

Integrity of Electoral Rolls

08/05/2020

Y Kiran Chandra

General Secretary

Free Software Movement of India

Integrity of Electoral Rolls and the Experience in Telangana and AP

The Representation of the Peoples Act mandates that for someone to vote on the polling day is the existence of their name in the Electoral Rolls and producing an ID proof in case the voter doesn't have an Electoral Photo Identity Card. Even with a possession of a valid Electoral Photo Identity Card one would not be allowed to vote if their name doesn't exist in the Electoral Rolls. Thereby, the finalised electoral rolls become the basis for allowing an individual to be in or out of the voting process. This also means that the electoral rolls become sacrosanct. With such high value attributed to the electoral rolls it is important to examine the process involved in generating these electoral rolls and the Integrity of them. Any measures involved in the generation of these electoral rolls that is faulty and doesn't comply with the constitutional norms only entails in the derailment of the democratic process and challenges the very fundamental principle of "Universal Adult Franchise"

Certain measures taken by the Election Commission while curating the electoral rolls in the composite state of Andhra Pradesh and thereby the states of Telangana and Andhra Pradesh while generating the electoral rolls only says that there were hundreds of thousands of people who were kept at bay from voting. The election commissions stance prior to the elections of 2018 stating all is well and then a mere apology after the elections raises the sanctity of the electoral process itself. The methods adopted in the states of Telangana and Andhra Pradesh have set the precedent for EPIC verification and purification(a word used by ECI) the electoral rolls across the country. The process that began with integrating the electoral rolls with Aadhaar database, further extended to mashing it with the data at the State Resource Data Hub and now trying to integrate it with the facial recognition system are the processes that are set in motion that go much beyond the statute and pose a grave danger to Indian Democracy. Thereby it is of utmost importance for us to examine the process that was undertaken in the states of Telangana and Andhra Pradesh to check the integrity of Electoral Rolls.

Linking EPIC details with Aadhaar databases

The voter deletions in Telangana have been a contentious issue with much debate and complaints to Election Commission of India by political parties. People even approached the High Court in Hyderabad for justice, which has not been delivered yet for all the voters who could not vote on the day of Telangana Assembly

Elections in 2018. At the centre of all of these voter deletions in Telangana and Andhra Pradesh is an experiment called Aadhaar, which was used to take away the rights of residents in the region. The united Andhra Pradesh state was an early adopter of the Aadhaar programme and several institutions that helped build Aadhaar like National Institute of Smart Governance are based in Hyderabad. This means there were several experiments of Aadhaar in day to day governance activities in the region.

One of such experiments was linking Aadhaar to voter id, the Election Commission of India has started two pilot programmes on this issue in parts of Nizamabad, Hyderabad districts during November 2018. Based on the outcomes of these pilot programmes a National Consultation on Aadhaar and voter id linking was organized by Election Commission of India in Hyderabad in February 2015. ECI launched National Electoral Rolls Purification Authentication Programme (NERP-AP) on 01-04-15 to be completed by 31-08-15. NERP-AP was shut down after supreme court order on 11-08-15. Telangana and Andhra Pradesh being the early adopters of this programme since 2014, both the states have nearly completed linking Aadhaar and voter id for all residents in the state. By the end of this exercise on 11-08-15, 30 lakhs voter have been deleted from electoral rolls in Telangana and 25 lakhs from Andhra Pradesh. Though the composite state of Andhra Pradesh was bifurcated in 2014 there was only one office of CEO Telangana & Andhra Pradesh as the bifurcation procedure was not yet complete in 2015.

These large scale voter deletions have made political parties complain to the Election Commission from 2015 itself. But the commission has not done any significant enquiry into the matter until now, the ECI through it's lawyers has also committed perjury by even lying to the courts that no wrongful deletions have taken place.

Failure in door to door verification:

This can be asserted by the **Letter No. 736/Elections.EA/A2/2015-134** written by the then Chief Electoral Officer Mr. Bhanwar Lal. The CEO has clearly complained in the letter BLOs have not properly conducted door to door verification and there were challenges specifically in the region of Hyderabad. Without the verification by the BLO's the norms would not allow the removal of voters from the rolls. However the Election Commission went ahead and deleted the potential duplicate voters without any door to door verification under the Electoral Laws. The possible way of deleting the voter rolls is by mashing it with an existing data base. The integration of the EPIC database with the Aadhaar database makes one to infer that they have been deleted based on the latter. By the end of this exercise close to 3 million voters have been deleted from rolls. The Election Laws do not allow the ECI to use any software for electoral rolls preparation. One will have to recollect that the EVMs were introduced into the electoral process only after the Parliament amended the Representation of People's Act.

