

IN THE SUPREME COURT OF INDIA

ORIGINAL CIVIL JURISDICTION

WRIT PETITION (C) NO. OF 2016

(Writ Petition under Article 32 of the Constitution of India)

IN THE MATTER OF:

LOK SATTA MOVEMENT & ORSPETITIONERS

VERSUS

UNION OF INDIA & ORS.RESPONDENTS

I.A. NO. OF 2016 **APPLICATION FOR EXEMPTION FROM
FILING OFFICIAL TRANSLATION OF
ANNEXURES P-4, 14 AND 15**

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

NEW DELHI

JAY SAVLA

Date: 26.09.2016

ADVOCATE FOR THE PETITIONERS

IN THE SUPREME COURT OF INDIA

ORIGINAL CIVIL JURISDICTION

WRIT PETITION (CIVIL) NO.

OF 2016

IN THE MATTER OF:

1. LOKSATTA MOVEMENT,
Through its President,
Mr. Surendra Srivastava,
A Non-Profit civil society movement,
having its office at Base Unit-6,
Byculla Service Industries Premises,
Dadoji Konddeo Rd, Byculla (East),
Mumbai 400 027. ... Petitioner No.1
2. FOUNDATION OF DEMOCRATIC REFORMS,
Through its authorised signatory,
Captain Promodh Chopra,
A Non-Profit research and
Advocacy organisation,
having its regional office at :
D-1, Nizamuddin East,
New Delhi - 110 013. ... Petitioner No.2
3. LOKSATTA PARTY,
Through its Authorised Signatory,
Mr. Sandeep Verma,
a registered political party
having its Delhi office at :
Plot no: 29/C, Sector 12,
Noida – 201301, Delhi(NCR) ... Petitioner No.3
4. ANANYA WELFARE TRUST,
Through its authorised signatory,
Ms. Ankita Verma,
A Non-Profit social welfare organisation,
having its registered office at 9-B,
Tribute, Rajkamal Studio Compound,
Dr.S.S. Rao Road, Parel,
Mumbai – 400012 ... Petitioner No.4

VERSUS

1. The Union of India,
Through the Ministry of law
and Justice, Having office at :
4th Floor, A-wing, Shastri Bhawan,
New Delhi – 110 001Respondent No. 1
2. The Election Commission of India
Through the Chief Election Commissioner,
Nirvachan Sadan, Ashoka Road,

- New Delhi – 110 001.Respondent No. 2
3. India Post,
Department of Post,
Ministry of Communication &
Information Technology,
Dak Bhawan, Sansad Marg,
New Delhi-110 116Respondent No. 3
 4. The state of Andhra Pradesh,
Through its Chief Secretary,
Secretariat, Hyderabad-500 022,
Andhra Pradesh.Respondent No. 4
 5. The State of Arunachal Pradesh,
Through its Chief Secretary,
Civil Secretariat, Itanagar-791 111,
Arunachal Pradesh.Respondent No. 5
 6. The state of Assam,
Through its Chief Secretary,
Assam Sachivalaya, Block C,
3rd Floor, Dispur,
Guwahati-781 006, Assam.Respondent No. 6
 7. The State of Bihar,
Through the Chief Secretary,
Old Secretariat,
Patna- 800 015,Bihar.Respondent No. 7
 8. State of Chhattisgarh,
Through its Chief Secretary,
DKS Bhawan, Mantralaya,
Raipur-492 001, ChhattigarhRespondent No. 8
 9. Government of NCT Delhi,
Through its Chief Secretary,
Delhi Secretariat, I.P. Estate,
New Delhi- 110002.Respondent No. 9
 10. The State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim,
Goa- 403 521.Respondent No.10
 11. State of Gujarat,
Through its Chief Secretary,
New Sachivalaya,
Gandhi Nagar, Gujrat.Respondent No.11
 12. State of Haryana,
Through its Chief Secretary,
Civil Secretariat,
Chandigarh-160 009,Haryana.Respondent No.12

13. State of Himachal Pradesh,
Through its Chief Secretary,
H.P. Secretariat, Shimla-171 002,
Himachal Pradesh.Respondent No.13
14. State of Jammu and Kashmir,
Through its Chief Secretary,
Civil Secretariat, Srinagar(Kashmir),
Jammu & Kashmir- 190 001.Respondent No.14
15. State of Jharkhand,
Through Its Chief Secretary,
1st Floor, Project Building, Dhurwa,
Ranchi- 834 004, Jharkhand.Respondent No.15
16. The State of Karnataka,
Through its Chief Secretary,
Vidhana Soudha, Bengaluru- 560 001,
Karnataka.Respondent No.16
17. The State of Kerala,
Through its Chief Secretary,
Kerala Secretariat,
Thiruvananthapuram,
Kerala - 695001.Respondent No.17
18. The State of Madhya Pradesh,
Through its Chief Secretary,
Mantralaya, Vallabh Bhawan,
Bhopal- 462 004, Madhya Pradesh.Respondent No.18
19. The State of Maharashtra,
Through its Chief Secretary,
Ministry of Mantralaya,
Mumbai- 400 032, Maharashtra.Respondent No.19
20. The State of Manipur,
Through its Chief Secretary,
Manipur Secretariat,
Imphal-790 001,Manipur.Respondent No.20
21. The State of Meghalaya,
Through its Chief Secretary,
Meghalaya Civil Secretariat,
Shillong-793 001, MeghalayaRespondent No.21
22. The State of Mizoram,
Through its Chief Secretary,
Mizoram, Block C, Civil Secretariat,
Aizwal, Mizoram – 796 001Respondent No.22
23. The State of Nagaland,
Through its Chief Secretary,
Nagaland Civil Secretariat,
Kohima-790 001, NagalandRespondent No.23

24. The State of Odisha,
Through its Chief Secretary,
Orissa Secretariat,
Bhubaneshwar-7510 01,
Odisha.Respondent No.24
25. The State of Punjab,
Through its Chief Secretary,
Punjab Secretariat, Chandigarh,
Punjab -160 017.Respondent No.25
26. The State of Rajasthan,
Through its Chief Secretary,
Secretariat, Jaipur-302 001,
Rajasthan.Respondent No.26
27. The State of Sikkim,
Through its Chief Secretary,
Sikkim Secretariat,
Gangtok- 737 101, Sikkim.Respondent No.27
28. The State of Tamil Nadu,
Through its Chief Secretary,
Tamil Nadu Secretariat,
Chennai, Tamil Nadu -600 009Respondent No.28
29. The State of Tripura,
Through its Chief Secretary,
Tripura Civil Secretariat,
Agaratala-799 001, Tripura.Respondent No.29
30. The State of Telengana,
Through its Chief Secretary,
Secretariat, Hyderabad – 500 022,
Telengana.Respondent No.30
31. The State of Uttar Pradesh,
Through its Chief Secretary,
Secretariat, Lucknow – 226 001,
Uttar Pradesh.Respondent No.31
32. The State of Uttrakhand,
Through its Chief Secretary, 4,
Subash Road, Dheradun, Uttrakhand.Respondent No.32
33. The State of West Bengal,
Through its Chief Secretary,
West Bengal Secretariat,
Writers Building,
Kolkata-700 001, West BengalRespondent No.33
34. Union territory of Andaman
& Nicobar, Through its Chief Secretary,
Secretariat & Administration,

- Andaman & Nicobar Islands,
Port Blair.Respondent No.34
35. Union territory of Dadra
& Nagar Hawali,
Through its Administrator,
Secretariat, Silvassa-396230,
Union territory of Dadra and
Nagar Hawali.Respondent No.35
36. Union Territory of Daman & Diu,
Through its Administrator,
Secretariat Daman,
Daman & Diu.Respondent No.36
37. Union Territory of Lakshadweep,
Through its Administrator,
Kavaratti, Lakshadweep-682 555.Respondent No.37
38. Union Territory of Puducherry,
Through its Chief Secretary,
Puducherry Administration,
1 Beach Road, Puducherry- 605 001.Respondent No.38
39. The State Election Commission,
Andhra Pradesh,
Through its Commissioner,
3rd Floor, Buddha Bhavan,
M.G. Road, Secunderabad,
Andhra Pradesh -500 003.Respondent No.39
40. The State Election Commission,
Arunachal Pradesh,
Through its Commissioner,
Old DC's Office, C- Sector,
Itanagar - 791 111,
Arunachal Pradesh.Respondent No.40
41. The State Election Commission,
Assam, Through its Commissioner,
Housefed Complex Building No. 5,
2nd floor, Dispur, Guwahati,
Assam – 781 006Respondent No.41
42. The State Election Commission,
Bihar, Through its Commissioner,
Sone Bhawan, 3rd Floor,
Birchand Patel Marg,
Patna – 800 001Respondent No.42
43. The State Election Commission,
Chhatisgarh,
Through its Commissioner
Mahanadi Khanda, Mantralaya,
Raipur – 492 009, Chhattisgarh.Respondent No.43

44. The State Election Commission,
Gujarat, Through its Commissioner,
Block No. 9, 6th Floor,
New Sachivalaya Complex,
Gandhinagar, Gujarat – 382 010Respondent No.44
45. The State Election Commission, Goa,
Through its Commissioner,
Office of the State Election Commission,
Opp. Joggers Park, Next to BSNL Tower,
Altinho, Panaji-Goa-403 001Respondent No.45
46. The State Election Commissioner,
Jammu and Kashmir,
Through its Commissioner,
Block-A, Old Secretariat,
Srinagar, Jammu and Kashmir
- Also having its address at:
2nd Floor, Vikas Bhawan,
Rail Head Complex, Jammu,
Jammu and Kashmir.Respondent No.46
47. The State Election Commission,
Jharkhand,
Through its Commissioner,
New Market Chowk, Ratu Road,
Ranchi-834 001, Jharkhand.Respondent No.47
48. The State Election Commission,
Haryana,
Through its Commissioner,
Office Plot No. 2,
Nirvachan Sadan, Sector 17,
Panchkula-134 109,Haryana.Respondent No.48
49. The State Election Commission,
Himachal Pradesh,
Through its Commissioner,
HP Secretariat Complex,
Armsdale Building, Shimla,
Himachal Pradesh – 171 002.Respondent No.49
50. The State Election Commission,
Karnataka,
Through its Commissioner,
1st Floor, KSMF Building,
Cunnigham Road,
Bengaluru, Karnataka- 560 052.Respondent No.50

