

Before the Designated First Appellate Authority

Election Commission of India

Nirvachan Sadan, Ashoka Road, New Delhi – 110 003

Appeal submitted under Section 19(1) of the Right to Information Act, 2005

In the matter of

Venkatesh Nayak

VS

CPIO, Election Commission of India

Date of submission: 23/10/2019

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S.S. Venkatesh Nayak

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Nirvachan Sadan, Ashoka Road, New Delhi – 110 003

Appeal submitted under Section 19(1) of the Right to Information Act, 2005

Date: 23/10/2019

- 1) Name and address of the appellant :** Venkatesh Nayak
#55A, 3rd Floor
Siddharth Chambers-1
Kalu Sarai
New Delhi- 110 016
- 2) Name and address of the Central Public Information Officer (CPIO) to whom the RTI application was sent :** The Central Public Information Officer
Election Commission of India
Nirvachan Sadan
Ashoka Road
New Delhi- 110 003
through RTI Online filing facility of ECI website
- 3) Name and address of the CPIO who replied to the RTI Application :** No reply till date
- 4) Particulars of the RTI Application-**
- a) No. and date of submission of the RTI application :** RTI application Regn. No. 10560 dated 12/09/2019
- b) Date of payment of additional fee (if any) :** Not applicable.
- 5) Particulars of the order(s) including number, if any against which the appeal is preferred :** No reply till date

6) Brief facts leading to the appeal :

6.1) On 12/09/2019 this Appellant submitted a request for information, to the CPIO mentioned at **para #2 above** along with the prescribed application fee, through the RTI Online facility on the website of this Public Authority, stating as follows (**Annexe 1**):

"I would like to obtain the following information from your public authority under the RTI Act, 2005:


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- 1) The maximum number of votes recordable on each Electronic Voting Machine (EVM) of M2 and M3 generation manufactured by Bharat Electronics Ltd. and used in the 2019 Lok Sabha Elections,
- 2) The maximum number of votes recordable on each EVM of M2 and M3 generation manufactured by Electronics Corporation of India Ltd. and used in the 2019 Lok Sabha Elections,
- 3) The maximum number of votes printable on each Voter Verified Paper Trail Unit (VVPAT) manufactured by Bharat Electronics Ltd. and used in the 2019 Lok Sabha Elections,
- 4) The maximum number of votes printable on each VVPAT Unit manufactured by Electronics Corporation of India Ltd. and used in the 2019 Lok Sabha Elections,
- 5) The constituency-wise number of Control Units of EVMs transported across India for use in the 2019 Lok Sabha Elections,
- 6) The constituency-wise number of Ballot Units of EVMs transported across India for use in the 2019 Lok Sabha Elections,
- 7) The constituency-wise number of (VVPATs) transported across India for use in the 2019 Lok Sabha Elections,
- 8) The constituency-wise number of thermal paper rolls used in VVPATs transported across India for use in the 2019 Lok Sabha Elections,
- 9) A clear photocopy of the List of Engineers with name and designation, deputed for carrying out tasks relating to the preparation of EVMs and VVPATs in every constituency for the purpose of the 2019 Lok Sabha Elections. Please indicate against each Engineer the name of the EVM/VVPAT manufacturing company whose machines he or she handled,
- 10) A clear photocopy of the List of Senior Level Engineers with name and designation, deputed for supervision and coordination during the preparation of EVMs and VVPATs in every constituency for the purpose of the 2019 Lok Sabha Elections. Please indicate against each Senior Level Engineer the name of the EVM/VVPAT manufacturing company the preparation of whose machines he or she supervised,
- 11) The total number of Symbol Loading Units (SLUs) used by the Team of Engineers during the 2019 Lok Sabha Elections, and
- 12) A clear photocopy of the User Manual pertaining to the SLUs used during the 2019 Lok Sabha Elections."

6.2) A copy of the acknowledgement generated by this Commission's website pertaining to the submission of the instant RTI application, whose text is given above is, at **Annexe 2**. Strangely, unlike the RTI Online Facility instituted by the Government of India it is not possible to generate a printout of the complete text of the RTI application submitted on this Public Authority's website in a properly formatted manner. Hence the retyped text of the RTI application is at **Annexe 1**.

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6.3) This Appellant has not received any reply from any CPIO of this Public Authority till date.

7) Prayers or relief sought :

This Appellant prays that the First Appellate Authority be pleased to:

- 1) admit this appeal and inquire into the matters raised herein; and**
- 2) direct the concerned CPIO(s) to disclose all information specified in the instant RTI application free of charge as is this Appellant's right under Section 7(6) of the RTI Act.**

8) Grounds for the prayer or relief :

8.1) According to Section 19(1) of the RTI Act, an RTI applicant who is aggrieved by the fact that no decision has been received from a Public Authority's CPIO in relation to his or her RTI application, may prefer an appeal to the officer senior in rank to that CPIO within 30 days of the date on which such decision ought to have been made. The present RTI application was delivered instantaneously to this Public Authority on 12/09/2019. The concerned CPIO(s) ought to have replied to the instant RTI application within 30 days of its receipt. That deadline of 30 days lapsed on 12/10/2019. This first appeal is being submitted on the 12th day of the receipt of the instant RTI application by this Public Authority which is well within 30-day period stipulated in Section 7(1) of the RTI Act. This Appellant is aggrieved by the inaction of the CPIO(s) of this Public Authority for the following reasons:

