

BEFORE THE ELECTION COMMISSION OF PAKISTAN

REPRESENTATION/OBJECTION PETITION UNDER SECTION 21(2) OF THE ELECTION ACT, 2017, READ WITH RULE 12 OF THE ELECTION RULES, 2017, AGAINST DELIMITATION OF CONSTITUENCIES OF NATIONAL ASSEMBLY OF PAKISTAN OF DISTRICT SIALKOT.

Respectfully Sheweth;-

Subject Matter of the Objection Petition.-

That by the submissions, facts, grounds and prayer hereinafter, in essence, through the instant Representation/Objection Petition, the petitioner is aggrieved of and seeks correction in the Constituencies of district Sialkot, published *vide* ECP's Notification No. F.8(3)2018-Elec-1, dated the 5th March, 2018, under Section 21(1) of the Election Act, 2017 (hereinafter to be referred as "the Act"), read with Rule 11 of the Elections Rules, 2017, (hereinafter to be referred as "the Rules"), as **Preliminary List of Constituencies (the Impugned List)**. The claim in the titled Representation is, *inter-alia*, premised on violation of the well established Principles of Delimitation of Constituencies, administrative fairness, constitutional and statutory obligations, duties and violation of fundamental rights guaranteed under the Constitution of the Islamic Republic of Pakistan-1973, (hereinafter to be referred as "the Constitution"). The impugned Constituencies published in the Preliminary List *vide* Notification referred to above are Gerrymandered, without application of independent mind, beyond jurisdiction without observing the procedure laid down under Section 21(1)*ibid.* and evidently incipient, arbitrary, unreasonable, unfounded, tenuous, speculative, irrational, unsubstantiated and illegal, the same is violative of the Constitution and the **Principles of Delimitation of Constituencies** enshrined in the Act.

That the instant Representation / Objection Petition has arisen out of the

following necessary facts;

1. That I, Haseeb Zafar S/O Muzaffar Husain NIC # 34603-4245430-7 R/O Rahim Pur Khichian P/O Bharth, Tehsil & District Sialkot is *bona-fide* resident and registered voter of Constituency No. NA-76 Sialkot-V, of district Sialkot, as proposed and delimited in the Preliminary List of Constituencies by the election Commission of Pakistan.
2. That the Election Commission of Pakistan has published Preliminary List of Provincial Assembly Constituencies of district Sialkot along-with others districts, by the ECP *vide* ECP's Notification No. F.8(3)2018-Elec-1, dated the 5th March, 2018. (**Annexure-A**).
3. That Sialkot district comprising Four Tehsils, i-e, Sialkot, Pasrur, Sambrial and Daska with Total Population of **3,893,672**, in terms of Provisional Results of Census-2017 released by the Census Organisation.
4. That 5 constituencies of National Assembly of Pakistan have been allocated to the district of Sialkot and Quota for each National Assembly Constituency comes to **778,734 with Maximum upper limit of Population of 817,000 and Maximum Lower limit of Population of 739,000**, Summary of District & Quota is as under;-

Summary of District Sialkot

Name of Area	Population, Census-2017
District Sialkot	3,893,672
Tehsil Sialkot	1,794,658
Tehsil Pasrur	840,88
Tehsil Sambrial	411,200
Tehsil Daska	840,933

Determination of Quota

Details of facts	Figures
Total Population of the Punjab	110,012,442
Total Number NA Seats allocated to the Punjab	141

Population Quota per NA Seat	110,012,442/141= 780,230
Total Population of District Sialkot	= 3,893,672
Number of National Assembly Seats	5
Population Quota for each NA seat of Sialkot district	3,893,672/5= 778,734
Maximum Upper limit of Population of each NA Constituency of Sialkot	817,000
Maximum lower limit of Population of each NA Constituency of Sialkot	739,000

