

By email/special camp bag/speed post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.3/1/2013/VVPAT/SDR/

Dated- 20th November, 2013

To

The Chief Electoral Officers of all
States and Union Territories

Subject:-Use of EVMs with Printers – Format of declaration under rule 49MA of C.E Rules, 1961 –
regarding.

Sir/Madam,

Kind attention is invited to letter of even number dated 15th October, 2013 with which a copy of the Gazette of India dated **14th August, 2013** publishing the Notification issued by the Ministry of Law and Justice to amend the C.E. Rules, 1961 to enable the use of “Printer for paper trail “of votes recorded in EVMs was forwarded. The Form 17C has also been amended to incorporate the identification number of the Printer and test votes, if any, recorded by electors wherever VVPAT is used as per the direction of the Commission.

Subsequently, the Hon’ble Supreme Court, in its judgment dated **27th September, 2013**, in Writ Petition (C) No. 161 of 2004 (People’s Union for Civil Liberties &Anr.Vs Union of India &Anr), has directed that the Commission should make necessary provision in the ballot papers/EVMs for “None of the Above (NOTA)” option so that the electors who do not wish to vote for any of the candidates can exercise their right not to vote for any candidate without violation of the secrecy of their decision. Rules 41 (2), 41(3) and 49-O of the Conduct of Elections Rules, 1961, have been held to be ultra vires Section 128 of the Representation of the People Act, 1951 and Article 19(1)(a) of the Constitution.

In view of the above mentioned judgment of the Supreme Court, the provision made for noting the number of voters deciding not to record votes under rule 49-O at Item No.3 of Form 17C has become otiose. In the meantime, a reference has been received from CEO, Tamil Nadu in which he has mentioned about possibility of some voter not casting vote after signing the Register of Voters (Form 17A) even after option of NOTA is provided in the EVM/Ballot Paper due to any reason cannot be ruled out, and seeking clarification about the procedure to be followed in such cases.

The issue has been considered by the Commission and it has been decided that if an elector after signing in Form 17A wishes to leave without voting a remark can be made in the Register of Voters (Form 17 A) according to the situation/circumstances under which the elector is not voting like “left without voting” or “refused to vote” etc.

In Form 17-C (Part-I) the number of such cases may be shown against Item (3) after scoring out the words “under rule 49-O” therein.

In the States of Mizoram, Madhya Pradesh, Rajasthan and NCT of Delhi where poll for the current general election to the Legislative Assembly is yet to be held and in the States of Gujarat and Tamil Nadu where poll for the bye-elections is to be held, these instructions may be brought to the notice of the officials drafted for conduct of poll at polling stations in such manner as may be considered appropriate.

Kindly acknowledge receipt.

Yours faithfully,

(N.T. Bhutia)

Under Secretary