8.1.1) According to Section 7(1) of the RTI Act, upon receiving an RTI application and finding that his or her public authority holds the information sought, in material form, a CPIO has only two courses of action open to him or her. Such CPIO is required to either furnish the requested information on payment of the additional fee at the rates prescribed in the RTI Rules, 2012 or reject the request for any of the reasons specified in Sections 8 or 9 of the RTI Act. The CPIO(s) of this Public Authority has/have chosen neither course of action till date. This Appellant is aggrieved by the inaction of this Public Authority. ***Hence the submission of this first appeal to this Hon'ble Appellate Authority.***

8.1.2) Further, according to Section 7(2) of the RTI Act, where a CPIO fails to give a decision on the information request within the period of 30 days specified in Section 7(1) of the RTI Act, it shall be deemed that the request for information has been rejected. As more than 30 days have lapsed since the receipt of the instant RTI application by this Public Authority, it is to be deemed that the instant RTI application has been rejected. As Section 19(1) of the RTI Act also permits a citizen aggrieved by a decision deemed to have been made by a CPIO, to prefer an appeal against such decision, to an officer senior in rank to such CPIO, this ground is also satisfied in the instant case. ***Hence the submission of this first appeal to this Hon'ble Appellate Authority.***

8.1.3) Further, according to Section 7(6) of the RTI Act, where a CPIO fails to supply the information sought within the period of 30 days stipulated in Section 7(1) of the RTI Act, the

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RTI applicant has a right to obtain the information free of charge. It has already been shown conclusively above, that the CPIO(s) of this Public Authority has/have not bothered to send any reply to the instant RTI application despite the lapse of the statutory deadline of 30 days. This Appellant therefore has a right to receive all the information specified in the instant RTI application free of charge, under Section 7(6) of the RTI Act. ***Hence the submission of this first appeal to this Hon'ble Appellate Authority.***

**9) I hereby verify that the aforementioned facts are true to the best of my knowledge.
I also declare that I have authenticated the Annexes to this appeal.**

Signature of the Appellant:

S.S. Venkatesh Nayak
(Venkatesh Nayak) 23/10/19

Registration No. 10560

Date: 12/09/2019

From,
Venkatesh Nayak
#55A, 3rd Floor
Siddharth Chambers-1
Kalu Sarai
New Delhi – 110 016

To,
The Central Public Information Officer
Election Commission of India
Nirvachan Sadan
Ashoka Road
New Delhi- 110 001

Dear sir,

Sub: Submission of request for information under *The Right to Information Act, 2005*

I would like to obtain the following information from your public authority under the RTI Act, 2005:

- 1) The maximum number of votes recordable on each Electronic Voting Machine (EVM) of M2 and M3 generation manufactured by Bharat Electronics Ltd. and used in the 2019 Lok Sabha Elections,
- 2) The maximum number of votes recordable on each EVM of M2 and M3 generation manufactured by Electronics Corporation of India Ltd. and used in the 2019 Lok Sabha Elections,
- 3) The maximum number of votes printable on each Voter Verified Paper Trail Unit (VVPAT) manufactured by Bharat Electronics Ltd. and used in the 2019 Lok Sabha Elections,
- 4) The maximum number of votes printable on each VVPAT Unit manufactured by Electronics Corporation of India Ltd. and used in the 2019 Lok Sabha Elections,
- 5) The constituency-wise number of Control Units of EVMs transported across India for use in the 2019 Lok Sabha Elections,
- 6) The constituency-wise number of Ballot Units of EVMs transported across India for use in the 2019 Lok Sabha Elections,
- 7) The constituency-wise number of (VVPATs) transported across India for use in the 2019 Lok Sabha Elections,
- 8) The constituency-wise number of thermal paper rolls used in VVPATs transported across India for use in the 2019 Lok Sabha Elections,

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- 9) A clear photocopy of the List of Engineers with name and designation, deputed for carrying out tasks relating to the preparation of EVMs and VVPATs in every constituency for the purpose of the 2019 Lok Sabha Elections. Please indicate against each Engineer the name of the EVM/VVPAT manufacturing company whose machines he or she handled,
- 10) A clear photocopy of the List of Senior Level Engineers with name and designation, deputed for supervision and coordination during the preparation of EVMs and VVPATs in every constituency for the purpose of the 2019 Lok Sabha Elections. Please indicate against each Senior Level Engineer the name of the EVM/VVPAT manufacturing company the preparation of whose machines he or she supervised,
- 11) The total number of Symbol Loading Units (SLUs) used by the Team of Engineers during the 2019 Lok Sabha Elections, and
- 12) A clear photocopy of the User Manual pertaining to the SLUs used during the 2019 Lok Sabha Elections.

True copy
S.S. Venkatesh Nayak



SECRETARIAT OF THE
ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

Registration No	10560
Name	Venkatesh Nayak
Date Of Filing	12-09-2019
RTI Fee Received	Rs. 10
Payment Mode	Card
Transaction Status	Success
Request filed with	Election Commission of India (ECI)

True Copy
S.S. Venkatesh Nayak