51. The State Election Commission,
Kerala, Through its Commissioner,
Corporation Office Complex,
L.M.S. Junction,
Thiruvananthapura,
Kerala – 695 033
....Respondent No.51
52. The State Election Commission,
Madhya Pradesh,
Through its Commissioner,
Nirvachan Bhawan, 58,
Arera Hills, Bhopal – 462011,
Madhya Pradesh.
....Respondent No.52
53. The State Election Commission,
Manipur, Through its Commissioner,
Pantagon Office Complex,
Lamphelpat, Imphal – 795 001.
Manipur.
....Respondent No.53
54. The State Election Commission,
Mizoram, Through its Commissioner,
Sanghluna Building, Tuikhuahtlang,
Aizwal – 796 001, Mizoram.
....Respondent No.54
55. The State Election Commission,
Nagaland, Through its Commissioner,
Office of The Chief Electoral Officer,
Block –D, Kohima–797 001,
Nagaland.
....Respondent No.55
56. The State Election Commission, Odisha,
Through its Commissioner,
Toshali Bhawan, Block– B-2, 1st Floor,
Satyanagar, Bhubaneswar – 751007,
Odisha.
....Respondent No.56
57. The State Election Commission, Punjab,
Through its Commissioner,
SCO No. 54-55, Sector-34A,
Chandigarh –160 022, Punjab.
....Respondent No.57
58. The State of Election Commission,
Maharashtra, Through its Commissioner,
1st Floor, New Administrative Buildings,
Opp. Matralaya, Mada Cama Road,
Mumbai- 400 032, Maharashtra
....Respondent No.58
59. The State Election Commission,
Rajasthan, Through its Commissioner,
2nd floor, Vikas Khand, Secretariat,
Jaipur-302 005, Rajasthan.
....Respondent No.59

60. The State Election Commission of Sikkim, Through its Commissioner, Assampa Villa, Amdo Golai, Tadong, Gangtok – 737102, Sikkim.Respondent No.60
61. The State Election Commission of Tamil Nadu, Through its Commissioner, 208/2, Jawaharlal Nehru, Salai, Arumbakkam, (Opp. CMBT), Chennai-600 106, Tamil NaduRespondent No.61
62. The State Election Commission, Tripura, Through its Commissioner, Secretariat Capital Complex, PO Agartala-799001, TripuraRespondent No.63
63. The State Election Commission, Telangana, Through its Commissioner, 1st Floor, DTCP Building, Opp PTI Building, AC Guards, Hyderabad – 500004 Telangana.Respondent No.64
64. The State Election Commission, Uttar Pradesh, Through its Commissioner, PCF Building, 32, Station Road, Lucknow-226 001, Uttar Pradesh.Respondent No.65
65. The State Election Commission, Uttrakhand, Through its Commissioner, Nirwachan Bhawan, Gram Ladpur, Mussoori Bypass (Ring Road), Dehradun - 248 008.Respondent No.65
66. West Bengal State Election Commission, Through its Commissioner, 18, Sarojini Naidu Sarani, 2nd Floor, Kolkata-700 017, West Bengal.Respondent No.66
67. The State Election Commission, NCT of Delhi & UT Chandigarh, Through the Commissioner, Nigam Bhawan, Kashmere Gate, Delhi-110 006.Respondent No.68
68. The State Election Commission, UTs(Andaman & Nicobar Island, Lakshadweep, Dadra & Nagar Haveli and Daman & Diu) Through the State Election Commissioner for Union Territories,

- F-204, MS Apartments,
Kasturba Gandhi Marg,
New Delhi-110 001Respondent No.69
69. The State Election Commission,
Puducherry,Through its Commissioner,
No.39, Second Cross, Peter Nagar,
Puducherry - 605 013.Respondent No.70
70. Bharatiya Janata Party,
Through its President
Having office at :
11, Ashoka Road,
New Delhi -110 001Respondent No.71
71. Indian National Congress,
Through its President,
Having office at :
24, Akbar Road,
New Delhi – 110011Respondent No.70
72. Communist Party of India(Marxist),
Through its President Having office at :
A.K. Gopalan Bhawan,
27-29, Bhai Vir Singh Marg,
New Delhi 110 001Respondent No.71
73. Communist Party of India
Through its President,
Having office at :
Ajoy Bhavan, 15,
Indrajit Gupta Marg,
New Delhi-110 002Respondent No.72
74. Bahujan Samaj Party,
Through its President,
Having office at :
12, Gurudwara Rakab Ganj Road,
New Delhi-110 001Respondent No.73
75. National Congress Party,
Through its President,
Having office at :
10, Bishambhar Das Marg,
New Delhi -110 001 ...Respondent No.74

[ALL ARE CONTESTING RESPONDENTS]

WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA

TO,

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS COMPANION
JUDGES OF THE SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF
PETITIONER ABOVE NAMED.

MOST RESPECTFULLY SHEWETH:

**1. PARTICULARS OF THE CAUSE OF ACTION ON WHICH THE
PUBLIC INTEREST LITIGATION IS FRAMED:**

The present Petition for Public Interest Litigation is founded on the Constitutional scheme of arrangement that full functional and effective democracy requires free and fair elections be at gram panchayat level or at municipal corporation level or be at legislative assembly/council level or be at parliament level. The correct, error free and real time voter rolls for each of these elections is the first step to conduct free and fair elections. The fundamental philosophy reflected in the aforesaid understanding is that unless all eligible voters are allowed to participate by adopting "friendly", "non repulsive" and "easy accessible" process and system of 'voter registration', 'change of address/constituency due to change in work place or marriage & therefore change of place of residence', 'correction of voters data wherever required', the citizen will be demotivated to not only participate in electoral process but not even get motivated to register himself/herself as a voter. Despite of sincere efforts on the part of Respondents No. 2 time and again

(almost every years), the voters rolls have remained incorrect casting doubt of the concept of **"FREE & FAIR ELECTIONS"**. Merely voting without booth capturing cannot be regarded as free & fair elections, when foundation of elections i.e. voter rolls themselves are incorrect. The Respondents No. 2 having given this onus of maintaining correct and error free real time voter rolls for enabling functioning of true democracy; the Respondent No. 2 have failed and or neglected to carry out their duty with the result that the Petitioner is compelled to approach the "Judiciary" with a prayer for issuing an appropriate Writ, Order or Direction to the Respondents for exercising its authority and power for giving effect to maintaining correct & error free real time voter rolls. Failure to exercise jurisdiction vested in the Respondent No. 2, warrants use of Extra Ordinary Powers vested in this Hon'ble Court, and the present Petition is made in that hope. Accordingly by this present Writ Petition under Article 32 of the Constitution of India, the Petitioners seek to challenge the manner in which electoral rolls have been prepared and are being maintained by the Chief Electoral Officers of various States and Union Territories, the election Commission of India, herein the Respondent No. 2 and various State Election Commissions (Respondent Nos. 39 to 71). As a result of the failure of the concerned authorities to adhere to the provisions of law with regard to the preparation and revision of electoral rolls, a large section of the electorates have repeatedly been denied the right to exercise their franchise in elections, which have been held to various urban local bodies, rural local bodies and to the legislative councils and assemblies of various States as well as the recent Parliamentary Elections which were held during April-May 2014.

1A. That the Petitioners have been time and again sent various letters being letters dated 16.07.2010, 23.07.2012, 20.04.2015, 4.10.2004, 19.06.2006, 16.07.2010, 1.12.2010 (**Annexures P-28, P-29, P-30, P-34, P-36, P-37 and P-38** respectively) and representations dated 19.07.2006 and 28.12.2006(**Annexures P-24 and P-26**), as well as suggestions dated 13.05.2003 and 19.06.2006 (**Annexures P-32 and P-36**) to the Election Commission of India and to the State Election Commissions with respect to the discrepancies in the electoral rolls, Proper registration, revision and maintenance of Electoral rolls and the effective implementation of Guidelines issued by the Election Commission of India, however no effective steps have been taken by the Election Commission of India, as a result of which the eligible electors have been failed to exercise their right to vote, which is a constitutional rights. The letters and representations made by the Petitioners to the Election Commission of India and various other authorities are part and parcel of this present Writ Petitions.

2. PARTICULARS OF THE PETITIONERS:

a) The Petitioner No.1 is "Loksatta Movement", a Non-Profit and civil society movement registered with Office of Registrar of Societies, Hyderabad under Registration No.4963 of 1997 dated 6th October, 1997. The PAN number of Petitioner No.1 organization is AAATL2275N and Annual income as per IT returns filed for FY 2015-2016 is Rs.1,69,308/-. The Email address and website of Petitioner No.1 are info@loksatta.org and www.loksatta.org respectively and contact numbers is 022-23772242. Amongst various efforts for political and governance reforms, one of the

objectives of the Petitioners is to make governance institutions truly transparent, accountable, responsive and efficient at all levels for creation of a suitable environment for effective democratic functioning leading to greater human happiness index and to ensure self-corrective institutional mechanisms of governance. The approach on one hand is by advocating various political/governance reforms to various governments, political parties, parliamentarians, legislatures and government institutions etc, on the other hand by building public opinions/movement as and when required through various public campaigns including round table conferences, seminars & public meetings. The Aadhar Number of the President of Petitioner No.1 is 803315783283. Hereto annexed and marked as **Annexure P/1(Page No. 73 to 74)** is the copy of the Certificate of Registration of Petitioner No.1.

b) Petitioner No.2 is "Foundation for Democratic Reforms", a Non-Profit and voluntary association registered with Office of Registrar of Societies, Hyderabad under Registration No.5741 of 1996 dated 6th October, 1997. The PAN number of Petitioner No. 2 organization is AAATF0233E and the Annual income as per IT returns filed for FY 2015-2016 is Rs.62,75,440/-. The Email address and website of Petitioner No.2 are communications@fdrindia.org and www.fdrindia.org respectively and contact number is 011-2377 0024. The Aadhar Number of the Authorized representative of Petitioner No.2 is 2122 3475 9075. The primary objective of the Petitioner No.2 is the welfare of the general public at large. It is primarily a research organization in the field of political and governance reforms. Petitioner No.2 is recognized by D.S.I.R.,

Government of India as "Scientific & Industrial Research Organisation". The following are some of its office bearers:

(i) Dr. Jayaprakash Narayan, (Former I.A.S. Officer of 1988 batch, who left IAS at the age of 38 in 1996, after 16 years of meritorious service, to start the political and governance reforms movement)

(ii) Mr. Surendra Srivastava; (Former President of The Great Eastern Shipping Co. Ltd, who left corporate service in 2005 at the age of 45 to join the political and governance reforms movement.

(iii) Mr. Suresh Nandawat, a practicing Chartered Accountant and various others;

Hereto annexed and marked as **Annexure P/2(Pages 75 to 76)** is the copy of Registration Certificate of Petitioner No.2.

c) The Petitioner No. 3 took birth and registered as a political party under Section 29A of *The Representation of the Peoples Act, 1951* with the Election Commission of India (ECI) *vide* proceedings No. 56/152/2006/J.S.III, dated 22nd December 2006, out of a Non Governmental Civil Society Organization "Loksatta Movement" registered under the Societies Registration of Act, 1860 in the year 1996. The PAN number of Petitioner No. 3 organization is AAABL0145R and Annual income as per IT returns filed for FY 2015-2016 is Rs.19,803/-. The Email address and website of Petitioner No.3 are nationaltreasurer@loksatta.org and www.loksatta.org respectively and contact numbers is 022-2377 2279. The Aadhrar number of authorized representative of Petitioner No.3 is 8584 4493 5548. Ten years work as a reform movement led us to believe that

unless the vicious cycle of vote bank, muscle power, money power and dynastic politics is brought down, the ethical politics & good governance will remain dream despite India attaining Independence in the year 1947. Thus Loksatta Party seeks to promote and establish a platform for ethical politics by dismantling Vote Bank, Money Power, Muscle Power and Dynastic politics across India. Lok Satta Party will take long time to break this vicious cycle and therefore the party growth will be slow and incremental. The seekers of ethical politics will require determination, long term vision & sense of balance. Keeping this in mind Lok Satta Party is slowly but surely becoming a platform for those who strongly believe in politics as a noble endeavor to serve people. Hereto annexed and marked as **Annexure P/3(Pages 77 to 80)** is the copy of the Certificate of Registration of Petitioner No.3.

d) The Petitioner No. 4 is a social welfare trust registered under the Bombay Public Trust Act bearing Registration No. E/16644 (Mumbai) registered with Charity Commission, Mumbai, Maharashtra. The PAN number of Petitioner No. 4 organization is AAATA5453B and Annual income as per IT returns filed for FY 2015-2016 is Rs. 26,69,349/-. The Email address and contact number of Petitioner No.1 are ananyawelfaretrust22@gmail.com and 022-24101558 respectively. Aadhar number of the authorized representative of Petitioner No.4 is 8338 1820 0930. Hereto annexed and marked as **Annexure P/4(Page No. 81 to 81A)** is the copy of the Certificate of Registration of Petitioner No.4.

e) The Petitioners takes the PIL route through judiciary as the last resort & after exhausting all other advocacy efforts with

governments, political parties and other constitutional institution like successful PIL for cancellation of 2G licenses in honorable Supreme Court, shifting of IPL matches outside the State of Maharashtra in view of the worst drought faced by the state in 100 years and to highlight nationwide water mismanagement by successive Governments since independence etc all in the interest and welfare of the general public.

