

CJP Table: Supreme Court Judgements: Free and Fair Elections

Date of Judgement	Title/Citation	Relevant Para
ADR JUDGEMENT HIGHLIGHTS: DISCREPANCY IN VOTES TALLY, INTEGRITY OF EVM AND FORM 17C		
26.04.2024	<p><i>Association for Democratic Reforms v. Election Commission of India and Another</i></p> <p>Citation: (2024) SCC OnLine SC 661</p> <p>Coram: Sanjiv Khanna and Dipankar Datta, JJ.</p>	<p><u>Mismatch in Votes polled and votes counted:</u></p> <p>PARA 17. At the end of the voting process, the Presiding Officer is required to record in Form 17C, not just the total number of voters as per the Register of Voters, but also the total number of votes recorded per voting machine as well as those staying away from the voting process despite affixing signature on the register. The total votes polled as per Form 17C is then again tallied with the total votes recorded by the control unit. Rule 56D(4) also provides that if there is any mismatch between these two totals, the printed VVPAT slips of the polling station would be counted. Furthermore, if a voter is aggrieved by a mismatch in the candidate voted for in the ballot unit vis-a-vis that recorded in the VVAPT, Rule 49M allows the voter to approach the Presiding Officer. Upon the conclusion of polling, there exists yet another remedy under Rule 56-D, for a candidate to apply for a count of the VVPAT slips, should any discrepancy be suspected. Thus, it is manifest that there is in place a stringent system of checks and balances, to prevent any possibility of a miscount of votes, and for the voter to know that his/her vote has been counted. There can be no doubt that such a system, which is distinctly more satisfactory compared to the system of the yester-years, suitably satisfies the voter's right under Article 19(1)(a) to know that his/her vote has been counted as recorded.</p> <p><u>Integrity of EVM:</u></p> <p>PARA 42. At this stage we would refer to other checks and protocols to ensure and ascertain the legitimacy and integrity of the EVMs and the election process.</p> <p>PARA 43. Part IV, Chapter II of the 1961 Rules, which relates to voting by EVMs, lays down details of preparation of the voting machine by the returning officer, arrangements at the polling station, admission to the polling stations, and preparation of voting machine for poll. The three units of the EVM have to bear the serial number of the unit, name of the constituency, serial number and name of the polling station(s), and the date of poll. Before the commencement of the poll, the presiding officer has to demonstrate to the polling agent and other persons present that no vote has already been recorded in the control unit, the three units bear the label as prescribed and the drop box of the VVPAT printer is empty. Paper seal is thereupon used for securing the control unit. The presiding officer affixes his own signature on the paper seal and also obtains the</p>

signatures of the polling agents who are desirous of affixing the same. The VVPAT and the ballot unit are put in the voting compartment and are connected with the control unit in the manner directed.

PARA 44. Before permitting any elector to vote, the polling officer is required to record the electoral roll number of the elector as mentioned in the electoral rolls, signature or thumb impression of the elector, name of the elector and the document produced by the elector in proof of their identification. These particulars are recorded in Form 17A prescribed under Rule 49L of the 1961 Rules. The format prescribed in terms of Form 17A is as under:

Form 17A is required to be signed by the presiding officer.

PARA 45. Every elector is permitted to vote in secrecy in the voting compartment of the polling station. **They are required to press the blue button or key on the ballot unit against the name and symbol of the candidate/political party they intend to vote. In terms of the proviso to Rule 49M(3), the elector is entitled to view through the transparent window of the printer of VVPAT, kept along with the ballot unit inside the voting compartment, the printed paper slip showing the serial number, the name and the symbol of the candidate for whom he has voted.** Thereupon, the paper slip gets cut and drops into the drop box attached to the VVPAT. No elector is permitted to enter the voting compartment when another voter is inside.

PARA 46. Rule 49O deals with the scenario where an elector, even after entering her/his details in Form 17A and having put signature or thumb impression thereon, does not vote. The presiding officer is then required to make a remark in Form 17A and take the signature or thumb impression of the elector against such remark.

PARA 47. Rule 49M(6) deals with the scenario where the elector who has been permitted to vote under Rule 49L or Rule 49P refuses, even after the warning by the presiding officer, to observe the procedure of voting laid down in Rule 49(M)(3). In such a case, the presiding officer, or the polling officer under the direction of the presiding officer, shall not allow such elector to vote. Rule 49M(7) lays down that in such a scenario, a remark to that effect shall be made against the elector's name in Form 17A by the presiding officer under his signature.

