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BEFORE THE WORTHY SECRETARY, ELECTION
COMMISSION OF PAKISTAN

ZAFAR ULLAH KHAN, S/o Rab Nawaz Khan, R/o Lammay Khel, Daud
Khel Post Office, Tehsil and District Mianwali, CNIC No. 38302-1219654-1
(Voter Block Code No. 156100302, Serial No. 565)

..... Petitioner/Applicant

REPRESENTATION UNDER SECTION 21(3) OF ELECTION
ACT 2017 READ WITH RULE 12 OF THE ELECTION RULES
2017 AGAINST THE DRAFT PROPOSAL OF DELIMITATION
OF CONSTITUENCIES ISSUED VIDE NOTIFICATION
DATED 05-03-2018 IN RESPECT OF DISTRICT MIANWALI
(PUNJAB)

Respectfully Sheweth,

1. That up-until the General Elections held in 2013, the District Mianwali (Punjab) comprised of four constituencies in the Punjab Provincial Assembly i.e. PP-39 (Mianwali I), PP-40 (Mianwali II), PP-41 (Mianwali III) and PP 42 (Mianwali IV) whereas there were two seats in the National Assembly from District Mianwali i.e. NA-71 (Mianwali I) and NA-72 (Mianwali II).
2. That after the population census of 2017 and the formulae given therein and also mandated under Article 51(5) of the Constitution of Islamic Republic of Pakistan 1973, the Election Commission of Pakistan (ECP) started to conduct Delimitation of the constituencies of National & Provincial Assemblies in accordance with the provisions of newly enacted Election Act 2017 (Act of 2017) and the Election Rules 2017 (Rules of 2017) made thereunder.
3. That while exercising powers under Rule 10 of the Election Rules 2017, the ECP, vide Notification Dated 05-03-2018 has issued proposed new composition of the Provincial Assembly & National Assembly Seats in

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District Mianwali ("Impugned Proposals"). As per the impugned proposal, the number of seats in the National and Provincial Assemblies have remained the same whereas only their nomenclature has been changed as PP - 85 (Mianwali I), PP - 86 (Mianwali II), PP - 87 (Mianwali III) & PP - 88 (Mianwali IV) and for the National Assembly NA-93 (Mianwali I) and NA-94 (Mianwali II).

The proposed draft impugned issued vide notification dated March 2018 is reproduced hereunder:

(1) NA - 95 (Mianwali I)

The following QHs of Mianwali

- i) Chak rala QH
- ii) Daud Khel QH
- iii) Rokhri QH
- iv) Musa Khel QH
- v) Mianwali II QH
- vi) MC Daud Khel
- vii) Tehsil Issa Khel

Total Population: 807550

(2) NA - 96 (Mianwali-II)

- i) Mianwali Tehsil

excluding the following:

- a) MC Daud Khel
- b) QH Chak Rala
- c) QH Daud Khel
- d) QH Rokhri
- e) QH Musa Khel
- f) QH Mianwali II
- ii) Piplan Tehsil

Total Population: 738544

Difference of Population inter-se NA - 95 and NA - 96: 69015

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4. That the impugned proposed draft of delimitation issued vide the above mentioned notification, has been carried out in sheer violation of the provisions of the Act of 2017 and the Rules 2017 enacted thereunder; therefore the same is liable to be rejected and the previous constituencies in District Mianwali be restored, inter-alia on the strength of the following amongst other grounds:

GROUND:

- I) That the impugned proposed draft for delimitation of constituencies of National & Provincial Assembly issued vide the notification is in violation of Sections 20, 21 and 22 of the Election Act 2017 and Rule 10 & 12 of the Election Rules 2017 made thereunder.
- II) That Section 20 of the Election Act 2017, prescribes the Principles of delimitation, which is reproduced hereunder:
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.

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(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.

As per Section 20 supra, while making the impugned draft proposals for delimitation, the geographical compact areas, physical features, existing boundaries of administrative units, facilities of communication and public convenience and homogeneity in the creation of constituency must be considered as relevant parameters for carrying out delimitation. However, in the present case, these pre-requisite conditions have been fully ignored; which thus requires interference by this August Commission.

III) That, in addition, Rule 10 of the Election Rules 2017 provides the mechanism for implementation of Section 20 of the Election Act 2017. The Rule 10 of the Election Rules 2017 is reproduced hereunder:

10. Draft proposals for delimitation of constituencies:

(1) A Delimitation Committee constituted under rule shall, immediately after its constitution, proceed to obtain from Pakistan Bureau of Statistics, population data of last census officially published along with relevant maps showing therein census charges, census circles and census blocks along with description, relating to a Province, a district, an agency, or any other administrative or revenue unit as it may require.

(2) The Delimitation Committee shall also obtain district maps along with description, duly authenticated by Pakistan Bureau of Statistics, or, as the case may be, the district head of Revenue Department, prepared on a uniform scale as may be determined by the Commission indicating therein details of all administrative and revenue units in the district to the level of a Patwar Circle or, as the case may be, a Tapedar Circle, as well as prominent geographical and physical features, such as rivers and mountains and

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any other information as may be determined by the Commission or required by the Committee.

(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.

(6) For the purpose of preparation of draft proposals for delimitation, the Delimitation Committee may require assistance from any Federal, Provincial or, as the case may be, a Local Government Authority.