3. PARTICULARS OF THE RESPONDENTS:

The Respondent No. 1 herein is the Union of India, Respondent No. 2 is the Election Commission of India, an Independent Constitutional body formed and constituted under the provisions of Constitution of India. As per, Article 324(1) of the Constitution of India, it is the duty of Respondent No.2 to superintend, supervise, direct and control the preparation of the correct, error free and real time electoral rolls for, and the conduct of all elections to the parliament and the legislature of every state and of elections to the offices of President and vice-president held under the Constitution. Respondent No.3 is Department of Post through Ministry of Communication & Information Technology. Respondent Nos. 4 to 38 are the State Governments and Union Territories in India. Respondent Nos.39 to 69 are Election Commissions of all States and Union Territories in India. The Respondent Nos. 70 to 75 are the major Political Parties, whose representatives form part of the various State Legislatures as well as the Centre and have been actively involved with various Voter Registration Drives.

4. FACTS:

A. OVERVIEW OF ELECTIONS IN INDIA

India, the largest democracy by electorate in the world has a population of approximately 1,33,08,34,700 with an estimated eligible voter population of 814.5 Million. India has an asymmetric Federal Government, with elected officials at the federal, state and even at local bodies' levels. All members of the Lok Sabha, except two, who can be nominated by the President of India, and all members of state assemblies, some members(Graduate/teachers constituencies) at state councils, all members of rural and urban local bodies are directly elected through general elections which take place every five years, in normal circumstances, by universal adult suffrage and a first-past-the-post system. In such a system of democracy, accuracy of the Voter Rolls form the basis of the mandate. Voter rolls authenticity and credibility have been questioned by many from time to time. The direct impact of incorrect voter roles is on the outcome of elections and thereby on democracy. It is submitted that in view of various judgments, this Hon'ble Court has held that Right to vote is a constitutional Right. Recently, in **Rajbala & Ors. Vs. State of Haryana and Ors.** reported in **2016 (2) SCC 445**, this Hon'ble Court has held that Right to vote is a constitutional rights in view of the provisions of the Representation of Peoples Act, 1950.

B. EXISTING PROCEDURE FOLLOWED ARE AS UNDER:

- a)** It is submitted that Sections 21 to 23 of the Representation of People Act, 1950 ("Act of 1950") provides for preparation,

revision, correction and inclusion of names in the electoral roll, which reads as follows:

Section – 21: *Preparation and revision of electoral rolls:*

(1) The electoral roll for each constituency shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(2) The said electoral roll—

(a) shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—

(i) before each general election to the House of the People or to the Legislative Assembly of a State; and

(ii) before each bye-election to fill a casual vacancy in a seat allotted to the constituency; and

(b) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission.

(3) Notwithstanding anything contained in sub-section (2), the Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit: Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

Section - 22. *Correction of entries in electoral rolls.—*

If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency- is erroneous or defective in any particular,

should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll, the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

Section - 23. *Inclusion of names in electoral rolls.—*

Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein: Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making

nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election.

- b)** The relevant provisions of the Representation of People Act, 1950 ("Act of 1950") with respect to be eligible for the registration in the electoral roll are as follows:

Section 16: *Disqualifications for registration in electoral roll:*

(1) A person shall be disqualified for registration in an electoral roll, if he-

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (c) of sub-section (1), shall forthwith be reinstated in that roll, if such disqualification, is during the period such roll is in force, removed under any law authorising such removal.

Section 17: *No person to be registered in more than one constituency:*

No person shall be entitled to be registered in the electoral roll for more than one constituency.

Section 18: *No person to be registered more than once in any constituency:*

No person shall be entitled to be registered in the electoral roll for any constituency more than once.

Section 19: *Conditions of registration: Subject to the foregoing provisions of this Part, every person who-*

(a) is not less than eighteen years of age on the qualifying date; and

(b) is ordinarily resident in a constituency, shall be entitled to be registered in the electoral roll for that constituency.

c) The procedure for enrolling one's name in the Electoral List as laid down on the Respondent No. 2's official website http://eci.nic.in/eci_main/ECI_voters_guideline_2006.pdf is as follows:

(i) The Election Commission prepares the electoral rolls through a process of intensive revision where house-to-house enumeration is done and electors residing in each house are registered by official enumerators who go physically from door-to-door to collect the information about electors. This process is done normally once in five years. Between two Intensive revisions, summary revisions are done every year during a specified period when persons who are left out of the electoral rolls are given an opportunity to register themselves by applying in Form-6. It is also expected from you to get your name deleted from the place where you earlier resided, and get it included at new place in case you have shifted. For this, on your part, it is sufficient that you file claim application in Form 6 before the Electoral Registration Officer of the new place and in that application give the full address of your earlier place of residence. Short absence from place of residence does not debar one to continue his/her name in electoral roll. Similarly, deletions are carried out of electors who have

died or who have shifted residence from one area to another outside the prescribed part of the electoral roll. You should note that you can be registered only at one place. Registration in more than one place is an offence.

(ii) During Intensive Revision of electoral rolls which normally takes place once in five years, a draft roll is prepared after house to house enumeration and published at every polling booth location for inviting claims and objections. Any eligible person can file claim in Form No. 6 for inclusion of his name in the roll or raise an objection to somebody's name or for deletion of his or any other person's name in Form No. 7. Similarly if any particulars in the electoral roll are to be modified such as name, house number, middle name, last name, age, sex, epic number etc., a claim in Form No. 8 can be filed. In case any elector has changed his house from the polling area of one booth to other booth in the same Assembly Constituency he can file application in Form No. 8A for change/transposition from one electoral part to other part.

(iii) During Summary revision of electoral rolls which takes place every year, the existing electoral rolls are published at each polling booth locations to invite claims and objections for inclusion, deletion, modification and 3 transposition. After due enquiry all the claims and objections are decided and a supplementary electoral roll is prepared and published.

(iv) Even after the final publication of electoral rolls the process of continuous updation of electoral rolls goes on and the citizens are free to file any application for the addition, deletion, modification and transposition with the Electoral Registration Officer.

(v) As per the law, your name can be registered upto the last date of filing nominations by candidates that has been notified by the Election Commission for any general election or bye-election to an Assembly or Parliament. To enable the Electoral Registration Officer to take action on your application, you must apply at least ten days before the last date of making nominations as he has to mandatorily invite objections by giving a seven clear days notice before including your name in the roll. If you apply later than ten clear days before the last date for nominations your name may not be included for the purposes of that particular election.”

d) The responsibility of preparation of electoral rolls is divided between the respective State Election Commissions and Respondent No. 2. For elections to the Rural & urban local bodies and the panchayats, it is the State Election Commission which is responsible for the preparation and maintenance of the electoral rolls. At present, the Respondent No. 2 is responsible for the preparation and maintenance of the electoral rolls for the assembly elections in all the States. The same rolls are used for Parliamentary Elections. In this regard, the Respondent No. 2 acts through the Chief Electoral Officers (CEO) who are appointed and given charge of this task in each and every State.

C. PROBLEMS AND DISCREPANCIES

Despite the above mentioned provisions providing for clear and unequivocal provisions in the statute, a large section of the population who qualify all the above mentioned criteria are unable to exercise their franchise due to the failure of the Respondent No 2 and the respective State Election Commissions, to carry out their duties in a diligent manner.

Similarly large number of names of voters appears despite either they being dead or relocated due to economic or personal reasons giving opportunity for bogus voting due to nexus and connivance between political parties, candidates and polling officials. The following are some of the most frequently occurring errors and problems with the electoral rolls and their maintenance:

(i) ILLEGAL / WRONGFUL DELETIONS:

It is submitted that in various elections throughout the country, it has been noted that voters who had registered and whose names were entered into the electoral rolls, were illegally deleted, without any intimation of such deletion being given to them. The most common reason for such deletion seems to be that the block level officers of the State Election Commissions or the Respondent No. 2, who are supposed to conduct a door to door survey to check for voters who may no longer reside in the constituency, on finding the residence of the said voters locked, recommend that their name be deleted from the electoral roll as they are deemed to have shifted from their last known residence. Moreover, prior to such deletion taking place, no notice whatsoever, as is required under law, is provided to the persons whose names are so deleted. It is submitted that in most of the cases where such deletions take place, the residence of the particular electors are found to be locked, as they are away at work and not because they have shifted from the said constituency or locality.

This particular issue had been repeatedly pointed out to the concerned authorities. However, no effective steps have been taken to ensure that such wrongful deletions do not take place.

For instance, in the electoral roll maintained by the Chief Electoral Officer for Bangalore City, 13.5 lakh voters were deleted from the electoral rolls as the authorities concerned had lost the photographs of such persons. This leads to a

situation wherein, the voter identification cards which were with the persons concerned had their photographs but the officials concerned could not verify their credentials since the photographs had been misplaced in the database.

Further, it is submitted that in view of the deletion of names of citizens from the list of electoral rolls, time and again various news reports of different states have been published in different Newspaper, however Respondent No. 2 has not taken effective steps to cure such deletion of names from the list. Some of the News Reports highlighting the erroneous voter's Registration of Maximum number from a single house and also reports with respect to deletion from the electoral rolls are annexed herewith for reference. Hereto annexed and marked as **Annexure- P/5 (Pages 82 to 83)** is the copy of the News report dated 28.02.2012 published in The Times of India with regard to discrepancies in the Uttar Pradesh Assembly Election, 2012 showing maximum no. of voters from a single residential address(House No. 81) i.e., 609, **Annexure- P/6(Pages 84 to 86)** is the copy of news report dated 27.11.2013 published in Livemint(online), with respect to voters list errors **Annexure P/7(Pages 87)** is the copy of the news Report dated 18.04.2014 published in the Times of India, Mumbai edition regarding two lakh names missing from the voter list, **Annexure-P/8 (Pages 88 to 89)** is the copy of news report dated 19.04.2014 published in The New Indian Express, Mumbai Edition regarding six Million Voters name being deleted list in Maharashtra, **Annexure-P/9 (Pages 90 to 91)** is the copy of news report dated 25.04.2014 published in the First Post regarding complaint of missing of names from the voter list, **Annexure-P/10 (Pages 92 to 94)** is the copy of news report dated 28.01.2015 published in the Business standard, New Delhi, regarding 22% names which are required to be deleted from the Electoral list, **Annexure-P/11 (Pages 95 to 96)** is the copy of news report dated 22.11.2015 published in The Hindu, Ahmedabad Edition, regarding complaint of missing

names in the voter list, **Annexure-P/12 (Pages 97 to 98)** is the copy of news report dated 23.11.2015 published in The Tribune, Gujarat regarding two lakh names missing from Voter list.

