

STATE ELECTION COMMISSION HARYANA,
S.C.O. NO. 16-17, SECTOR 20-D,
CHANDIGARH.

**THE HARYANA PANCHAYATI RAJ VOTING AND COUNTING OF VOTES BY
ELECTRONIC VOTING MACHINES (EVMs) ORDER, 2008.**

No. SEC/4E-III/2008/5333

Dated: 03.06.2008

ORDER

In order to tender votes through Electronic Voting Machines, counting of votes, custody, inspection and disposal of election papers etc. where Electronic Voting Machine (EVM) is used at the Elections of Panchayati Raj Institutions in the State of Haryana by the voters in relation thereto and matters connected therewith.

Whereas the superintendence, direction and control of all elections to Panchayats in the State of Haryana are vested in the State Election Commission by the Constitution of India and the Haryana Panchayati Raj Act, 1994 (Haryana Act 11 of 1994).

AND WHEREAS, it is necessary and expedient to provide in the interest of purity of elections to the Panchayati Raj Institutions in the State of Haryana and in the interest of the conduct of such elections in free, fair and efficient manner and ways & means to tender votes through EVMs and counting of votes, custody, inspection and disposal of election papers etc. where EVM is used at the elections in the State of Haryana in relation thereto and matters connected therewith.

AND WHEREAS, Rule 39 of the Haryana Panchayati Raj Election Rules, 1994 provides that at every election where a poll is taken, votes shall be given by ballot or through voting machine in the manner hereinafter provided and no votes shall be received by proxy.

“EXPLANATION:

Any reference to ballot paper or ballot box shall mutatis
mutandis apply, if needed, to the voting machine.”

NOW, THEREFORE, in exercise of the powers conferred under clause (1) of Article 243K of the Constitution of India and Section 212 of the Haryana Panchayat Raj Act, 1994 (Haryana Act 11 of 1994) and provisions made under rule 39 of the Haryana Panchayati Raj Election Rules, 1994 and all other powers enabling it in this behalf, the State Election Commission, Haryana hereby makes the following order:-

1. **Short title, extent, application and commencement:-** (1) This order may be called the Haryana Panchayati Raj voting and counting of votes by Electronic Voting Machines (EVMs) Order, 2008.
- (2) It shall extend to the whole of Haryana in relation to conduct of elections of Panchayati Raj Institutions through Electronic Voting Machines (EVMs).
- (3) It shall come into force on the date of its publication in the Haryana Govt. Gazette which date is hereinafter refer to the commencement of this order.
- (4) It shall remain in force only for those seats of Panchayati Raj Institutions whose elections are to be conducted through Electronic Voting Machines (EVMs).

2. Definition and Interpretation: (1) In this order unless the context otherwise requires—

(a) **“Act”** means the Haryana Panchayati Raj Act, 1994 (Haryana Act 11 of 1994);

(b) **“Section”** means the Section of Haryana Panchayati Raj Act, 1994 (Haryana Act 11 of 1994) ;

- (c) **“Rules”** means Haryana Panchayati Raj Election Rules, 1994 ;
- (d) **“Form”** means forms provided in the Panchayati Raj Election Rules, 1994 ;
- (e) **“Clause”** means a clause of the paragraph or sub paragraph in which the work occurs;
- (f) **“Election”** means an election to which this order applies ;
- (g) **“Panchayati Raj Institutions”** means an institution of self Govt. constituted under article 243B of the rural areas and includes Gram Panchayat, Panchayat Samiti and Zila Parishad.
- (h) **“Voting and Counting of Votes by Electronic Voting Machines”** means recording/casting and counting of votes through EVM and procedure thereof.
- (i) **“EVM”** means any machine or apparatus operated electronically or otherwise approved by the State Election Commission used for giving or recording of votes.
- (j) **“State Election Commission”** means the State Election Commission, Haryana constituted under Article 243K of the Constitution read with Section 212 of the Act; and
- (k) **“Paragraph”** means paragraph provided in these orders.
- (l) **“Sub-paragraph”** means a sub paragraph of the paragraph in which the word occurs
- (m) **“Annexure”** means annexure attached with these rules.

(2) Words and Expressions used but not defined in this order but defined in the Representation of the People Act, 1950 or the rules made thereunder or in the Representation of People Act, 1951 or the rules made thereunder or the Haryana Panchayati Raj Act, 1994 or the Rules made thereunder shall have the meaning respectively assigned to them in those Acts and Rules.

(3) In the absence of such definition, the Punjab General Clauses Act, 1898 (Punjab Act 1 of 1898) shall as far as may be, apply in relation to the interpretation of this Order as it applies in relation to the interpretation of a Haryana Act.

