrained from making any comment on either the defects or advantages of EVMs.

Incidentally, the Hon'ble Supreme Court was informed by the Commission that at eleven elections held under the Act, the mechanical device was used and in nine, no challenge has been raised. The Hon'ble Court observed that this judgment will not affect those nine elections in any manner.

CHAPTER 3: LEGISLATIVE AMENDMENT TO ENABLE USAGE OF EVM

Subsequent to the Hon'ble Supreme Court's Judgment in **A.C. Jose v. Sivan Pillai**, 1984 SCR (3) 74, the Commission recommended the Government of India to bring legislative amendment in order to provide legal sanction for the use of EVMs.

Consequently, Section 61A was inserted in the year 1989 in the Representation of the People Act, 1951 which reads as follows:

Section 61A. Voting machines at elections —

Notwithstanding anything contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify.

Explanation — For the purposes of this section, “voting machine” means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.

The constitutional vires of Section 61A of the Act was challenged and eventually upheld by the Hon'ble Supreme Court in **All India Anna Dravida Munnetra Kazhagam v. Chief Election Commissioner, Special Leave Petition (Civil) 2824 – 25 of 2001 (decided on April 23, 2001)**.

The Hon'ble Supreme Court distinguished the decision in **A.C. Jose v. Sivan Pillai**, 1984 SCR (3) 74 by stating that in **A.C. Jose case**, EVMs were sought to be used by way of an executive order which was not permissible being contrary to the Rules. It was held that after introduction of Section 61A in the Act, usage of EVMs cannot be challenged on the basis of the said ruling.

CHAPTER 4: LEGAL PROVISIONS REGARDING EVM & VVPAT

Along with introduction of Section 61A to the Representation of the People Act, 1951, several amendments were made to the Act and Conduct of Election Rules, 1961 to enable smooth usage of EVMs/ VVPAT (Voter Verifiable Paper Audit Trail).

Relevant statutory provisions under the Representation of the People Act, 1951 are as follows:

Section 58. Fresh poll in the case of destruction, etc., of ballot boxes

- (1) If at any election —
 - (a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained; or
 - (aa) any voting machine develops a mechanical failure during the course of the recording of votes; or
 - (b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll, the returning officer shall forthwith report the matter to the Election Commission.
- (2) Thereupon the Election Commission shall, after taking all material circumstances into account; either—
 - (a) declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or
 - (b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or

that the mechanical failure of the voting machine or the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

- (3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

Section 135A. Offence of booth capturing —

- (1) Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.

Explanation — For the purposes of this sub-section and section 20B, “booth capturing” includes, among other things, all or any of the following activities, namely: —

- (a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;
- (b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from free exercise of their right to vote;
- (c) coercing or intimidating or threatening directly or indirectly any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
- (d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;
- (e) doing by any person in the service of Government, of all or any

of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

(2) An offence punishable under sub-section

(a) shall be cognizable.

Section 169. Power to make rules —

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

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

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

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

(aaa) the form of contribution report;

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

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

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

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

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

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- (ee) the manner of giving and recording of votes by means of voting machines and the procedure as to voting to be followed at polling stations where such machines are used;
 - (f) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote;
 - (g) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election;
 - (gg) the procedure as to counting of votes recorded by means of voting machines;
 - (h) the safe custody of ballot boxes, voting machines, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;
 - (hh) the material to be supplied by the Government to the candidates of recognised political parties at any election to be held for the purpose of constituting the House of the People or the Legislative Assembly of a State;
 - (hhh) any other matter required to be prescribed by this Act.
- (3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything

previously done under that rule.

Relevant legal provisions under the Conduct of Elections Rules, 1961 (Statutory Rules and Order) read with Conduct of Elections (Amendment) Rules, 2013 are as follows:

Rule 49A. Design of Electronic Voting Machines —

Every electronic voting machine (hereinafter referred to as the voting machine) shall have a control unit and a balloting unit and shall be of such designs as may be approved by the Election Commission.

Rule 49B. Preparation of voting machine by the returning Officer —

- (1) The balloting unit of the voting machine shall contain such particulars and in such language or languages as the Election Commission may specify.
- (2) The names of the candidates shall be arranged on the balloting unit in the same order in which they appear in the list of the contesting candidates.
- (3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.
- (4) Subject to the foregoing provisions of this rule, the returning officer shall —
 - (a) fix the label containing the names and symbol of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;
 - (b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

Rule 49C. Arrangements at the polling stations —

- (1) Outside each polling station there shall be displayed prominently—

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- (a) a notice specifying the polling area, the electors of which are entitled to vote at the polling station and, when the polling area has more than one polling station, the particulars of the electors so entitled; and
 - (b) a copy of the list of contesting candidates.
 - (2) At each polling station there shall be set up one or more voting compartments in which the electors can record their votes free from observation.
 - (3) The returning officer shall provide at each polling station one voting machine and copies of relevant part of the electoral roll and such other election material as may be necessary for taking the poll.
 - (4) Without prejudice to the provisions of sub-rule (3), the returning officer may, with the prior approval of the Election Commission, provide one common voting machine for two or more polling stations located in the same premises.

Rule 49E. Preparation of voting machine for poll —

- (1) The control unit and balloting unit of every voting machine used at polling station shall bear a label marked with —
 - (a) the serial number, if any, and the name of the constituency;
 - (b) the serial number and name of the polling station or stations as the case may be;
 - (c) the serial number of the unit; and
 - (d) the date of poll.
- (2) Immediately before the commencement of the poll, the presiding officer shall demonstrate to the polling agents and other persons present that no voter has been already recorded in the voting machine and it bears the label referred to in sub-rule (4).
- (3) A paper seal shall be used for securing the control unit of the voting machine, and the presiding officer shall affix his own signature on the paper seal and obtain thereon the signature of such of the polling

agents present as the desirous of affixing the same.

- (4) The presiding officer shall thereafter fix the paper seal so signed in the space meant therefor in the control unit of the voting machine and shall secure and seal the same.
- (5) The seal used for securing the control unit shall be fixed in such manner that after the unit has been sealed, it is not possible to press the “result button” without breaking the seal.
- (6) The control unit shall be closed and secured and placed in full view of the presiding officer and the polling agents and the balloting unit placed in the voting compartment.

Rule 49L. Procedure for voting by voting machines —

- (1) Before permitting an elector to vote, the polling officer shall—
 - (a) record the electoral roll number of the elector as entered in the marked copy of the electoral roll in a register of voters in Form 17A.
 - (b) obtain the signature or the thumb impression of the elector on the said register of votes; and
 - (c) mark the name of the elector in the marked copy of the electoral roll to indicate that he has been allowed to vote:
 - (d) give details of the document produced by the elector in proof of his/her identification.

Provided that no elector shall be allowed to vote unless he has his signature or thumb impression on the register of voters.

- (2) Notwithstanding anything contained in sub-rule (2) of rule 2, it shall be necessary for any presiding officer or polling officer or any other officer to attest the thumb impression of the elector on the register of voters.

Rule 49M. Maintenance of secrecy of voting by electors within the polling station and voting procedures —

- (1) Every elector who has been permitted to vote under rule 49L shall

maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

- (2) Immediately on being permitted to vote the elector shall proceed to the presiding officer or the polling officer incharge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit, activate the balloting unit; for recording of elector's vote.
- (3) The elector shall thereafter forthwith—
 - (a) proceed to the voting compartment;
 - (b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and
 - (c) come out of the voting compartment and leave the polling station.
- (4) Every elector shall vote without undue delay.
- (5) No elector shall be allowed to enter the voting compartment when another elector is inside it.
- (6) If an elector who has been permitted to vote under rule 49L or rule 49P refuses after warning given by the presiding officer to observe the procedure laid down in sub-rule (3) of the said rules, the presiding officer or a polling officer under the direction of the presiding officer shall not allow such elector to vote.
- (7) Where an elector is not allowed to vote under sub-rule (6), a remark to the effect that voting procedure has been violated shall be made against the elector's name in the register of voters in Form 17A by the presiding officer under his signature.