Another example of the widespread errors which are prevalent in the electoral rolls due to wrongful deletion of voters can be seen from the data collected pursuant to a survey of the Malkajgiri constituency (Hyderabad-Telangana) in December 2013. The said survey clearly establishes that the methods being adopted by Respondent No. 2 and the Chief Electoral Officer leave a lot to be desired. In the said survey, it was found that the officials concerned had deleted a number of voters for having shifted from their residential address, whereas it was later found that a large portion of such deleted voters were either living at the same address or had relocated to another address within the same constituency. The result of survey conducted in the Malkajgiri constituency in December 2013 is marked and annexed hereto as **Annexure P/13 (Page No. 99)**.

It is submitted that instances as mentioned above are very common and occur in almost every constituency throughout the country. The repeated occurrence of such errors is ample proof of the fact that the methods being adopted by the Respondent No. 2 and other authorities involved in the preparation and maintenance of electoral rolls need to be seriously reconsidered.

(ii) FALSE / MULTIPLE ENTRIES:

a) It is submitted that another common issue which casts serious aspersions upon the manner in which the electoral rolls are maintained is the number of persons whose names are registered multiple times in the electoral rolls. Moreover, the electoral rolls also contain entries which are entirely false and fictitious, thus leading to dilution of the electoral process, as persons with mala fide intentions are often able to cast multiple votes due to such errors. It has

also been noticed that the authorities concerned have also failed to delete the name of persons who are dead, from the electoral rolls.

- b)** It is further submitted that instances of false or multiple entries, apart from being an example of errors committed by the concerned authorities in the maintenance of electoral rolls also leads to a situation wherein certain groups or persons with vested interests, through illegal means, cast votes on behalf of such persons whose names ought to have been deleted from the electoral rolls. Such an act, apart from being blatantly illegal further compromises the sanctity of the electoral process which forms the cornerstone of democracy.
- c)** For instance, in the case of Ms. Ananya Srivastava (colly), during the Municipal Elections of 2012, the name came to be entered twice in the Electoral List under Serial No. 23032 and Serial No. 23033 of the Voter List. The same, when came to the knowledge of Ms. Ananya Srivastava was immediately and diligently informed to the ERO. However, the same mistake appeared again during the General Elections of 2014, where her name appeared at Sr. No. 318 and 319 of Part 153 of the Assembly Constituency No. 183- Shivadi and Parliamentary Constituency No. 31- Mumbai-South. Hereto annexed and marked as **Annexure P/14(Pages 100 to 101)** and **Annexure-P/15(Pages 102 to 104)** are the copies of the extract of name of Ms. Ananya Srivastava showing multiple entries in the voter list during the 2012 election and 2014 election respectively.

(iii) TYPOGRAPHICAL ERRORS:

- a) It is submitted that apart from illegal deletions which occur from the electoral rolls, genuine electors who are eligible and registered in the electoral rolls are further deprived opportunities to exercise their franchise due to

various typographical errors which are wide spread in the electoral rolls. For instance, there have been a large number of instances wherein due to an error in the spelling of name of a registered voter, wrong entry as to the gender or age of the voter, the said voter is deprived of the opportunity to vote.

b) It is submitted that section 21 to Section 23 of the Representation of People's Act specifically provides preparation, revision, correction and inclusion of names in the electoral roll, which is to be carried out by the Electoral Registration Officers (ERO) with the directions of Election Commissioner. Despite of the specific provisions of the R.P. Act, 1950 for such preparation, correction and revision of electoral roll as well the time and again guidelines issued by Respondent No.2, such errors are frequently seen in the electoral roll. Therefore, it is to be noted that only the concerned authorities, who are responsible for maintenance of the electoral rolls can only be blamed for such errors.

c) It is submitted that there are 7 States in India, viz., Andhra Pradesh, Bihar, Karnataka, State of Telangana, Maharashtra, Uttar Pradesh and Jammu & Kashmir, which are having bicameral legislatures. Following are number of members in the upper house of all these states :

Andhra Pradesh	-	56
Bihar	-	75
Karnataka	-	75
State of Telangana	-	40
Maharashtra	-	78
Uttar Pradesh	-	100
Jammu & Kashmir	-	36

An example of the widespread errors which are prevalent in the electoral rolls are the rolls maintained for the

Graduate's Constituency in Mumbai, wherein an election was held on 2.7.2012. In the said constituency, it was found that the address of a total of 42% (Forty Two Percent) registered voters, as displayed on the rolls, were incomplete. In fact in a population size of more than 1.25 crores only 90,291 voters are registered.

- d) It is also the case that not only parliamentary election, but in the graduates and Teachers election of the Legislative Council Constituencies, various survey have conducted, where it was found large number of names of eligible voters have frequently deleted from the list of electoral rolls, which was being also brought to the notice of Respondent No.2. Though Respondent No.2 have issued directions to the concerned State CEO, the same were not implemented. Hereto annexed and marked as **Annexure P/16(Pages 105 to 132)** is one of the guidelines dated 12.11.2014 recently issued by the Respondent No.2 to the CEO, Telangana with respect to the revision of Electoral rolls for State Legislative Council of Telangana.
- e) It is submitted that despite a circular being issued by the Respondent No. 2 directing the Returning Officers to ignore typographical errors and to allow voters to cast their votes, there are a large number of cases where this direction is wholly ignored and voters are not allowed to exercise their franchise due to various typographical errors in the rolls maintained by the authorities concerned. Hereto annexed and marked as **Annexure P/17(Pages 133 to 135)** is the copy of the circular dated 12.07.2011 issued by the Respondent No. 2 in this regard.

(iv) IMPROPER INCORPORATION OF DETAILS:

Many a times it can be seen that the names and addresses appearing on the Voter List are with incomplete details.

For example: During the 2012 Municipal Elections, the Electoral List of Ward 2 of Thane Municipal Corporation had addresses such as “Panyacha Taki Jawar” nothing more than that, which when translated means near the Water Tank, no road number or name, no flat or room number, no pin code etc. Such discrepancies are not a result of typographical errors but are results of incomplete details and further shows the apathy and lethargy of the make-shift Electoral Officers. Such improper incorporation of details not only makes illicit and “bogus” voting easier but also deprives the candidates as well as the electorate from making an informed decision, which again forms the basis for free and fair elections.

(v) CASE STUDY IN THE YEAR 2015 - DELHI

The Quality of Lists Study (QoL), a part of the efforts by Janaagraha a Bangalore based associates of the petitioners, to improve the accuracy of voter lists in India’s urban centres, was conducted in Delhi just before the 2015 assembly elections. This study aimed to serve as a body of objective information that throws light on the issues inherent in Delhi’s voter lists. It was designed to effectively capture deletions, i.e. people who exist on a voter list but shouldn’t be, as well as omissions i.e. people who should be on the voter list but are not. Using a two pronged approach, the study used a Voter List Centric methodology (to capture deletions) and a Citizen-Centric methodology (for omissions) and went to over 6,000 citizens spread across Delhi in a manner that ensured robust representation. Key findings from the study are as follows:

a) The list-centric research, which was based on a sample of citizens who existed on Delhi’s lists, found that 41% of these entries included one of a range of errors. Eleven percent of all addresses on the list could not be located on ground despite a desk-based address quality research stage indicating that all but two of these

addresses were 'findable'. It was also found that 21% of sampled citizens who were on the list had shifted to another location. A further 7% of citizens had errors in their details mentioned on the list.

- b) The citizen-centric research, which checked random citizens of Delhi against the voter list, found that 49% were omitted from their polling part voter lists. Twenty eight percent were registered elsewhere in Delhi and 8% claimed to have applied from their current address but were not on the list. Twelve percent had either not/never applied to register on their polling part (PP) list or could not recall if they ever had. Data from the two surveys indicates that potential deletions and omissions in Delhi's electoral rolls are of a large magnitude. A more nuanced picture emerges when reading the two research phases together. A large part of required deletions in Delhi may be 'off-set' by omissions due to intra-city migration i.e. a large number of citizens who are not on their polling part lists are registered elsewhere within the city.
- c) It appears that most citizens who should be 'deleted' from the voter list (23% were not found at the address mentioned against them on the voter list), are actually residing somewhere else within Delhi (in another Polling Part or in another Assembly Constituency). This conclusion is made in relation to the fact that 28% of omitted citizens from the voter list are registered elsewhere in the city.
- d) Given this, the electoral impact and impact on voter turnout therefore (in the state of Delhi) of having such number of deletions may not be as grave as the magnitude suggests.

- e) Most of these errors, of deletion and omission, appear as singularities spread across the city and not in bunches, making it difficult for them to be exploited or taken advantage of. Although this still means that the lists are unclean, the potential impact with respect to electoral outcomes, voting malpractices such as phantom/bogus voting etc., in Delhi, require further investigation. Seven percent of Delhi's citizens reported having errors with their details as mentioned on the voter lists but only two sampled citizens reported facing any issues while casting their vote.
- f) Errors with citizens' details on the voter list, mostly minor mistakes in addresses, do not appear to prevent a citizen's vote in almost all cases. These errors were also found to be spread more or less evenly across gender, housing type and religion (31-35 year olds had a higher probability of having such errors; at 21%, 1.4 times their representation in the sample). Executive Summary the term 'Voter Lists' and 'Electoral Lists/Electoral Rolls/Voter Rolls' have been used interchangeably in this document and mean the same. 8 Twelve percent of Delhi's 18+ citizenry claimed to have never tried to register or could not recall registering from their current address (perhaps pointing to apathy).
- g) The 12% of citizens who claimed to have never tried to register or could not recall if they ever had, included 7% who had never applied from their current address and 5% who could not recall if they had. Citizens who had not registered cited a lack of knowledge on where and how to register as reasons for not doing do. As well as these, other strong reasons included a perception of the process being too tedious and a belief that they did not possess the right paperwork to register. The youngest age group (18-25 forming a

huge 47%), lower SECs (C, D and E at a combined 67%) and Muslims (at 17%, 1.3 times their proportion in the total sample) were more likely to have never registered from their current address.

