

By Courier/ e-mail

24th April, 2010

To,
The Chief Election Commissioner
Election Commission of India
Nirvachan Sadan
New Delhi 110 001

Subject: Our writ petition in the Hon'ble Supreme Court (Writ Petition (c) No. 292 of 2009) and the subsequent proceedings in the Election Commission in pursuance of the Hon'ble Court's directions

Sir,

This letter has reference to the Election Commission's letter No. 51/8/16/9/2009-EMS (Vol-IX) dated March 29, 2010. We thank you for the same but would like to submit that there are many inaccuracies and contradictions in your letter and the answers (or the lack of them) furnished to the questions we had raised nearly eight months ago. Some of these are listed below:

1. In your letter, you have stated that, *"The Commission is fully convinced that the mechanism provided by it, including the use of ECI-EVMs along with the prescribed administrative procedures and safeguards, for conduct of elections is free from any manipulation/tampering and ensures free and fair elections."*

We have time and again pointed out vulnerabilities in the ECI-EVMs. ECI must understand that technology must be able to defend itself. Relying on checks and balances cannot be considered safe at all. In any case, we are not here to show loopholes in the checks & balances framed by the ECI. It would be foolhardy to assume that there can be no breach of checks and balances, particularly when all operations concerning EVMs are contracted out to the EVM manufacturers and their "authorized" technicians.

2. Your letter has states, *"in view of your continued allegations about the tamperability/manipulation of ECI-EVMs, you have been given repeated opportunities to demonstrate the alleged tamperability of ECI-EVMs."*

A perusal of our communications with the ECI would show that it was the ECI that avoided meeting us repeatedly changing its stance, imposing unscientific and unreasonable restrictions and even accepting (and acceding to the) the bogus claims of the EVM manufacturers of owning patents on the EVM technology. The inspection of the EVMs in progress was abruptly ended on September 3, 2009 and video recordings of the meeting would show how our sincere attempts to show vulnerabilities have been thwarted by the ECI and the EVM manufacturers. The non-cooperation of the ECI at every stage of interactions is evident from this documentation.

3. Your letter states, *"The Commission is concerned that commercial interests could use the route of reverse engineering which may compromise the security and sanctity of the entire election system. It is, therefore, not possible for the Commission to permit reverse-engineering of ECI-EVMs."*

Please refer to our first meeting with the ECI on August 17 and the observations of the CEC on procedures to show tamperability. He had then agreed that we could do whatever to demonstrate the tamperability. Further, post September 1, we understand that the ECI has written to Shri Omesh Saigal accepting reverse engineering of ECI-EVMs with a mere affidavit on non-disclosure.

4. Your letter states, *“The confidence of the Election Commission that there can be no threat from ‘insiders’ stems from these instructions and prescribed procedures...The Commission does not find any substance in your insinuation of threat from insiders.”*

Trust cannot be the only basis for elections. Election results must be verifiable, auditable and must be un-alterable even when there is collusion among people. ECI's blind faith in companies and their employees raises serious concerns about the integrity and fairness of elections. ECI has no direct control on these EVM related operations and by surrendering this crucial responsibility to profit seeking companies, the ECI has endangered country's electoral democracy.

Even in the face of such glaring omissions, the ECI continues to maintain unreasonably and unabashedly that everything about EVMs is “perfect”. The fact that the ECI has not even offered to examine and strengthen the technology clearly shows that it has a closed mind on the issue. It is this attitude that is driving all actions of the ECI.

ECI would like us to believe that none of those involved in EVM operations cannot be influenced at all. Isn't it a wonder that the ECI has found this rare species of companies and individuals dealing in EVMs who – despite free access, easy potential and no penal mechanism whatsoever – are never going to be influenced?

5. Need for Independent Experts

We had prayed before the Hon'ble Supreme Court for the appointment of an Independent Expert Committee to study in details all the aspects/ objections concerning the present EVMs and submission of the report before the Hon'ble court for passing appropriate orders.

Your letter in response states, “The Indian experts who have evaluated ECI-EVMs earlier are highly respected professors of internationally reputed Indian Institute of Technology (IIT).”

The experts committee members of the ECI, we are sorry to say, have no expertise in computer security testing, are biased and have done what is referred to as “Blackbox testing” which cannot be the basis to evaluate the voting machine software which drives all its functions.