5. That the ECP has delimited the National Assembly Constituencies of district Sialkot as following:-

NA-72 Sialkot-	Pasrur Tehsil Excluding the following PCs of Sakanwind QH:	840,881
	a) Bassu Punnun	-7,728
	b) Gaythlian	-4,265
	c) Harwens Pur	-6,487
	d) Hossa Jajjah	-7,105
	e) Kila Subha Singh No. 1	-12,591
	f) Kila Subha Singh No. 2	-7,472
	g) Maloke No. 1	-5,664
	h) Maloke No. 2, and	-3,698
	i) Uddofatah	-7,859
	of Sialkot district	
	Total Population of the Constituency	778,012
NA-73 Sialkot-II	1) SaukanWind QH of Pasrur Tehsil excluding the following PCs:	99,044
	a) Bhure Ke,	-3,070
	b) Chuhra Munda,	-5,761
	c) Miro Bhadyar,	-5,879
	d) Pejoke,	-5,657
	e) Saukanwind, and	-10,054
	f) Thatha Bajwa ,and	-5,754
	2) Daska Tehsil excluding Mirza Goraya QH,	846,933
	-145,294	

	of Sialkot District	
	Total Population of the Constituency	764,508
NA-74 Sialkot-III	1) Mirza Goraya QH of Tehsil Daska	145,294
	2) Sambrial Tehsil	411,200
	3) Khambran Wala QH of Sialkot Tehsil, and	61,659
	4) The following PCs of Sialkot-II QH of Sialkot Tehsil:	
	a) Ugoki	44,270
	b) Ballan wala	26,493
	c) Bhagwal No. 1	13,197
	d) Ganjian Wali Kalan	17,016
e) Jorian Kalan	14,795	
f) Moman No.1 and	14,896	
g) Murad Pur No. 2	25,323	
	of Sialkot District	
	Total Population of the Constituency	774,143
NA-75 Sialkot-IV	1) Municipal Corporation Sialkot	591,668
	2) Sialkot Cantonment and	64,184
	3) The following PCs of Sialkot-II QH of Sialkot Tehsil:	
	a) Murad Pur-I	73,237
	b) Bhagwal No. 2	21,347
c) Adalat Garh I and	48,841	
d) Adalat Garh II	24,046	
	of Sialkot District	
	Total Population of the Constituency	823,323
NA-76 Sialkot-V	(a) Sialkot Tehsil excluding The following:	1,794,658
	1) Sialkot Municipal Corporation	-591,668
	2) Sialkot Cantt,	-64,184
	3) Khambran Wala QH and	-61,659
	4) Sialkot-II QH	-323,461
	of Sialkot District	
	Total Population of the Constituency	753,686

6. That the Map of District Sialkot marked with National Assembly Constituencies by the Election Commission of Pakistan does not reflect the actual position and boundaries of the constituencies as mentioned in the Impugned Notification dated the 5th march, 2018 .
7. That the Petitioner has illustrated and pointed out the mistakes and errors done by the Committee tasked with the preparation of draft list of constituencies, which reflects that some Islands have been created while delimiting the National Assembly constituencies of district Sialkot. ECP marked map of National Assembly Constituencies, with illustration by the Petitioner, can be seen at **Annexure-B**.
8. That The Constituency Nos. NA-73 Sialkot-II, NA-74 Siakot-III and NA-76 Sialkot-V are neither compact nor contiguous, rather comprising two parts which are located away from eachother.
9. That Two Patwar Circles of QH Budha Goraya, namely **Matteke and Richhara** included in the Constituency No. NA-73 Sialkot-II, are not contiguous and situated more than the distance of 5KM from rest of the Constituency, as both the PCs are separated by Mirza Goraya QH from rest of the Tehsil and have no land link and adjacency with the constituency in which they have been included.
10. That Budha Goraya QH comprising PCs;- I. Kanwanlit, II. Mondeke, III. Jandukey, IV. Lurhiki, V. Malomahay VI. Gujjarke-1, VII. Gujjarke-2, VIII. Budha Goraya IX. Matteke, and X. Rachhara.
11. That two Patwar Circles of Budha Goraya QH namely, **Matteke Nagra and Richhara** are not Contiguous with rest of the Patwar Circles of the QH Budha Goraya and surrounded by Mirza Goraya QH of daska Tehsil, Gunna Kalan QH of Sialkot Tehsil and Pasrur-1 & Pasrur-II QHs of Pasrur Tehsil having no boundary contiguity and adjacecy with rest of the areas of its own QH Budha Goraya and the Constituency No. NA-73 Sialkot-II.