Rule 49MA. Procedure in case of complaint about particulars printed on paper slip –

- (1) Where printer for paper trail is used, if an elector after having recorded his vote under rule 49M alleges that the paper slip generated

by the printer has shown the name or symbol of a candidate other than the one he voted for, the presiding officer shall obtain a written declaration from the elector as to the allegation, after warning the elector about the consequence of making a false declaration.

- (2) If the elector gives the written declaration referred to in sub-rule (1), the presiding officer shall make a second entry related to that elector in Form 17A, and permit the elector to record a test vote in the voting machine in his presence and in the presence of the candidates or polling agents who may be present in the polling station, and observe the paper slip generated by the printer.
- (3) If the allegation is found true, the presiding officer shall report the facts immediately to the returning officer, stop further recording of votes in that voting machine and act as per the direction that may be given by the Returning Officer.
- (4) If, however, the allegation is found to be false and the paper slip so generated under sub-rule (1) matches with the test vote recorded by the elector under sub-rule (2), then, the presiding officer shall –
 - (a) make a remark to that effect against the second entry relating to that elector in Form 17A mentioning the serial number and name of the candidate for whom such test votes has been recorded;
 - (b) obtain the signature or thumb impression of that elector against such remarks; and
 - (c) make necessary entries regarding such test vote in item 5 in Part I of Form 17C.

Rule 49N. Recording of votes of blind or infirm electors-

- (1) If the presiding officer is satisfied that owing to blindness or other physical infirmities an elector is unable to recognise the symbol on the balloting unit of the voting machine or unable to record his vote by pressing the appropriate button thereon without assistance the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for

recording the vote on his behalf and in accordance with his wishes:

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule that person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any other polling station on that day.

- (2) The presiding officer shall keep a record in Form 14A of all cases under this rule.

Rule 49Q. Presiding Officer's entry in the voting compartment during poll —

- (1) The presiding officer may whenever he considers it necessary so to do, enter the voting compartment during poll and take such steps as may be necessary to ensure that the balloting unit is not tampered or interfered with in any way.
- (2) If the presiding officer has reason to suspect that an elector who has entered the voting compartment is tampering or otherwise interfering with the balloting unit or has remained inside the voting compartment for unduly long period, he shall enter the voting compartment and take such steps as may be necessary to ensure the smooth and orderly progress of the poll.
- (3) Whenever the presiding officer enters the voting compartment under this rule, he shall permit the polling agents present to accompany him if they so desire.

Rule 49R. Closing of poll —

- (1) The presiding officer shall close a polling station at the hour fixed in that behalf under section 56 and shall not thereafter admit any elector into the polling station:

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

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- (2) If any question arises whether an elector was present at the polling station before it was closed it shall be decided by the presiding officer and his decision shall be final.

Rule 49S. Account of votes recorded —

- (1) The presiding officer shall at the close of the poll prepare an account of votes recorded in Form 17C and enclose it in a separate cover with the words ‘Account of Votes Recorded’ superscribed thereon.
- (2) The presiding officer shall furnish to every polling agent present at the close of the poll a true copy of the entries made in Form 17C after obtaining a receipt from the said polling agent therefor and shall attest it as a true copy.

Rule 49T. Sealing of voting machine after poll —

- (1) As soon as practicable after the closing of the poll, the presiding officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit and from the printer, where printer is also used, so however, that the paper slips contained in the drop box of the printer shall remain intact.
- (2) The control unit and the balloting unit and the printer, where it is used, shall thereafter be sealed, and secured separately in such manner as the Election Commission may direct and the seal used for securing them shall be so affixed that it will not be possible to open the units without breaking the seals.
- (3) The polling agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

Rule 49U. Sealing of other packets —

- (1) The presiding officer shall then make into separate packet, —
- (a) the marked copy of the electoral roll;
 - (b) the register of voters in Form 17A;
 - (c) the cover containing the tendered ballot papers and the list in Form 17B;

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- (d) the list of challenged votes; and
 - (e) any other papers directed by the Election Commission to be kept in a sealed packet.
- (2) Each packet shall be sealed with the seal of the presiding officer and with the seal either of the candidate or of his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

Rule 49V. Transmission of voting machines, etc., to the returning officer —

- (1) The presiding officer shall then deliver or cause to be delivered to the returning officer at such place as the returning officer may direct,—
- (a) the voting machine;
 - (b) the account of votes recorded in Form 17C;
 - (c) the sealed packets referred to in rule 49U; and
 - (d) all other papers used at the poll.
- (2) The returning officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers for their safe custody until the commencement of the counting of votes.

Rule 49W. Procedure on adjournment of poll —

- (1) If the poll at any polling station is adjourned under sub-section (1) of section 57, the provision of rules 49S to 49V shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under section 56.
- (2) When an adjourned poll is recommended under sub-section (2) of section 57, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.
- (3) The returning officer shall provide the presiding officer of the polling station at which such adjourned poll is held, with the sealed packet containing the marked copy of the electoral roll, register of voters in Form 17A and a new voting machine.
- (4) The presiding officer shall open the sealed packet in the presence of

the polling agents present and use the marked copy of the electoral roll for marking the names of the electors who are allowed to vote at the adjourned poll.

- (5) The provisions of rule 28 and rules 49A to 49V shall apply in relation to the conduct of an adjourned poll before it was so adjourned.

Rule 49X. Closing of voting machine in case of booth capturing —

Where the presiding officer is of opinion that booth capturing is taking place at a polling station or at a place fixed for the poll, he shall immediately close the control unit of the voting machine to ensure that no further votes can be recorded and shall detach the balloting unit that from the control unit.

Rule 55C. Scrutiny and inspection of voting machines—

- (1) The returning officer may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.
- (2) Before the votes recorded in any control unit of voting machine are counted under sub-rule (1), the candidate or his election agent or his counting agent present at the counting table shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.
- (3) The returning officer shall satisfy himself that none of the voting machines has in fact been tampered with.
- (4) If the returning officer is satisfied that any voting machine has in fact been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in section 58, or section 58A or section 64A, as may be applicable in respect of the polling station or stations where that machine was used.

Rule 56C. Counting of votes —

- (1) After the returning officer is satisfied that a voting machine has in fact not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked “Result”

provided in the control unit whereby the total votes polled and votes polled by each candidate shall be displayed in respect of each such candidate on the display panel provided for the purpose in the unit.

- (2) As the votes polled by each candidate are displayed on the control unit, the returning officer shall have,—
- (a) the number of such votes recorded separately in respect of each candidate in Part II on Form 17C;

Provided that the test vote recorded, if any, for a candidate, as per item 5 in Part I of Form 17C, shall be subtracted from the number of votes recorded for such candidate as displayed on the control unit.

- (b) Part II of Form 17C completed in other respects and signed by the counting supervisor and also by the candidates or their election agents or their counting agents present; and
- (c) corresponding entries made in a result sheet in Form 20 and the particulars so entered in the result sheet announced.

Rule 56D. Scrutiny of paper trail –

- (1) Where printer for paper trail is used, after the entries made in the result sheet are announced, any candidate, or in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to count the printed paper slips in the drop box of the printer in respect of any polling station or polling stations.
- (2) On such application being made, the returning officer shall, subject to such general or special guidelines, as may be issued by the Election Commission, decide the matter and may allow the application in whole or in part or may reject in whole, if it appears to him to be frivolous or unreasonable.
- (3) Every decision of the returning officer under sub-rule (2) shall be in writing and shall contain the reasons therefor.
- (4) If the returning officer decides under sub-rule (2) to allow counting of

the paper slips either wholly or in part or parts, he shall-

- (a) do the counting in the manner as may be directed by the Election Commission;
- (b) if there is discrepancy between the votes displayed on the control unit and the counting of the paper slips, amend the result sheet in Form 20 as per the paper slips count;
- (c) announce the amendments so made by him; and
- (d) complete and sign the result sheet.

