



भारत निर्वाचन आयोग सचिवालय
SECRETARIAT OF THE ELECTION COMMISSION OF INDIA

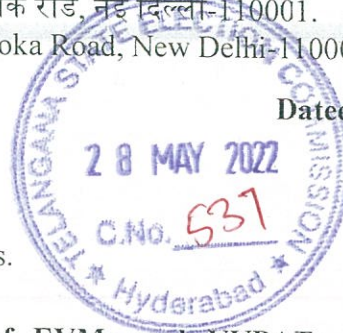
निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001.
Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No. 51/8/4/2022-EIMS

Dated: 23rd May, 2022

To

The Chief Electoral Officers
Of all the States and Union Territories.



Subject: Policy and Guidelines on loaning of EVMs and VVPATs to State Election Commissions -regarding.

Madam/Sir,

I am directed to state that the Commission has already issued comprehensive policy directives and guidelines to facilitate and support the State Election Commissions to manufacture their own EVMs/VVPATs through M/s Bharat Electronics Limited (BEL) and Electronics Corporation of India Limited (ECIL), if the State Election Commissions decide to use EVMs/VVPATs for their local bodies' elections. The Commission has been receiving requests for providing EVMs from State Election Commissions through the Chief Electoral Officers concerned or directly to conduct their local bodies' elections. The ECI always extended its support to SECs by providing ECI-EVMs based on the availability and suitability on case-to-case basis.

2. The Commission has now approved the comprehensive policy directive and guidelines to facilitate and support the State Election Commissions by providing its EVMs and VVPATs on loan basis to State Election Commissions to conduct their local bodies' elections.

3. I am further directed to say that the policy and guidelines being issued are in suppression of all the extant guidelines and directives on the subject and may involve periodical implementation reviews by the Commission.

Yours faithfully

(Madhusudan Gupta)
Secretary

Copy to

1. The Secretary to State Election Commissions of all States/UTs.
2. The Chairman-cum-Managing Director, Bharat Electronics Limited, Nagavara, Outer Ring Road, Bangalore-560045.
3. The Chairman-cum-Managing Director, Electronics Corporation of India Limited, Hyderabad, Telangana.



Policy and Guidelines on Loaning of ECI-EVMs to the State Election Commissions

1. Introduction:

- (a) India is the largest participatory democracy of the world with more than 900 million registered electors. The Constitutional mandate of superintendence, direction and control of elections to the Parliament and the State Legislatures has been conferred on the Election Commission of India under Article 324 of the Constitution of India. Election Commission of India is an independent constitutional body mandated to decide on the method and means of conduct of elections. The Election Commission of India has always been in the forefront to devise robust and fool proof methods and means to conduct free and fair elections.
- (b) Part IX and Part IXA of the Constitution of India relating to Panchayat and municipalities were inserted by the Seventy-third and Seventy-fourth Constitutional Amendment Act respectively in the year 1992. The objective of the Part IX and Part IXA was to introduce local self-government at grass root level in rural and urban areas. Article 234-K read with Article 243-ZA of the Constitution of India provides for creation of State Election Commissions which are mandated for superintendence, direction and control of conduct of all elections to panchayats and municipalities. The State Legislatures have been empowered to make laws relating to and in connection with these elections.
- (c) It is amply clear that responsibility to conduct local self-government is solely with the State Election Commissions and the Election Commission of India has no role to play in the method of conducting local bodies' elections or related issues.

2. Evolution of EVMs:

- (a) The Election Commission of India mooted the idea of Electronic Voting Machine (EVM) in 1977 and a prototype was prepared in collaboration with Electronics Corporation of India Limited (ECIL) (a PSU of Department of Atomic Energy) by 1979. Bharat Electronics Limited (BEL)