Integrating EPIC database with database at SRDH

The methodology followed by ECI to find duplicate voters using Aadhaar was largely unknown to the general public, the important question is whether if ECI is fully aware of what has transpired in Telangana and were the processes that are mandated by statute in place? ECI is yet to answer! The details of the pilot programmes on Aadhaar voter id linking in districts of Telangana is not in public domain. Several RTIs to Chief Electoral Officer of Telangana asking for this information have been denied. In 2018, the ECI wrote back to CEOs asking them to disclose the methodology used in NERP-AP for Aadhaar data collection after severe public outcry against ECI collecting Aadhaar data without the consent of voters. In **Letter No. 1471/Elecs.B/A1/2018-3** dated 25th April 2018, the office of CEO Andhra Pradesh has explained this methodology carried out during NERP-AP. It is clear and evident from the letter that the **office of CEO Telangana & Andhra Pradesh has shared the voter data with State Resident Data Hub (SRDH)** application of Government of Telangana and Andhra Pradesh.

Mashing EPIC databases with census and other sensitive information:

The methodology mentioned by CEO Andhra Pradesh is a matter of grave concern. The office of CEO AP&TS supplied voter data to a government application called State Resident Data Hub (SRDH). Typically SRDH has data on residents of state which is supplied by Unique Identification Authority of India (UIDAI) or collected further by the state governments. In Telangana and Andhra Pradesh, the state governments conducted state census where voter data, Aadhaar data, a 360 degree profiling with details such as caste, religion and other sensitive personal information was also collected. These state census surveys were called Samagraha Kutumbha Survey 2014 and Smart Pusle Survey 2016. This sharing of voter data to government is against ECI's own norms, In Delhi ECI stopped a similar exercise where Delhi Government Education Department was collecting voter data.

SRDH was initially built by UIDAI to give states the information of residents similar to Aadhaar database without biometrics. SRDH is currently maintained by private parties. The UIDAI was constrained not to collect caste, religion and other sensitive information data for Aadhaar, but recommended the states to collect this information if required part of Aadhaar data collection terming the process Know Your Resident (KYR) & Know Your Resident Plus (KYR+). In Telangana & Andhra Pradesh SRDH, there is complete 360 degree profiles of residents data. This information was used to find duplicate voters by SRDH application and was later shared by Government to the office of CEO. The commission by allowing the SRDH software to find out duplicate voters has **abdicated its responsibility on the matter to a software algorithm commissioned by the government for purposes unknown to public and maintained by a private IT company**. This is a clear violation of electoral laws again to allow government or a technology application to intervene in voter rolls preparations. In fact by allowing voter data to be combined with SRDH data on

Aadhaar, caste, religion etc the ECI has neglected several processes and norms that were already in place, of not collecting this information, thereby not discriminating voters.

Aadhaar is not a proof of citizenship and only resident proof as even foreigners are allowed to have it legally. The right to vote is only for Indian citizens, mixing Aadhaar with voter ids further complicates the process.

The pilot projects in Nizamabad and Hyderabad were the basis to roll out Aadhaar voter id linking across the country from 2015 under NERP-AP. It needs to be noted the commission recommended the usage of same methodology across the country that was devised by the Office of Chief Electoral Officer of Telangana & Andhra Pradesh.

Lack of Transparency:

The NERP-AP exercise was far from transparent or as per due procedure. The Election Commission has betrayed the voters of the region by thrusting an illegal programme onto them. Not only did the commission conduct this exercise without a law, but the **Election Commission violated the privacy of voters by illegally collecting the voter's Aadhaar numbers without their due consent** from third party sources like Registrar General of India, the government databases of beneficiaries. While the commission claims Aadhaar was not mandatory and was just an optional document, it became **de facto** mandatory with the commission using every means at their disposal to procure this information.