- h) Overall, there seems to be little doubt that Delhi's electoral rolls are unclean. With large amounts of deletions and additions required to the list, there is a sharp need for improved voter list management processes. This is required regardless of the fact that a large part of the errors in Delhi are due to citizens moving from one address to the other, within the city. Due to the latter however, the effects of these errors on electoral outcomes and voter-turn-out, therefore, may not be as grave as the figures suggest (i.e. 23% 'Deletions' and 49% 'Total Omissions' w.r.t. polling parts).
- i) Since a large number of deletions appear to be off-set by omissions, it is entirely possible that citizens registered elsewhere in the city, as long as they are aware and willing, do actually exercise their right to vote on Election Day by going to the polling booths they are registered at. Deletions and omissions which may relate more directly to electoral outcomes and voter turn-out are those from the categories of 'address not founds' (up to 11% of all on Delhi's lists) and 'repeats/dead/disenfranchised' citizens (1% of all citizens on Delhi's lists). Similarly, the omissions would comprise citizens who claim to have registered to be on their PP lists but are not on it (8% of Delhi's 18+ population).
- j) This means that for any advocacy efforts, a key focus should be on removing those names classified as 'repeats/dead/disenfranchised' and possibly a significant chunk of those classified under 'address not

found', though the latter remains an uncertain category. Similarly, in omissions, focus needs to be on making sure that all citizens who have applied to register, are actually added on to the lists.

- k) That said, the overall need for better maintenance of the list to ensure citizens are registered in the correct PPs, with the correct information, remains. Since most of the list errors appear to be spread evenly across the city, it makes little case for them to be exploited for undue gains.
- l) From anecdotal evidence, malpractices such as phantom voting/bogus voting or booth capturing etc. tend to take place only in certain areas pointing to a geographic concentration of errors that lend themselves to exploitation; this is something that the Delhi study did not find evidence on, probably partly due to the random sampling approach taken. Whatever may be the reason behind the errors on the list and their consequences, data gathered from this study suggests that those less privileged are usually worse off when it comes to electoral rolls. Deletions and omissions appear to be higher for lower SECs (Socio-Economic Classification type), lower castes and in some cases, Muslims; and among these, the younger and more mobile age groups.
- m) Not only this, but this demographic of citizens are also more likely to not have tried to apply from their current addresses because of a lack of awareness and knowledge, clubbed with a perception of the entire process being too tedious and difficult. ⁹ While this research has been largely successful in bringing out an objective picture of the state of Delhi's electoral rolls, it also leaves several questions that require further thought and investigation.

- n) For example, a large proportion of Delhi's residents appear to have been living in the city for five years or more which may explain why a lot of the errors on the voter list may be intra-city migrations. Other cities with different migration patterns, or a more detailed look at recent migrant communities in Delhi, may throw up different list quality issues. Other cities' lists may also vary in the quality of the address details they hold leading to other concerns of list content.
- o) Furthermore, it would be worthwhile to explore different research methodologies to try to better understand issues such as bogus voting/phantom voting or other such malpractices as well as identifying specific issues with the registration process.

Hereto annexed and marked **Annexure P/18(Pages 136 to 152)** is a copy of the said report "Quality of Lists" by Janaagraha, conducted before the 2015 assembly elections in Delhi, throwing light on the issues inherent in Delhi's voter lists.

<http://www.janaagraha.org/files/publications/Quality-of-Lists-Delhi-2015-Summary.pdf>

(vi) CAUSES:

The reasons for the aforesaid problems are as under:

a) Cumbersome Process:

- i. A copy of Form 6, which is used for enrolling as a New Voter is hereto annexed and marked **Annexure-P/19(Pages 153 to 160)**.
- ii. From the said form, it can be seen that various details like Assembly/ Parliamentary constituency number, immediate family's details such as part number of the roll of the constituency in which such family member's name is incorporated, serial number in that part and Photo Identity Card number of such family member, etc. On account of revision of Voters List, this is also a

dynamic data and becomes cumbersome for a new voter to provide in the absence of help desk.

- iii. Lack of training of staff as shown above further makes the process of registration cumbersome, repulsive and unwelcoming, thereby deterring new forthcoming registrations.
- iv. Further various forms, in the absence of help desks/ friendly officials for the purpose of change of address, deletion of names, issuance of voter ID card, etc deter the citizens to be forthcoming to carry out the necessary changes, thereby furthering to the cause of mismanaged and faulty Voter List.
- v. Election registration offices are located in the office of revenue departments, not only that their addresses & location are not easily known to citizen particularly in urban areas, 90% of them are over crowded and full of filth. A common citizen, who is going through a very difficult day to day life of survival travelling almost 4 hours daily to work place due to mis-governance and lack of quality of life is required to struggle to get his/her name registered, corrected or deleted. Sometimes is forced to come again and again to ERO's office. Where is the incentive? In fact a disincentive is in built not to get registered.

b) Voter Registration Process in India a Case Study of Mumbai, 31 July 2013

During the time running voter registration research and pilots in Mumbai, it has been found many discrepancies between the system as noted online and the system as enforced in person at the ERO.

During the small test pilot in Mulund, Mumbai with some of volunteers, where the registrations for 15 residents of a

group of buildings was obtained where one of the volunteers lives. Upon presenting the forms to the ERO office, we were confronted with a few categories of outstanding issues that differ from the laws as stated on the Election Commission website. Some of these issues have been commented on by the CEO of Maharashtra and the Deputy DEO of Mumbai Suburbs as matters of ERO discretion and enforcement, rather than strict enforcement of the laws.

Some issues are as follows:

- Certification of copies: as per the EROs and Deputy DEOs we have interacted with, while certification is not legally required, it is in practice required for all proof of address, DOB, and/or photo ID documents. As these documents have to be signed off on by a gazetted officer, notary, or SEO, this requires an additional visit and step by the individual wishing to register, outside of what the law mandates.
- Photo ID proof: official documents do not require a copy of photo ID but the ERO asked for it, and this is being enforced by the Deputy DEOs. In the case that a citizen does not have a photo ID, no steps are enumerated for the citizen to obtain a voter ID card.
- The documents online indicate that a citizens needs to submit 1 proof of address doc; however, the ERO asked for 2. Additionally, varying types of address proof are being accepted (originals of old utility bills versus certified copies; ration cards sometimes accepted and sometimes not; etc).
- Turning in the forms:
 - No provisions for full online registration: if a citizen turns in documents online, he/she must scan the certified copies and filled out forms, but then is required to visit the ERO in person to sign the forms and provide hard copies of the documents as well.
 - Third party submission: there are no provisions for third parties to facilitate voter registration and turn in forms on behalf of others, contrary to the ECI circular. However, in practice there is some leeway – for example, forms from a society may be accepted if the BLA / society chairperson provides a document on

letterhead authorizing the third party to turn in the forms for the residents of the building.

- Regulations on numbers of forms to be turned in: we have found the enforcement of these stipulations to vary widely, with some officials only accepting 10 at a time from citizens (not BLOs), some accepting no more than one, and some accepting more.
- Receiving voter ID cards: while in theory citizens are supposed to receive their voter ID cards within 15 days of submitting their registration, most ERO offices are not equipped with the facilities and staff to return IDs that quickly.
 - Some have stated the timeline to receive cards as within 6-8 months.
 - Some mandate that citizens must arrive at the ERO in person to pick up their cards when they are printed, rather than receiving them at their house.
 - No standardized provisions are stated for how a citizen can verify that they are on the voter rolls if they have not received their voter ID card (though the Mumbai Suburbs DEO has an online interface to check). There is not a centralized system to check status.
 - Petitioner Mr. Surendra Srivastava, himself had similar or even worst experience in the case his daughter registration, when he accompanied her to ERO in Mumbai on her turning to the age of 18.

c) Lack of sufficient number of ERO offices and Untrained, arrogant, undedicated, uncommitted, half hearted, demotivated and lethargic ERO staff.

LACK OF DEDICATED STAFF:

- i. In a country as populous as India, the dynamics are ever changing with the advancement of technology and infrastructure. An all time high can be witnessed in terms of migration. In such dynamic an environment, dedicated and well trained staff is required to manage the Voter List, which forms the basis of free and fair elections.
- ii. However, it can be seen that neither the State Election Commissions nor Respondent No. 2 has sufficient staff

at their disposal to carry out the task of preparation of electoral rolls. Most of the staff, who acts on behalf of the State Election Commissions and Respondent No. 2, for preparation of electoral rolls are the employees of their respective State Governments, who are directed to work under the supervision of the State Election Commissions and Respondent No. 2, as and when elections are announced in the particular territory.

- iii. In most constituencies, it can be seen that EROs (Electoral Registration Officers) are from the Revenue Department, being the Collector, Tehsildar, etc of a particular district, which are already burdened with their core duties. A sample list of ERO offices in the city of Mumbai is annexed and marked hereto as **Annexure P/20(pages 161 to 163)**.

[<https://f1rstinfo.wordpress.com/2013/09/23/list-of-election-offices-for-voter-registration-in-mumbai/>]- Link from which the addresses can be downloaded.

- iv. It is further submitted that the staff which is directed to carry out such election related duties is not relieved of their main duties towards the State Government during such period and is in fact required to carry out both their duties. For instance, a teacher employed with the State Government, when directed to work under the supervision and orders of the Respondent No. 2 is also simultaneously expected to discharge his/ her functions as a teacher in the particular school where he or she is posted. In the bargain both job suffer. Education in India is already pathetic and on top of that teachers are disturbed now and then to carry out these type of additional duties.

LACK OF TRAINING:

Since the primary duties of the EROs and other election officers are not enrolment of Voters, they are not properly trained for the purpose, thereby making the process of registration cumbersome for themselves as well as Voters. For instance, in Mumbai, when the authorized signatory for Petitioner No. 1, Mr. Surendra Srivastava's daughter visited the ERO office for registration as a Voter, she was turned down with the reason that the certificates that she was submitting were not attested by a gazetted officer. At the time, she was carrying all her Original documents, which according to the rules could have been verified and attested by the ERO. However, because of lack of knowledge on this account the ERO rejected her form, thereby forcing her to submit another form.

d) FAILURE TO FOLLOW INSTRUCTIONS ISSUED BY THE ELECTION COMMISSION OF INDIA:

- i. It is submitted that the Respondent No. 2 has time and again issued a number of important and relevant instructions directing the Chief Electoral Officers to ensure that the sanctity of the electoral rolls prepared is preserved. These instructions have been issued with the intention of ensuring that the errors which occur frequently in the electoral rolls are kept to a minimum and that voters who are eligible to exercise their franchise are given all possible opportunity to do so.
- ii. There are a number of directions issued by Respondent No. 2, which are not being followed by the officials concerned. For instance, guidelines issued by the Respondent No. 2 restrict the number of voters per booth for urban areas to 1200 (Twelve Hundred Only) and for rural areas to 1000 (One Thousand Only). The reason behind restricting the number of voters is that it has been observed that the chances of there being a higher voter turnout are closely related to the number of voters per booth. Due to there being a restricted window within which all the voters have

to cast their votes, if the number of voters registered at a particular booth is above the limit as prescribed by the Respondent No. 2, it has often been observed that either all the voters are not able to cast their votes within the prescribed time limit or due to the sheer number of voters present at the booth and the consequent waiting time involved, a large number of registered voters prefer not to vote.