PARA 48. As per instructions issued by the ECI, the presiding officer is periodically required to check the total number of votes cast as recorded in the control unit with the data as recorded in Form 17A.

PARA 49. As per Rule 49S, at the close of the poll, the presiding officer is required to prepare an account of votes recorded in Form 17C. This is a detailed form, which in Part I, requires the presiding officer to mention the total number of electors assigned to the polling station, the total number of voters as entered in the register for voters, that is, Form 17A, the total number of voters who had decided not to vote even after recording their details in Form 17A (Rule 49O scenario), and the total number of voters not allowed to vote (Rule 49M scenario). The form also requires to give details of the total number of votes recorded per voting machine. This total number recorded in

the voting machine should tally with the total number of voters entered in Form 17A minus the number of voters deciding not to vote and the number of voters not allowed to vote. The details of the paper seals supplied for use, paper seals used, unused paper seals returned to the returning officer etc. are also recorded and entered after the close of the poll.

FORM 17 C:

PARA 50. Under Rule 49S of the 1961 Rules, at the time of close of the poll, **the presiding officer furnishes attested true copy of the account of votes recorded in Part I of Form 17C to the polling agents of the candidates.** He also retains a receipt of the same from the polling agent.

PARA 51. Before start of counting of votes, the serial number of the EVMs and the paper seals affixed on the EVMs are verified with details mentioned in Form 17C and are shown to the counting agents. The total votes displayed by pressing the 'TOTAL' button on the control unit is also tallied with the total votes polled as per Form 17C.

PARA 52. The counting is done in the presence of the polling agents/candidates by pressing the 'RESULT' button on the control unit. The total votes polled and the total votes polled by each candidate is thereupon displayed on the display panel.

PARA 53. In terms of the directions issued by this Court in N. Chandrababu Naidu (supra), the VVPAT slips of five polling stations per assembly constituency/assembly segment of the parliamentary constituency, are randomly selected and counted. The results are then tallied with the electronic results of the control unit.

PARA 54. It may be relevant here to also refer to Rule 56D of the 1961 Rules, which reads as under:

“56-D. Scrutiny of paper trail. —

(1) Where printer for paper trail is used, after the entries made in the result sheet are announced, any candidate, or in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to count the printed paper slips in the drop box of the printer in respect of any polling station or polling stations.

(2) On such application being made, the returning officer shall, subject to such general or special guidelines, as may be issued by the Election Commission, decide the matter and may allow the application in whole or in part or may reject in whole, if it appears to him to be frivolous or unreasonable.

(3) Every decision of the returning officer under sub-rule (2) shall be in writing and shall contain the reasons therefor.

(4) If the returning officer decides under sub-rule (2) to allow counting of the paper slips either wholly or in part or parts, he shall—

(a) do the counting in the manner as may be directed by the Election Commission;

(b) if there is discrepancy between the votes displayed on the control unit and the counting of the paper slips, amend the result sheet in Form 20 as per the paper slips count;

(c) announce the amendments so made by him; and

(d) complete and sign the result sheet.”

PARA 55. Any candidate, or in his absence an election agent or counting agent, as per the said Rule, can apply in writing to the returning officer to count the printed paper slips in the drop box in respect of any polling station(s). The returning officer, subject to any general or special guidelines issued by the ECI, has to decide the matter and can allow the application in whole or in part, or may reject the application in full if it appears to be frivolous or unreasonable. Every decision of the returning officer is to be in writing and has to contain reasons. If the returning officer decides to allow counting of paper slips, either wholly or in part, he has to do so in the manner prescribed in sub-rule (4) to Rule 56D of the 1961 Rules.

Mismatch in votes polled and votes counted:

PARA 56. As per the ECI guidelines, in case there is any mismatch between the total number of votes recorded in the control unit and Form 17C on account of non-clearance of mock poll data or VVPAT slips, in terms of Rule 56D(4)(b) of the 1961 Rules etc., the printed VVPAT slips of the respective polling stations are counted and considered if the winning margin is equal to or less than total votes polled in such polling stations.