While the commission may have ignored the rights of voters, it has stayed in the dark on the happenings of NERP-AP. The commission had no idea how the programme was being implemented across the country by the Chief Electoral Officers. It had to write back to these CEO's asking the methodologies used part of NERP-AP through letter **No.23/1/LET/ECI/FUNC/ERD-ER/NERPAP/2015 (Vol.VI)** dated 20th April 2018.

By doing all of this Election Commission has abdicated its responsibility as a constitutional authority on the matter of electoral rolls to the pro Aadhaar lobby of UIDAI and Government. The ECI has brought shame to itself by collecting our personal data from Government without our knowledge. ECI sharing the voter data with Government to build 360 degree profiles of residents is further deplorable. Most importantly ECI's responsibility to ensure everyone votes and follow their own motto of "Leave no voter Behind" has not been followed. Here is the conduct of Election Commission of India or Election Analytica which fell for the pro Aadhaar lobby groups and ignored our rights, ignored our complaints, ignored us even on the day of election.

Up on complaints from various parts of the society including political parties the

Election Commission's representatives including the previous Chief Election Commissioner **Mr. O.P Rawat** and the previous Chief Electoral Officer of Telangana **Mr. Bhanwar Lal** and current CEO **Mr. Rajat Kumar** has always informed us all due procedures were carried during NERP-AP. Largely explaining to the general public that these large scale voter deletions were primarily due to migration of people to Andhra Pradesh. Yet **there were a large number of voters who complained that they were unable to vote on 7th December 2018**, the day of Telangana assembly elections.

Even after the number of disturbances that have occurred on the day of elections with people protesting at polling booths, highways and with district election officers the Election Commission and Office of Chief Electoral Officer has called them stray incidents without investigating them any further. The **Chief Electoral Officer Mr. Rajat Kumar has repeatedly informed the media there was not a single issue with the election and concluded the election was free of any anomalies**. This was far from truth and we would like you to explain us the conduct of the Chief Electoral Officer Mr. Rajat Kumar on this matter.

The conduct of the commission in this matter is no different from the scandalous firm Cambridge Analytica and Facebook which may have affected our elections, on which you have not disclosed any information to the public at large. In the process of bringing out a perfect electoral roll, the commission and the office of CEO has effectively destroyed it by potentially allowing religious, caste based profiling of voters.

The entire process of voter deletions in Telangana have been largely non transparent and an **experiment gone wrong because of the highest officials of the commission along with pro Aadhaar lobby groups inside the government and UIDAI wanted it**. It is disheartening to see the standards of the commission fall so drastically and affecting millions of voters during an election. Even after repeated complains the commission seems to have largely ignored the matter.

Including Facial recognition for Electoral rolls:

The election commission has not learnt from the past and now going further ahead to use Facial recognition application for the voter verification. The State Election Commission of Telangana has issued a circular No. 111/TSEC-ULBs/2020 to implement a Facial recognition application for voter verification as pilot. Facial recognition is a form of surveillance and is already being used by Hyderabad Police to track people which is being widely contested as the safeguards for its usage and what happens to the collected data by the police is not clear. The election commission should Usage of this technology in elections amounts to surveillance on the voters. The Section 39 in The Conduct of Elections Rules, 1961, the procedure of voting is required to be secret. The use of facial recognition is a violation of the idea of secret

ballot. The supreme court in Puttaswamy Vs Union of India 2017 judgement on fundamental right to privacy has already ordered a data protection law be brought to protect the privacy of people. Implementation of this project without a data protection law is a violation of the court orders in both letter and spirit.

Before people could forget the voter deletions in Telangana a new method to take away their franchise and agency is being introduced. We demand the State Election Commission of Telangana to rethink this exercise.

What needs to be done:

All these steps by the election commission only question the credibility of the electoral rolls which were supposed to be sacrosanct and decide the fate of Indian democracy. The voter id verification and curation needs to be transparent where the election commission should come out with a white paper on what has happened with the NERP-AP, all the software that has been used for the purpose should be procured by the EC and the source code of it should be put up in the public domain for verification. The electoral rolls mashed with census, caste and other sensitive details has been given to the private companies associated with the SRDH project. What has happened to the data and how it is being used for subverting the electoral process is a serious question for Indian Democracy. The electoral rolls that are supposed to be sacrosanct are in a mess, since there is time for the next elections the ECI should ensure all safeguards and cleanse all the misdeeds that have been taken up in the due process.