

MEMORANDUM OF REPRESENTATION/OBJECTIONS

RELATING TO DRAFT PROPOSALS FOR DELIMITATION OF CONSTITUENCIES NO. NA-156 AND NA-157 OF DISTRICT MULTAN UNDER THE ELECTIONS ACT 2017 READ WITH ELECTIONS RULES, 2017.

Respectfully Sheweth:-

1. That under section 17 of the Elections Act, 2017, the Election Commission of Pakistan (ECP) has been empowered to delimit territorial constituencies for elections to the National and Provincial Assemblies in accordance with the provisions of Constitution, the Act *ibid* and the rules made there under in terms of officially published census.
2. That the principles of delimitation have been enacted in section 20 of the Act *ibid* which have been reiterated in Chapter-3 of the Election Rules, 2017.
3. That under rule 9 of the rules *ibid*, the ECP constituted Delimitation Committees vide Office Order dated 15th January 2018 for delimitation of the constituencies, which carried out the delimitation and reportedly considered different proposals referred to them by ECP in terms of section 21(1) of the Act *ibid*.
4. That the ECP, based upon the draft proposals of Delimitation Committees, invited representation/objections to the draft proposal vide Notification dated 5th March, 2018.
5. That the Petitioner is a registered voter in NA-156.
6. That the proposed delimitation of constituencies NA-157 and NA-156 is not only against the facts but is also violate of the Constitution, Act and Rules *ibid* relating to principles of delimitation and rights of the voters.
7. That the grounds of the representation/objections to the draft proposal of delimitation of constituencies as notified by the ECP on 5th March, 2018 are given below:-

GROUNDS

- 1) That vide Para-2 of the notification *ibid*, it has been notified that prime objective of the notification was to provide practical information to all the stakeholders to, *inter alia*, make the process accessible to all the stakeholders; however, the core item wise practical information as envisaged in section 20 of Act *ibid* has neither been shared nor made accessible to ensure homogeneity in the creation of constituencies.
- 2) That although the constitution of the Delimitation Committees under rule 9 of the rules *ibid*, at least three officers of the ECP and the convener thereof, being public office holders were the members of the said Committees, yet, neither the composition of the Committees, nor the TORs thereof were made accessible for the

information of stakeholders to inspire their confidence about the transparency of the process.

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3) That vide Para. 6 of the Notification *ibid*, it is evident that one of the cardinal principles of delimitation, i.e., physical features of the constituency, vide section 20 of the Act *ibid*, had been over looked even in the Notification itself, what to speak of application of the said principle.

4) That although vide Para. 6 of the Notification *ibid*, it has been provided that the constituencies within the district shall be equal among themselves in population, yet, no such equality of population could be achieved in delimiting the subject constituencies in District Multan.

5) That the Notification *ibid*, the share-quota of a seat for National Assembly has been worked out on the basis of population; however, the permissible limits of variation in population of constituencies was not to exceed 10% but it has been violated because: -

i. In case of Distt Multan, quota per seat has been worked out as 728,718 for which the permissible limit of 10 %, whereas NA-156 has been delimited for the population of 818, 890 without describing the reasons of exceeding 10% limits prescribed in section 20 of the Act *ibid*, to the extent of 15.00 % by decreasing the size of the Constituency-NA-157 to the extent of 816077 despite the facts of availability of geographically compact areas .The proposed constituency has in fact resulted into grave hardships for the public at large as the alleged merger of the areas are at distance from each other and more over the people of two different vicinities have been constrained to approach the single NA without keeping in mind the rules and settled norms on the subject.

ii. That the prescribed quota per seat for PK-156 in district Multan have irrationally been increased in size as compared to NA-154 because no reasons has been given in Notification *ibid*, with specific reference to the principles/ factors given in section-20 *ibid*, hence, the formula of uniformity for the delimitation process has not been carried out or complied with which if allowed to stand would ordeal the grievances of the public at large.

6) That vide Para-19 of the Notification, the Delimitation Committees took into account various measures and steps stipulated in rule10 *ibid*; however, the Notification is silent about the utilization of duly authenticated maps of the Pakistan Bureau of Statistic envisaged in rule10 *ibid*.

7) That duly formulated and notified guidelines for the Delimitation Committees as provided in rule 9, 10 and 11 of the rules *ibid*, neither find any mention in the Notification *ibid*, nor appear to have been notified for the information of all the stakeholders to inspire confidence in the working of the Delimitation Committees performing function relating to a public office, nor the Delimitation Committees appear to have acted under duly notified guidelines of the ECP for the performance of the subject core function to delimit the constituencies to ensure that the election is conducted honestly, justly, fairly and in accordance with law in Pakistan. Perhaps Delimitation Committees performed the said function as secret and sensitive under verbal or confidential guidelines, over and above the scope of the Act and rules *ibid*, because conceivably for delimitation of the Constituencies either there was paucity of integrity or it was a secret and

sensitive matter posing a threat to National Security due which neither said Committees nor Guidelines there for were notified/made accessible to anyone including the parliamentarians. The secrecy maintained in the delimitation process establishes deeply embodied malafide to the complete disadvantage of the candidates / voters and the principles of compactness homogeneity.

8) That the Notification *ibid*, different proposals were referred to Delimitation Committees by ECP but the Notification is silent about the fate of the said proposals as in order to change it should have been done in a transparent and confidence inspiring manner.