PARA 57. At this stage, we would refer to the data on the performance of the EVMs. More than 118 crore electors have cast their votes since EVMs have been introduced. In 2019, about 61.4 crore voters had cast their votes in 10.35 lakh polling stations. 23.3 lakh ballot units, 16.35 lakh control units and 17.40 lakhs VVPAT units were used in the 2019 General Elections. For the purpose of the 2024 General Elections, 10.48 lakh polling stations have been established to enable 97 crore registered voters to cast their votes. 21.60 lakh ballot units, 16.80 lakh control units and 17.7 lakh VVPAT units have been made ready for being used.

PARA 58. ECI has conducted random VVPAT verification of 5 polling booths per assembly segment/constituency for 41,629 EVMs-VVPATs. Further, more than 4 crore VVPAT slips have been tallied with the electronic counts of their control units. Not even a single case of mismatch, (except one which we will refer to subsequently), or wrong recording of votes has been detected. Returning officers have allowed VVPAT slip recounting under Rule 56D in 100 cases since 2017. The VVPAT slip count matched with the electronic count recorded in the control unit in all cases.

PARA 59. In the 2019 Lok Sabha Elections, 20,687 VVPAT slips were physically counted, and except in one case, no discrepancy or mismatch was noticed.

Checking and Verification of EVM:

PARA 76. Nevertheless, not because we have any doubt, but to only further strengthen the integrity of the election process, *we are inclined to issue the following directions:*

(a) On completion of the symbol loading process in the VVPATs undertaken on or after 01.05.2024, the symbol loading units shall be sealed and secured in a container. The candidates or their representatives shall sign the seal. The sealed containers, containing the symbol loading units, shall be kept in the strong room along with the EVMs at least for a period of 45 days

		<p>post the declaration of results. They shall be opened, examined and dealt with as in the case of EVMs.</p> <p>(b) The burnt memory/microcontroller in 5% of the EVMs, that is, the control unit, ballot unit and the VVPAT, per assembly constituency/assembly segment of a parliamentary constituency shall be checked and verified by the team of engineers from the manufacturers of the EVMs, post the announcement of the results, for any tampering or modification, on a written request made by candidates who are at SI. No. 2 or SI. No. 3, behind the highest polled candidate. Such candidates or their representatives shall identify the EVMs by the polling station or serial number. All the candidates and their representatives shall have an option to remain present at the time of verification. Such a request should be made within a period of 7 days from the date of declaration of the result. The District Election Officer, in consultation with the team of engineers, shall certify the authenticity/intactness of the burnt memory/microcontroller after the verification process is conducted. The actual cost or expenses for the said verification will be notified by the ECI, and the candidate making the said request will pay for such expenses. The expenses will be refunded, in case the EVM is found to be tampered.</p>
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PAPER TRAILS: VVPAT

<p>08.10.2013</p>	<p><i>Subramanian Swamy v. Election Commission of India</i></p> <p>Citation: (2013) 10 SCC 500</p> <p>Coram: P. Sathashivam, CJ and Ranjan Gogoi, J</p>	<p>PARA 28. From the materials placed by both the sides, we are satisfied that the “paper trail” is an indispensable requirement of free and fair elections. <u>The confidence of the voters in the EVMs can be achieved only with the introduction of the “paper trail”. EVMs with VVPAT system ensure the accuracy of the voting system.</u> With an intent to have fullest transparency in the system and to restore the confidence of the voters, it is necessary to set up EVMs with VVPAT system because vote is nothing but an act of expression which has immense importance in a democratic system.</p> <p>PARA 29. In the light of the above discussion and taking notice of the pragmatic and reasonable approach of ECI and considering the fact that in general elections all over India, ECI has to handle one million (ten lakh) polling booths, we permit ECI to introduce VVPAT in gradual stages or geographical-wise in the ensuing general elections. The area, State or actual booth(s) are to be decided by ECI and ECI is free to implement the same in a phased manner. We appreciate the efforts and good gesture made by ECI in introducing the same. For implementation of such a system (VVPAT) in a phased manner, the Government of India is directed to provide required financial assistance for procurement of units of VVPAT.</p>
<p>08.04.2019</p>	<p><i>N. Chandrababu Naidu and Others v. Union of India and Another</i></p> <p>Citation: (2019) 15 SCC 377</p>	<p>PARA 9. At the very outset the Court would like to observe that neither the satisfaction of the Election Commission nor the system in vogue today, as stated above, is being doubted by the Court insofar as fairness and integrity is concerned. It is possible and we are certain that the system ensures accurate electoral results. But that is not all. If the number of machines which are subjected to verification of paper trail can be increased to a reasonable number, it would lead to greater satisfaction amongst not only the political parties but the entire electorate of the country. This is what the Court should endeavour and the exercise, therefore, should be to find</p>