- (a PSU of Defence Ministry) also developed a prototype independently in 1981. The Election Commission of India issued directive under Article 324 of the Constitution of India for use of EVMs on 19th May 1982 and conducted elections at fifty polling stations in Kerala on experimental basis. EVMs were used in few bye-election in 1982-83 till the Supreme Court of India held (1984) that EVMs can't be used without legal amendments.
- (b) A new Section 61A (on use of EVMs) was included in the Representation of the People Act 1951 and its validity was upheld by the Supreme Court of India in 2001. This legal amendment set the ball rolling for large scale induction of EVMs in election system for conduct of elections. The Electoral Reforms Committee under the chairmanship of Sh. Dinesh Goswami, erstwhile Union Law Minister, formed an independent Technical Expert Committee of eminent scientists and domain experts to advise it on technical aspects of EVMs in 1990. 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. A general political consensus was reached on use of EVMs for conduct of elections in 1998. The Election Commission of India has mandated BEL and ECIL for production of EVMs.
- (c) Since the year 1999, EVMs were used in conduct of various State Legislative Assembly and Parliamentary elections. An additional equipment called Voter Verifiable Paper Audit Trail (VVPAT) was added with EVMs to ensure further transparency in use of EVMs in 2013.
- (d) Since the year 2000, EVMs have been used in all elections- 4 Parliamentary elections and 137 State Assembly Elections with casting of more than 350 Crores votes in EVMs.

3. Need of the Policy:

- (a) The Commission has already issued comprehensive policy directives and guidelines to facilitate and support the State Election Commissions to manufacture their own EVMs/VVPATs through BEL/ECIL, if the State

Election Commissions decide to use EVMs/VVPATs for their local bodies' elections.

(b) A conference of State Election Commissioners was held at Hyderabad in 2005. Based on the discussion held in the said conference, the Commission decided to loan EVMs to State Election Commission subject to the condition that –

- (i) EVMs would be given only to those States where the law governing Local Bodies elections provide for use of EVMs;
- (ii) the system of these elections is first past the post system and election is for single post;
- (iii) SECs would buy 25% of the total State requirement of EVMs.

(c) Subsequently, in the second meeting of the Election Commission of India and State Election Commissioners held at Srinagar in 2006, the decisions were taken that SECs would procure –

- (i) 10% of the EVMs by March 2007,
- (ii) 15% of the EVMs by March 2008 and
- (iii) 25% of the EVMs by March 2009

This would be a pre-condition for loaning of EVMs to the SECs.

(d) It could be appreciated that the ECI provided EVMs to SECs on loan basis (free of cost) even for SECs who have not fulfilled the pre-condition(s) for loaning of EVMs i.e., procurement of 25% of the total State requirement of EVMs or adherence to stipulated time schedule of procurement of EVMs to conduct their elections or existence of legal provision in the concerned statutes.

(e) Election Commission of India provides only those EVMs to State Election Commissions on loan basis which are not being used by the Commission to conduct elections to Parliamentary and Assembly Constituencies. It is pertinent to also highlight here that some SECs are also approaching the ECI to provide M3 EVMs which are being used by ECI to conduct its elections to Parliamentary and Assembly Constituencies. Maintaining the

integrity of EVMs is a matter of utmost concern for the Election Commission of India. This necessitates protecting the electronic hardware and software of EVMs that the Commission uses.

- (f) The Commission, however, is aware that increasingly the State Election Commissions have also started using EVMs more and more and may need to buy their own EVMs. Now that a number of SECs are switching over to EVMs as mode of conducting elections, it would not be feasible to fulfill the requirement of SECs on a pan-India basis.

4. Policy and Guidelines for loaning of EVMs/VVPATs to SECs:

The following policy directives and guidelines, superseding all the extant guidelines and policies on the subject, are being issued with immediate effect:

- (a) EVMs and VVPATs will be given to those States where the Law(s) governing Local Bodies elections provide for use of EVMs/VVPATs in local bodies election.
- (b) For the purpose of loaning of EVMs/VVPATs to State Election Commissions, only those models would be given which are discontinued for deployment by the Election Commission of India to conduct elections to Parliamentary and Assembly Constituencies. The EVMs and VVPATs earmarked for the purpose of destruction or which have completed economic life of 15 years shall not be provided to any SEC. // X
- (c) The loaning of EVMs and VVPATs will be subject to availability of the discontinued EVMs and VVPATs with ECI.
- (d) SECs have to raise loaning requests at least six months in advance to the Chief Electoral Officers of the concerned States. Allocation of specified/ permitted models of EVMs/VVPATs will be purely based on availability.
- (e) The loaned ECI-EVMs should be kept in the secured EVM warehouses of the SEC with security protocols of ECI. In no case ECI-EVMs and VVPATs loaned to SEC shall be stored in ECI-EVM warehouses.

