

AA/29/04/2018

**BEFORE THE WORTHY SECRETARY ELECTION
COMMISSION OF PAKISTAN, ISLAMABAD.**

Intizar Khan son of Gul Bahadur Khan, R/o Arang Ghazi Baba,
P.O Gardai, Tehsil Utman Khel, District Bajaur Agency.

.....**PETITIONER**

VERSUS

1. Election Commission of Pakistan through Secretary Election Commission, Islamabad.
2. Delimitation Committee, Islamabad.

.....**RESPONDENT**

**MEMORANDUM/OBJECTION PETITION AGAINST THE
PRELIMINARY DELIMITATION DRAFT OF CONSTITUENCIES NO.
NA-40 AND NA-41 OF BAJAUR AGENCY FEDERALLY
ADMINISTERED TRIBAL AREA PUBLISHED BY THE ELECTION
COMMISSION OF PAKISTAN, ISLAMABAD.**

1. That the petitioner belongs to Utman Khel tribe and is permanent resident of Arang Ghazi Baba, P.O Gardai, Tehsil Utman Khel, District Bajaur Agency and is enrolled voter to constituency No. NA-40 Bajaur Agency at Sr. No. 324, in Census Code NO. 081050705 in Circle No. Arange Ghazi Baba, P.O Gardai Tehsil Utman Khel District Bajaur Agency. (Copy of vote certificate is attached).
2. That the petitioner/applicant is representing the Utman Khel tribe of NA-40 and NA-41 from Utman Khel Tribe of Tehsil Barang Tehsil Utman Khel, Tehsil Khar, Tehsil

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Salarzai and Tehsil Nawagai and is authorized by the Mashran/Chieftains of the said tribes through affidavit. (Copy of the affidavit is annexed).

3. That the Election Commission of Pakistan has published the preliminary delimitation/draft of all the 3 constituencies i.e. NA-40, NA-41 & NA-42 of Bajaur Agency through public notice.
4. That the delimitation of constituencies NA-40 to NA-41 of Bajaur Agency formulated by the Election Commission of Pakistan is in violation of all principles and provisions laid down by the Delimitation Act 2017 as well as the Delimitation Rule 2017. The map of the preliminary delimitation of both the constituencies NA-40 and NA-41 is attached herewith.
5. That it is pertinent to mention here that there are two main tribes in the Bajaur agency one is Utman Khel on whose behalf the petitioner filed the instant petition while the other tribe is known as Tarkani tribe and as per the current census the total population of Bajaur agency is 10,93,684.

(3)

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6. That among the eight (8) Tehsils of Bajaur Agency, the residents of the two tehsil i.e. Tehsil Utman Khel and Tehsil Barang are purely comprising of Utman Khel tribe in exclusion of any other tribe. It is further mentioned that the population of these two Tehsils of petitioner's tribe (Utman Khel) is 1,83,914 and by the inclusion of few Union Councils from the population of Utman Khel tribe from the adjacent area i.e. Salarzai, Mandal, Bartras, Alizai and Enzarai which can easily create constituency for Utman Khel tribe.
7. That the delimitation authority has badly overlooked the principles of homogeneity and geographical contiguity and divided the area of a large tribe of Bajaur Agency into NA-40 and NA-41 which is not only against the principles of delimitation under Section 20 of the Election Act 2017 but is also against all cannons of justice equity and fair play.
8. That since the inception of Pakistan and after the extension of Electoral rights to the people of FATA the Utman Khel tribe did never elect a single MNA for the constituency of National Assembly and even the current two members of the National Assembly belonged from

(4)

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Tarkani Tribe and not from the Utman Khel tribe and if the said preliminary delimitation of NA-40 and NA-41 is not rectified as per the prayer of the petitioner, half of the population of Bajaur agency will be deprived of their representation in the electoral process which tantamount to the infringement of fundamental rights of representation enshrined in the 1973 Constitution of Pakistan.

9. That keeping in view the factor of homogeneity, facility of communication and convenience of the Utman Khel tribe of Bajaur agency a separate constituency only for Utman Khel tribe be formulated.
10. That the population of Utman Khel and Tarkani tribes of Bajaur Agency is naturally divided between the road in river from north to south and this golden principal and rules of delimitation must be followed and preferred for the delimitation but the national constituency of Bajaur agency or otherwise or opposite, contradictory to the basic principle and about all constituency of Bajaur agency are delimited from East to West which is violation of the principles of homogeneity and natural existence of population with

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compactness of areas existing boundaries, common sources of communication and public convenience, thus this is violation of fundamental rules principles, sections and provisions laid down in the delimitation Act 2017.

GROUNDS

- i. That section 20 of the Election Act 2017 stresses upon the distribution of population with regard to compact areas, physical features, facility of communication in public convenience which is reproduced as under: -

"20 Principles of delimitation (1) all constituencies for general seats shall, as far as practicable, be delimited having regard to the distribution of population in geographically compact areas, physical features, existing boundaries of administrative writs, facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of constituencies.

(2) As far as possible variation in population of constituencies of an Assembly or a local government shall not ordinarily (3) is executed in an exceptional case the commission shall record reasons thereof in the delimitation order:

(21) The commission shall after hearing and considering the representation if any received by it make such amendments alterations or modifications in the preliminary list of constituencies published under sub section (1) as it thinks fit or necessary and shall within a period of thirty days from the last date fixed for making representation under sub section (2) publish in the official Gazette and on its website the final report

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and list of constituencies showing the areas included in each constituency.

11. That the Utman Khel tribe represented by the petitioner has every right to be led by candidate of their choice among reasonable territory within the population in geographically compact areas and facilities of communications there convenience ensuring the homogeneity in the delimited constituency.

12. That keeping in view the tribal customs of FATA the election laws have facilitated the people of tribal areas which is reproduced as under: -

20 (2) for the purpose of delimiting constituencies for the general seats of national Assembly for the tribal areas two or more separate areas may be grouped into one constituency."

13. That the Election Commission is duty bound to rectify the delimitation of the Constituencies which are against the election laws, customs, principles and convenience of the public of the area.

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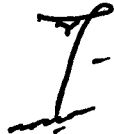
PRAYER

In the circumstances, it is humbly prayed that the memorandum of objection in hand may very graciously be accepted and by keeping in view the factor of homogeneity, facility of communication and convenience of the petitioner's tribe (Utman Khel), both the national constituencies of NA-40 and NA-41 may kindly be rectified with the inclusion of population from the adjacent areas/Tehsil in order to create a constituency solely comprising of Utman Khel tribe in light of the proposed map along with proposed population mentioned in the population distribution/Data by the petitioner in the best interest of public of that area.



**PETITIONER
INTIZAR KHAN
Cell No. 0345-9863390**

Through



**ABDUR RAHIM WAZIR
ADVOCATE HIGH COURT
Cell No. 0334-8524838
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Islamabad
Dated: 31-03-2018