

03/01/2018

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BEFORE THE HONOURABLE ELECTION COMMISSION OF PAKISTAN

Representation No.

Of 2018

Shoaib Abbass Abbasi
son of Ghulam Abbass Abbasi
resident of Dastagir Colony
Ward # 8, P.O Tharu Shah,
Taluka Bhiria
District NaushahroFeroz
Mob: 0300-2099231-----

APPLICANT

VERSUS

The Election Commission of Pakistan,
The Delimitation Committee,
through the Secretary, Election
Commission of Pakistan (Islamabad) -----

RESPONDENT

**REPRESENTATION UNDER SECTION 21 OF THE ELECTIONS ACT
2017 READ WITH RULE 12 OF THE ELECTION RULES 2017**

Being aggrieved of the Preliminary Report and Delimitation Proposal published by the Election Commission of Pakistan ['ECP'] in the official gazette dated 5.3.2018, the Applicant respectfully begs to submit as under:-

FACTS

1. That the Applicant permanently resides at the address mentioned above and is a voter in NA-211 (as presently proposed by the Delimitation Committee). *Copies of his CNIC and his Voter Registration Certificate are annexed herewith as Annexure 'A-1' and 'A-2'*. He is presently an advocate by profession enrolled in the Sindh bar Council from NaushahroFeroz District

Handwritten signature and date: 03/09/2018

2. For the reasons set out in the grounds below, it is submitted that the proposed delimitation for District NaushahroFeroze (National Assembly general seats) as published by the ECP on 5.3.2018 is patently defective and violative, inter alia, of Articles 2-A, 4, 10-A, 17, 25 and 222 of the Constitution and section 20 of the Elections Act 2017 and Rules 8 and 10 of the Election Rules 2017 and is, even otherwise, unreasonable, arbitrary and distorted. *Copies of the ECP Preliminary Report along with the extract of Delimitation Proposal for District NaushahroFeroze (National Assembly general seats) as well as the ECP Map of District NaushahroFeroze (NA-211 and NA-212 inclusive) are annexed herewith as Annexure 'B-1', 'B-2' and 'B-3' respectively. A copy of the extract of the Census for District NaushahroFeroze is annexed herewith as Annexure 'C'.*

3. That the Applicant does hereby propose an alternative delimitation for District NaushahroFeroze (National Assembly general seats) that fully satisfies the mandate and requirements of the Constitution, the Election Act 2018 and the Election Rules 2017 and is in keeping with the principles of electoral representation. *A copy of the Applicant's proposed delimitation map and the details thereof are annexed herewith as Annexure 'D-1' and 'D-2'.*

4. That the constituencies as per the ECP proposal are as follows:

Constituency	Extent of Constituency	Population
NA-211	A) Kandiaro Taluka	322,439
	B) Mehrabpur Taluka	247,280
	C) Bhiria Taluka	219,290
	excluding the	

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	<p>following areas:</p> <p>i) Tapedar Circle Mad Aleem</p> <p>ii) Tapedar Circle Tharushah</p> <p>iii) Tapedar Circle Molhan</p> <p>iv) Tapedar Circle Dalipota of Bhiria STC and</p> <p>v) Tapedar Circle GherGaju of Bhiria Road STC</p> <p>Of District NaushahroFeroze</p>	
	TOTAL	789,009
NA-212	<p>A) Moro Taluka</p> <p>B) NaushahroFeroze Taluka</p> <p>C) The following areas of Bhiria Taluka:</p> <p>i) Tapedar Circle Mad Aleem</p> <p>ii) Tapedar Circle Tharushah</p> <p>iii) Tapedar Circle Molhan</p> <p>iv) Tapedar Circle Dalipotaof Bhiria</p>	<p>368,789</p> <p>372,821</p> <p>27,659</p> <p>10,769</p> <p>11,541</p> <p>14,448</p> <p>17,337</p>

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	City of Taluka Bhiria	
	E) Entire STC Padidan including Town Padidan of Taluka NaushahroFeroze	116,165
	F) Entire STC Darya Khan Mari including Town Darya Khan Mari of Taluka NaushahroFeroze	65,595
	G) Entire STC Kehkat, Entire STC Duoro Behan including Muncipal Committee Moro Taluka Moro	185,959
	TOTAL	805,972
NA-212 NaushahroFeroze - II	A) Entire Taluka Kandiaro excluding Tapa Chachak, tapa Ghanghra and Tapa Mirzapur of STC Kandiaro of Taluka Kandiaro	294,113
	B) Tapa Tharushah, Tapa Molhan, Tapa Dali, Tapa Bhiria, Tapa Machur, Tapa Madalim and Tapa Dalipota of STC Bhiria of Taluka Bhiria	115,125
	C) Entire Town Committee	23,272



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	STC and v) Tapedar Circle GherGaju of Bhiria Road STC Of District NaushahroFeroze	
	Total	823,364

That the constituencies as per the proposal of the Applicant are as follows:

Constituency	Extent of Constituency	Population
NA-211 NaushahroFeroze - I	A) Entire Taluka Mehrabpur Including Town Halani And Town Mehrabpur	247,280
	B) Tapa Chachak, Tapa Mirzapur and Tapa Ghaghra of STC Kandiaro Taluka Kandiaro	28,326
	C) Entire STC Bhiria Road with Town Bhiria Road of Taluka Bhiria	102,190
	D) Tapa Jalbani, Tapa Kanjari, Tapa Khi Qasim and Town Committee Bhiria	60,457

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	Tharushah of Taluka Bhiria	
	D) Entire STC NaushahroFeroze Including Town Mithiani and Town NaushahroFeroze of Taluka NaushahroFeroze	191,061
	E) Entire STC Sehra and STC Moro of Taluka Moro	182,830
	TOTAL	806,401

GROUNDS

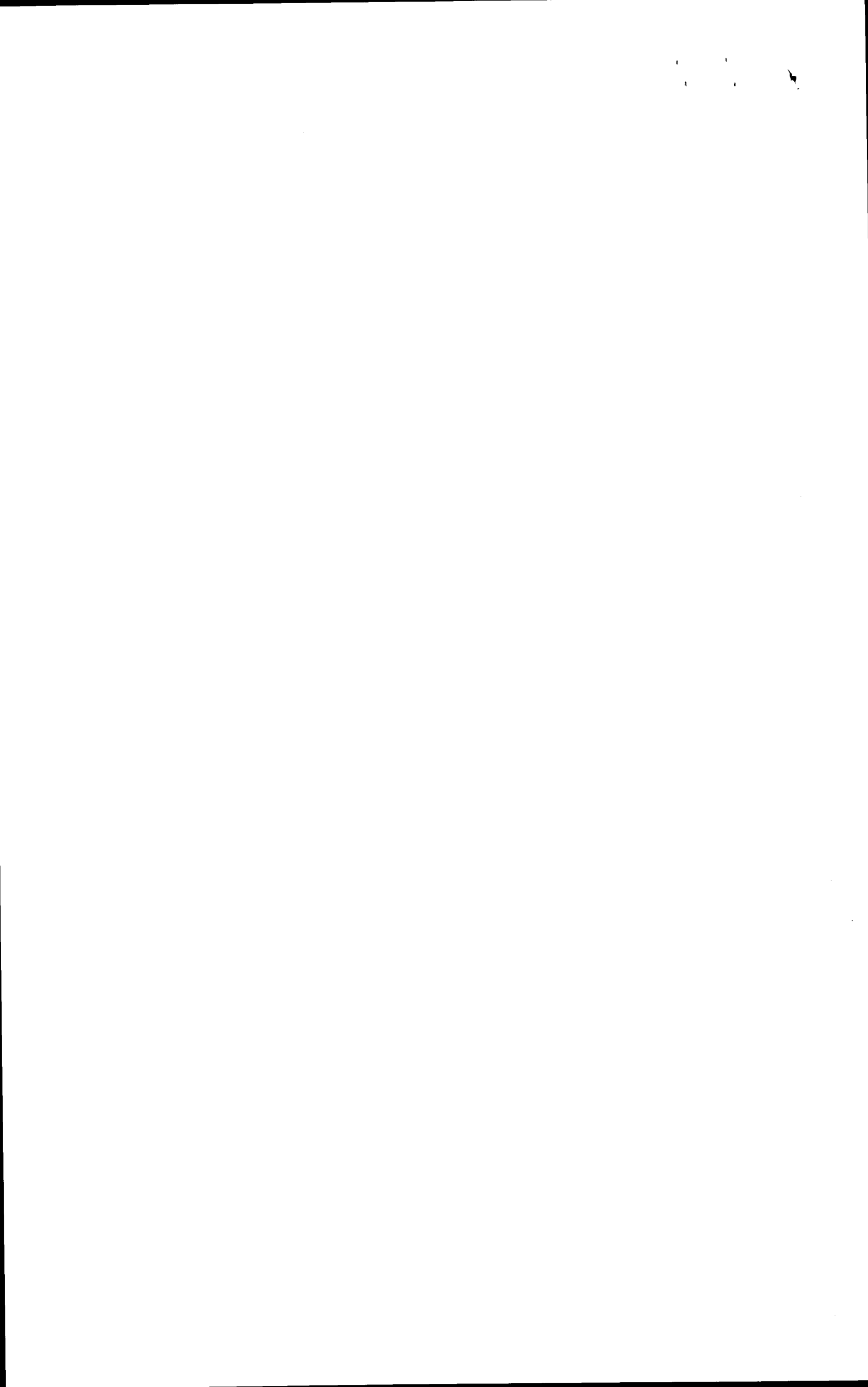
A) That Rule 10 (5) of the Election Rules 2017 requires, inter alia, that “[a]s far as possible, the delimitation of constituencies shall start from the Northern end of the district [and] then proceed clockwise in a zigzag manner keeping in view that the population among the constituencies of an Assembly shall remain as close as may be practicable to the quota.” As such, the delimitation of District NaushahroFeroze should have been started from Tapa Dehat which is the northernmost Tapedar circle in the District and then other Tapedar circles should have been added to the constituency in a clockwise and zigzag manner. However, the present proposal of the ECP does not follow the prescribed manner of delimitation and is thus defective and unlawful. In particular, towards the southern end of NA-211, all pretense of a formula are abruptly abandoned and several Tapedar circles (in the shape of a beak or a horn) are surrendered – for no discernible reason or logic – to NA-212. The Applicant’s proposal – on the other hand – follows this prescription fully by adding Tapedar Circles, as far as possible from the Northernmost region of NA-211, namely, from Tapa Dehat onwards – moving clockwise in a zigzag manner – all the way down to Tapa Khalso located in the

