

Open Letter to The Honorable President of India, The Honorable Chief Justice of India and his companion of Honorable Judges and The Chief Election Commissioner of India and his companion of Election Commissioners on protecting Electoral Democracy

Dated: June.3,2024

To

- 1) Her Excellency The Honorable President of India,
Rashtrapati Bhavan, New Delhi. presidentofindia@rb.nic.in
- 2) The Honorable Chief Justice of India and his companion of Honorable Judges,
The Supreme Court of India, New Delhi
supremecourt@nic.in, arps.dyc@gmail.com
- 3) The Chief Election Commissioner of India and his companion of Election
Commissioners, New Delhi. Cec@eci.gov.in, ecgk@eci.gov.in, ecsss@eci.gov.in

We, former High Court judges, having no affiliation to any political party, but strongly committed to the ideals enshrined in the Constitution of India, and to the values of electoral democracy, write this open letter from a deep anguish at the recent and present goings-on with regard to the parliamentary elections-2024.

India is going through an electoral process of immense importance that could determine the very future of its democracy and survival of its constitution. The polling is finally over and June 4, 2024 will be the final chapter of the eighteenth general elections to the Parliament of the world's most populous country. During this protracted and massive exercise, more than anyone else, India's working people, its farmers, its women and its youth have reaffirmed their abiding faith in India's democracy by lining up in large numbers even in the searing heat of summer.

The higher judiciary, the election commission, the chief electoral officers in every state and returning officers are the constitutional authorities vested with the onerous responsibility of the free and fair conduct of elections in such a way as to retain the faith of ordinary citizens.

Several events over the past weeks are making for a very grim storyline; one that may possibly end in a violent conclusion. These are genuine apprehensions in the minds of the vast majority of our people. Reputed civil and human rights organizations and activists have also echoed the same apprehension. There was genuine concern about the way the General Election - 2024 is being conducted by the Election Commission of India (ECI) and that if the present ruling dispensation loses people's mandate the transition of power may not be smooth and there could be a constitutional crisis.

In this context we would also like to refer to the open statement issued by Constitutional Conduct Group (CCG) of former civil servants on 25 May 2024:

"... During the 2024 general elections, concerns have been raised at many points about the fairness of the elections... It pains us to say that no Election Commission in the past has been as reluctant as the present one to discharge its duties, despite violations being repeatedly brought to its attention by responsible organisations and respected members of society."

The Election Commission of India's refusal to disclose the exact numbers of votes cast in each booth of every constituency and to make form 17(C) of conduct of election Rules available to the public, along with the minimal action taken against hate speech targeting minorities and opposition parties by senior leaders of the ruling party, are major concerns.

We are constrained to agree with the scenario envisaged in the above statement: *"In the event of a hung parliament, onerous responsibilities will be placed upon the shoulders of the President of India. We are sure that she will follow the established democratic precedent of first inviting the pre-poll alliance that garnered the largest number of seats. Also, that she would endeavour to preempt the possibilities of horse-trading...."*

At this critical juncture, the Supreme Court of India, as the final authority vested with power by "We, the People" to defend and protect the Constitution and democracy, should be ready to take proactive action to prevent any potential catastrophe or to address any monstrous situations that may arise during counting and declaration of

results of candidates who have contested in Lok Sabha 2024 elections, requiring immediate intervention by the Honorable Supreme Court.

Now therefore “We, The People of India,” as Citizens of a Sovereign, Socialist, Secular, Democratic Republic hereby call upon the Supreme Court to ensure presence and attendance of the top five esteemed Justices of the Supreme Court even during the period of the ongoing summer vacation and be available to respond in the event of any constitutional crisis that might emerge in the present situation.

We hope that our apprehensions are wrong and the elections would end smoothly with counting of votes and declaration of results done in a fair and honest manner and formation of parliament as well as transition of power taking place as per the mandate of the people without a hiccup. Nevertheless, the undersigned believe in the old adage- ‘prevention is better than cure!’

We therefore, seek in humility to remind each of the authorities and institutions charged with the integrity of the process of democratic government formation of their paramount duty to abide by and uphold the Constitution of India.

We bring forth the solemn pledge that India’s first citizen, the President of India, takes to “preserve, protect and defend the Constitution and the law” and to devote herself “ to the service and the well-being of the people of India.” We are sure that this will be her guiding light. The guiding light of all concerned.

Truth alone triumphs,

Yours Truly,

1. G.M. Akbar Ali, Former Judge, Madras High Court
2. Aruna Jagadeesan, Former Judge, Madras High Court
3. D. Hariparanthaman, Former Judge, Madras High Court
4. Anjana Prakash, Former Judge, Patna High Court
5. P.R. Shivakumar, Former Judge, Madras High Court
6. C.T. Selvam, Former Judge, Madras High Court
7. S. Vimala, Former Judge, Madras High Court