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(7) *After the draft proposals for delimitation of constituencies are finalized on Form-5, the Delimitation Committee shall send the same to the Commission, within the time specified and in the manner as may be determined by the Commission.*

IV) That as per Rule 9(3) of the Rules 2017, the ECP was also mandated to issue 'guidelines' to conduct the delimitation in order to guard the same from any influence so that elections could be conducted in free, fair and just manner. However the ECP did not issue any such guidelines until the entire process was nearing its end; therefore the draft delimitation have been issued on the entire whims and desires of the officials of the delimitation committee.

V) That vide the impugned draft proposals, the entire Musa Khel QH has now been included in NA - 95 (Mianwali I), whereas earlier since the population census conducted in the Year 1998 and General Elections 2002, only the Bori Khel PC (Population of 7834) and Ghundi PC (Population of 10797) of the Musa Khel QH were part of NA - 95 (Formerly NA -71 Mianwali I), whereas the remaining Musa Khel QH has always been part of NA - 96 (Formerly NA - 72 Mianwali II).

VI) That as a result of the impugned draft proposal, & due to inclusion of entire Musa Khel QH, the geographical area of NA - 95 (Mianwali I) constituency has become the largest amongst any other constituency of National Assembly in the Province of Punjab, which is impractical and in violation of the provisions of Act 2017 as well as the Rules of 2017 whereas NA - 96 (Mianwali II) which was already smaller in size qua distance from its boundaries had further shrank its size. Furthermore due to the above-said adhoc exercise, the Delimitation Committee had also not failed to examine the issue of transportation within the constituency i.e. NA - 95 (Mianwali I).

- VII) That the above-said delimitation vide the impugned proposal has also violated the Administrative convenience of the local public.
- VIII) That the Petitioner is a Voter Member and Political Worker of District Mianwali; therefore he is seriously concerned that this adhoc exercise of discretion has led to manipulation of the shape of the constituencies. The same shall definitely have a direct & adverse bearing on the results of elections and shall adversely affect the rights of the Voters.
- IX) That the applicant is competent to file the instant representation under the Law; therefore the following proposals be considered in order to restore the constituencies in District Mianwali in the following manner:

PROPOSAL OF THE PETITIONER/APPLICANT:

- 5. That as submitted earlier, keeping in view the geographical features, area, homogeneity, compactness and population of District Mianwali, the applicant/petitioner proposes to restore the previous constituencies of the National Assembly in District Mianwali in the following manner:
 - I) That as per the population census of 2017 and per the impugned proposed draft of constituencies, NA - 95 (Mianwali I) comprises of **807550 Voters** whereas there are **738544 Voters** in the NA - 96 (Mianwali II) constituency.
 - II) That Musa Khel QH comprises of the following PCs;
 - i) Abba Khel
 - ii) Bazar
 - iii) Bori Khel
 - iv) Ghundi
 - v) Musa Khel (Musa Khel Janoobi, Musa Khel Darmiyani and Musa Khel Shumali PCs)

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vi) Sultanwala Sharqi

The whole QH (Musa Khel) comprises of 94021 Voters. Previously only Bori Khel PC and Ghundi PC of Musa Khel QH were included in Mianwali I constituency of the National Assembly, however as per the proposed draft of delimitation, the Musa Khel QH in its entirety is included in NA - 95 Mianwali I.

III) That for convenience to the Voter Members of the above mentioned QH (Musa Khel) as well as in order to restore NA - 95 (Mianwali I) to its previous form, the entire Musa Khel QH excluding **Bori Khel PC and Ghundi PC** be made part of NA - 96 (Mianwali II).

IV) That it be noted that Bori Khel PC comprises of 7834 Voters whereas Ghundi PC comprises of 10797 Voters, hence the total number of Voters in the said two PCs equals **18631 Voters**. In this way of the manner, if the Musa Khel QH excluding Bori Khel PC and Ghundi PCs, are excluded from NA - 95 (Mianwali I), the total strength of **NA - 95 (Mianwali I) shall become 732160 Voters** whereas the strength of **NA - 96 (Mianwali II) shall become 813934 Voters**, hence the instant proposal of the Petitioner/ Applicant shall not vitiate the provisions of the Act of 2017 and Rules of 2017.

The above mentioned proposed delimitation alongwith the map is attached herewith as Mark A.

V) That the constituencies of National Assembly in District Mianwali, as proposed by the Applicant above, i.e. NA - 95 (Mianwali I) excluding the Musa Khel QH without Bori Khel PC and Ghundi PC and including the remaining Musa Khel QH into NA - 96 (Mianwali II) does not violate the provisions of Act of 2017 and Rules 2017.

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- VI) That it be appreciated that since the General and Provincial Elections held in 2002, the Musa Khel QH, excluding the Bori Khel and Ghundi PCs, were part of the now NA - 96 Mianwali II and not NA - 95 Mianwali I and since the constituencies as proposed by the Applicant, do not violate any provision i.e. Act of 2017 of 2017 Rules; therefore the constituencies as proposed by the applicant/petitioner should be accepted.
- VII) That the above mentioned proposals are suggested keeping in view the provisions of the Act & Rules made thereunder as well as the convenience and welfare of the local public.

PRAYER:

It is therefore respectfully prayed that in lieu of the facts narrated above, the instant representation may graciously be accepted and the proposed draft of the delimitation of the constituencies of National Assembly at District Mianwali submitted by the Petitioner may graciously be accepted, in the interest of justice.

Any other relief, which this Honourable Commission, may deem fit and proper in the circumstances, may graciously be granted.

PETITIONER,

Through Counsel(s)

SHAH KHAWAR

Advocate Supreme Court of Pakistan

SHAHZEB JAFFAR

Advocate