12. That inclusion of two Patwar Circles Matteke and Rachhara of Budha Goraya QH in NA-73 Sialkot-II has bifurcated the constituency into two separate parts and both the PCs lying as an Island in the center of other three constituencies.
13. That similar case is with the Patwar Circle Justerwal, of Kotli Loharan QH, the Patwar Circle is located in the middle of Khambranwala QH which is forming part of NA-74 Sialkot-III, alongside River Chenab and has no adjacecny with its QH Kotli Loharan But the Kotli Loharan entire QH has been included in Constituency NA-76 Sialkot-V.
14. That disparity of population is at high side and Priciple of equal distribution of Population between the contituencies of the district has been ignored and just apportionment of people and land has not been kept in mind which the pre-requisite of delimitation of electoral constituencies.
15. That NA-75 Sialkot- IV has been stuffed un-necessarily with major Chunk of Population of the District which rendered the value of its vote less than the value of vote of other constituencies delimited with less population.
16. That no reasons whatsoever has been recorded for abnormal variation of population and attachment of various Patwar Circles of Sialkot-II QH with Municipal Corporation Sialkot and Sialkot Cantt.
17. That the impugned Constituencies are unsustainable *inter-alia* on the following grounds among others;-

GROUNDS

- j) That the constituencies are *de jure* apportionment of space for the purpose of electing representatives of people living in the territorial limits of a

democratic state and the elected representatives represent not only the people but also their respective segments of territory, the constituencies.

- k) That these two — the land and the people — and the prevailing law of the country provide the basis for constituency boundaries and their delimitation. The laws concerning constituencies can have two dimensions. The first is related to the laws of enfranchisement as to who among the population have the right to vote. This gives the total number of electors and the number of representatives to be elected and the other aspect of constituencies is the actual drawing of boundaries and enclosing people within the constituency framework. This is indeed a sensitive issue for several reasons.
- l) That first, a lack of understanding of the human geography of the area can divide up people who may in effect lose their representation or voice in the legislature. Second, the division of space into constituencies can be so organised that it may carve out either a safe support base for a party or a candidate, or create a combination of societal forces which are opposed to a particular party or candidate. Thirdly, a new boundary can change the pattern of electoral representation in the legislature.
- m) That different sets of electoral constituency boundaries can produce different election outcomes, even if the underlying vote patterns are identical. Electoral abuses such as ill-proportioned constituencies (electoral constituency that vary substantially in population) and electoral constituency that have been “gerrymandered” (constituency boundaries intentionally drawn to advantage one political group at the expense of others) can have profound effects on the outcome of an election and the composition of a parliament or an elected body of representatives. If voters and other stakeholders suspect that the constituency boundaries have been unfairly manipulated to produce a particular political outcome,

this will affect the credibility of the delimitation process. The legitimacy of the electoral outcome itself could be questioned.

- e) The basic object of delimitation is to secure, so far as practicable, equal representation for equal segments of the population in legislative bodies. Apportionment|| or delimitation or—redistricting|| has the—aim of equalizing the population (or electorate) per seat, in accordance with the principle of one person, one vote, one value. This is usually done with regard to stated constraints of administrative convenience, contiguity, geographical, and communication factors; and unstated influences of party-political advantage. In other words, the delimitation aims at ensuring the observance of the basic tenet of democracy; one man, one vote. The Principles of delimitation under the Election Act, 2017, include having regard to distribution of population in geographically compact areas, existing boundaries of administrative units, facilities of communication and public convenience and other cogent factors to ensure homogeneity in the creation of constituencies.
- f) The other equally important aim of delimitation is to divide the geographic areas into territorial constituencies in compact and so fairly that no party or candidate may legitimately have a grievance that there has been gerrymandering of constituencies in favour of or against the interests of any particular party or candidate. Suggesting that the right to cast a ballot is meaningless if that ballot is undervalued relative to a ballot cast by a voter in a less populated district. Gerrymandering is — drawing of district boundaries so as to favour one's own chances in future elections.... strategies for gerrymandering have been characterized as packing, and cracking, each of which seeks to minimize the influence of those likely to vote for opponents. -- packing when opponents are concentrated in a small number of constituencies; and

= cracking' when opponents are divided between a large number of constituencies

- g) That the Principle of Delimitation of Constituencies have been enumerated under section 20 of the Election Act, 2017, which reads 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 units, facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of constituencies.

(2) For the purpose of delimiting constituencies for the general seats of the National Assembly for the Tribal Areas two or more separate areas may be grouped into one constituency.