- (f) SECs will lift the loaned EVMs from the State(s) within 90 days of allotment order of ECI failing which the order will be treated as cancelled. Thereafter, SECs will need to approach the ECI with fresh loaning request.
- (g) Election Commission of India has already issued comprehensive instructions/guidelines and SoPs on use of EVMs and VVPATs. All the existing instructions of ECI on use of EVMs and VVPATs viz. storage, safety, movement, First Level Checking of EVMs and VVPATs only by the authorized engineers of Bharat Electronics Limited and Electronics Corporation of India Limited, as the case may be, etc. shall be strictly followed by the SECs.
- (h) The borrowing SEC is responsible for transporting all rejected/defective EVMs/VVPATs during FLC, commissioning, poll and counting to the manufacturers (BEL/ECIL) and shall bear all expenses related to transportation and repair/rework.
- (i) All the expenditure on loaning of EVMs and VVPATs shall be borne by the State Election Commission concerned which is borrowing those EVMs/VVPATs. Expenditure on returning EVMs/VVPATs after election process to specified ECI Storage facilities should be borne by the borrowing SECs
- (j) Transportation of ECI-EVMs shall be made in containerized sealed trucks and shall be monitored through GPS tracking/ Mobile App.
- (k) If these loaned machines borrowed by SEC-A is required to be transferred to SEC-B (or more SECs) on loan basis, the expenditure to transport such machines from SEC-A to SEC-B (or more SECs) should be borne by SEC-B (or more SECs).
- (l) Loaning of ECI EVMs/VVPATs shall be made only through the respective Chief Electoral Officer through EVM Management System (EMS). In case ECI EVMs/VVPATs are loaned directly from the other State Election Commission(s), the Chief Electoral Officer of the concerned State will receive the EVMs/VVPATs in the EMS. Example- If ECI EVMs/VVPATs are loaned from the SEC of State-A to the SEC of State-B, the CEO of

State-A will first receive in EVMs/VVPATs from the SEC of State-A in EMS and shift the EVMs/VVPATs to the CEO of State-B in EMS. Thereafter, CEO of State-B will provide the EVMs/VVPATs to the SEC-B on loan basis through EMS.

- (m) On completion of election process (including prescribed Election Petition period, if any) the borrowing SECs should promptly (within 15 days) inform the concerned Chief Electoral Officers about availability of EVMs/VVPATs for loaning/ returning. Details of Election Petitions shall also be specified with efforts made to release such machines with permission of the competent court wherever EVMs/VVPATs are not the subject matter. Quarterly reports on status of Election Petitions shall be filed with the concerned CEOs.
- (n) In case of damaged/ broken EVMs (due to mishandling or any other reasons) the depreciated cost as fixed by the Commission is to be paid to the Commission by the borrowing SECs. In case of EVMs/VVPATs damaged due to booth capturing/ criminal act, the SoP issued by the Commission on the subject shall be followed about filing of criminal cases and custody.
- (o) Commission may seek any report from SECs about loaned EVMs/VVPATs as required.

5. Support required from the State Election Commissions:

- (a) It should be appreciated that Election Commission of India is continuously in the process of procurement of EVMs and VVPATs to meet the requirements to conduct constitutionally mandated elections to Parliamentary and Assembly Constituencies.
- (b) It is essential that the State Election Commissions desirous of using EVMs will establish their own secured EVM warehouses and also procure required EVMs to conduct their local bodies' elections as per comprehensive policy directives and guidelines on SECs to manufacture their own EVMs/VVPATs issued by Election Commission of India.