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Southernmost region of the district, whereafter, NA-212 begins from Tapa New Ghachero.

B) That section 20 (1) of the Election Act 2017 requires, inter alia, that constituencies be delimited having regard to "*facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of constituencies*". In particular, for obvious reasons it is essential that a constituency's delimitation be carried out in such a way as to facilitate the constituents' access to their representatives/candidates (and polling stations) and vice versa. For this reason, the various parts of a constituency should be – as far as possible – well connected through transport links. A brief perusal of the official road maps of District Naushahro Feroze will show that the constituencies delimited as per the Applicant's proposal are much better connected than that proposed by the ECP through not only the internal road network. Moreover, the axis of the N-5 National Highway runs from south to north through the centre of District Naushahro Feroze and is the backbone of the road network in the region. The Applicant's proposal uses, as far as possible, the N-5 National Highway as a boundary between the two constituencies so that the constituents and candidates/representatives are able to use the same to quickly and conveniently access each and every part of their constituency by using the National Highway. It may be noted that, in rural areas, facilities of communication and public convenience (such as a major road) are even more important than geographical compactness in ensuring greater connectivity between the people (and their candidates/representatives) and the homogeneity (social, economic, cultural and political) of a particular constituency. *Copies of the official road maps with the ECP proposed constituencies and the Applicant's proposed constituencies marked thereon are annexed herewith as Annexure 'F-1' to 'F-2'*

C) That section 20 (3) of the Election Act 2017 requires that variation in population of constituencies "*shall not ordinarily exceed 10%*" save in "*an exceptional case*" and then only for reasons to be recorded "*in the delimitation order*". The average quota for a constituency of the National Assembly is 785,135. Moreover, Rule 10 (5) requires that the populations among constituencies shall "*remain as close as practicable to the quota: Provided that the quota under this*



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sub-rule shall be determined by dividing total population of the district [...] with number of seats allocated to that district." The total population of District Naushero Feroze is 1,612,373 and it has been allocated two National assembly seats and thus the quota comes to 806,186 per constituency. The table below illustrates the population of each constituency as per the ECP's proposal and the Applicant's proposal and the latter clearly adheres to the legal prescriptions more closely.

	ECP Proposal	Applicant's Proposal
NA-211	789,009	805,972
NA-212	823,363	806,401

The reason for the lopsided size of constituencies in the ECP's proposal is the inclusion of several Tapedar circles with relatively high populations from Taluka Bhiria into NA-212 for no good rhyme and reason. On the other hand, the population as per the Applicant's proposal will be exceptionally close to the quota of the constituency i.e. 805,972 and 806,186 respectively.

D) As far as the requirement of homogeneity of constituencies in section 20 (1) of the Election Act 2017 is concerned – as per the ECP delimitation proposal, Tharu Shah Town Committee has been separated from the Tharu Shah Tapedar Circle so that the former lies in NA-211 and the latter in NA-212. It is respectfully submitted the Tharu Shah town extends into the Tharu Shah Tapedar Circle and bears strong socio-economic ties with the same and is part of a homogenous community. It is clearly unreasonable to divide the two into different constituencies.

E) That the Applicant craves leave to raise further grounds at the time of hearing.

PRAYERS

i) That the Honorable Election Commission of Pakistan may be pleased to set aside the preliminary delimitation of the constituencies of National Assembly seats in District NaushahroFeroze of Sindh Province and accept the proposal of Applicant for final List of Constituencies

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- ii) Any other relief deemed fit and proper under the circumstances of the case.

ISLAMABAD

DATED: -03-2018

APPLICANT

(Signature)

ADVOCATE FOR APPLICANT

VERIFICATION

I, Shoaib Abbass Abbasi s/o Ghullam Abbass Abbasi resident of Dastagir Colony Ward # 8, P.O Tharu Shah, Taluka Bhiria District NaushahroFeroz, Muslim, adult, do hereby verify on oath that whatever stated above is true and correct to the best of my knowledge, belief and information.

ISLAMABAD:

DATED: -03-2018

DEPONENT

The deponent above named is known to me and identified by me to the commissioner for taking affidavits.

ADVOCATE

DOCUMENTS FILED& RELIED UPON

Annexure "A-1 to F-2"