Rule 57C. Sealing of voting machines —

- (1) After the result of voting recorded in a control unit has been ascertained candidate-wise and entered in Part II of Form 17C and Form 20 under rule 56C, the returning officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix the seals thereon so however that the result of voting recorded in the unit is not obliterated and the unit retains the memory of such result and where printer for paper trail is used, the returning officer shall seal the paper slips in such manner, as may be directed by the Election Commission.
- (2) The control unit and the paper slips so sealed shall be kept in specially prepared boxes on which the returning officer shall record the following particulars, namely: —
 - (a) the name of the constituency;
 - (b) the particulars of polling station or stations where the control unit has been used;
 - (c) serial number of the control unit and printer wherever used;
 - (d) date of poll; and
 - (e) date of counting;
 - (f) the provisions of rules 60 to 66 shall, so far as may be, apply

in relation to voting by voting machines and any reference in those rules to, —

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

Rule 92. Custody of ballot boxes and papers relating to election –

- (1) All voting machines used at an election shall be kept in the custody of the concerned district election officer.
- (2) The district election officer shall keep in safe custody-
 - (a) the printed paper slips sealed under the provisions of rule 57C.
 - (b) The packets containing registers of voters in Form 17A.

Rule 93. Production and inspection of election papers—

- (1) While in the custody of the district election officer or, as the case may be, the returning officer—
 - (a) the packets of unused ballot papers with counterfoils attached thereto;
 - (b) the packets of used ballot papers whether valid, tendered or rejected;
 - (c) the packets of the counterfoils of used ballot papers;
 - (cc) the printed paper slips sealed under the provisions of rule 57C.
 - (d) the packets of the marked copy of the electoral roll or, as the case may be, the list maintained under sub-section (1) or sub-section (2) of section 152; and
 - (dd) the packets containing registers of voters in form 17A;
 - (e) the packets of the declarations by electors and the attestation of

their signatures; shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent court.

- (f) The control units sealed under the provisions of rule 57C and kept in the custody of the district election officer shall not be opened and shall not be inspected by, or produced before, any person or authority except under the order of a competent court.
- (2) Subject to such conditions and to the payment of such fee as the Election Commission may direct, —
 - (a) all other papers relating to the election shall be open to public inspection; and
 - (b) copies thereof shall on application be furnished.
 - (3) Copies of the returns by the returning officer forwarded under rule 64, or as the case may be, under clause (b) of sub-rule (1) of rule 84 shall be furnished by the returning officer, district election officer, chief electoral officer or the Election Commission on payment of a fee of two rupees for each copy.

Rule 94. Disposal of election papers —

- (1) Subject to any direction to the contrary given by the Election Commission or by a competent court or tribunal—
 - (a) the packets of unused ballot papers shall be retained for a period of six months and shall thereafter be destroyed in such manner as the Election Commission may direct;
 - (aa) the voting machines kept in the custody of the district election officer under sub-rule (1A) of rule 92 shall be retained intact for such period as the Election Commission may direct and shall not be used at any subsequent election without the prior approval of the Election Commission;
 - (b) the other packets referred to in sub-rule (1) of rule 93 shall be retained for a period of one year and shall thereafter be

destroyed:

Provided that packets containing the counterfoils of used ballot papers and the printer paper slips, if any, shall not be destroyed except with the prior approval of the Election Commission;

- (c) all other papers relating to the election shall be retained for such period as the Election Commission may direct.

Rule 95. Power of the Election Commission to issue directions —

Subject to the other provisions of these rules, the Election Commission may issue such directions as it may consider necessary to facilitate the proper use and operation of the voting machines.

CHAPTER 5: JUDICIAL DECISIONS ON EVM & VVPAT

SUPREME COURT OF INDIA

1. People's Union for Civil Liberties v. Union of India, (2013) 10 SCC 1

Date of Order: September 27, 2013

This Writ Petition was filed under Article 32 of the Constitution of India challenging the vires of Rules 41(2) and (3) and 49-O of the Conduct of Elections Rules, 1961 to the extent that these provisions violate the secrecy of voting which is fundamental to the free and fair elections and is required to be maintained as per Section 128 of the Representation of the People Act, 1951 and Rules 39 and 49-M of the Rules.

The Petitioner had sought inclusion of necessary provision in the ballot papers as well as in EVMs for secrecy/ protection of right of not to vote.

Contentions of the Election Commission of India:

It was argued on behalf of the Commission that inasmuch as secrecy is an essential feature of “free and fair elections”, Rules 41(2) and (3) and 49-O of the Rules violate the requirement of secrecy. In the larger interest of promoting democracy, a provision for “None of the Above” or “NOTA” button should be made in the EVMs/ballot papers. It was contended that such an action, apart from promoting free and fair elections in a democracy, will provide an opportunity to the elector to express his dissent/disapproval against the contesting candidates and will have the benefit of reducing bogus voting.

Hon'ble Court's ruling:

The Hon'ble Supreme Court took note of the submissions put forth by the Commission and observed that the implementation of the “None of the Above” (NOTA) button will not require much effort except for allotting the last panel in the EVM for the same.

The Hon'ble Court also held that the Rules 41(2) and (3) and Rule

49-O of the Rules are ultra vires Section 128 of the Representation of the People Act, 1951 and Article 19(1)(a) of the Constitution to the extent they violate secrecy of voting.

Further, the Commission was directed to provide NOTA button in EVMs so that the voters, who come to the polling booth and decide not to vote for any of the candidates in the fray, are able to exercise their right not to vote while maintaining their right of secrecy. It was observed that the Commission can implement the same either in a phased manner or at a time with the assistance of the Government of India. The Commission was further directed to undertake awareness programmes to educate the masses. The Government of India was also directed to provide necessary help for implementation of the above directions.

2. Subramanian Swamy v. Election Commission of India, (2013) 10 SCC 500

Date of Order: October 8, 2013

This Civil Appeal was filed against the Judgment dated 17.01.2012 passed by the Hon'ble High Court of Delhi in Subramanian Swamy v. Election Commission of India, WP (C) No. 11879 of 2009 [2012 SCC OnLine Del 314] whereby the High Court disposed of the petition by disallowing the prayer for issuance of a writ of mandamus directing the Election Commission of India to incorporate a system of "paper trail/paper receipt" in the electronic voting machines as a convincing proof that the EVM has rightly registered the vote cast by a voter in favour of a particular candidate.

Contentions of the Election Commission of India:

The Election Commission filed a detailed affidavit highlighting the steps taken in this regard. The Hon'ble Court was apprised of the fact that EVMs used in India are unique and they are of such high-end technology that they cannot be hacked/ tampered.

The Commission submitted that it is exploring possibility of incorporating voter verifiable paper audit trail (VVPAT) system as part of EVMs to make election system more transparent. It was submitted that a

Technical Experts Committee has approved and finalized VVPAT design.

It was also submitted before the Hon'ble Court that in order to implement new system, the Conduct of Election Rules 1961 will require certain amendments. To this effect, the Commission had addressed a letter to the Legislative Department of the Ministry of Law and Justice regarding these amendments including Rules 49-A to 49-X, 66-A, 55-C, 56-C, 57-C and Form 17C of the Conduct of Election Rules, 1961, as well as introduction of Rules 49-MA and 56-D in the said Rules. Accordingly, the Ministry of Law and Justice notified the amendments to the Conduct of Election Rules, 1961 in the Gazette of India vide Notification No. SO 2470(E) dated 14.08.2013 to enable the use of VVPAT with EVMs.

It was also argued that the Election Commission has decided to increase the use of VVPAT units in a phased manner

Hon'ble Court's ruling:

The Hon'ble Supreme Court held that "paper trail" is an indispensable requirement of free and fair elections. The confidence of the voters in EVMs can be achieved only with the introduction of the "paper trail". EVMs with VVPAT system ensure the accuracy of the voting system. It was held that with an intent to have fullest transparency in the system and to restore the confidence of the voters, it is necessary to set up EVMs with VVPATs system because vote is nothing but an act of expression which has immense importance in a democratic system.

