

**SECTION:PIL**

**IN THE SUPREME COURT OF INDIA**  
(CIVIL ORIGINAL JURISDICTION)

I.A. NO. \_\_\_\_\_ OF 2024  
IN  
WRIT PETITION (CIVIL) NO. 1382 OF 2019

**IN THE MATTER OF:**

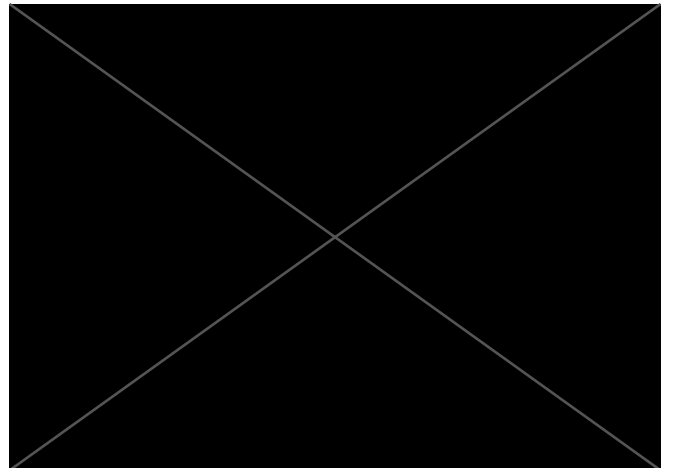
ASSOCIATION FOR DEMOCRATIC REFORMS & ANR. ....PETITIONER

VERSUS

ELECTION COMMISSION OF INDIA & ANR. ....RESPONDENTS

**FILING INDEX**

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NEW DEHI:

DATED: 09.05.2024



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RESPONDENTS

**PAPER BOOK**

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**{APPLICATION FOR DIRECTION}**

COUNSEL FOR THE PETITIONERS: **PRASHANT BHUSHAN**

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**IN THE SUPREME COURT OF INDIA**  
(CIVIL ORIGINAL JURISDICTION)  
IA NO. \_\_\_\_\_ OF 2024  
IN  
WRIT PETITION (CIVIL) NO. 1382 OF 2019  
**(PUBLIC INTEREST LITIGATION)**

**IN THE MATTER OF:**

ASSOCIATION FOR DEMOCRATIC REFORMS & ANR      .... PETITIONERS

VERSUS

ELECTION COMMISSION OF INDIA & ANR.      ....RESPONDENTS

**APPLICATION FOR DIRECTIONS**

TO,  
THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUDGES OF  
THE HON'BLE SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF THE  
PETITIONER ABOVE-NAMED

**MOST RESPECTFULLY SHOWETH: -**

1. The Applicants/Petitioners have filed the instant Public Interest Litigation under Article 32 of the Constitution of India to ensure that democratic process is not subverted by electoral irregularities and to ensure free and fair elections and rule of law and for the enforcement of fundamental rights guaranteed under Articles 14, 19 and 21 of the Constitution of India. The said writ petition highlights dereliction of duty on part of the Election Commission of India (ECI) in declaring

election results (of the Lok Sabha and State Legislative Assemblies through Electronic Voting Machine (EVMs) based on accurate and indisputable data which is put in public domain.

- 2.** The applicant/petitioner is filing the instant application seeking directions from this Court to the Election Commission of India (Respondent No. 1 herein) to disclose authenticated record of voter turnout by uploading on its website scanned legible copies of Form 17C Part-I (Account of Votes Recorded) of all polling stations after each phase of polling in the on-going 2024 Lok Sabha elections and to provide in public domain a tabulation of the constituency and polling station wise figures of voter turnout in absolute numbers and in percentage form for the on-going 2024 Lok Sabha elections. In addition, the Part- II of Form 17C which contains the candidate-wise Result of Counting should also be disclosed after the compilation of results;
- 3.** That Rule 49S and Rule 56C (2) of the Conduct of Election Rules, 1961, provide that presiding officer is to prepare an account of votes recorded in form 17C (Part I) and the returning officer is to record the number of votes in favour of each candidate (Part II of the Form 17). The said two provisions are given hereinbelow:

*Rule 49S.Account of votes recorded. —*

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

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

*Rule 56C . Counting of votes.—*

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

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

*(3)(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.*

A copy of Conduct of Election Rules, 1961 is annexed herewith as **ANNEXURE A1 (Pg 15-159)**.

4. That Form 17Cof Conduct of Election Rules, 1961 is as follows:

**FORM 17C**

[See rules 49S and 56C (2)]

**PART I – ACCOUNT OF VOTES RECORDED**

Election to House of the People/Legislative Assembly of the State/Union Territory .....  
 from.....constituency.

Number and Name of Polling Station: .....

Identification Number of voting Machine used at the Polling Station:

Control Unit.....

Ballot Unit.....

VVPAT .....

