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To,

The secretary,
Election Commission of Pakistan,
Election Commission Secretariat,
G-5/2, Constitution Avenue,
Islamabad.

Subject: Representation against the delimitation of constituency NA-61 of Rawalpindi under section 21(3) of the Election Act 2017 read with Rule 12 of the Election Rules 2017

Respected Sir,

1. The instant representation is being filed by Chaudhry Muhammad Tahir S/o Chaudhry Muhammad Yousaf resident of House No. 238/A PO Saddar Siham Tehsil and District Rawalpindi (hereinafter referred to as the "Applicant"), voter member of National Assembly Constituency No. 61, Rawalpindi-V and the applicant is duly competent to file the instant representation under the law.

2. Through this representation, the applicant seeks to challenge the preliminary report published by the Election Commission of Pakistan pertaining to the National Assembly constituency No. 61 of District Rawalpindi i.e. Rawalpindi-V. The map of the Preliminary Report, which was provided by the Election Commission, is enclosed herewith.

3. It is pertinent to mention here that in the preliminary report some portion of notified area of Islamabad i.e. Part of Revenue Estate Bokra has been included in the constituency of NA-61, which was previously part of National Assembly Constituency NA-54 of Islamabad Capital Territory in general elections of 2013 and also in the election of local bodies. It is important to note that all Presidential Orders and Notification for creation of Islamabad Capital Territory

CNIC 3740596517659 B.C 111080504 S.No. 534

have been provided constitutional protection. Similarly the issue with respect creation of Islamabad Capital Territory from the area of District Rawalpindi attained finality and any change in boundaries of Rawalpindi or Islamabad Capital Territory through delimitation of constituency is illegal and against the principles set out in section 20 of the Election Act 2017

4. Preliminary report is in sheer violation of the statutory principles of delimitation as enshrined in section 20 of the Election Act 2017 namely: boundaries of administrative unit has not been preserved, provision of basic/fundamental facilities including communication has been overlooked, lastly public convenience seems to have been a no concern amongst other factor such as homogeneity. Therefore, it is necessary to amend/alter /change the preliminary proposal as follow:

- i. Part of Revenue Estate Bokra has shown to be part of NA-61 Rawalpindi and it is suggested that it should be reattached with NA-54, Islamabad because Revenue Estate Bokra is notified to be part of Islamabad Capital Territory.

Grounds:

- i. Preservation of administrative unit is germane to the effective delimitation of constituencies and whereas under the law ICT is managed by CDA/Metropolitan Corporation Islamabad and Commissioner Islamabad and area adjacent to Islamabad forming part of District Rawalpindi is governed by Cantonment Board, RDA etc. the preliminary report has contravened the principles with respect to boundary of administrative unit. Under the preliminary report, part of Revenue Estate Bokra has been included in NA-61 Rawalpindi and excluded from NA-54 Islamabad. The effect of such delimitation is that the area adjacent to Islamabad now belonging to NA-61 of District Rawalpindi is managed by Cantonment Board and entire Revenue Estate Bokra being a notified area of ICT falls under Metropolitan Corporation Islamabad (MCI)/CDA. Therefore, such delimitation is not only against the intent of the legislature but also violates the idea of facilities of communication and public convenience whilst carrying out delimitation of constituencies. Other

cognate factor includes that the delimitation in preliminary report is not with respect to boundaries of tehsils or districts of the same province rather it involves two different Governments one Federal and the other Provincial. It is also pertinent to note here that some area of Revenue Estate Bokra have also been acquired by CDA and plots have been allotted by CDA to different individuals in sector I-12 amongst others and whereas sector some area of sectors I-13 and H-13 also fall under Revenue Estate Bokra. That is why inclusion of some portion of Revenue Estate Bokra in NA-61 is against the principles of delimitation of constituencies.

- ii. The infrastructure shall be badly affected in case delimitation suggested in the preliminary report attains finality because the area notified to be part of Islamabad shall have a candidate from altogether a different province. The involvement of more than one administrative body will affect the homogeneity of the area for simple reason that with more than one administrative unit with different application of laws will only adversely affect the development of the area. To understand the matter more thoroughly brief history concerning creation of Islamabad Capital Territory is mentioned below.
- iii. In the year 1960 during the regime of two units i.e. East Pakistan and West Pakistan, the Capital Development Authority Ordinance (XXIII of 1960) was promulgated on 27.06.1960 by virtue of which CDA was constituted for carrying out the purpose of the Ordinance. Thereafter, on 26.10.1963, Capital of the Republic (Determination of Area) Ordinance, 1963 was promulgated, for ready reference section 2 of the Ordinance is reproduced as under:

Section 2: The area specified in the schedule measuring three hundred and fifty square miles or thereabout within the District of Rawalpindi in the province of [the Punjab] at the site selected for the capital of Pakistan shall be the area of the capital of the Republic

Besides section 2 of the Ordinance ibid schedule annexed with the Ordinance further clarifies the position of territorial limits of ICT.