- (c) State Election Commissions may develop their own software for management of EVM Inventory for EVMs and VVPATs provided by ECI to ensure that proper transportation and storage protocols are followed while in custody of SECs.
- (d) It is also expected that State Election Commission will not approach the Election Commission of India to loan them EVMs which are being currently used by the latter to conduct elections to Parliamentary and Assembly Constituencies. Election Commission of India will only provide EVMs/VVPATS, not currently used by ECI, to State Election Commissions to conduct their local bodies elections.
- (e) Further, it is essential that State Election Commissions will regard the above policy and guidelines. It must be appreciated that constitutional mandate to finance expenditure for conduct of local bodies' elections rests with the respective competent governments of the State/UTs.
- (f) It must be appreciated that loaning of EVMs/VVPATs by ECI to SECs is not obligatory on ECI and there is no constitutional or legal basis to cast such obligation on ECI. ECI is loaning EVMs/VVPATs to SECs purely as a measure to promote use of electronic voting in local bodies election to improve their efficiency.
- 6. Policy regarding loaning of EVMs/VVPATs to other organizations:** ECI will not provide any EVMs/VVPATs to any other organizations (except State Election Commissions) on loan basis to conduct their elections.



ELECTION COMMISSION OF INDIA

BY SPEED POST

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 51/8/4/2005-PLN-IV

Dated : 16th May, 2005

To

The State Election Commissioners of
All the States and Union Territories.

Subject: Loaning of Electronic Voting Machines for conducting Local Bodies
 Elections - regarding.

Sir,

I am directed to state that of late, the Commission has been receiving requests from several State Election Commissions regarding loaning of Electronic Voting Machines (EVMs) for Local Bodies elections in their State/UT. This issue was discussed during the recent conference of State Election Commissioners convened by the Commission at Hyderabad. On the basis of the discussion held, the Commission has decided to loan EVMs to the State Election Commissions for use in Local Bodies elections in their respective State/UT subject to the following conditions:

- i. EVMs will be given only to those states where the law governing Local Bodies elections provide for use of EVMs.
- ii. the system of these election are first past the post system and the election is for single seat.
- iii. the State Election Commission agrees to build a reserve of EVMs which will be equal to 25% of the total requirement of machines for the assembly elections of the state in a period of 3 financial years, and actually procure 10% before making the request to spare EVMs held by the Commission.

- iv. the State Election Commission meet expenditure towards pre-poll checking by the ECIL/BEL technicians/engineers. as the case may be, training of employees, batteries. post-poll clearing of machines and their repairs (if needed), transportation from place of storage and back and any other incidental expense that may have to be borne on account of loaning the EVMs.
- v. the State Election Commission makes good of any loss occurring due to damage to the machines and subject to any other conditions as may be imposed by the Commission in future.

The EVMs shall be returned to the concerned CEO immediately after completion of Local Bodies Elections.

Yours faithfully,



(A.K. Majumdar)
Secretary

Copy to: The Chief Electoral Officers of all the States and Union Territories.

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

No.51/8/4/2006 PLN-IV

Dated: 30th June, 2006

To

The State Election Commissioners of
All the States and Union Territories.

Subject: Loaning of Electronic Voting Machines for conducting
Local Bodies Elections-procurement of 25% of the total
requirement of EVMs in the State/UT,

Sir,

I am directed to refer para (iii) of the Commission's letter No. 51/8/4/2005 PLN-IV dated 16th May, 2005 and to state that in the second meeting of the Election Commission of India and State Election Commissioners held in Srinagar, the following decisions were taken:-

a. All State/UT Governments will undertake to procure at least 25% of the total requirement of EVMs in the State within a period of three years for forming a reserve, as per the following revised schedule:-

- i. 10% of the EVMs to be purchased by March 31, 2007;
- ii. 15% of the EVMs to be purchased by March 31, 2008;
- iii. 25% of the EVMs to be purchased by March 31, 2009.

And, this will be a pre-condition for loaning of EVMs to the State Election Commissions.

- b. The State Election Commissions will buy 25% of the total State/UT requirement of EVMs from the same company whose EVMs are being used in that State/UT to maintain the uniformity in training and use. These machines further be ones that are used for single poll, first past the post system.