3. Order by State Election Commission for conducting the election through EVMs:- For the purpose of this order, the State Election Commission shall issue an order from time to time for conducting the election or elections through EVM.

4. Voting and counting of votes by voting machines.- In relation to voting and counting of votes, custody, inspection and disposal of election papers etc. where voting machine is used, the provisions of rules in CHAPTER IX, X and XI of the Haryana

Panchayati Raj Election Rules, 1994, except the rules 40, 45, 49, 50, 51, 52, 55, 56, 57, 58, 64 and 65, shall, in so far as may be, apply *mutates mutandis* and reference in those provisions to ballot paper shall be construed as including a reference to such electronic voting machine.

5. Design of electronic voting machine.- Every electronic voting machine (hereinafter referred to as the “voting machine”) shall have a control unit and a balloting unit and shall be of such design as may be approved by the State Election Commission.

6. Preparation of voting machine by Returning Officer.- The Returning Officer shall-

- (a) fix the ballot paper containing the names and symbols of the contesting candidates in the balloting unit and secure that unit with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same;
- (b) set the number of contesting candidates and close the candidate set section in the control unit and secure it with his seal and the seals of such of the contesting candidates or their election agents present as are desirous of affixing the same.

7. Preparation of voting machine for poll.- (1) For securing the control unit of voting machine, the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signatures of such of the candidates, election agents and polling agents present as are desirous of affixing the same.

(2) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefore in the control unit of voting machine and shall secure and seal the same.

(3) The seal used for securing the control unit of voting machine shall be fixed in such manner that after the unit has been sealed, it is not possible to press the “result section” without breaking the seal.

(4) Every control unit and balloting unit of the voting machine used at a polling station shall bear labels, both inside and outside marked with-

- (a) the ward number and name of Gram Panchayat or Panchayat Samiti or Zila Parishad, as the case may be;
- (b) the serial number and name of the polling station;

- (c) the serial number of the unit; and
- (d) the date of poll.

(5) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the polling agents and other persons present that no vote has been already recorded in the voting machine and it bears the labels as referred to in subparagraph (4).

(6) The control unit shall then be closed and secured and placed in full view of the Presiding Officer and the candidates, election agents and polling agents present and the balloting unit placed in the voting compartment.

8. Procedure for voting by voting machines.- (1) Before permitting a voter to vote, the Polling Officer shall-

- (a) record the voter's list number of the voter as entered in the marked copy of the voter's list in a register of voters in **Annexure 1**;
- (b) obtain the signature or thumb impression of that voter on the said register of voters; and
- (c) mark the name of the voter in the marked copy of the voter's list to indicate that he has been allowed to vote:

Provided that no voter shall be allowed to vote unless he has put his signature or thumb impression on the register of voters.

- (2) (a) Before permitting a voter to vote, the Presiding Officer shall cause a mark to be put on the left forefinger of the voter with an indelible ink:

Provided that where such a mark already exists on the left forefinger of the voter, it shall be deemed that he had cast his vote already at the election and shall not be permitted to vote:

Provided further that no voter shall be allowed to vote unless he has allowed a mark to be put on his left forefinger with indelible ink.

- (b) Any reference in clause (a) of this sub-rule to the left forefinger of a voter shall in the case where the voter has his left forefinger missing, be construed as a reference to any other finger of his left hand and shall in the case where all the fingers of his left hand are missing be construed as a reference to the forefinger of the right

hand and shall, in case the fingers of both the hands are missing be construed as a reference to such extremity of the left or right arm as he possesses.

(3) It shall not be necessary for any Presiding Officer or Polling Officer or any other officer to attest the thumb impression of the voter on the register of voters.

9. Procedure for voting and secrecy of voting.- (1) Every voter who has been permitted to vote under paragraph 8 shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) Immediately on being permitted to vote, the voter shall proceed to the Presiding Officer or the Polling Officer in charge of the control unit of the voting machine who shall, by pressing the appropriate button on the control unit activate the balloting unit, for recording of the voter's vote.

(3) The voter shall, thereafter, forthwith-

(a) proceed to one of the voting compartments;

(b) record his vote by pressing the button on the balloting unit against the name and symbol of the candidate for whom he intends to vote; and

(c) come out of the voting compartment and quit the polling station.

(4) Every voter shall vote without undue delay.

(5) No voter shall be allowed to enter a voting compartment when another voter is inside it.

(6) If a voter who has been permitted to vote under paragraph 8 refuses after warning given by the Presiding Officer, to observe the procedure as laid down in sub-paragraph (3), the Presiding Officer or the Polling Officer under the direction of Presiding Officer shall not allow such voter to vote.