(3) As far as possible, variation in population of constituencies of an Assembly or a local government shall not ordinarily exceed ten percent.

(4) If the limit of ten percent under sub-section (3) is exceeded in an exceptional case, the Commission shall record reasons thereof in the delimitation order."

- h) That we can easily identify and enumerate the Principles of Delimitation which law provides to be complied with, respected and implemented in letter and spirit while delimiting the electoral constituencies, so the not only the candidates but also the voters could be benefited. We can number such principles as under;-

- 4) Distribution of Equal Population,
- 5) Geographical Compactness,
- 6) Physical Features,

- 7) Existing Boundaries of Administrative Units,
 - 8) Facility of Communication,
 - 9) Public Convenience, And
 - 10) Homogeneity,
- i) That procedure for delimiting constituencies has been provided under Sub-rules 3 to 5 of Rule 10 of the Election Rules, 2017, reproduced as under-
- “(3) In preparing draft proposals for delimitation of constituencies, the Delimitation Committee shall follow the principles of delimitation as laid down in section 20, procedure given in this Chapter and the guidelines provided by the Commission from time to time.*
- (4) The constituency for an Assembly shall not ordinarily extend to more than one district except in exceptional circumstances for reasons to be recorded by the Delimitation Committee:*
Provided that a Patwar Circle or, as the case may be, a Tapedar Circle shall be the basic unit for delimitation and it shall not be broken under any circumstances:
Provided further that in case of urban areas census circle shall not be broken under any circumstances.
- (5) As far as possible, the delimitation of constituencies of an Assembly shall start from the Northern end of the district, or, as the case may be, the agency and then proceed clock-wise in zigzag manner keeping in view that population among the constituencies of an Assembly shall remain as close as may be practicable to the quota:”*
- Provided that the quota under this sub-rule shall be determined by dividing total population of the district or the agency with number of seats allocated to that district or agency:*

Provided further that the variation in population between two or more constituencies shall not ordinarily exceed ten percent and the Delimitation Committee shall record reasons if, in exceptional circumstances, the variation has to exceed the limit.

- j) That keeping in view the principles as enshrined under the Election Act, 2017 read with Rule 10 of the Election Rules, 2017, it transpires that no constituency can be created in parts or in the shape of various Islands. Furthermore equal distrution of population and geographical compactness are the most important principles of delimitation and creation of constituencies in violation of Principles are nullity in the eyes of law.
- k) That a plausible proposal/suggestion has been prepared to rectify the errors and serious mistakes occuring in the contituencies for the consideration of this Hon'ble and August Commission. The proposal / suggestion has strictly been framed in compliance of principles of delimitation in their entirety and totality. **(Proposal is at Annexure-C)**
- m) That suggestion is submitted to avoid gerrymandering in any manner to create a safe constituency for a particular candidate or contestant. The proposal is submitted, meets the requirements of law and based on **Principles of Delimitation of Constituencies** for the conduct of free, fair and just elections in district Sialkot as envisaged under the Constitution. Furthermore, just and fair creation of electoral constituencies is the pre-requisite of just and fair elections, if the constituencies are gerrymandered, the election's results cannot attain legitimacy which resultantly injure the credibility of Parliament and Legislative bodies.
- n) The above proposal has also been supported with map and extent of constituencies. The constituencies demarcated on the map, are geographically compact areas and the population has been distributed almost equally. **(Annexure - D)**

PRAYER-

It is, therefore, very humbly Prayed that proposal / suggestion submitted at **Annexure-E**, may kindly be considered on merits and any type of gerrymandering and illegality may be checked and avoided to ensure creation of just and legal constituencies for conduct of free, fair and just election in accordance with the constitution and the law and to give level playing fields to all candidates and to promote the essence of democracy and also to attach legitimacy with the elected representatives of the Parliament and provincial Assemblies..

Petitioner, 

Haseeb Zafar S/O Muzaffar Husain
NIC # 34603-4245430-7
R/O Rahim Pur Khichian P/O Bharth,
Tehsil & District Sialkot

Through

Raja Rizwan Abbasi,
Advocate, High Court
Flat No. 2, Block No. 23,
PHA Appartments, G-7/1, Islamabad

VERIFICATION

Verified on oath on this ~~31~~ day of March, 2018 at Islamabad that the contents of the above Representation / Objection Petition are true to the best of my knowledge and belief.


Petitioner