- iv. Even though the above said Ordinances of 1960 and 1963 were promulgated but no practical step in pursuance of these Ordinances was taken, however when Province of West Pakistan (Dissolution) Order, 1970 (P.O. No. 1 of 1970) was

promulgated on 30.03.1970, then independent status of Islamabad Capital Territory, Centrally Administered Tribal Area and of all four provinces of West Pakistan was given, for ready reference Article 3 & 4 of P.O. No. 1 1970 are reproduced as under:

Article 3: Definitions.- In this order, unless there is anything repugnant in the subject or context,-

- (a) *“Centrally Administered Tribal Areas” means the Tribal Areas which under this Order are to be administered by the President;*
- (b) *“Islamabad Capital Territory” means the Centrally Administered Area which is shown in the schedule as the Islamabad Capital Territory; and*
- (c) *“New Province” means a province constituted under this order.*

Article 4: Constitution of new Provinces, etc. - (1) As from the appointed day, the province of West Pakistan, as it existed immediately before that day, shall cease to exist and there shall be constituted in its place four provinces to be known as respectively as (a) Baluchistan, (b) The North-West Frontier Province, (c) The Punjab and (d) Sind, and the following Centrally Administered Areas, namely :-

- (a) *The Islamabad Capital Territory;*
- (b) *The Centrally Administered Tribal Areas.*

(2) The territories of the new provinces and the Centrally Administered Areas shall be as set out in the schedule.

- v. Keeping in view the above referred legal status of ICT, another Presidential Order No. 12 of 1971 was passed on 22.10.1971 for administration purposes and Article 2 of the said order, further clarifies the position, which is reproduced as under:

Article 2. Government of the Punjab to exercise powers, etc., in relation to Islamabad Capital Territory.- (1) Until other provision is made in this behalf, the Government of the Punjab shall, on behalf of the President, exercise and perform in relation to the Islamabad Capital Territory the same powers and functions as were exercisable in relation to that territory, by the Government of West Pakistan immediately before the first day of July 1970.

(2) There shall be paid by the Central Government to the Government of the Punjab such sums as represent the extra cost incurred by the Government of the Punjab in connection with the exercise and performance of the powers and functions referred to in clause (1).

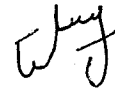
It is, however, made clear that on 31.12.1980 two independent Presidential Orders i.e. ICT (Administration)(Repeal) Order 1980 (P.O. 17 of 1980) & ICT (Administration) Order 1980 (P.O. 18 of 1980) were issued and for the first time executive authority qua administration of ICT was given to the Federation, which should be exercised by the President either directly or through an Administrator to be appointed by him.

- vi. It is pertinent to mention here that District Islamabad was declared as a separate District with effect from 01.07.1980 vide Notification No 1185-80/1137-LRV dated 25.06.1980, It is clear from said Notification that complete (Salam/ *glw*) 169 revenue estates of District Rawalpindi were transferred to District Islamabad by the Government of Punjab while exercising powers under clause (1) of Article 2 of Islamabad Capital Territory (Administration) Order 1971 (P.O. 12 of 1971) and in this context entire Revenue Estate Bokra was made part of Islamabad Capital Territory by operation of law, which is mentioned at serial No. 37 of Notification No 1185-80/1137-LRV dated 25.06.1980. Needless to mention here that all the above said laws, Orders and Ordinances have been given validation/protection under the Constitution of Islamic republic of Pakistan.
- vii. In presence of above mentioned facts and circumstances of the case the inclusion of part of Revenue Estate Bokra in NA-61 Rawalpindi is not just illegal on account of disturbing the boundaries of administrative unit but also in derogation of the aforementioned laws and orders, which have attained finality and holds legal sanctity by virtue of constitutional protection given to them. Therefore, in the light of foregoing facts and circumstances it is proposed that portion of Revenue Estate Bokra, included earlier be made part of NA-54 and excluded from NA-61 for the reasons mentioned above.
- viii. It is noteworthy that on the basis of proposed amendment only minor change will take place, which will preserve the boundaries of the administrative units and all the basic facilities will continue to be provided by one administrative body while maintaining the homogeneity of the area it will also provide convenience to public as well.

- ix. The above mentioned suggestion is strictly in accordance with law and the map of Rawalpindi District showing the NA constituencies after incorporation of the suggested amendment mentioned herein above is attached herewith.

In view of the aforementioned grounds it is suggested that the Preliminary Report may kindly be amended as per the suggested amendment narrated above to preserve the boundaries of administrative units and also to maintain homogeneity of the area.

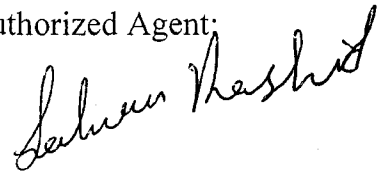
Dated: 31/03/2018



Applicant

Through

Authorized Agent:



Barrister Salman Rashid
Advocate High Court