	<p>Coram: Ranjan Gogai, C.J. and Deepal Gupta and Sanjiv Khanna, JJ.</p>	<p>a viable number of machines that should be subjected to the verification of VVPAT paper trails keeping in mind the infrastructure and the manpower difficulties pointed out by the Deputy Election Commissioner. In this regard, the proximity to the election schedule announced by the ECI must be kept in mind.</p> <p>PARA 10. Having considered the matter, we are of the view that if the number of EVMs in respect of which Vvpat paper slips is to be subjected to physical scrutiny is increased from 1 to 5, the additional manpower that would be required would not be difficult for the ECI to provide nor would the declaration of the result be substantially delayed. In fact, if the said number is increased to 5, the process of verification can be done by the same team of polling staff and supervisors/officials. It is, therefore, our considered view that having regard to the totality of the facts of the case and need to generate the greatest degree of satisfaction in all with regard to the full accuracy of the election results, the number of EVMs that would now be subjected to verification so far as Vvpat paper trail is concerned would be 5 per Assembly Constituency or Assembly Segments in a Parliamentary Constituency instead of what is provided by Guideline No. 16.6, namely, one machine per Assembly Constituency or Assembly Segment in a Parliamentary Constituency. We also direct that the random selection of the machines that would be subjected to the process of Vvpat paper trail verification as explained to us by Mr Jain, Deputy Commissioner of the Election Commission, in terms of the guidelines in force, shall apply to the Vvpat paper trail verification of the 5 EVMs covered by the present order.</p> <p>PARA 11. With the aforesaid directions, the writ petition shall stand closed.</p>
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VOTER'S RIGHT TO KNOW

<p>13.09.2013</p>	<p><i>Resurgence India v. Election Commission of India</i></p> <p>Citation: (2014) 14 SCC 189</p> <p>Coram: P. Sathasivam, C.J. and Ranjana P. Desai and Ranjan Gogai, JJ.</p>	<p>PARA 20. Thus, this Court held that a voter has the elementary right to know full particulars of a candidate who is to represent him in Parliament and such right to get information is universally recognised natural right flowing from the concept of democracy and is an integral part of Article 19(1)(a) of the Constitution. It was further held that the voter's speech or expression in case of election would include casting of votes, that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is a must. Thus, in unequivocal terms, it is recognised that the citizen's right to know of the candidate who represents him in Parliament will constitute an integral part of Article 19(1)(a) of the Constitution of India and any act, which is derogative of the fundamental rights is at the very outset ultra vires.</p>
<p>02.05.2002</p>	<p><i>Union of India v. Association of Democratic Reforms and Another</i></p> <p>Citation: (2002) 5 SCC 294</p> <p>Coram: M.B. Shah, B.P Singh and H.K. Sema, JJ.</p>	<p>PARA 34. The members of a democratic society should be sufficiently informed so that they may influence intelligently the decisions which may affect themselves and this would include their decision of casting votes in favour of a particular candidate. If there is a disclosure by a candidate as sought for then it would strengthen the voters in taking appropriate decision of casting their votes.</p>

INGREDIENTS OF CORRUPT PRACTICES: SECTION 123 OF THE RP ACT 1951

05.02.2010	<p><i>Tukaram S. Dighole v. Manikrao Shivaji Kokate</i></p> <p>Citation: (2010) 4 SCC 329</p> <p>Coram:</p>	<p>PARA 16. Section 123 of the Act defines corrupt practices. In the instant case, Issue 1 is based on the alleged violation of clause (3) of Section 123, which reads as follows:</p> <p style="padding-left: 40px;">“123. (3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:</p> <p style="padding-left: 40px;">Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.”</p> <p>The vital ingredients of the clause, relevant for this appeal, are: (i) appeal by a candidate or his agent or by any person with the consent of a candidate or his election agent; (ii) to vote or refrain from voting for any person; and (iii) on the ground of religion, race, caste, community or language.</p>
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RECOUNTING & SECRECY OF VOTES