(7) Where a voter is not allowed to vote under sub-paragraph (6), a remark to the effect that voting procedure has been violated, shall be made against the name of the voter in the register of voters in **Annexure 1** by the Presiding Officer under his signature.

10. Recording of votes by blind or infirm voters.- (1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmity, a voter is unable to

recognize the names and symbols of the candidates on the balloting unit of the voting machine or unable to record the vote by pressing the appropriate button thereon without assistance, the Presiding Officer shall permit the voter to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on his behalf and in accordance with his wishes:

Provided that no person shall be permitted to act as the companion of more than one voter at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of a voter on any day under this rule, the person shall be required to declare that he shall keep secret the vote recorded by him on behalf of the voter and that he has not already acted as the companion of any other voter at any polling station on that day.

(2) The Presiding Officer shall keep a brief record of such instance.

11. Voter deciding not to vote.- If a voter, after his voter's list number has been duly entered in the register of voters in **Annexure 1** and has put his signature or thumb impression thereon as required under sub-paragraph (1) of paragraph 8, decides not to record his vote, a remark to this effect shall be made against the said entry in **Annexure 1** by the Presiding Officer and the signature or thumb impression of the voter shall be obtained against such remark.

12. Sealing of voting machine after close of poll.- (1) As soon as practicable, after the closing of the poll, the Presiding Officer shall close the control unit to ensure that no further votes can be recorded and shall detach the balloting unit from the control unit.

(2) The control unit and the balloting unit shall thereafter be sealed and secured separately in such manner as the State Election Commission may direct and the seal used for securing them shall be so fixed that it shall not be possible to open the units without breaking the seals.

(3) The polling agents or election agents or candidates present at the polling station, who desire to affix their seals, shall also be permitted to do so.

13. Sealing of polling materials and other papers.-(1) The Presiding Officer of each polling station, as soon as practicable after the close of the poll, shall in the presence of any candidate or election agent or polling agent who may be present make up into

separate packet and seal with his seal and the seal of such candidates or agents as may desire to affix their seals on the envelopes of the following:-

- (a) the marked copy of the voter's list;
- (b) the tendered ballot papers;
- (c) the list of tendered votes;
- (d) the list of challenged votes;
- (e) the register of voters in **Annexure 1**; and
- (f) any other papers directed by the State Election Commission to be kept in a sealed packet.

(2) The Presiding Officer shall, after sealing all the packets, endorse on such packet a declaration of its contents.

14. Accounts of votes recorded.- (1) The Presiding Officer shall at the close of the poll, prepare an account of votes recorded in **Annexure 2**.

(2) The Presiding Officer shall place the account of votes recorded in a separate envelope and endorse on it the words, "Account of Votes Recorded".

(3) The accounts of votes recorded shall be prepared separately in **Form 14, 15, 16 and 17** for a Panch, Sarpanch, Members of Panchayat Samiti and Zila Parishad, respectively.

15. Transmission of voting machines etc. to the Returning Officer (Panchayat) (1)

The Presiding Officer shall then deliver or cause to be delivered to the Returning Officer (Panchayat) at such place as the Returning Officer (Panchayat) or the officer authorized by him may direct-

- (i) the voting machine;
- (ii) the account of votes recorded in **Annexure 2**;
- (iii) sealed packets under paragraph 13; and
- (iv) all other papers used at the poll.

(2) The Returning Officer (Panchayat) or such authorized officer shall make adequate arrangements for the safe transport of the voting machine, packets and other papers and for their safe custody until the conclusion of the counting of votes.

16. Procedure of adjournment of poll.- If the poll at any polling station is adjourned and declared void under rules 59, 60 and 61, the provisions of these rules shall mutatis mutandis apply.

17. Scrutiny and inspection of voting machines.- (1) The Returning Officer (Panchayat) or such other officer authorized by him may have the control units of the voting machines used at more than one polling station taken up for scrutiny and inspection and votes recorded in such units counted simultaneously.

(2) Before the votes recorded in any control unit of a voting machine are counted under sub-paragraph (1), the candidate or his election agent or his counting agent present on the counting table, shall be allowed to inspect the paper seal and such other vital seals as might have been affixed on the unit and to satisfy themselves that the seals are intact.

(3) The Returning Officer (Panchayat) or the officer authorized by him shall satisfy himself that none of the voting machines has, in fact, been tampered with.

(4) If the Returning Officer (Panchayat) or the officer authorized by him is satisfied that any voting machine has, in fact, been tampered with, he shall not count the votes recorded in that machine and shall follow the procedure laid down in rules.