The Hon'ble Court took note of the pragmatic and reasonable approach of the Election Commission and considering the fact that in general elections all over India, the Election Commission has to handle one million (ten lakh) polling booths, the Commission was permitted to introduce VVPAT in gradual stages or geographical-wise in the ensuing general elections. It was held that the area, State or actual booth(s) are to be decided by Commission and that it is free to implement the same in a phased manner.

The Hon'ble Court appreciated the efforts and good gesture made by Election Commission in introducing VVPAT system. For implementation

of such a system in a phased manner, the Government of India was directed to provide required financial assistance for procurement of units of VVPAT.

3. Reshma Vithalbhai Patel v. Union of India, (2018) 18 SCC 675 Date of Order: October 8, 2013

This appeal arose out of the decision passed by the Hon'ble High Court of Gujarat in Reshma Vithalbhai Patel v. Union of India 2017 SCC OnLine Guj 1395. Before the High Court, a Public Interest Litigation was filed seeking inter alia the following prayers:

- (a) Issuance of an appropriate writ, order or direction directing that ballot papers be used in the 2017 Gujarat Assembly Election in place of EVMs.
- (b) In case continuation of EVMs is deemed fit to be used in the Assembly Election, issuance of an appropriate writ, order or direction for incorporating a system of “paper trail/paper receipt” in the Electronic Voting Machines.
- (c) Directing that the EVMs with VVPAT system be tested, verified and audited by competent independent technical experts'/ agency having expertise in such evaluation.

Contentions of the Election Commission of India:

The Election Commission has reiterated its commitments to 100% coverage of VVPATs in all future elections to Parliament and State legislative Assemblies by way of: (a) Status Paper on EVMs and VVPATs published on its website on 09.05.2017; (b) All Political Meet conducted on 12.05.2017 where parties were informed of the resolution to ensure 100% coverage of VVPATs in all future elections; and (c) a Press Note dated 03.06.2017 to this effect.

Hon'ble Court's ruling:

The Hon'ble Supreme Court observed that the Commission's affidavit leaves no room for any doubt that all future elections will be held using VVPATs.

4. **Nyaya Bhoomi & Anr. v. Election Commission of India, Writ Petition (Civil) 1332/ 2018**

Date of Order: November 22, 2018

This Writ Petition was filed seeking direction to Election Commission to hold 2019 General Election and State Assembly Polls with ballot papers instead of EVMs.

The writ petition was vehemently opposed by the Commission.

Hon'ble Court's ruling:

The Hon'ble Court dismissed the Writ Petition.

5. **N. Chandrababu Naidu v. Union of India, (2019) 15 SCC 377**

Date of Order: April 8, 2019

This Writ Petition was filed seeking the following reliefs:

- (a) Quashing and setting aside Guideline No. 16.6 of the Manual on EVM and VVPAT as framed and issued by the Commission.
- (b) Issuance of writ directing that minimum of 50% randomized VVPAT paper slip verification of EVM shall be conducted in every General and Bye-Elections.

Contentions of the Election Commission of India:

The Election Commission submitted that Indian Statistical Institute [ISI], an expert body, has stated that verification of VVPAT paper trail of 479 (randomly selected) EVMs would generate over 99% accuracy in the election results. And, as per Guideline No. 16.6, verification of VVPAT paper trails would involve verification of VVPAT paper trail of 4125 EVMs instead of 479 EVMs which is eight times more than what has been reported by the ISI.

Additionally, the Election Commission pointed out infrastructure difficulties, including manpower availability, at that point of time, in increasing the number of EVMs for verification. It was contended that the sample verification of the VVPAT paper trail of one EVM is done by a team of three officers under the direct supervision of the Returning Officer and the Election Observer of the constituency. The process takes about an hour. If verification of VVPAT paper trail of 50% of the EVMs is done as

sought for by the Petitioner, the declaration of result of election could be delayed by 5-6 days.

Hon'ble Court's ruling:

The Hon'ble Court observed that neither the satisfaction of ECI nor the system in vogue today, is being doubted by the Court insofar as fairness and integrity is concerned. However, having regard to the need to generate the greatest degree of satisfaction in all with regard to the full accuracy of the election results, it was held that the number of EVMs that would now be subjected to verification so far as VVPAT paper trail is concerned would be 5 per Assembly Constituency or Assembly Segments in a Parliamentary Constituency instead of what is provided by Guideline No. 16.6, namely, one machine per Assembly Constituency or Assembly Segment in a Parliamentary Constituency. It was also held that random selection of the machines that would be subjected to the process of VVPAT paper trail verification, in terms of the guidelines in force, shall apply to the VVPAT paper trail verification.

6. Tech for All v. Election Commission of India, Writ Petition (Civil) 692 / 2019

Date of Order: May 21, 2019

This Public Interest Litigation was filed seeking 100 % verification of VVPAT against the EVM outcomes.

The writ petition was vehemently opposed by the Commission.

Hon'ble Court's ruling:

While dismissing the PIL, the Hon'ble Court lambasted the Petitioner for making a 'mockery of democracy' by moving the Court despite a clear ruling *N. Chandrababu Naidu v. Union of India*, (2019) 15 SCC 377 directing the counting of VVPAT slips of five EVMs per assembly segment. The Hon'ble Court also underscored that it was unethical to move such a petition when the polls were already over.

7. C.R. Jaya Sukin v. Election Commission of India, Special Leave Petition (Civil) 13278/ 2021

Date of Order: September 05, 2022

This SLP arose out of the decision dated August 03, 2021 passed by

the Hon'ble High Court of Delhi in C.R. Jaya Sukin v. Election Commission of India & Ors., Writ Petition 6635/ 2021.

Before the Hon'ble High Court, a Public Interest Litigation was filed seeking inter alia the following prayer:

“Issue a writ of mandamus or any other appropriate Writ or Order or Direction or any suggestion or observation or particularly the nature of Writ, by giving direction to the Respondents No.1 to stop the use of Electronic Voting Machine (EVM) and use ballot paper in any forthcoming elections.”

Contentions of the Election Commission of India:

The EVMs have been approved by the Election Commission of India after due deliberation and also have a sanction by the Parliament under Section 61A of the Representation of the People Act, 1951.

Hon'ble Court's ruling:

While dismissing the PIL, the Hon'ble High Court observed that the Petitioner was unable to place any material on record to show alleged drawbacks or that EVMs can be manipulated. Thus, the PIL was dismissed with costs.

The Hon'ble Supreme Court upheld the decision of the Hon'ble High Court and dismissed SLP.

8. Madhya Pradesh Jan Vikash Party v. Election Commission of India, Special Leave Petition (Civil) 16870/ 2022

Date of Order: September 30, 2022

This SLP arose out of the decision dated December 14, 2021 passed by the Hon'ble High Court of Madhya Pradesh, Principal Bench at Jabalpur in Writ Petition 26671/2021. The Writ Petition was filed seeking directions for ruling out discrepancies in the Electronic Voting Machines (EVM). Before the Hon'ble High Court, the Petitioner sought inter alia with the gist of prayers as under:

- To command the respondents to take effective measures to rule out the discrepancies in the Electronic Voting Machines, stated in the petition to conduct the free and fair upcoming assembly and general elections with the purity of the electoral process or may be directed to conduct the

election with the other alternative mode in accordance with law;

- To command the respondents to take effective measures to comply the rule 49E (2), wherein it is mandatory to show the storage empty and to ascertain the polling agents that there is no prior voting recorded earlier;
- To command the respondents to disclose the approved hardware configuration of the electronic voting machines and approved size, shape, colour and number of components, before the representatives of the candidates of the political parties;
- To issue a writ in the nature of mandamus commanding respondents to allow the technical experts/engineers of the petitioner political party with necessary equipment's at the time of first level checking, commissioning, candidate setting randomization and at the time of symbol loading to check and examine the fairness of all the stages of electoral process;
- To direct the respondent to demonstrate the source code/programming/software to examine that there is not such a programming which benefits the particular candidates or to the candidates of a particular party;
- To direct the respondent to permit the petitioner on the polling day, to examine the EVMs with its technical experts/engineers in respect of software/ source code/programming or microchip as well as any bluetooth or wireless device, may not be available in the machines which benefits the special candidate or particular political party as per rule 49 (E)(2) of the election conduct rule 1961;
- To direct the respondent to certify each and every machine that it is original and there is no tempering or manipulation;
- To direct the respondent to conduct the examination from their own regular employee/technical engineer or expert at the time of FLC/ commissioning/ randomization/ symbol loading just after the EVMs come into the possession of election commission;
- Even otherwise without the aforesaid measured & reliefs claimed hereinabove in the EVM and VVPAT, respondent shall kindly be restrained from using electronic voting machines & VVPAT in the upcoming elections going to be conducted in future or Electronic voting machines be banned in the conduct of elections, due to the large scale discrepancies available in the machines as mentioned in the petition.