9) That the Notification *ibid*, the Delimitation Committees reportedly recorded brief reasons/justifications in different cases where exception/variations were made in Distt Multan; however, the said reasons/justifications are not only confined to only an explanation of mathematical principle of calculating fractions but it is also totally deficient of all the justifications made by the Delimitation Committee while delimiting the subject Constituencies because, in terms of rule-10:-

i. NA-157 has irrationality been delimited by ignoring physical features and highly inconvenient long geographical distances between one end and the other.

ii. In NA-157 all the cognate factors of homogeneity had altogether been ignored by jumbling up the constituents

iii. The facility of communication of NA-157 to NA-156 for the constituents and the Member are not at all feasible, realistic, possible and rational as travelling from one end to the other.

iv. That proposed draft for NA-157 is highly pre-judicial, discriminatory, unfair, marginalizing, un-just and contrary to the spirit of the Constitution and principles of the policy enshrined therein and completely violative to the principles of Homogeneity and compactness and to the complete inconvenience of the voters / constituents.

v. The NA-157 and NA-156 reasonably and justly divided into two homogeneous areas-populations by keeping in view all the geographical, physical, administrative, and all other cognate factors resulting into peaceful and homogeneous development of the constituencies without any adverse effects on the people but this proposed delimitation if allowed to stand will adversely affect the same to the complete detriment of the voters.

vi. That the delimited NA-156 and NA-157 as per census 2017, which could have very conveniently, been delimited by excluding **CNARGE NO.14, CIRCLE NO.8 from the said in NA-156 and including CHARGE NO.14, CIRCLE NO.05.**

ALTERNATELY IT IS SUBMITTED THAT;

Previously delimited NA-156 and NA-157 may continue as may be balanced/adjusted equally as per the share/quota of the constituencies in the District Multan.

a) The facility of communication of 156 to 157 for the constituents and the Member are not at all feasible, realistic, possible and rational.

(5)

10) That there were numerous discrepancies and conflicting findings in the Notification ibid and attested copy of the NA-156 & 157 Map provided by the Election Commission and provisional result of the population census published by Pakistan Bureau of Statistics are as detailed below:

11) Although the Delimitation Committees were kept confidential

It is, therefore, requested:

a) That the Petitioner may be provided attested copies of the following:

i. The Order of the subject Delimitation Committee describing the composition and ToRs thereof;

ii. The notified Guidelines provided by the ECP to the Delimitation Committees;

iii. The Report of the Delimitation Committee on Form-5;

iv. The map provided by the Pakistan Bureau of Statistics as used by the Delimitation Committee;

v. The result of the Census published by the Pakistan Bureau of Statistics;

b) That the draft proposal of Delimitation Committee should not be finalized contrary to the facts detailed above;

c) That all the provisions of the Constitution, the Act and Rules ibid must be complied with;

d) That all the discrepancies detailed above should be addressed to redress the grievances of the voters before finalizing the draft proposal;

e) That the delimitation exercise is to be carried out in order to ensure fair, just and proportional representation of the people in the election. Basic object of delimitation is to secure so far as practicable equal representation for equal segments of the population in legislative bodies but the proposed delimitation where the state infrastructure and urban population of both constituencies having been merged while the rural population and will also disturb the geographical compactness.

f) That the ECP is under an obligation to keep in mind the principles of Uniformity of the Population while making / delimitation of constituencies which has been badly ignored in the proposed delimitation of proposed NA-157 & NA-157.

g) That the settled principles of law while doing delimitation, the principle of territorial unity has been badly affected which if allowed will cause a grave miscarriage of justice to the people of the constituencies.

h) That the same is not only violative of the rule of law and of the judgments of the Honorable Superior Courts, but is also violative of the principles of the transparency, fairness and natural justice.

i) That the cardinal principles of delimitation envisaged in section 20 ibid must be adhered to in letter and spirit and all exceptions thereto must be justified, documented and copies provided to the Petitioner;

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j) That the variations in the subject constituencies may be reduced to bare minimum level and by delimiting as stated in the grounds given above and proposed map attached herewith.

k) That the applicant seeks to submit a counter proposal which is encompassed in the rules as per law and the Constitution and the principles of compactness, territorial homogeneity, uniformity of population, territorial unity and cultural homogeneity and also seeks the indulgence of Honorable ECP on the same so that any proposed delimitation can be done keeping in view the proposal of the applicant based on law as well.

PRAYER:

It is therefore, respectfully prayed that the representation / objections stated hereto forth the draft proposal of delimitation Committee in respect of National Assemblies for the forth coming elections may very graciously be modified and the proposed constituencies as per submissions of the petitioner and highlighted in the attached maps may be sanctified and the same notified accordingly.

It is further prayed that any other relief deemed appropriate may also be given to ensure compliance of the principles of delimitation so that the election is conducted honestly, justly, fairly and in accordance with law in Pakistan in order to enable the voters of NA-157 & NA-156 to exercise their right to vote to express their will for the preservation of democracy achieved by the un-remitting struggle of the people against oppression and tyranny.

A. Ghani

(Abdul Ghani)

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Proposed NA-156

Through Counsel

MALIK JAVID IQBAL WAINS

Advocate Supreme Court of Pakistan

Secretary ECP,

Constitution Avenue,

Islamabad along with 8-copies of:

- 1) Memorandum
- 2) Maps marked on the basis of suggestions made in the representation.