1. Total number of electors assigned to the Polling Station
2. Total number of voters as entered in the Register for Voters (Form 17A)
3. Number of voters deciding not to record votes under rule 49-O
4. Number of voters not allowed to vote under rule 49M
5. Test votes recorded under rule 49MA (d) required to be deducted-
  - (a) total number of test votes to be deducted:  
 Total No.      Sl. No.(s) of elector (s) in Form 17A  
 .....
  - (b) Candidate(s) for whom test vote(s) cast:  
 Sl. No.      Name of candidate      No. of votes  
 .....      .....
6. Total number of votes recorded as per voting machine.....
7. Whether the total number of votes as shown against item 6 tallies with the total number of votes as shown against item 2 minus numbers of voters deciding not to record votes as against item 3 minus number of voters as against item 4(i.e. 2-3-4) or any discrepancy noticed.....
8. Number of voters to whom tendered Ballot papers were issued under rule 49P.....
9. Number of tendered Ballot papers:

		Sl. No.	Total
		From	Tow
(a)	received for use	.....	
(b)	issued to electors	.....	
(c)	not used and returned	.....	

10. Account of papers seals
 

		Signature of polling agents	
1.	Paper seals supplied for use:	Total No.....	1.....
		Sl. No. from.....	To .....
2.	Paper seals used:	Total No.....	2.....



Sl. No. from..... To .....

3. Unused paper seals returned to  
 Returning Officer: Total No.....  
 3..... Sl. No. from..... To.....
4. Damaged paper seal, if any: Total No..... 4.....  
 Sl. No. from..... To .....
- 5.....  
 6.....

Date.....  
 Place.....

Signature of Presiding Officer  
 Polling Station No.....

**PART II- RESULT OF COUNTING**

Sl. No. of candidate	Name of candidate	Number of votes as displayed on Control Unit	Number of test votes to be deducted as per item 5 of Part I	Number of valid votes.
1	2	3	4	5
1.				
2.				
3.				
4.				
5.				
N.	NOTA			
Total				

Whether the total number of votes shown above tallies with the total number of votes shown against item 6 of Part I or any discrepancy noticed between the two totals (YES/NO).

Place.....

Date.....

Signature of Counting Supervisor

Name of candidate/election agent/counting agentFull signature

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

Place.....

Date.....

Signature of Returning Officer

A copy of Form 17C of Conduct of Election Rules, 1961 is annexed herewith as **ANNEXURE A2 (Pg 160-161)**.

**5.** That the voter turn-out data for the first two phases of the ongoing 2024 Lok Sabha elections published by ECI on April 30 has been published after 11 days of the first phase of polling held on 19th April and 4 days after second phase of polling held on 26th April. The data as published by the ECI in its press release dated April 30, 2024 shows a sharp increase (by about 5-6%) as compared to the initial percentages announced by ECI as of 7 pmon the day of polling. It is submitted that the inordinate delay in the release of final voter turnout data, coupled with the unusually high revision (of over 5%) in the ECI's press note of April 30, 2024, and the absence of disaggregated constituency and polling station figures in absolute numbers, has raised concerns and public suspicion regarding the correctness of the said data. A copy of Press Note dated 30.04.2024 issued by ECI showing voter turnout data for Phase I and Phase II is annexed herewith as **ANNEXURE A3 (Pg 162-182)**.

**6.** That initially, on April 19, after the first phase of polling, the ECI issued a Press Note stating that the tentative figure of voter turnout across 21 States/UTs reported was over 60% as of 7 pm.

Similarly, after the second phase on April 26, the EC said the turnout was at 60.96%. A copy of Press Note dated 19.04.2024 issued by ECI is annexed herewith as **ANNEXURE A4(Pg\_183-188\_\_\_\_\_)**. A copy of Press Note dated 26.04.2024 issued by ECI is annexed herewith as **ANNEXURE A5 (Pg\_189-194\_\_\_\_\_)**. The data published in the press release dated 30.04.2024 (Phase I voter turnout- 66.14% and Phase II voter turnout - 66.71%) when compared with the initial data of 19.04.2024 and 26.04.2024 respectively shows an increase of nearly 6% in the Phase I data and increase of approximately 5.75% in the Phase II data.

7. The ECI not releasing absolute number of votes polled, coupled with the unreasonable delay in release of votes polled data, has led to apprehensions in the mind of the electorate about the sharp increase between initial data and data released on 30.04.2024. These apprehensions must be addressed and put to rest. That in order to uphold the voter's confidence it is necessary that the ECI be directed to disclose on its website scanned legible copies of Form 17C Part- I (Account of Votes Recorded) of all polling stations which contains the authenticated figures for votes polled, within 48 hours of the close of polling.