18. Counting of votes.- (1) After the Returning Officer (Panchayat) or the Presiding Officer, as the case may be, is satisfied that a voting machine has, in fact, not been tampered with, he shall have the votes recorded therein counted by pressing the appropriate button marked "Result" provided in the control unit whereby the total votes polled and votes polled for each candidate shall be displayed in respect of each such candidate on the display panel provided for the purposes in the unit.

(2) As the votes polled by each candidate are displayed on the control unit, the Returning Officer (Panchayat) shall have:-

- (a) the number of such votes recorded separately in respect of each candidate in **Form 14, 15, 16 and 17** in respect of election of Panch, Sarpanch, Member of Panchayat Samiti and Member of Zila Parishad, respectively;
- (b) **Form 14, 15, 16 and 17** completed in all respect and signed by the Presiding Officer or the Returning Officer (Panchayat)/officer

authorized by him, Counting Supervisor and also by the candidates or their election agents or their counting agents present; and

(3) No envelope containing the tendered ballot papers shall be opened and no such votes shall be counted.

19. Declaration of results. (1) The Returning Officer (Panchayat) or the Assistant Returning Officer (Panchayat), shall –

- (a) declare to be elected the candidate for the office of Panch who has secured the largest number of valid votes and certify the return of election in **Form 18**. Similarly the result of Sarpanch shall also be declared forthwith but if there are more than one polling stations in the Sabha Area, the result sheets for the office of Sarpanch shall be sent to the polling station presided over by the Presiding Officer nominated by the District Election Officer (Panchayat) for this purpose, on the same day who shall, after compiling the result sheets in **Form 19**, declare forthwith the candidate who received the largest number of valid votes elected as Sarpanch. For the purpose of declaration of result for the office of Panch and Sarpanch, the Presiding Officer shall be deemed to be Returning Officer and in case of more than one polling stations in the Sabha Area, nominated Presiding Officer shall be deemed to be the Returning Officer for declaration of result for the office of Sarpanch;
- (b) send from the place specified in clause (e) of rule 24, the result sheet for the offices of Members of Panchayat Samiti and Zila Parishad to the concerned Returning Officer for Panchayat Samiti at block level and to the Deputy Commissioner respectively;
- (c) for the election of member of Panchayat Samiti, compile all the result sheets of **Form 16** and prepare **Form 20** and declare the candidate, who received the largest number of valid votes elected and shall certify the return of election in **Form 20**; and
- (d) for the election of member of Zila Parishad, compile the result sheets of **Form 17**, and prepare **Form 21** and declare the candidate, who received

the largest number of valid votes, elected and shall certify the return of election in **Form 21**.

(2) The Returning Officer (Panchayat) or the officer authorized by him shall send the signed copy of the returns under this rule to the District Election Officer (Panchayat) and to the State Election Commissioner.

20. Sealing of voting machines after counting of votes.- (1) After the result of votes recorded in a control unit has been ascertained candidate wise and entered in **Form 14, 15, 16 and 17** under paragraph 21, the Presiding Officer/Returning Officer shall reseal the unit with his seal and the seals of such of the candidates or their election agents present who may desire to affix their seals thereon so, however, that the result of votes recorded in the unit is not obliterated and the unit retains the memory of such result.

(2) The control unit so sealed shall be kept in specially prepared boxes on which the Returning Officer shall record the following particulars, namely:-

- (a) the name of the Gram Panchayat or Panchayat Samiti or Zila Parishad, as the case may be, with ward number;
- (b) the particulars of polling station where the control unit has been used;
- (c) serial number of the control unit;
- (d) date of poll; and
- (e) date of counting.

21. Production and inspection of election papers.- (1) While in the custody of the Deputy Commissioner-cum-District Election Officer (Panchayat);

- (a) the packets of used or unused tendered ballot papers;
- (b) the packets of the marked copy of electoral roll; and
- (c) the packets containing register of voters in **Annexure-1**

shall not be opened, inspected or produced except under the orders of a competent court.

(2) The control units sealed under paragraph 20 and kept in the custody of the Deputy Commissioner-cum-District Election Officer (Panchayat) shall not be opened, inspected or produced except under the orders of a competent court.

(3) Subject to such conditions and on the payment of such fee as the State Election Commission may direct, all other papers relating to the election shall be open to public inspection and copies thereof shall, on application, be furnished.