04.02.2014	<p><i>Arikala Narasa Reddy v. Venkata Ram Reddy Reddygari and Another</i></p> <p>Citation: (2014) 5 SCC 312</p> <p>Coram: Dr. B.S. Chauhan, Jasti Chelameshwar and M.Y. Eqbal, JJ.</p>	<p>PARA 13. A right to be elected is neither a fundamental right nor a common law right, though it may be very fundamental to a democratic set-up of governance. Therefore, answer to every question raised in election dispute is to be solved within the four corners of the statute. The result announced by the Returning Officer leads to formation of a Government which requires the stability and continuity as an essential feature in election process and therefore, the counting of ballots is not to be interfered with frequently. More so, secrecy of ballot which is sacrosanct gets exposed if re-counting of votes is made easy. The court has to be more careful when the margin between the contesting candidates is very narrow. “Looking for numerical good fortune or windfall of chance discovery of illegal rejection or reception of ballots must be avoided, as it may tend to a dangerous disorientation which invades the democratic order by providing scope for reopening of declared results”. However, a genuine apprehension of miscount or illegality and other compulsions of justice may require the recourse to a drastic step.</p> <p>PARA 14. Before the court permits the re-counting, the following conditions must be satisfied:</p> <p>(i) <i>The court must be satisfied that a prima facie case is established;</i></p> <p>(ii) <i>The material facts and full particulars have been pleaded stating the irregularities in counting of votes;</i></p> <p>(iii) <i>A roving and fishing inquiry should not be directed by way of an order to re-count the votes;</i></p> <p>(iv) <i>An opportunity should be given to file objection; and</i></p> <p>(v) <i>Secrecy of the ballot should be guarded.</i></p>
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GROUNDS OF DECLARING ELECTION VOID

19.03.2009	<p><i>G.S. Iqbal v. K.M. Khander and others</i></p> <p>Citation: (2009) 11 SCC 398</p> <p>Coram: D.K. Jain and R.M. Lodha, JJ.</p>	<p>PARA 12. Section 100 of the Act, 1951 sets out the grounds for declaring an election void. It is now more than well settled that the grounds for declaring an election to be void must conform with the requirements of Section 100 of the Act, 1951. In the election petition, the petitioner sought declaration of the election of the returned candidate to be void <i>under Sections 100(1)(d)(i) and (iv)</i>. The said provisions read thus:</p> <p style="padding-left: 40px;">“100. Grounds for declaring election to be void. — (1) Subject to the provisions of sub-section (2) if the High Court is of opinion—</p> <p style="padding-left: 80px;">(a)-(c)***</p> <p style="padding-left: 80px;">(d) that the result of the election, insofar as it concerns a returned candidate, has been materially affected—</p> <p style="padding-left: 120px;">(i) by the improper acceptance of any nomination, or</p> <p style="padding-left: 120px;">(ii)-(iii)***</p> <p style="padding-left: 120px;">(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act,</p> <p style="padding-left: 40px;">the High Court shall declare the election of the returned candidate to be void.”</p>
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FREE, FAIR, FEARLESS AND IMPARTIAL ELECTIONS