- 8.** Furthermore, in order to ensure easy accessibility of the data, a tabulation of the constituency and polling station wise figures of voter turnout in absolute numbers and in percentage form must also be disclosed. This information would be readily available with the ECI, as it is only upon the compilation of these figures that the voter turnout percentage is arrived at. Further, this information is also required to be reported to the ECI within hours of closing of polls under various rules and procedures including Form 17C and the final report by Returning Officers which should reach the Commission by 7 am the day after polling (the format of the report is at Annexure 29 of the Handbook for Returning Officer 2023- Edition 2 and includes an entry regarding poll percentage) and through scrutiny of Form 17A etc. That under the rules polling station is mandated to give Form 17C to the polling agents so this information is readily available by the time of close of poll on the day of polling. However, there may be instances that polling agents may not be available.
- 9.** It is pertinent to note that the press release of the ECI of 19.4.2024 regarding the voter turnout as of 7 pm during phase 1 states in the second paragraph that the final figures of voter turnout are available with the ECI by the next day. The relevant part is extracted herein below:

*"Tentative figure of voter turnout across 21 States/UTs reported is over 60% at 7 PM. State wise figures are placed at Annexure A. The voting percentage is likely to go upwards when reports from all polling stations are obtained as polling is scheduled till 6 PM in many Constituencies. Also, voters reaching the Polling stations till the end of polling hour are allowed to cast their vote. **Final figures will be known tomorrow after the scrutiny of form 17A.**" [Emphasis supplied]*

A copy of the proforma for submission of the reports by returning officer on the day of polling in Handbook for Returning Officer, 2023 is annexed herewith as **ANNEXURE A6(Pg 195-197)**).

- 10.** That in this regard All India Trinamool Congress has written a letter dated 06.05.2024 to the ECI calling upon the ECI to publish the total number of electors in each Parliamentary Constituency, total number of voters as noted in register of voters and number of voters as per EVM for all PCs that have already gone to polls in Phases I and II. A copy of letter dated 06.05.2024 sent by authorized representative of All India Trinamool Congress to the ECI is annexed herewith as **ANNEXURE A7 (Pg 198-200)**). Similarly, Congress President Mr. Mallikarjun Kharge has also written to other political parties questioning the increase in voter turn-out percentage and non-disclosure of number of votes polled in numbers. A copy of letter dated 06.05.2024 sent by Congress President to other political

leaders is annexed herewith as **ANNEXURE A8 (Pg 201-203)**. Similarly, on 03.05.2024, Mr. Sitaram Yechury, General Secretary of CPI(M) wrote a letter to the ECI raising concerns over delays and discrepancies in the release of voting figures by the ECI. A copy of letter dated 03.05.2024 sent by CPI(M) General Secretary Mr. Sitaram Yechury to the ECI is annexed herewith as **ANNEXURE A9 (Pg 204)**.

- 11.** That without the absolute number of voter turnout data, the general public cannot compare the number of votes polled with the number of votes counted as announced in the results and thus, discrepancies, if any, in the two sets of data (no. of votes polled at polling booths and no. of votes counted by EVM) can only be assessed when absolute numbers, and not merely percentages, for each constituency are released by the ECI. It is respectfully submitted that unless the exact figures are brought in the public domain, percentage figures are meaningless for the voter.
- 12.** That in 2019 Lok Sabha Elections, EC released 2019 total votes polled data by comparing with 2014 data. Thus, the voter got properly compiled data showing the number as well as increase and decrease in the voting percentage. That the said data with absolute numbers was published on EC website under the head of "*Final Voter Turn Out*

*of Phase 1, 2, 3 and 4 of the Lok Sabha Elections 2019.*" A copy of data as published on EC website dated 27.04.2019 is annexed herein as **ANNEXURE A10 (Pg 205-209 )**.

- 13.** That as per former Chief Election Commissioner Mr. SY Quraishi as published in *scroll.in,*" *(delete bec he said not unacceptable). It is important to have the absolute number of voters for transparency and the data should be released within 24 hours. Until 2014, it was the practice. However, problems started cropping up in 2019 and it has been discontinued now*". A copy of news report dated 06.05.2024 published in *The New Indian Expressis* annexed herein as **ANNEXURE A11 (Pg 210-212 )**.

### **PRAYERS**

In view of the facts and circumstances stated hereinabove, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a) Direct the Election Commission of India to immediately upload on its website scanned legible copies of Form 17C Part-I (Account of Votes Recorded) of all polling stations after close of polling of each phase in the on-going 2024 Lok Sabha elections;

- b) Direct the Election Commission of India to provide tabulated polling station-wise data in absolute figures of the number of votes polled as recorded in Form 17C Part- I after each phase of polling in the on-going 2024 Lok Sabha elections and also a tabulation of constituency wise figures of voter turnout in absolute numbers in the on-going 2024 Lok Sabha elections;
- c) Direct the Election Commission of India to upload on its website scanned legible copies of Form 17C Part- II which contains the candidate-wise Result of Counting after the compilation of results of the 2024 Lok Sabha elections;
- d) Pass such other order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant case.

**AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.**



**PRASHANT BHUSHAN**  
(COUNSEL FOR THE PETITIONERS)

Drafted by: Neha Rathi  
Dated: 09.05.2024