Hon'ble Court's ruling:

The Hon'ble Court observed that EVMs have been utilized in country for decades now but periodically issues are sought to be raised. This is one such endeavor in the abstract. It appears that party which may not have got much recognition from the electorate now seeks recognition by filing petitions! The court is of the view that party which may not have got much recognition from the electorate seeks recognition by filing such frivolous petitions. Thus, the SLP was dismissed with costs Rs.50,000/-.

BOMBAY HIGH COURT

1. **Abhay B. Chajed v. Smt. Madhuri Misal 2017 SCC OnLine Bom 739**

Date of Order: May 05, 2017

In this election petition, Petitioner had sought examination of EVMs used during the 2014 assembly election.

Contentions of the Election Commission of India:

The Commission heavily relied on reports of the technical experts committee to assert reliability of EVMs and introduction of VVPATs

Hon'ble Court's ruling:

The Hon'ble Court directed that forensic scan of EVMs used in the 2014 Assembly Elections, specifically booth number 185 in Parvati (Assembly Constituency), Pune be conducted. This Order laid down the questions to be put forth to Central Forensic Science Laboratory [CFSL], Hyderabad.

2. **Abhay B. Chajed v. Smt. Madhuri Misal 2018 SCC OnLine Bom 267**

Date of Order: February 23, 2018

The Commission submitted that pursuant to Hon'ble Supreme Court's Order in Subramanian Swamy v. Election Commission of India, (2013) 10 SCC 500, the Commission and Ministry of Law & Justice have taken steps to in respect of usage of VVPAT.

Hon'ble Court's ruling:

The Hon'ble Court observed that in report by CFSL Hyderabad, the

analysts have mentioned that there is no evidence of tampering, altering or any other manipulation which could be detected. The Commission has also assured that there will be phase wise use of VVPAT in view of the financial burden and technical availability. Therefore, the Hon'ble Court held that it cannot be said that there is non-compliance with the provisions of the Rules or Orders by the Election Commission of India.

1. Election Commission of India v. Central Information Commission, 2009 SCC OnLine Del 3515

Date of Order: November 04, 2019

The Election Commission of India had filed this Writ Petition against the Order dated 06.06.2008 passed by the Central Information Commission directing disclosure of information in EVMs such as date and time, votes polled, vote tally and any other information which were noted down from the EVM machines, including any spare machines that were used, Form 17C etc. under the Right to Information Act, 2005.

Contentions of the Election Commission of India:

The Commission contended that the aforesaid information cannot be made available as it is not held by or under control of the Commission as per provisions of the Representation of Peoples. Act, 1951 and Conduct of Election Rules, 1961.

Rule 93 stipulates that ballot papers in physical form cannot be inspected or produced before any person or authority except under the order of a competent court. Rule 93(1A) which deals with data stored in the control unit in electronic form, states that the control unit cannot be opened, inspected or produced before any person or authority except upon an order of a competent court. Use of the word “shall” in said Rule; “shall...not opened except under the orders of a Competent Court.”, makes the provision imperative or obligatory.

Hon’ble Court’s ruling:

The Hon’ble Court held that right to information is an important right. At the same time, maintaining secrecy and confidentiality of the ballot papers, etc. is also an equally valuable right.

It was observed that the enactment of RTI Act has not occasioned an absolute right to citizen of India to ask for full details of electronic data

relating to ballot papers stored in the control unit of the EVMs.

It was held that an application under the RTI may lie only with respect to information which the public authority can access. No confirmation of information can be made unless the data stored in the control units is encoded and downloaded. This is prohibited in the Election Rules. The Election Commission would be acting contrary to the express provisions of the Election Rules. Insisting for the information on the basis that it is mere “confirmation” and not “information” would only amount to indirectly achieving something which is directly prohibited.

It was also held that taking recourse to the RTI Act, secrecy of the data stored in the control unit of the EVMs will be obliterated and will be open to verification and examination in spite of strict and stringent provisions to the contrary in the Representation of the People Act and the Rules.

It was held that once the EVMs are sealed it is no longer open to the Election Commission to de-seal them and re-examine the data stored in the control unit except when the pre-conditions mentioned in the relevant rules are satisfied. This requires an order of a competent court/tribunal which is passed only when the stringent conditions are satisfied.

The Hon’ble Court observed that the aggrieved party is not left remediless and that in case of an election petition, the competent court can always direct furnishing of information on being satisfied that the parameters specified by the Supreme Court for furnishing of information and re-examination of data stored in the EVMs are met.

2. Hans Raj Jain v. Election Commission of India 2020 SCC OnLine Del 149

Date of Order: January 13, 2020

The Public Interest Litigation was filed with prayers seeking directions to the Election Commission to inspect record of the printed paper slips in the drop box of the printer of VVPAT electronic device, one by one in respect of all Parliamentary Constituencies alleging that there is a great

discrepancy, mismatching in EVM vote polled and counting vote in large scale in the 2019 general elections.

Directions were also sought for usage of appropriate prototype of VVPAT system in future, in which the printer is kept open. The printed ballot will get cut and fall in a tray in front of the printer. The voter will pick it up from the tray, verify it fold it and bring it out of voting compartment and drop the same in a sealed box kept for this purpose in front of the presiding officer before leaving the polling station.

The Petitioner also prayed that the Commission be directed to manually count the printed paper slips in the drop box of the printer in respect of any polling station or polling stations in all future Legislative Assembly elections and/or Parliamentary elections where paper trail has been introduced.

The Election Commission denied the discrepancy alleged by the Petitioner.

Hon'ble Court's ruling:

The Hon'ble Court directed the Election Commission to consider representations in accordance with law, rules, regulations and Government policies applicable to the facts of the case after keeping in mind the various decisions rendered by the Hon'ble Supreme Court in this regard.

3. C.R. Jaya Sukin v. Election Commission of India & Ors., Writ Petition (Civil) 6635/2021

Date of Order: August 08, 2021

This Public Interest Litigation was filed seeking directions to the Commission to stop the use of EVMs in all forthcoming elections and to use ballot paper instead.

Contentions of the Election Commission of India:

EVMs have been approved by the Commission after due deliberation

and also have a sanction by the Parliament under Section 61A of the Representation of the People Act, 1951.

Hon'ble Court's ruling:

The Petition was dismissed with costs of Rs.10,000/- whilst observation that petition is akin to a “publicity interest litigation” and is based on hearsay and baseless allegations.

1. **Girish M. Das v. Chief Election Commissioner & Ors., 2012 SCC OnLine Guj 4916**

Date of Order: August 30, 2012

This Public Interest Litigation was filed seeking direction upon the Commission to secure to the voters that the Electronic Voting Machines are kept hack-proof, tamper-proof and irrigable and also for passing a direction upon the Election Commission not to hold any election in the State of Gujarat or in Center till the voters are secured and the Court is assured with regard to functioning of the EVMs. It was also prayed that Election Commission be directed to introduce and install camera and clock in EVMs so that any fraudulent voting can be ascertained and the offending voters as well as the polling

The Election Commission opposed the petition.

Hon'ble Court's ruling:

The Hon'ble Court observed that the writ petitioner has failed to point out any action or inaction of any authority that has interfered, infringed or impeded with any of the rights of the petitioner so as to interfere in exercise of the writ jurisdiction under Article 226 of the Constitution of India.