We would like to reiterate our demand for a new, experienced, unbiased and experienced committee. This was our main plea before the Hon'ble Supreme Court and we are committed to it and would like to explore all options to realise this requirement.

6. We have raised in all 52 questions on EVMs concerning their technology, security, process and expert committee's functioning. 17 of these have not been answered citing 'confidentiality'.

This clearly shows that the ECI does not believe in transparency in elections and is keeping away information from the public. Elections are a public matter and the ECI is a public institution and everything concerning both should be in public domain. The ECI refusal to furnish information goes against its duties as a public institution. Has the ECI,

a public body, is acting more like a distributor/ agent of ECIL and BEL manufactured EVMs and has apparently placed private and commercial interests of these companies over the need for transparency and public trust in the EVMs.

7. In your letter, you have stated, “..you had made the allegation that the EVMs could not only be tampered with but had in fact been manipulated/ tampered with in some constituencies. However, while making these sweeping allegations, you did not mention the name of any constituency or polling station where the EVMs used by the ECI were manipulated or tampered with.”

We would like to state that the observations made by us in the writ petition before the Hon’ble Supreme Court are based on the views of experts and the filed evidences gathered by us. Several instances of manipulation and/ or malfunctioning of the EVMs have been documented in a recently released publication titled “**Democracy at Risk! Can we trust our EVMs?**” by Mr. G.V.L. Narasimha Rao.

The Election Commission, we are aware, has secured copies of this publication. The book brought out by us can also be downloaded from the **IndianEVM.com** website. It is unfortunate that the Election Commission has ignored specific details of such manipulation/ malfunctioning documented in the book.

8. Demonstration of Tamperability

In your letter, you have stated that, “*The Commission has noted that nowhere in your Writ Petition before the Supreme Court, have you raised the issue of ethical hacking or sought reverse-engineering of ECI-EVMs.*”

Ironically, contradicting your own claims so far that the ECI-EVMs are “fully tamper proof”, your letter of March 29 states that the ECI-EVMs can indeed be tampered with. Your letter states, “...*It is once again made clear that any demonstration of alleged tamperability cannot include reverse-engineering as it compromises security and sanctity of the entire election system.*”

In the meetings we held with the Commission earlier, the ECI and its expert members had claimed that the ECI-EVMs cannot be tampered even with reverse engineering. Now, you are attempting to prevent us from exposing the vulnerabilities of the EVMs by placing unscientific, unsound and ridiculous restrictions. All over the world, the scientific community uses reverse engineering and other methods to demonstrate security lapses in the EVMs.

With your admission now that reverse engineering can compromise security and sanctity of the entire election system, could you please tell us what the Commission had done and intends to do in future that criminals would not use the reverse engineering to manipulate elections?

Before we agree on a date for tamperability demonstration, could you please tell us what you mean by “reverse engineering” and how this could compromise the security and sanctity of the entire election system?

9. Summing Up

Though the use of EVMs may have been done with a positive intent, we believe that continuing with them despite their known flaws, limitations and their world wide discontinuation would be imprudent and expose Indian democracy to grave dangers of electronic voting.

We shall be happy to attend meetings at any mutually convenient date after the first week of May. As the ECI has not furnished answers to many questions we have raised in our writ petition, we would like to request the ECI once again to disclose all the relevant information.

After these are addressed, we shall make a demonstration of the tamperability of EVMs for which we would like to suggest that the ECI keep ready 10 numbers of each make of EVMs in different stages. We shall tamper with a few EVMs and return them to you for identifying the tampered EVMs from the lot given to us.

If we succeed in our effort to demonstrate the tamperability of EVMs – we are confident of doing the same - we would expect the ECI to accept publicly that the ECI-EVMs are tamperable. As the ECI has repeatedly changed its stance in the past, we would like the proposed demonstration to be organized at a public venue where everyone can witness it or in the ECI's premises with unrestricted access to the media.

Looking forward to hear from you soon,

Yours faithfully,

(V.V. Rao)

**Petitioner, Supreme Court &
National Coordinator, VeTA**

**Citizens' Forum for
Promoting Verifiability, Transparency and
Accountability in Elections (VeTA)**

Encl: As above