- iii. It is submitted that even after the recent Parliamentary Elections held in April-May 2014, when a number of cases were highlighted through the media, wherein the errors prevalent in the electoral rolls were widely reported, the Respondent No. 2 had issued another circular dated 30.5.2014 with detailed instructions and steps to be taken by the various Chief Electoral Officers to ensure that such errors were prevented from occurring. Hereto annexed and marked as **Annexure – P/21 (Pages 171 to 188)** is the copy of the circular dated 30.5.2014 issued by Respondent No.2 with instructions and steps to be taken by various Chief Electoral Officers w.r.t prevention of errors emanating in electoral rolls.
- iv. It is further submitted that amongst the instructions issued by Respondent No. 2, were directions for each District Election Officer (DEO) to hold meetings with all recognized political parties and to involve such political parties in the process of verification of the electoral rolls (through their BLAs), verification of all complaints received during the Parliamentary Elections wherein EPIC holders were not able to cast their vote by the Block Level Officers, each DEO to create a complaint cell wherein any complaint regarding wrong deletions can be made, special camps in each polling station area for re-verification of the electoral roll and enrollment of such persons who could not be registered earlier, notices to be issued to such persons (at

their residence) whose names were deleted from the electoral roll and various such similar measures.

- v. It is submitted that a vast majority of the Chief Electoral Officers have failed to undertake the various remedial measures which have been put forth in the said circular. It is further submitted that this adequately highlights the ad-hoc system of preparation and maintenance of electoral rolls throughout the country, wherein Chief Electoral Officers often do not follow specific instructions which are issued by the Respondent No. 2 and undertake their own methods for preparation and maintenance of electoral rolls. This failure to adopt a standard operating procedure is also responsible for the increasing number of errors which are found in the electoral rolls.
- vi. It is ironical that despite Respondent no. 2 again issuing instructions on 27th February, 2016 there is no guarantee that voter rolls are still not clean. In fact news report dated 24th Aug, 2014 is alarming which confirms that more than 7 lakh voters name have been removed. It is a clear indication that despite various efforts by respondents time and again, the voter's rolls are not getting cleaned. Hereto annexed and marked as **Annexure – P/22 (Pages 171 to 188)** is the copy of the circular dated 27.02.2016 issued by Respondent No.2 with regard to improve the electoral rolls and rationalize the polling stations in electoral rolls.

e) PROCESS OF REGISTRATION OR AMENDMENT OF ELECTORAL ROLL NOT SIMPLIFIED:

- i. It is submitted that the Respondent No. 2, the Chief Electoral Officers and the State Election Commissions have failed to simplify the process of registration of voters. The process of registration continues to remain complex and extremely difficult. It is further submitted that quite often,

persons who are eligible to be registered as voters despite complying with all instructions provided by the concerned authorities for registering as a voter, find that their applications are rejected without any reasons being assigned or without any information being provided to them regarding such rejection, despite the relevant rules clearly stating that reasons must be assigned whenever an application for registration is rejected. It is further submitted that in a large number of instances it has also been observed that an applicant despite having complied with all the requirements, does not receive any intimation as to the status of his application and is eventually not registered as a voter in the electoral roll.

- ii. It is submitted that the process wherein a person upon moving to a different constituency registers his or her name as a voter in such constituency often leads to a situation where in such person ends up being registered on the rolls of his or her previous constituency as well as the current constituency. This issue can easily be addressed by ensuring that registration of a person's name in a particular constituency and deletion of his or her name from the electoral rolls of the previous constituency where he or she was residing can be done through one form at one place by either physical submission of a form to the designated officer or a facility for online submission and acceptance of such forms.
- iii. It is submitted that another factor which greatly hampers the process of voter registration is the lack of knowledge, information and training of the staff who are in charge of the process of registration of eligible voters. The staff who are in charge of the process of registration of voters are often persons who are on deputation to the Election Commission, as and when elections are announced. It is further submitted that such persons often do not have sufficient knowledge or expertise to efficiently execute the

process or to guide the electorate in this regard. As a result of this, an inordinately large number of eligible voters are not able to register themselves on the electoral rolls, inspite of filing Form-6, in the prescribed manner.

- iv. It is submitted that an example of the failure of the concerned officials to simplify the registration process and ensure that all eligible citizens are registered to vote can be seen from the statistics with respect to the Graduate's Constituency for Legislative Council in Mumbai, where elections were held on 2.7.2012. On the said date, the total number of registered voters were a mere 90,291 (Ninety Thousand Two Hundred and Ninety One), whereas the said constituency has at least 15,00,000 (Fifteen Lakh) eligible voters residing within its area.

f) POOR QUALITY OF SOFTWARE/LACK OF TECHNOLOGICAL ADVANCEMENT:

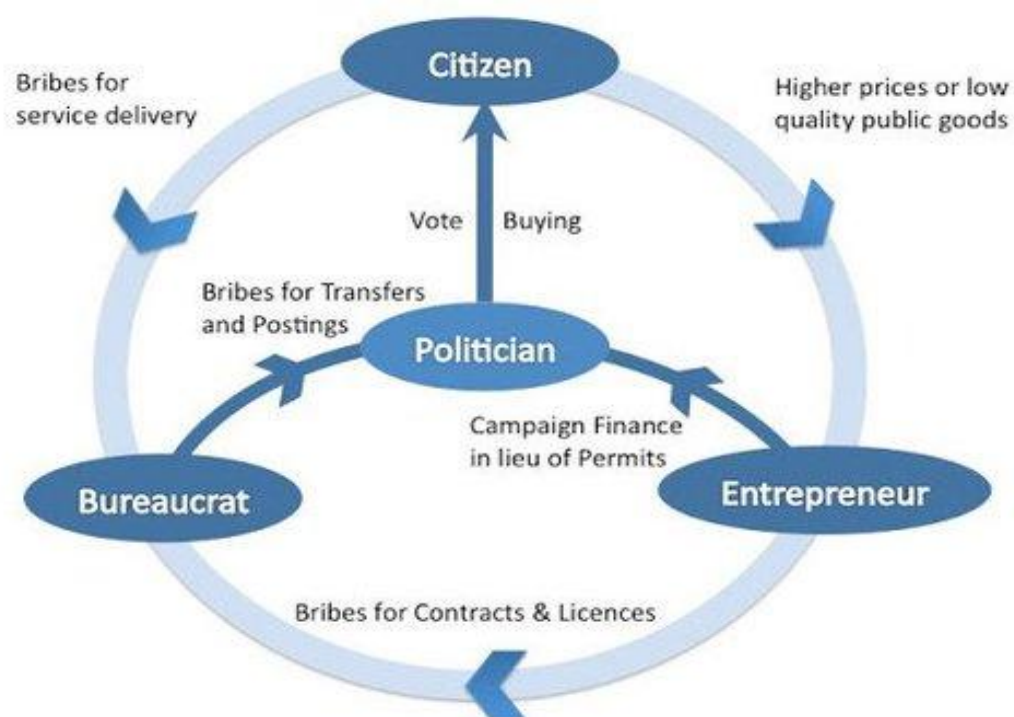
- i. It is submitted that the Respondent No. 2, Chief Electoral Officers and the various State Election Commissions have also adopted and encouraged the use of technology for maintenance of electoral rolls throughout the country. Apart from maintenance of the electoral rolls, the process of registration and seeking amendments has also been provided to voter through the internet, with the aid of software technology. The software in question is provided by companies who are engaged by the concerned authorities after a tender process. It has however been observed that the quality of the software being developed and deployed by these companies is inferior and has further corrupted the electoral rolls.
- ii. In a number of instances it has been observed that the software in question while making some correction in the electoral rolls causes certain other errors to occur. For example, prior to the assembly elections in Karnataka in 2013, it was noticed that the software being used by the

Chief Electoral Officer had malfunctioned and this had resulted in the names of a large number of voters being deleted from the electoral rolls. It is further submitted that such issues which arise out of poor quality of software, have been noticed throughout the country.

- iii. It is submitted that another issue which has been noticed with respect to the software which is used to maintain the electoral rolls in various States is that different States employ use different software for this purpose. It is submitted that the use of uniform software would be a far more efficient option as it would be useful in identifying and solving the various errors which occur solely due to defects in the software.

g) NEXUS BETWEEN POLITICAL PARTIES, LOCAL LEADERS AND EROs:

THE WHEEL OF CORRUPTION



h) SOLUTIONS AND WAY FORWARD

- i. It is submitted that in a country as populous as India, the task of maintaining and preparing electoral rolls ought to be carried out

by the staff, who are specially trained for that particular purpose. The fact that the activity of the preparation and maintenance of electoral rolls is currently carried out by persons who are for all practical purposes performing what they view is a 'secondary/temporary task' also has an adverse effect on the manner in which the task is carried out.

ii. Uniform Electoral Roll. Use of technology with single data base and multiple users.

- a. Further, apart from the above mentioned electoral rolls, separate electoral rolls are maintained in respect of elections to the Graduate's Constituency and Teacher's Constituency. It is submitted that the maintenance of multiple electoral rolls apart from being repetition of the same exercise over and over again is also a drain on the public exchequer as enormous resources are employed both in terms of manpower and finances, to prepare and maintain such electoral rolls. Moreover, as highlighted earlier, discrepancies in one particular electoral roll often tend to corrupt the subsequent electoral rolls, which rely upon the previous roll(s) as a base.
- b. It is submitted that the maintenance of separate electoral rolls for the Graduate's Constituency and Teacher's Constituency also leads to a situation, wherein the voters who are eligible to vote in such constituencies have to take extra pain register themselves separately in the electoral rolls through a separate form. This can also be avoided by ensuring that a uniform electoral roll is prepared, wherein such voters who are eligible to vote in a Graduate's or Teacher's Constituency are marked out for the said purpose.
- c. It is submitted that it would be more efficient if the Respondent No. 2 and State Election Commissions formulated a uniform procedure in respect of preparation and maintenance of electoral rolls. The present system of preparing and maintaining electoral rolls is largely ad-hoc

and open to interpretation. It is submitted that such ambiguity has led to the authorities and officials involved in different parts of the country, adopting different methods to prepare and maintain the electoral rolls. It is submitted that this inconsistency in the manner of preparation and maintenance of electoral rolls is directly responsible for the large number of errors which are repeatedly noticed.

- d. Further, there should be a unified electoral roll for the entire country polling booth wise including voters eligible to vote in a Graduate's Constituency or Teacher's Constituency must be demarcated as so being eligible in the same list, instead of there being separate lists for separate elections.
- e. It is submitted that maintenance of a single electoral roll, apart from being a simple and efficient process will also ensure that errors made in one electoral roll do not corrupt the subsequent rolls. Additionally, the maintenance of a single unified electoral roll will also reduce the burden on the public exchequer, as it will mean that lesser manpower and financial resources will be required to maintain one single list of voters.
- f. It is apparent that the involvement of multiple authorities in the preparation and maintenance of electoral rolls has only lead to further confusion and has had an adverse effect on the sanctity of the rolls. It is therefore imperative that a uniform method be strictly adopted and implemented across the country to ensure that the errors which occur in the electoral rolls are prevented from occurring, to the extent possible.

iii. Post Offices as Nodal Agencies for Voter registration:

- a. It is submitted that there are two public offices locally not only MOST accessible but well known to all citizens - the village panchayat office and the post-office.