It was held that merely because the election can be conducted in a wiser way or a fairer way, for that reason, Court is not competent to pass any directions upon the Election Commission.

It was held that the courts do not and cannot act as appellate authorities examining the correctness, suitability and appropriateness of a policy. Courts cannot lose sight of the fact that they are not advisers to the other constitutional authorities on the matters of policy, which such competent authorities are entitled to formulate

2. **Khemchand Rajaram Koshti v. Election Commission of India & Anr., Writ Petition PIL 36/ 2019**

Date of Order: March 19, 2019

The Public Interest Litigation was filed seeking directions to use appropriate technology by which the VVPAT/ paper trail can be preserved for at least a period of 02 years from the date of election.

Contentions of the Election Commission of India:

The Election Commission highlighted the wide range of technical, administrative protocol and procedural safeguards that fortify the EVMs and VVPATs against any sort of tampering or manipulation.

Hon'ble Court's ruling:

It was held that the EVMs are more auditable, accurate, transparent reducing human error. It was observed that the Commission conducted several field trials and involved all stake holders and political parties in evolving an error free EVM.

It was held that as evident from the extensive reproduction of the Status Report on EVMs/VVPATs, the system of registering the vote of the voter and reflection of his vote has become more transparent and apparent to regain the voter's confidence in the system. What essentially was the object of introduction of the VVPATs was the restoring of the voter's confidence by the logging and registering of his vote correctly in the EVM. The Voter Verifier Audit Trail as the name suggests assures the voter of his vote having been correctly recorded in the system. Once the object of the audit of the voter's vote, from his perception is achieved, who is the end consumer of the franchise, the mere apprehension voiced by the candidate, pales into insignificance.

1. Michael B. Fernandes v. C.K. Jaffer Sharief, 2004 SCC OnLine Kar 72

Date of Order: February 05, 2004

In election petition, efficacy and integrity of the EVM was challenged. It was contended that EVM is vulnerable to tampering. It was contended that an election conducted with the aid of EVM does not ensure the free and fair polling and counting, in view of the inherent defects in the EVMs.

The contentions were refuted by the Election Commission.

Hon'ble Court's ruling:

The Hon'ble Court observed that there has been a tremendous advancement in the electronic technology. A scientist who is one of the co-designer of the electronic voting machine was also examined as a court witness and his evidence unflinchingly supports the feasibility of use of electronic voting machines in the election. The evidence fully inspires the confidence of the Court that the EVMs are fully tamper proof and there is no possibility of manipulation of mischief at the instance of anyone.

The evidence discloses that the EVM has seeming advantage over the traditional manual ballot method. In the manual method, there is possibility of swift rigging at the end of polling time. But when the votes are cast through EVM there has to be necessary minimum time lag between one vote and the next vote. Therefore, when the EVMs are used, the malpractice of rigging swiftly and quickly at the closing hours of the polling time stands avoided.

It was noted that after thorough practical experimentation and research, the present version of EVM is designed. This invention is undoubtedly a great achievement in the electronic and computer technology and a national pride.

MADHYA PRADESH HIGH COURT

1. Krishna Kumar Gupta v. Rajendra Shukla, 2014 SCC OnLine MP 8785

Date of Order: August 07, 2014

In this Election Petition, contentions were raised relating to irregularities in EVMs concerned, which were opposed by the Election Commission.

Hon'ble Court's ruling:

The Hon'ble Court held that all doubts and queries regarding EVMs have already been answered in FAQs on the website of ECI wherein it has been specifically shown that there is no possibility to vote more than once by pressing button again and again. It was also held that EVMs are full proof device for counting, therefore, the allegation made in the petition in regard to mal-functioning and tampering of EVMs used in counting of votes are baseless.

2. Naresh Saraf v. Election Commission of India, Writ Petition 28106/ 2018

Date of Order: December 06, 2018

This Writ Petition was filed expressing concern over the alleged lack of sufficient security in some districts in respect of polled/unused EVMs and VVPATs in the assembly election in the State.

Contentions of the Election Commission of India:

The Election Commission refuted all allegations and submitted that all necessary instructions were issued well in advance, for the safe upkeep of polled EVMs/ VVPATs and unused/reserved EVMs/ VVPATs at the end of poll.

Hon'ble Court's ruling:

The Hon'ble Court held that careful reading of reports shows that the strong rooms for storing polled EVMs/ VVPATs and warehouses for unused/ reserved EVMs/ VVPATs are separate buildings with separate security arrangements.

It is also clear that the strong room with polled EVMs/ VVPATs were sealed immediately after poll to be opened on the day of counting. These strong rooms are under the security of Central Armed Paramilitary Forces with a triple cordon of security.

Thus, the Hon'ble Court held that no further action is required in this petition.

3. Amitabh Gupta v. Election Commission of India and Another 2018 SCC OnLine MP 1827

Date of Order: December 07, 2018

This Petition was filed seeking a direction to count all VVPAT slips along with the counting of votes through EVMs in the ongoing State Assembly elections.

Contentions of the Election Commission of India:

The Commission brought to notice of the Hon'ble Court that the issue relating to counts of votes with VVPATs slips through EVMs has already been declined by various High Courts and the Supreme Court. Further, it was contended that the petition cannot be entertained, in view of the constitutional bar engrafted under Article 329(b) of the Constitution as the election process has already commenced.

Hon'ble Court's ruling:

The Hon'ble Court perused Rule 56-D of the Conduct of Elections Rules, 1961 to hold that in case where the printed paper trail is maintained

by the Election Commission during the election, the candidate or his election agent or counting agent can apply to the Returning Officer to count the printed paper slips in respect of any polling station or stations under sub-rule (2) or Rule 56-D. Upon such application being made, the Returning Officer would decide the matter and may allow the application in whole or in part or reject if it appears to him to be frivolous or unreasonable. Sub-rule (3) or Rule 56-D requires that such decision of the Returning Officer would be in writing and contain reasons. Under sub-rule (4) of Rule 56-D the conclusions of the Returning Officer granting the request for counting of paper slips are specified. It was thus held that the guidelines for mandatory counting of paper slips in one polling station per Assembly constituency is in addition to the powers of the Returning Officer under Rule 56-D to accept the request of a candidate for counting all the paper slips in as many polling stations as the case for such counting is made out.

The Hon'ble Court held that no direction as prayed for by the petitioner, can be granted. It was also held that once the election process has commenced, the writ petition cannot be entertained, in view of constitutional bar under Article 329(b) of the Constitution of India.

MADRAS HIGH COURT

1. All India Anna Dravide Munnetra Kazhagam v. Election Commission of India, 2001 SCC OnLine Mad 1398

Date of Order: April 10, 2001

This Petition was filed seeking writ of prohibition or direction for prohibiting the ECI from using Electronic Voting Machines in the constituencies in the ensuing General Elections to the Tamil Nadu State Legislative Assembly.

Contentions of the Election Commission of India:

A comprehensive counter was filed by the Election Commission, wherein the functioning of EVMs was narrated in detail. An elaborate mention was made about the design of EVMs and the voting procedure, annexing the manuals prepared by Bharat Electronics Limited (BEL) and Electronics Corporation of India Limited (ECIL).

It was categorically stated that by using the EVMs the need for printing huge quantity of ballot papers is dispensed with saving the cost of paper and printing to a great extent. Voting by EVMs is smooth and easy and the result can be ascertained in few hours.

It was asserted that no rigging is possible.

Hon'ble Court's ruling:

The Hon'ble Court held that there is also no question of introducing any virus or bugs for the reason that the EVMs cannot be compared to personal computers.

To expel doubts as to whether the vote of an elector has been registered, the Hon'ble Court observed that a perusal of the machine manual reveals that whenever a person casts his vote, a beep sound will

be heard to those who are present in the booth concerned, and that is

the signal of the registration of the casting of vote. A safety measure is provided that if the concerned person or agents do not hear any sound, they will inform the Polling Officer to release the lock. The Hon'ble Court also dismissed the contentions on pre-programming of EVMs.

