

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.51/8/16/9/2009-EMS (Vol-IX)

Dated: 7th August 2010

To

Shri V.V. Rao,
HIG – 155, Phase – V,
KPHB Colony, KKP,
Hyderabad – 500072
Andhra Pradesh.

Subject: Allegation of vulnerability/tamperability of the ECI-EVMs.

Ref:

1. The Commission's letter dated 22.07.2009.
2. The Commission's letter dated 31.07.2009.
3. Your letter dated 04.08.2009.
4. Your letter dated 08.08.2009.
5. The Commission's letter dated 12.08.2009.
6. Your letter dated 13.08.2009.
7. The Commission's letter dated 22.08.2009.
8. Your letter dated 27.08.2009.
9. The Commission's letter dated 01.09.2009.
10. Your letter dated 03.09.2009.
11. Your letter dated 10.11.2009.
12. Your letter dated 25.11.2009.
13. The Commission's letter dated 14.12.2009.
14. Your letter dated 22.12.2009.
15. The Commission's letter dated 12.01.2010.
16. Your letter dated 16.01.2010.
17. The Commission's letter dated 02.02.2010.
18. The Commission's letter dated 15.03.2010.
19. Your letter dated 18.03.2010.
20. The Commission's letter dated 29.03.2010.
21. Your letter dated 24.04.2010.
22. The Commission's letter dated 24-06-2010.
23. Your letter dated 16-07-2010.
24. The Commission's letter dated 26-07-2010.
25. Your letter dated 6-08-2010

Sir,

Please refer to the correspondence on the subject cited above. It is a fact that the Commission has given you several opportunities to demonstrate alleged vulnerability/tamperability of ECI-EVMs. You were requested to come to the Commission between 29th and 31st December 2009, vide Commission's letter dated 14th December 2009. You confirmed in your letter dated 22nd December 2009 that you will participate in a discussion with senior Election Commission representatives on 29th December 2009. However you did not come for the meeting on 29th December 2009. The Commission again invited you on 19th January 2010 between 2.00 PM and 6.00 PM vide its letter dated 12th January 2010. You again requested the Commission to give another date by your letter dated 16th January 2010. The Commission gave you another opportunity to come on 10th February 2010 vide its letter dated 2nd February 2010. You once again communicated on telephone your unavailability on that date and requested another date. The Commission gave you yet another opportunity and asked you to communicate any date convenient to you out of 19th, 20th or 22nd March 2010 vide its letter dated 15th March 2010. Instead of coming on one of these dates you one again wrote to the Commission to give you yet another date by your letter dated 18th March 2010. The Commission once again wrote to you on 24th June requesting you to convey a suitable date and time between 20th and 23rd July 2010 for yet another opportunity to make a demonstration of the alleged vulnerability/tamperability of ECI-EVMs and also to give any suggestion for further improvements. Instead of suggesting a suitable date and time for the meeting you have again raised the same oft-repeated procedural questions in your letter dated 16th July 2010. The Commission has once again written to you on 26th July 2010, inviting you for a meeting with the Commission on 10th August at 3.00 PM. You have now once again requested a postponement of the meeting by your latest letter dated 6th August 2010. It is quite obvious from the above that the Commission has given you more than adequate opportunity to present your case before the Commission.

2. Your allegation that Election Commission, its suppliers and its subordinate offices have continuously harassed the petitioners in the Supreme Court with criminal, civil and police action for highlighting vulnerabilities of EVMs in public domain is patently false. The Commission has not initiated any such proceeding against the petitioners. Both Electronic Corporation of India Limited (ECIL) and Bharat Electronics Limited (BEL) are Commercial organizations, and are fully entitled to protect their commercial interests. In spite of this, in view of the proceedings before it, the Commission has advised M/S Electronics Corporation of India Limited to consider the withdrawal of legal notice to you vide its letter dated 1st September 2009.

3. An FIR has been filed by Collector and District Election Officer Mumbai on 12th May 2010, with Colaba Police Station that Mr. Hari Prasad along with two more scientists, one from America and the other one from the Netherlands, has admitted in a demonstration telecast on TV9 channel on 29/04/2010, that he is/was in possession of the Control Unit bearing serial number E 131812, which on inspection was found to be missing from the godown/storage where it was kept and clearly appears to have been stolen from the godown/storage at the old custody house by someone.. You have yourself said in your latest letter dated 6th August 2010 that Mr. Hari Prasad, Alex Halderman and Rop Gonggrijp had categorically stated that the real EVM used in the demonstration was made available by an anonymous official for research purposes. Since EVMs are in the custody of the District Election Officer (DEO), removal of an EVM from the possession of the DEO without his consent/authorization is illegal and constitutes theft under the Indian Penal Code (IPC), and makes that EVM stolen property. Possession of stolen property is also an offence under IPC. The DEO is duty bound to report theft of any EVMs under his custody, and take appropriate legal action to ensure that the guilty are punished and such incidents are not repeated in future. The presence of foreign scientists does not make an illegal act legal.

4. The Supreme Court had directed the petitioners in your case to approach the Commission. The Commission has given you and all the others a number of opportunities to present your case before it through the use of EVMs supplied for demonstration under normal operating conditions during elections, communicated to you vide Commission's letters dated 12th January and 2nd February 2010. Mr. Hari Prasad himself has been present in two meetings with the Commission. In spite of this Mr. Hari Prasad by his own admission chose to obtain an EVM by illegal means to make a questionable demonstration on a TV channel. This so called demonstration was not made under conditions which obtain in a real election, and therefore cannot be considered a real demonstration of tamperability of EVMs. Even this so called demonstration has not shown any tamperability in the EVM. In fact EVMs cannot be tampered with by any method shown in the so called demonstration in a real election for the following reasons: -
 - a. Mr. Hari Prasad has shown that the display card of the EVM was replaced with a fake display card having a blue tooth device in it. This can never happen in an actual election, as –

- i. All processes including FLC, preparation of EVM for elections, Mock Poll, actual polling, transportation and storage are done transparently in the presence of political parties, candidates and their representatives,
 - ii. Presence of a blue tooth device in the EVM will not go unnoticed, as it can be detected very easily.
 - b. Mr. Hari Prasad has claimed that he can change the data in the E2PROM by putting a clip directly on it. This is impossible in a real election as the plastic cabinet of the EVM is completely sealed using thread seals and paper seals and it is impossible to access the E2PROM. Candidates and political party representatives are allowed to put their signatures on the paper seals and thread seals to verify the intactness of the seal at every stage.
5. The Commission has requested you to demonstrate tamperability of EVMs under conditions in which EVMs are used in an actual election. Any fair demonstration has to be only under those conditions.
6. Any voting system cannot be seen in isolation. Administrative safeguards are an integral part of the security and safety of EVMs. Even the ballot paper system will not work without secure administrative safeguards. If you have any suggestions for improvement in safeguards, you are welcome to present them at the meeting.
7. The meeting with the Commission, on 10th August 2010, at 3.00 PM, stands as scheduled. You may take this opportunity to make a demonstration of alleged tamperability of EVMs, if you so wish, under conditions communicated to you vide Commission's letters dated 12th January, 2nd February and 29th March, 2010.

Yours faithfully

(K.N.BHAR)
SECRETARY