22. Disposal of election papers.- Subject to any direction to the contrary given by the State Election Commission or by a competent court :-

- (a) the packets of tendered ballot papers shall be retained for such a period as the State Election Commission may direct;
- (b) the voting machines kept in custody of the Deputy Commissioner-cum-District Election Officer (Panchayat) under sub paragraph (2) of paragraph 20 shall be retained intact for such period as the State Election Commission may direct;
- (c) packets other than those as referred to in sub paragraph (1) of paragraph 21 shall be retained for such a period as the State Election Commission may direct:

Provided that the packets containing the counterfoils of used postal ballot papers shall not be destroyed except with the previous approval of the State Election Commission; and

- (d) all other papers relating to the election shall be retained for such period as the State Election Commission may direct.”

23. Power of State Election Commission to issue instructions and directions:

The State Election Commission may issue instructions and directions:-

- (a) for the clarification of any of the provision of this order.
- (b) For the removal of any difficulty which may arise in relation to the implementation of any such provisions; and
- (c) In relation to any matter with respect to the reservation and allotment of symbols and recognition of political parties, for which this order makes no provision or make insufficient provision and provision is in the opinion of the State Election Commission necessary for the smooth and orderly conduct of elections.

Dated, Chandigarh
The 2nd June, 2008

CHANDER SINGH
State Election Commissioner,
Haryana.

A copy is forwarded to:-

1. The Financial Commissioner and Principal Secretary to Govt. Haryana, Development and Panchayat Department.
2. The Commissioners, Ambala, Hisar, Gurgaon and Rohtak Division.
3. Director, Development and Panchayat Department Haryana, Chandigarh.
4. All the Deputy Commissioners-cum-District Election Officers (Panchayat) in the State.

(S.K.Khanna)

Asstt. State Election Commissioner,
Haryana.

A copy is forwarded to the Controller, Printing and Stationery Department Haryana for publication in the Haryana Government Gazettee (Extra Ordinary).

He is requested to supply 100 copies of the Notification complete with endorsement to the State Election Commissioner Haryana, Chandigarh for information and record.

(S.K.Khanna)

Asstt. State Election Commissioner,
Haryana.

A copy is forwarded to all the political parties for information and necessary action.

(S.K.Khanna)

Asstt. State Election Commissioner,
Haryana.

ANNEXURE - 1

[See paragraph 8 (1) (a), 9(7), 11,13(1)(e) and 21 (1)(c)]

REGISTER OF VOTERS

Election to –

Panch of Gram Panchayat _____ Ward No. _____

Sarpanch, Gram Panchayat _____

Member of Panchayat Samiti _____ Ward No. _____

Member of Zila Parishad _____ Ward No. _____

Serial Number	Serial number of voter in the voters list	Signature/thumb impression of voter	Remarks
(1)	(2)	(3)	(4)
1			
2			
3			
4			
5			
6			
7			
8			
and so on			

Place:

Date:

Signature of the Presiding Officer

ANNEXURE - 2

[See paragraph 14(1) & 15(1)(ii)]

ACCOUNT OF VOTES RECORDED

Election to
Panch of Gram Panchayat _____ from Ward No. _____
Sarpanch, Gram Panchayat _____
Member of Panchayat Samiti _____ from Ward No. _____
Member of Zila Parishad _____ from Ward No. _____

Number and Name of Polling Station _____
Identification Number of Voting Machine used at the Polling Station
Control Unit _____
Balloting Unit _____

1. Total Number of voters assigned to the Polling Station.
2. Total Number of voters entered in the Register of Voters (Annexure 1)
3. Number of voters deciding not to record votes under paragraph 11.
4. Number of voters not allowed to vote under paragraph 8 or 9.
5. Total Number of votes recorded as per voting machine.
6. Whether the total Number of votes as shown against item 5 tallies with the total Number of voters as shown against item 2 minus Numbers of voters deciding not to record votes as against item 3 minus Number of voters as against item 4 (2-3-4) or any discrepancy noticed.
7. Number of voters to whom tendered ballot papers were issued under rule 53
8. Number of tendered ballot papers.

	Serial number	
	From	To
(a) received for use	_____	
(b) issued to voters	_____	
(c) not used and returned	_____	

9. Account of papers seals
Serial numbers
- | From | To | Signature of Polling Agents |
|---|----------|-----------------------------|
| 1. Serial number of paper seals supplied. | 1. _____ | |
| From _____ to _____ | 2. _____ | |
| 2. Total numbers supplied. | 3. _____ | |
| 3. Number of paper seals used. | 4. _____ | |
| 4. Number of unused paper seals returned to Returning Officer (Deduct item 3 from item 2) | 5. _____ | |
| 6. _____ | 6. _____ | |
| 5. Serial number of damaged paper seal, if any | 7. _____ | |

Date _____
Place _____

Signature of Presiding Officer
Polling Station No. _____