24.04.1973	<p><i>Kesavananda Bharti v. state of Kerala</i></p> <p>Citation: (1973) 4 SCC 225</p> <p>Coram: S.M. Sikri, C.J. and J.M. Shelat, K.S.</p>	<p>PARA 486. <u>The entire scheme of the Constitution is such that it ensures the sovereignty and integrity of the country as a republic and the democratic way of life by parliamentary institutions based on free and fair elections.</u></p>
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	Hegde, A.N. Grover, A.N. Ray, P. Jagannathan Reddy, D.G. Palekar, H.R. Khanna, K.K. Mathew, M.H. Beg, S.N. Dwivedi, A.K. Mukherjea and Y.V. Chandrachud, JJ.	
27.09.2013	<i>People's Union for Civil Liberties and Another</i> Citation: (2013) 10 SCC 1 Coram: P. Sathasivam, C.J. and Ranjana P. Desai and Ranjan Gogoi, JJ.	PARA 56. Free and fair election is a basic structure of the Constitution and necessarily includes within its ambit the right of an elector to cast his vote without fear of reprisal, duress or coercion. Protection of elector's identity and affording secrecy is therefore integral to free and fair elections and an arbitrary distinction between the voter who casts his vote and the voter who does not cast his vote is violative of Article 14. Thus, secrecy is required to be maintained for both categories of persons.
27.02.2001	<i>State of Punjab and others v. Bhajan Singh and another</i> Citation: (2001) 3 SCC 565 Coram: K.T. Thomas and R.P. Sethi, JJ.	PARA 2. There is no gainsaying that free, fair, fearless and impartial elections are the guarantee of a democratic polity . For conducting, holding and completing the democratic process, not only a potential law based upon requirements of the society tested on the touchstone of experience of the times, but also an independent, impartial apparatus for implementing and giving effect to the results of the election is the sine qua non for ensuring the compliance of statutory provisions and thereby strengthening the belief of the common man in the rule of law, assured to be given to the people of this country. <u>Any attempt made to weaken the system, particularly when its intention is likely to affect the socio-political fabric of the society, if not checked and curtailed, may result in consequences which could not be else but disastrous to the system.</u> No person, much less a civil servant, can be permitted to frustrate the will of the people expressed at the elections, by his acts of omission and commission. The law relating to the elections is the creation of the statute which has to be given effect to strictly in accordance with the will of the legislature.
28.10.2002	<i>Special Reference No. 1 of 2002, In re: Gujrat Assembly Election Matter</i> Citation: (2002) 8 SCC 237 Coram:	DR ARIJIT PASAYAT, J.— Free, fair and periodic elections are part of the basic structure of the Constitution of India (in short “the Constitution”). In a democracy the little man — voter — has overwhelming importance and cannot be hijacked from the course of free and fair elections. PARA 108. “Democracy” and “free and fair election” are inseparable twins. There is almost an inseverable umbilical cord joining them. The little man's ballot and not the bullet of those who want to capture power (starting with booth-capturing) is the heartbeat of democracy. Path of the little man to the polling booth should be free and unhindered, and his freedom to elect a candidate of his choice is the foundation of a free and fair election. PARA 109. The message relates to the pervasive philosophy of democratic elections which Sir Winston Churchill vivified in matchless words: “At the bottom of all tributes paid to democracy is the little man, walking into a little booth , with a little pencil , making a little cross on

		<p>a little bit of paper — no amount of rhetoric or voluminous discussion can possibly diminish the overwhelming importance of the point.”</p> <p>PARA 110. If we may add, the little, large Indian shall not be hijacked from the course of free and fair elections by mob-muscle methods, or subtle perversion of discretion by men “dressed in little, brief authority”. For “be you ever so high, the law is above you”.</p> <p>PARA 111. The moral may be stated with telling terseness in the words of William Pitt: “Where laws end, tyranny begins.” Embracing both these mandates and emphasizing their combined effect is the elemental law and politics of power best expressed by Benjamin Disraeli:</p> <p style="padding-left: 40px;">“I repeat ... that all power is trust — that we are accountable for its exercise — that, from the people and for the people, all springs, and all must exist.”</p>
<p>02.08.1977</p>	<p><i>Mohinder Singh Gill v Chief Election Commissioner, New Delhi and Others</i></p> <p>Citation: (1978) 1 SCC 405</p> <p>Coram: M.H. Beg, C.J. and P.N. Bhagwati, V.R. Krishna Iyer, P.K. Goswami and P.N. Shinghal, JJ.</p>	<p>PARA 12. A free and fair election based on universal adult franchise is the basic; the regulatory procedures vis-a-vis the repositories of functions and the distribution of legislative, executive and judicative roles in the total scheme, directed towards the holding of free elections, are the specifics. Part XV of the Constitution plus the Representation of the People Act, 1950 (for short, “the 1950 Act”) and the Representation of the People Act, 1951 (for short, “the Act”), Rules framed thereunder, instructions issued and exercises prescribed, constitute the package of electoral law governing the parliamentary and assembly elections in the country. The super-authority is the Election Commission, the kingpin is the returning officer, the minions are the presiding officers in the polling stations and the electoral engineering is in conformity with the elaborate legislative provisions.</p> <p>PARA 23. Democracy is government by the people. It is a continual participative operation, not a cataclysmic, periodic exercise. The little man, in his multitude, marking his vote at the poll does a social audit of his Parliament plus political choice of this proxy. Although the full flower of participative Government rarely blossoms, the minimum credential of popular Government is appeal to the people after every term for a renewal of confidence. So we have adult franchise and general elections as constitutional compulsions. “The right of election is the very essence of the constitution” (Junius). It needs little argument to hold that the heart of the Parliamentary system is free and fair elections periodically held, based on adult franchise, although social and economic democracy may demand much more.</p>