The advantages of using EVMs outweigh the advantages in conventional ballot boxes. Need for printing huge quantity of ballot papers is dispensed with saving on cost of paper and printing. The invalid votes in the old system play a major role in turning the result of the elections. In the EVMs, invalid vote does not arise, and every vote will be accounted. No rigging is possible, and results can be ascertained in a shorter time. In the ballot papers in the conventional system, the voters prefer to write some messages leaving a bad taste and also wasting the whole exercise. This is not possible in the EVMs.

The Hon'ble Court was of the view that the voter cannot dictate that he should be allowed to cast his vote in the method he chooses.

2. M. Varalakshmi v. K. Pandurangan & Ors., 2010 SCC OnLine Mad 5322

Date of Order: October 22, 2010

In this Election Petition, allegations of unreliability of EVMs were raised, which were refuted by the Election Commission.

Hon'ble Court's ruling:

The Hon'ble Court observed that Electronic Voting Machine is a simple and reliable equipment for use in electing a candidate from among many candidates. Voting by EVMs is simpler compared to the conventional system, where one has to put the voting mark on or near the symbol of the candidate of his choice, fold it vertically and then horizontally and thereafter put it into the ballot box. In EVMs, the voter has to simply press

the blue button against the candidate and symbol of his choice and the vote is recorded. Rural and illiterate people had no difficulty in recording their votes and, in fact they have welcomed the use of EVMs.

3. T.R. Baalu v. The Election Commission of India & Ors., 2014 SCC OnLine Mad 1171

Date of Order: May 08, 2014

This Writ Petition was filed for directions to install video-cameras in each and every counting table and the ARO's table and consequently to record and display lively the counting and totaling of counted votes to be entered in Part-II in Form No. 17C, enabling the candidate or his authorized agents to cross-check the votes displayed in the EVM and the total entered in Part-II in Form No. 17C and simultaneously to be displayed/transmitted in the common single screen and also by webcast method in the official website of the Election Commission.

Contentions of the Election Commission of India:

The Commission submitted that the plea made in this Writ Petition to install video-cameras in each and every counting table cannot be countenance in view of the instructions given by the Election Commission in this regard on 30.4.2014 which reads that no camera – still or video media (except the official video camera for officially recording the entire counting process) is allowed to be fixed inside counting halls.

Hon'ble Court's ruling:

The Hon'ble Court held that the Election Commission is entitled to formulate its own method for the purpose of counting of votes from the EVMs and a detailed procedure has been prescribed to all the Counting Halls.

So far as the installation of camera is concerned, taking into account

the various parameters to maintain security and also to ensure that there is secrecy of the ballots and to curb the interference of third parties inside the counting hall, procedure has been prescribed in paragraph No. 3.5 of the instruction of the Election Commission of India dated 30.04.2014. There is no reason to fault the procedure.

The Hon'ble Court found merit in objections raised by the Election Commission by observing that it has to ensure that there is no third-party interference. It was observed that the security during the process of counting of votes in counting halls will be affected if outsiders are allowed. This is one step in the process of free and fair election.

The Hon'ble Court ultimately held that the instructions issued by the Election Commission of India is a self-contained provision for conduct of election and the Court will not interfere with the decision of the Election Commission as to how it should go about conduct of election till the declaration of results.

RAJASTHAN HIGH COURT

1. C.P. Joshi v. Kalyan Singh Chouhan & Anr., 2009 SCC OnLine Raj 2971

Date of Order: July 10, 2009

In this Election Petition, decoding of EVM was prayed for exclusion of votes allegedly cast by impersonation.

Contentions of the Election Commission of India:

The Commission contended that decoding cannot be obtained without orders of the competent court. The Commission has no power or jurisdiction to ask the manufacturer of EVM, to detach the particulars of the votes polled on the EVM and to establish as to which voter voted for whom.

Hon'ble Court's ruling:

In view of the above submissions, the Hon'ble Court had directed that Election Commission be deleted from array of parties.

1. Dr. Ramesh Pandey v. Election Commission of India & another 2017 SCC OnLine Utt 676

Date of Order: June 02, 2017

The Petitioner had questioned EVM Challenge held by Election Commission on 3.6.2017 as per Press Release dated 20.5.2017.

Contentions of the Election Commission of India:

The Commission submitted that the challenge meant to put to rest all apprehensions about tamperability of EVMs.

Hon'ble Court's ruling:

The Hon'ble Court held that the Election Commission of India is not comparable with any other authority. Article 324 of the Constitution of India has to be given broadest possible meaning.

The Hon'ble Court observed that the Election Commission has successfully held the free and fair elections and the political parties cannot be permitted to lower down the image and prestige of the constitutional body.

However, in the larger public interest, the Hon'ble Court restrain all the recognized National Political Parties, recognized State Political Parties, other political parties, Non-Governmental Organizations (NGOs) and individuals from criticizing the use of EVMs in the then recently conducted elections of the State Assemblies even by approaching the Electronic Media, Press, Radio, Facebook, Tweeter etc. till the decision of the election petitions.

It was left to the wisdom/discretion of the ECI to hold the demonstration/challenge on 3.6.2017 but with a caveat that even after it is held, as scheduled, it will not affect the outcome of the pending election petitions.

CHAPTER 6: CONCLUSION

An analysis of all the afore-said decisions of the Hon'ble Supreme Court and High Courts clearly demonstrates that the Courts, after going through various aspects of the technological soundness and the administrative measures involved in the use of Election Voting Machines, have held that they are credible, reliable and totally tamperproof. The Election Commission of India has been among the pioneers in the introduction of a robust electronic voting system. With the technological landscape changing rapidly over the past decade, ECI too is exploring various advanced voting methods aimed at improving the voter participation and integrity of the voting process.

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ADDITIONAL INFORMATION ON EVMs/VVPATs

KEY FEATURES OF M-3 EVMs/VVPATs

- **Standalone Machine:** EVM is a standalone system not connected with the external world through any wired or wireless network medium.
- **Unauthorised Access Detection Module (UADM):** UADM embedded in the machine disables EVM permanently, if any attempt is made to access microcontroller or memory.
- **Advanced Encryption Techniques:** Encrypted communication between Control Unit, Ballot Unit and VVPAT cannot be deciphered by tapping cables.
- **Automated self diagnostics on every switch ON:** EVM checks its own health parameters each time it is Switched ON.
- **Strong Mutual Authentication Capability:** The strong mutual authentication capability ensures that no unauthorised device can interact with EVM.
- **No Radio Frequency Transmission or Reception Capability:** Tampering of ECI-EVMs by any wireless coded signal using any protocol (Bluetooth, WIFI, RFID, NFD etc.) is ruled out as EVM does not have any radio frequency (RF) communication capability, hence, cannot communicate through any wireless protocol.
- **One Time Programmable (OTP):** The programme (software) used in these machines is key hashed and burnt into a One Time Programmable (OTP) chip at the time of manufacturing so that it cannot be altered or tampered with.
- **Dynamic Coding of Key Presses:** Every key press is coded dynamically making it impossible for anyone to decode the signals flowing among the Control Unit, Balloting Unit and VVPAT.
- **Real Time Clock for date and time stamping of events:** Every authorised or unauthorised key press is recorded with date and time stamp on real time basis.