- b. It is submitted that in public perception index, the revenue department offices stands second from top after the police department, while post offices are considered the least corrupt.
- c. It is submitted that in terms of delivery of services post offices stands out above all government department. It must be appreciated that even today, one did get all his/her postal enveloped even where not with registered tag. A post man is most respect government functionary and his/credibility is high.
- d. Comparatively, out of all the Government offices, post offices are one of the most easily accessible, trusted and citizen friendly for the purpose of electoral registration and revision. Post offices are known to having a good work culture of public services with least corruption; high level of efficiency, low cost of handling, time bound availability and intimate knowledge of local residents. Therefore, it simple and easy to involve post offices in process of voter registration and correction of electoral rolls.
- e. It is submitted that registration on electoral rolls through post offices is one of the easily remediable defects in our electoral process. The registration through post offices is easily accessible to the citizens both in rural and urban areas. In various countries post offices are utilized for multiple purposes as post offices are very convenient for the citizens. In Australia, Fiji, New Zealand and several other countries, post office plays a proactive role in voter registration. Therefore, it would be ideal if the post office is made the nodal agency for supply of electoral rolls, supply and receipt of statutory forms, acknowledgement of application and communication of action taken reports.
- f. It is submitted that time and again various surveys were conducted by different private and government agencies including the present Petitioners and each of the survey

reveals many discrepancies in the electoral rolls. And also, despite being several proactive steps taken and various directions/guidelines issued by the Election Commission of India/Respondent No. 2 in the recent years with respect to improve the quality of electoral rolls. Amongst these initiatives, one of the initiatives is the involvement of post offices for voter registration.

- g. As stated aforesaid in the present Petition, the 1st large survey of electoral rolls was conducted by the Petitioner in the State of Andhra Pradesh in 2000, wherein randomly 56 polling stations all over the state were surveyed and errors with respect to different ineligible, dead or fictitious names and deletion of names of eligible voters from the electoral rolls were noted. In the said survey, it was found that there are total 15.10% errors in the rural areas and 44.8% errors in the urban areas.
- h. It is submitted that the process of using post offices has been time tested and has been already tried out in the Hyderabad city region of Andhra Pradesh on a pilot basis, with encouraging results (in 2009-10). Nearly 4 lakh voters had applied for voter registration in Hyderabad city alone during the short four month period before the general election in 2009. This by far the largest such response to voter registration initiatives anywhere in the country since elections began in democratic India. This practice now needs to be put in place on a permanent footing with wide publicity.
- i. It is submitted that we have 1,55,000 post offices spread all over the country and less burdened today due to innovation of internet, whatsapp, twitter and facebook, making it the most attractive & effective nation-wide network of any Government agency.
- j. For instance, in the city of Mumbai, there is a total of 21 ERO offices, whereas there are 150 existing postal offices in

the city, which can deal with the registration of voters more effectively.

- k. It is submitted that Respondent No.2 is also utilizing the services of post offices for a variety of purposes related to revision of electoral rolls. For instance, voter rolls are displayed in the post offices and Postal personnel are deployed in verification of applications in many states and are highly successful. Further, in view of utilizing the post offices in the registration process, the Election Commission had issued guidelines dated 16.08.2004 with respect to the same and it was addressed to all the Chief Electoral Offices of all the States and Union territories for its implementation. Hereto annexed and marked as **Annexure-P/23(Pages 189 to 191)** is the copy of the Guidelines dated 16th August, 2004 issued by the election Commission addressing the all the Chief Electoral Offices of all the States and Union territories regarding utilization of post offices in the electoral registration process.
- l. It is submitted that in order to make the process transparent, accessible and verifiable by citizens locally. A post office is available in every village, and every other locality, is widely regarded as a user-friendly public institution. Following are the seven services which can be offered at the Post Offices:
- (i) Display of electoral rolls relating to the polling station areas served by the Post Office.
 - (ii) Sale of electoral rolls pertaining to the polling station for a reasonable price.
 - (iii) Sale of statutory forms for inclusion, deletion or correction of names.
 - (iv) Receipt of applications with acknowledgement.
 - (v) Verification based on post office's data bank as well as local enquiries and knowledge of local residents for a processing fee collected from the applicant.

- (vi) Registration of voter's name, deletion or correction, or rejection of application at the post office level.
- (vii) Intimation to the applicant about the decision on the application.
- (viii) Display and sale of addendum containing revisions along with electoral rolls.

m. It is submitted that in addition to the increasing digitalization and technologies, the intensive solution, accuracy of voter registration and people's participation can be easily improved by making the local post office as the nodal agency for voter registration.

i) EFFORTS OF THE PETITIONERS

- i. The Petitioners have conducted several surveys over the years with respect to discrepancies, which constantly prevent the eligible voters from exercising their franchise. The first of such Surveys was conducted by the Petitioner No. 1 in the city of Hyderabad, Telangana (then in Andhra Pradesh) in 1999. The exercise was then extended to various districts of Andhra Pradesh in the year 2000. In 2004, the Petitioner No. 1 again undertook a Survey in Andhra Pradesh to ascertain the difference between the years 2000 and 2004. The Petitioners, then in 2005, launched the Vote India Campaign for electoral reforms. During the said Campaign, the Petitioners partnered with Janaagraha, a not-for-profit organization that aims to strengthen democracy in India by working for citizen participation in urban local government, which undertook a Survey in the city of Bangalore. Based on the findings of the said Survey, Janaagraha and the Petitioner jointly made a representation dated 19th July 2006 to the Respondent No. 2, which was acknowledged by the Respondent No. 2 by their Letter dated 24th July 2006. Hereto annexed and marked **Annexure P/24(Pages 192 to 196)** is the copy of the Representation made by Petitioner No.1 and Janagraha to Respondent No. 2 dated 19.07.2006 and **Annexure**

P/25(Pages 197) are the copy of the acknowledgment to the Representation made by the Petitioner No.1 and Janagraha dated 24.07.2006.

- ii. The Petitioner No. 1, in the year 2008, partnered with Janaagraha's "Jaago Re! One Billion Votes Campaign" sponsored by Tata Tea in an attempt to utilize technology to ease out the cumbersome Voter Registration Process. The Campaign despite being a major hit in terms the people forthcoming to register failed when despite all procedures being followed, names of the forthcoming persons did not appear on the Voter's List or there were mistakes committed in respect of the details on account of the apathy of the officers of the Respondent No. 2 and the various State Election Commission.
- iii. It is submitted that time and again the Petitioners have taken active roles to find out the anomalies/discrepancies in the process of registration and revision of electoral rolls and have apprised the same to Respondent No.2. Besides that the Petitioners have given many proposals to the Respondent No. 2 in order to improvise the process of Registration and revision of electoral roll. For instance, in view of the surveys conducted by the Petitioners in the State of Andhra Pradesh with regard to the errors in the electoral rolls in the year 2000 and 2004, the Petitioners have given a proposal with respect to the necessary measures required to be taken for citizen Friendly voter Registration and the same was presented by the Petitioner before the "Committee personnel, Public Grievances, Law and Justice, Parliament of India, Rajya Sabha Secretariat". Also in committee Hereto annexed and marked as **Annexure P/26(Pages 198 to 224)** is the copy of presentation on electoral roll by the Petitioner before the Committee personnel, Public Grievances, Law and Justice, Parliament of India, Rajya Sabha, Secretariat dated 28th December, 2006.

- iv. Thereafter, in view of the frequently arising discrepancies of the preparation and maintenance of electoral rolls and inspite of the several directions issued by the Election Commissioner of India (Respondent No.2), which were being not implemented by the concern State Election Commission, one Shri Surender Shrivastava, who is the President of "Lok satta" filed a PIL(Lodging) No.48 of 2012 before the Hon'ble High Court of Judicature at Bombay seeking issuance of a Writ of Certiorari, Order or directions with respect to the implementation of the Guidelines of 1993 as well as Guidelines dated 12.07.2011 and with regard to special revision of electoral rolls. Vide Order dated 09.05.2012, the Hon'ble High Court has disposed off the Writ (PIL) by directing the Respondent No.2 to implement the guidelines and wide publication in the leading newspapers both in English and Hindi in the city of Mumbai with regard to the registration in the electoral rolls. Further, it was directed that the Advertisement shall indicate the last date of receiving Application, the address of the offices where Applications will be received. Also the advertisement shall indicate the Applications may be submitted to any of the designated officers, whose addresses are to be given in the advertisement irrespective of the place of residence or work place of the applicant. Hereto annexed and marked as **Annexure P/27(Pages 225 to 228)** is the copy of Order dated 09.05.2012, passed in PIL(L) NO. 48 of 2012 by the Hon'ble High Court of Bombay.
- v. Again, in the year 2013, the Petitioners conducted a Survey in the city of Mumbai, Maharashtra with respect to the difficulties faced by citizens for Voter Registration. In the aftermath of the Survey conducted, the Petitioner No. 1, launched "The Vote Project" in another attempt to aid citizens in registering as Voters. In the same year, in the month of December, the Petitioners conducted sample Surveys in various constituencies of Hyderabad, the result of which lead to large scale roll correction by the Respondent No. 2.

- vi. The Petitioners have been making several representations to the Respondent No. 2, the Chief Electoral Officers and the State Election Commissions in respect of the discrepancies, which constantly prevent the eligible voters from exercising their franchise. Hereto annexed and marked as **Annexure P/28(Pages 229 to 230)**, **Annexure P/29 (Pages 231 to 235)** and **Annexure P/30(Pages 236 to 241)** are the copies of letters dated 16.07.2010, 23.07.2012 and 20.04.2015 addressed by the Petitioner No. 1 to Respondent No.2 with respect to the discrepancies in the Electoral roll respectively. Hereto annexed and marked as **Annexure P/31(Pages 241 to 245)** is the copy of list of Election Commissioner of all States and Union Territories in India to whom copy of letters have been sent by the Petitioner No. 1 pointing out the those anomalies in the Electoral Rolls.
- vii. In the meantime, the Petitioners were also conducting research on making Post Offices as Nodal Agencies for the purpose of Voter Registration. Proposals have time and again been made to various authorities in respect of the same. Proposal for citizen friendly post offices as Nodal Agencies was made to Shri. Vijay Bhushan, Member of operation PNT Board, New Delhi on 13th May 2003. Thereafter, vide various letters dated 16th August 2004, 23rd August 2004, 4th October 2004, 19th June 2006, 18th September 2008, 16th July 2010, 1st December 2010, 20th April 2015, the Petitioners have made several representations to various authorities about making the post offices as Nodal Agencies. Hereto annexed and marked **Annexure P/32(Pages 246 to 247)** is the copy of Proposal for citizen friendly post offices as Nodal Agencies for voter registration made by Petitioner No. 1 to Shri. Vijay Bhushan, Member of operation PNT Board, New Delhi dated 13th May 2003. Hereto annexed and marked **Annexure P/33(Pages 248 to 253)** is the copy of letter along with guideline issued by Respondent No. 2 to the C.E.Os of all States w.r.t making the post offices as Nodal Agencies, dated 23.08.2004. Hereto annexed and marked **Annexure P/34(Pages 254 to 255)** is

the copy of letter addressed by the Petitioner No. 1 to Respondent No.2 w.r.t making the post offices as Nodal Agencies for voter registration, dated 04.10.2004. Hereto annexed and marked **Annexure P/35(Pages 256 to 258)** is the copy of letter addressed by the Petitioner No. 1 to Respondent No.2 w.r.t making the post offices as Nodal Agencies for voter registration, dated 19.06.2006. Hereto annexed and marked **Annexure P/36(Pages 259)** is the copy of letter addressed by the Petitioner No. 1 to Respondent No.2 w.r.t making the post offices as Nodal Agencies for voter registration, dated 18.09.2008. Hereto annexed and marked **Annexure P/37(Pages 260 to 261)** is the copy of letter addressed by the Petitioner No. 1 to Respondent No.2 w.r.t., making the post offices as Nodal Agencies for voter registration, dated 16.07.2010. Hereto annexed and marked **Annexure P/38(Pages 262 to 267)** is the copy of letter addressed by the Petitioner No. 1 to Respondent No.2 w.r.t facilitating N.R.I voting through postal ballots, dated 01.12.2010.