Yours faithfully,



(TAPAS KUMAR)
SECRETARY

Copy to:

- i. The Chief Electoral Officers of all the States and Union Territories.
- ii. The Chief Secretaries of all the States and Union Territories with the request to provide sufficient funds to respective State Election Commissioner for purchasing the EVMs as per the scheduled mentioned at para (a).

(TAPAS KUMAR)
SECRETARY



भारत निर्वाचन आयोग सचिवालय
SECRETARIAT OF THE ELECTION COMMISSION OF INDIA
निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001.
Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No. 51/8/6/2022-EMS

Dated: 18th May, 2022

To

The Chief Electoral Officer of
All the States and Union Territories.

Subject: Instruction on storage and safety arrangement of EVMs & VVPATs- SoP on handling of damaged/broken EVMs/VVPATs during election process-regarding.

Madam/Sir,

The Commission has been issuing instructions on storage and safety arrangement of EVMs & VVPATs from time to time.

2. With regard to handling of damaged/broken EVMs/VVPATs, after dispersal to mock poll on poll day and during actual poll on poll day, by miscreants or any other reason, the following SoP shall be followed :

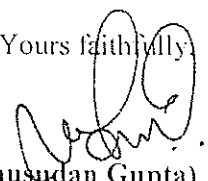
- i) **After dispersal to Mock poll on poll day:** EVM/VVPAT damaged after dispersal to mock poll on poll day shall be stored in the strong room having defective un-pollled EVMs (Category C).
- ii) **During actual poll on poll day/before counting:** Handling of EVM/VVPAT having polled data damaged/broken during actual poll on poll day
 - (a) Such EVM/VVPAT shall be kept in the strong room having polled EVMs/VVPATs (Category A) and defective polled EVMs/VVPATs (Category B), if the polled votes can be retrieved/paper slips are intact to obtain result during counting of votes.
 - (b) Such EVM/VVPAT shall be kept in the strong room having un-pollled defective EVMs/VVPATs (Category C), if the polled votes **cannot** be retrieved/paper slips are not intact.

3. The damaged/broken machines shall be marked as damaged in EVM Management System (EMS) by the DEO.

4. In all such cases an FIR shall be filed under the relevant Sections of the Representation of the People Act, 1951, as under, and a detailed report with a copy of FIR shall be sent to the Commission:

- i) Section 129 (Officers, etc., at elections not to act for candidates or to influence voting)
 - ii) Section 132 (Penalty for misconduct at the polling station)
 - iii) Section 134 B (Prohibition of going armed to or near a polling station)
 - iv) Section 135 (Removal of ballot papers from polling station)
 - v) Section 135A (Offence of booth capturing)
 - vi) Section 136 (Other offences and penalties therefor)
 - vii) In additions to the aforesaid offences under the Representation of the People Act, 1951, Section 171C (Undue influence at elections), Section 506 (Punishment for criminal intimidation), 425 (Mischief), etc. of IPC shall also be suitably considered along with any other applicable provisions/statutes while filing FIR in all such cases.
5. The Chief Electoral Officer concerned shall follow up the FIR case with Police Department concerned.
 6. The damage/broken machine mentioned at para 2(ii)(a) above shall be inspected only on the order of the competent court as Rule 93 (1A) of the Conduct of Elections Rules, 1961, which specifies that the control units sealed under the provisions of rule 57C and kept in the custody of the District Election Officer shall not be opened and shall not be inspected by or produced before, any person or authority except under the orders of a competent court.
 7. The damage/broken machine mentioned at para 2(i) and 2(ii)(b) above shall be provided for investigation purpose, if required. However, such EVM/VVPAT shall be in the custody of District Election Officer concerned.
 8. The above instruction shall be brought to the notice of all concerned for strict compliance.

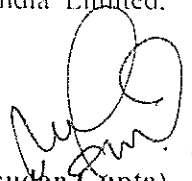
Yours faithfully,


(Madhusudan Gupta)
Secretary

Copy to

1. The Chairman-cum-Managing Director, Bharat Electronics Limited, Nagavara, Outer Ring Road, Bangalore-560045.
2. The Chairman-cum-Managing Director, Electronics Corporation of India Limited, Hyderabad, Telangana.

.....for information and necessary action.


(Madhusudan Gupta)
Secretary