SALIENT ASPECTS OF EVMs/VVPATs:

- The ECI-EVMs are manufactured by two PSUs namely Electronics Corporation of India Limited (ECIL), Hyderabad and Bharat Electronics Limited (BEL), Bangalore.
- An independent TEC (a) provides technical advice to build specifications and design of newer versions of EVMs and VVPATs, in order to incorporate the latest technology both in Hardware and Software Design and towards improving Robustness against Tampering and operation in the field. (b) Examines design proposals of manufacturers on EVMs and offers recommendations for improvement. (c) Mentors design process wherever asked. (d) Examines concerns raised on EVM tamperability.
- Standardisation Testing and Quality Certification (STQC) under Ministry of Information and Technology, an accredited third party entity, conducts standardization and certification of ECI EVMs produced by manufacturers.
- EVMs data is stored internally and is non-transferrable to or by any device.
- Commission has evolved end-to-end stringent security protocol and administrative safeguards for the use, storage, transportation and tracking of ECI EVMs.
- Since the introduction of EVMs, it has been used in various elections and different governments are elected successfully by the voters as mentioned in Table 1 & 2 below:

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Table-I:

Name of State/UT	Elections in which EVMs used					
	Year	Year	Year	Year	Year	Year
Andhra Pradesh	2004	2009	2014	2019	--	--
Arunachal Pradesh	2004	2009	2014	2019	--	--
Assam	2001	2006	2011	2016	2021	--
Bihar	2000	2005	2010	2015	2020	--
Chhattisgarh	2000	2003	2008	2013	2018	--
Goa	2002	2007	2012	2017	--	2022
Gujarat	2002	2007	2012	2017	--	--
Haryana	2000	2005	2009	2014	2019	--
Himachal Pradesh	2003	2007	2012	2017	--	--
Jammu & Kashmir*	2000	2004	2009	2014	--	--
Jharkhand	2000	2005	2010	2014	2019	--
Karnataka	2004	2008	2013	2018	--	--
Kerala	2001	2006	2011	2016	2021	--
Madhya Pradesh	2003	2008	2013	2018	--	--
Maharashtra	2004	2009	2014	2019	--	--
Manipur	2002	2007	2012	2017	--	2022
Meghalaya	2003	2008	2013	2018	--	--
Mizoram	2003	2008	2013	2018	--	--
Nagaland	2003	2008	2013	2018	--	--
Odisha	2000	2004	2009	2014	2019	--
Punjab	2002	2007	2012	2017	--	2022
Rajasthan	2003	2008	2013	2018	--	--
Sikkim	2004	2009	2014	2019	--	--
Tamil Nadu	2001	2006	2011	2016	2021	--
Telangana	--	--	2014	2018	--	--
Tripura	2003	2008	2013	2018	--	--
Uttar Pradesh	2002	2007	2012	2017	--	2022
Uttarakhand	2002	2007	2012	2017	--	2022
West Bengal	2001	2006	2011	2016	2021	--
NCT of Delhi	2003	2008	2013	2015	2020	--
Puducheery	--	2006	2011	2016	2021	--

Total: 132 State Legislative Assembly Elections

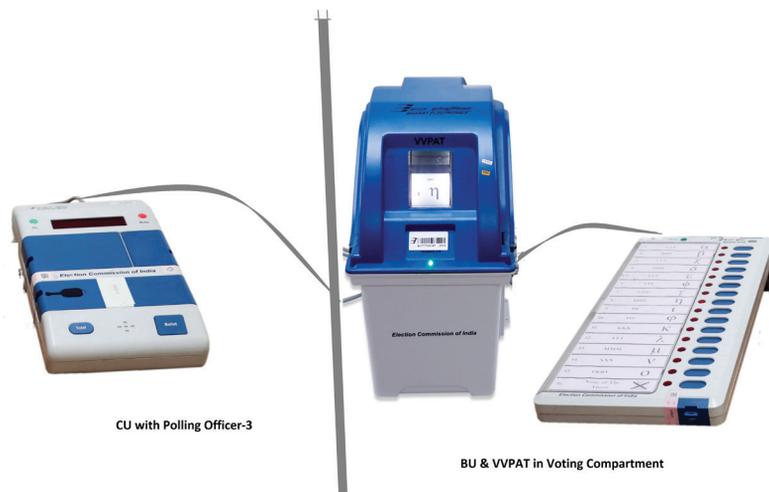
EVMs were also used in all constituencies in General Elections to Lok Sabha in 2004, 2009, 2014 and 2019. *(Please turn over leaf):*

Table-2:

PARTY WITH MAXIMUM NUMBER OF SEATS IN LEGISLATIVE ASSEMBLY ELECTION									
Andhra Pradesh	2004 INC	2009 INC	2014 TDP	2019 YSRCP	Meghalaya	2008 INC	2013 INC	2018 INC	
Arunachal Pradesh	2004 INC	2009 INC	2014 INC	2019 BJP	Mizoram	2008 INC	2013 INC	2018 MNF	
Assam	2006 INC	2011 INC	2016 BJP	2021 BJP	Nagaland	2008 NPF	2013 NPF	2018 NPF	
Bihar	2005 RJD	2010 JD(U)	2015 RJD	2020 RJD	Odisha	2004 BJD	2009 BJD	2014 BJD	2019 BJD
Chhattisgarh	2008 BJP	2013 BJP	2018 INC		Punjab	2007 SAD	2012 SAD	2017 INC	2022 AAP
Goa	2007 INC	2012 BJP	2017 INC	2022 BJP	Rajasthan	2008 INC	2013 BJP	2018 INC	
Gujarat	2007 BJP	2012 BJP	2017 BJP		Sikkim	2004 SDF	2009 SDF	2014 SDF	2019 SKM
Haryana	2005 INC	2009 INC	2014 BJP	2019 BJP	Tamil Nadu	2006 DMK	2011 AIADMK	2016 AIADMK	2021 DMK
Himachal Pradesh	2007 BJP	2012 INC	2017 BJP		Telangana	2014 TRS	2018 TRS		
Jammu & Kashmir	2008 JKNC	2014 JKPDP			Tripura	2008 CIP(M)	2013 CPI(M)	2018 BJP	
Jharkhand	2005 BJP	2009 BJP & JMM	2014 BJP	2019 JMM	Uttarakhand	2007 BJP	2012 INC	2017 BJP	2022 BJP
Karnataka	2004 BJP	2008 BJP	2013 INC	2018 BJP	Uttar Pradesh	2007 BSP	2012 SP	2017 BJP	2022 BJP
Kerala	2006 CPI(M)	2011 CPI(M)	2016 CPI(M)	2021 CPI(M)	West Bengal	2006 CPI(M)	2011 AITC	2016 AITC	2021 AITC
Madhya Pradesh	2008 BJP	2013 BJP	2018 INC		NCT of Delhi	2008 INC	2013 BJP	2015 AAP	2020 AAP
Maharashtra	2004 NCP	2009 INC	2014 BJP	2019 BJP	Puducherry	2006 INC	2011 AINRC	2016 INC	2021 AINRC
Manipur	2007 INC	2012 INC	2017 INC	2022 BJP					
PARTY WITH MAXIMUM NUMBER OF SEATS IN LOK SABHA ELECTIONS									
	2004		2009		2014		2019		
Max. Seats	INC 145		INC 206		BJP 282		BJP 303		
2 nd Max. Seats	BJP 138		BJP 116		INC 44		INC 52		

INTERESTING FACTS ON EVMS:

- In 1982, when EVM was first used in Kerala, a candidate Sivan Pillai challenged its use even before the election. But Kerala High Court did not entertain his challenge and EVM was introduced as a pilot project. Interestingly, Mr. Pillai, the challenger, won the election when the result was declared. However, Mr. Pillai's opponent challenged the introduction of EVMs thereafter. The said election was re-conducted with paper ballots after Supreme Court ruling in 1984. However, the 1984 SC ruling against EVMs had been on a legal technicality, and not about their fundamental suitability, and the legal glitch was corrected through amendment of the Representation of the People Act 1951 in 1988.
- The introduction of EVMs for voting in India was met with certain reservations considering the then existing large-scale illiteracy and socio-economic backwardness of the country. It was often asserted by the naysayers that the multitudes of poor, illiterate, down-trodden, especially in the rural areas, would face hardships and problems in accessing the EVMs and may get dis-enfranchised out of ignorance, lack of voting education or awareness. But, a joint study of Indian School of Business, Indian Statistical Institute and Brookings Institution in 2017 with the help of post-poll survey data between 2000 and 2005 from the independent Centre for the Study of Developing Societies (CSDS), establishes that introduction of EVMs led to greater participation in electoral process by the marginalised and vulnerable voters such as women, Scheduled Castes and Scheduled Tribe.







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