- viii. Further the Petitioners, in the year 2000, had run a pilot project in Hyderabad alongwith the Respondent No. 2 and the Postal Department and demonstrated that the Postal Officers can be trained and notified as EROs.
- 5.** The Petitioners submit that the present Writ Petition is under Article 32 of the Constitution of India. In view of faulty method of preparation and revision of electoral rolls, a large section of the electorates have repeatedly been denied the right to exercise their franchise in elections held in to various State assemblies as well in the parliamentary election and therefore the petitioners by this present petition under Article 32 of the Constitution of India are seeking directions from this Hon'ble Court to formulate an uniform instructions/ guidelines in respect of the preparation and maintenance of electoral rolls, which would help the citizens, who have been prevented from exercising their right to vote,

- E.** That the idea of democracy is part of the basic structure of the Constitution of India. If elections are not held in a fair and transparent manner and people who are eligible to vote are denied their right to do so because of the failure of concerned authorities to perform their duties, then the whole exercise of conducting elections stands diluted, as a significant portion of the electorate is denied a chance of exercising their franchise particularly where the margin of victory is 3 to 4 % in FPTP system of elections, giving rise to & encouraging vote bank, money/muscle power politics.
- F.** That the current system of preparation and maintenance of electoral rolls does not let every eligible citizen exercise the right to vote enshrined upon them by the Constitution of India and the Representation of People's Act and therefore is violative to Article 14 and 21 of the Constitution of India and Section 62 of the Representation of People's Act, which was also upheld in **Rajbala & Ors. Vs. State of Haryana and Ors.** reported in **2016 (2) SCC 445**, whereby this Hon'ble Court has held that Right to Vote is a constitutional rights in view of the provisions of the Representation of Peoples Act, 1950.
- G.** That the Respondent No. 2 and the various State Election Commissions have failed in their duty to take appropriate and substantive steps and safeguard the rights of those citizens who are eligible to exercise their franchise, by failing to ensure a more efficient and robust system of preparation and maintenance of electoral rolls.
- H.** That the Respondent No. 2 and the various State Election Commissions have failed to take steps despite repeated representations being made by members of general public and various organizations, who have repeatedly highlighted the numerous problems which are hampering the accurate preparation of electoral rolls and solutions thereof.
- I.** That, the numerous discrepancies which are currently prevalent in the electoral rolls have effectively denied a large section of the

electorate their right to vote due to completely arbitrary and lackadaisical functioning of the bodies responsible for preparation and maintenance of the electoral rolls.

- J.** That due to the fact that the electoral rolls contain widespread errors, the very purpose of elections, which forms the basis of a democracy, is diluted as citizens who have the right to vote are prevented from exercising this right.
- K.** That it is a proven fact that the current process and EROs employed by the Respondent No. 2 and the various State Election Commissions in preparation of electoral rolls have led to further errors being noticed therein.
- L.** That the Respondent No. 2 and the various State Election Commissions have failed to fully utilize technology and make the process of preparation of electoral rolls easier.
- M.** That the officers of Respondent No. 2 and various State Elections Commissions have failed to carry out their duties in a diligent manner during the process of preparation of electoral rolls.
- N.** The Respondent No. 2 has issued a number of instructions regarding the manner in which the electoral rolls are to be prepared and maintained. A large number of these instructions have been ignored by the various Chief Electoral Officers in the process of preparation of electoral rolls.
- O.** That if uniform guidelines were to be issued and strictly implemented for the preparation and maintenance of electoral rolls, the occurrence of large number of errors in the electoral rolls will be immediately eliminated.
- P.** That the preparation and maintenance of a single and uniform electoral roll booth wise for the entire country will make it easier for the authorities to undertake preparation of such rolls apart from being a more efficient process, as it will help in saving money of the public exchequer as well as requirement of manpower for

undertaking the process of preparation and maintenance of such a uniform electoral roll

- Q.** That the maintenance of a single uniform electoral roll and adequate use of technology will also make it easier for persons who have to relocate from one constituency to another, to register in the constituency where they currently reside and the process of deleting their names from their previous constituency will also become easier for the authorities to undertake.
- R.** That the notification of Postal Officers as EROs and Post Offices as Nodal Agencies for Registration of Voters will make the process of voter registration simple, friendly and welcoming encouraging and motivation citizen to participate in the building New India.

PRAYERS:

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Issue a Writ of Mandamus or any other appropriate Writ, Order or Direction and direct the Election Commission of India(Respondent No. 2) and the Various State Election Commissions(Respondent Nos. 39 to 69) to perform, undertake and discharge various statutory duties in connection with the preparation and maintenance of correct and error free Voter Rolls as required to be done under the provisions of Representation of People's Act and the Rules framed there under and the Circulars and Notifications issued pursuant thereto;
- b) Issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, and direct the Election Commission of India(Respondent No. 2) and the Various State Election Commissions(Respondent Nos. 39 to 69) to maintain proper, correct and error free Voters List with all updations, rectifications, additions and deletions prior to conducting of Elections both in State and National Level;

- c) Issue an appropriate Writ, Order or Direction to the Respondent No.2 to frame appropriate guidelines and/or form an Expert Committee comprising of such persons having adequate knowledge and expertise as regards the Political and Election Process to formulate detailed Policy, Framework and Mechanism of preparation and maintenance of the Voter Roll and timely updation revision and modification of the same to ensure fair conduct of elections at the Local, State and National Level and to protect and preserve the democratic franchise of the country;
- d) Issue a Writ of Mandamus or any other appropriate Writ, Order or Direction and direct the Election Commission of India and the various State Election Commissions to formulate a set of Uniform Instructions/Guidelines for preparation of single unified Electoral Roll which includes the Voter List for all elections held in India including Graduate and Teacher Constituencies;
- e) Issue a Writ of Mandamus or any other appropriate Writ, Order or Direction to direct the Election Commission of India(Respondent No. 2) and the Various State Election Commissions(Respondent Nos. 39 to 69) to appoint Postal Offices as Nodal Agencies for the purpose of collecting the data, ensuring its authenticity, updating and rectifying the Voter Roll and undertaking registration of Fresh Eligible Voters;
- f) That pending the hearing and final disposal of the Petition, this Hon'ble Court be pleased to appoint Postal Offices as Nodal Agencies for the purpose of collecting the data, ensuring its authenticity, updating and rectifying the Voter Roll and undertaking registration of Fresh Eligible Voters,
- g) That pending the hearing and final disposal of the Petition, this Hon'ble Court be pleased to order and direct the

Respondent Nos. 1 to 69 to file a detailed affidavit with respect to the following aspects:

- i. The basis on which the EROs are appointed and the ratio as to 1 ERO is appointed for how many eligible voters?
 - ii. Steps taken to appoint dedicated staff and the training provided to the staff for ensuring proper registration, modifications, amendments, deletions, etc?
 - iii. Steps taken by the Respondent Nos. 39 to 69 to adhere to and implement the various circulars and guidelines issued by the Respondent No. 2 from time to time?
 - iv. Steps taken by the Respondent No. 1 to 69 to simplify and make convenient the Registration Process for common citizens?
 - v. Particulars of the software currently used to maintain the Voter Roll? Details as to the Accuracy and Discrepancy provided by such Software? Basis for selection of the Software?
 - vi. Whether any steps been taken by the Respondent No. 2 and Respondent Nos. 39 to 69 to prepare and maintain Uniform Voter Rolls?
 - vii. Steps taken by the Respondent No. 2 and Respondent Nos. 39 to 69 after the pilot project of using Post Offices as Nodal Agencies for making Post Offices as permanent Nodal Agencies?
- h) Interim and Ad-interim reliefs in terms of Prayer Clause f & g above; and

- i) Pass such other and further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may require.

AND FOR THIS ACT OF KINDNESS YOUR PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.

NEW DELHI

DRAWN ON: 12.09.2016

FILED ON:30.09.2016

JAY SAVLA

ADVOCATE FOR THE PETITIONERS

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

I.A.NO. OF 2016

IN

WRIT PETITION NO. OF 2016

IN THE MATTER OF

LOK SATTA MOVEMENT & ORSPETITIONERS

VERSUS

UNION OF INDIA & ORS.RESPONDENTS

**APPLICATION FOR EXEMPTION FROM FILING OFFICIAL
TRANSLATION OF ANNEXURES P-4, P-14 AND P-15**

To

The Hon'ble The Chief Justice of India and his companion Judges
of this Hon'ble Court.

MOST RESPECTFULLY SHEWETH

1. By this present Writ Petition under Article 32 of the Constitution of India, the Petitioners are seeking to challenge the manner in which electoral rolls have been prepared and maintained by the Chief Electoral Officers of various States and Union Territories, the election Commission of India and various State Election Commissions.
2. The Petitioners are filing Application for permission to file Copy of Registration Certificate, Copies Extract of name showing repetition in the voter list during 2012 and 2014 election, which are annexed as Annexure P-4, P-14 and P-15 which are in vernacular language i.e. Marathi and due to paucity of time, the same has been translated by the local Advocate. It is therefore submitted that the petitioners be exempted from filing official translation of aforesaid Annexures P-4, P-14 and P-15 filed alongwith the Writ Petition.

3. This application is being filed bonafide and in the interest of justice.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to :

- a) exempt the Respondent No.1 from filing official translation of Annexures P-4, P-14 and P-15 filed along with the Writ Petition;

- b) pass such other and further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may require;

NEW DELHI

DATED: 26.09.2016

JAY SAVLA

ADVOCATE FOR PETITIONER

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APPENDIX

The Representation of People Act, 1950

Section 16: Disqualifications for registration in electoral roll:

(1) A person shall be disqualified for registration in an electoral roll, if he-

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (c) of sub-section (1), shall forthwith be reinstated in that roll, if such disqualification, is during the period such roll is in force, removed under any law authorising such removal.

Section – 21: Preparation and revision of electoral rolls:

(1) The electoral roll for each constituency shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(2) The said electoral roll—

(a) shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—

(i) before each general election to the House of the People or to the Legislative Assembly of a State; and

(ii) before each bye-election to fill a casual vacancy in a seat allotted to the constituency; and

(b) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission.

(3) Notwithstanding anything contained in sub-section (2), the Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit: Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

Section - 22. Correction of entries in electoral rolls.—

If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency- is erroneous or defective in any particular, should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll, the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

Section - 23. Inclusion of names in electoral rolls.—

Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein: Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election.

TRUE COPY

