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(13)

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 GERRYMANDERING IN THE DELIMITATION OF CONSTITUENCIES OF NATIONAL ASSEMBLY OF THE PUNJAB OF DISTRICT RAHIM YAR KHAN.

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 ^{Rule 4 of 18} ~~Siakot~~, 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 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

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following necessary facts;

1. That I, Mukhtar Ahmad Jam S/O Jam Fazal Haq NIC # 31303-9807289-9, R/O 53-A, Ali Block, Abbasia Town, Rahim Yar Khan is bona-fide resident and registered voter of Constituency No. NA- 178 Rahim Yar Khan, of district Rahim Yar Khan, as proposed in the Preliminary List of Constituencies.
2. That the Election Commission of Pakistan has published Preliminary List of National Assembly Constituencies of district Rahim Yar Khan along with other districts, vide ECP's Notification No. F.8(3)2018-Elec-1, dated the 5th March, 2018. (**Annexure-A, the Impugned Notification**).
3. That important to note that no change has been witnessed in the number of constituencies allocated to the district Rahim Yar Khan and number of seats are same as in 2002, however, the demographic changes in light of provisional Results of Census- 2017 issued by the Census Organisation and high quota of population for each seat has made it imperative to re-delimit the constituencies purely on merit and strictly in compliance of **Principles of Delimitation of Constituencies**, enshrined in the Election Act, 2017.
4. That administratively district Rahim Yar Khan comprising Four Tehsils, i.e, Rahim Yar Khan, Liaqat Pur, Khan Pur and Sadiqabad with total population of **4,814,006**, as per provisional results of Census-2017, which requires to be divided into 6 National Assembly constituencies and the quota for each NA seat of district Rahim Yar Khan is **802,000**. (**Summary of District Rahim Yar Khan is at Annexure-B**)
5. That the Map of District Rahim Yar Khan marked with Provincial Assembly Constituencies and provided on cost from the office of the Provincial Election Commissioner is attached. (**Annexure- C**).

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6. That some constituency No. NA-177 & NA 178 of district Rahim Yar Khan has been noticed as gerrymanderred and not in geographical compact shape as envisaged under the law. The Constituencies mentioned above are neither compact nor equal in population.
7. That due to non increase or decrease of seats allocated to the district Rahim Yar Khan, there was no big change was required in the areas included already in the previous Constituencies except some minor changes where demographic changes took place.
8. That however it has been noticed that irrespective of the facts of no change in the number of constituencies major changes have been made in the constituencies of the Provincial assembly of the Pujnab allocated to the district Rahim Yar Khan.
9. That if some minor change is made in the constituency NA 177 & 178, it will make a compact area and sustainable constituency to provide level playing to all the contestants of the forthcoming General elections.
10. That Three Patwar Circles of both the constituencies are required to be re-adjusted.
11. That Patwar Circles " Aslam Abad & Karam abad" are required to be excluded from the constituency No. NA-178 and included in the constituency No. NA- 177, similarly one Patwar Circle " Thul Wazir" is required to be excluded from Constituency No. NA-177 and included in NA- 178, this will make both the constituencies more compact , sustainable and equal in population.
12. That the impugned Constituencies are unsustainable *inter-alia* on the following grounds among others;-

GROUNDS

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

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

- b) 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.
- c) 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.
- d) 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,

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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 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

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g) That the Principle of Delimitation 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;-

- i. Distribution of Equal Population,
- ii. Geographical Compactness,
- iii. Physical Features,
- iv. Existing Boundaries of Administrative Units,
- v. Facility of Communication,
- vi. Public Convenience, And

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vii. 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.

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- j) That keeping in view the principles as enshrined under the Election Act, 2017 read with Rule 10 of the Election Rules, 2017, a plausible proposal/suggestion has been prepared to rectify the error / mistake for the consideration of the Hon'ble this August Commission.
- k) The proposal / suggestion has strictly been framed in compliance of principles of delimitation in their entirety and totality. (**Proposal is at Annexure-D**)
- 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 requirement of law and based on **Principles of Delimitation of Constituencies** for the conduct of free, fair and just elections in district Rahim Yar Khan as envisaged under the Constitution. Furthermore, the 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. Whereas all the constituencies ensure complete homogeneity and facility of people. Communication network has dully been kept in view while carving out all National Asseby constituencies of the district Rahim Yar Khan. (**Annexure-E**)

It is, therefore, very humbly Prayed that the proposal / suggestion submitted may kindly be considered on merits and any type of gerrymandering may be checked and avoided to ensure free, fair and just election in accordance with the

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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..

Furthermore, it also humbly prayed that the inclusion and exclusion of one Patwar Circle may kindly be considered on merit to delimit the constituencies in geographical compact and contiguous areas having regard of equal distribution of Population etc.


Petitioner,

Mukhtar Ahmad Jam,
R/O 53-A, Ali Block,
Abbasia Town, Rahim Yar Khan
Contact # 0333-9299666



Mian Khalil Ur Rehman,
Advocate, High Court,
District Courts Rahim Yar Khan
CC No. 25182

office AT

Through

VERIFICATION

Verified on oath on this ~~22~~ day of March, 2018 at Rahim Yar Khan that the contents of the above Representation / Objection Petition are true to the best of my knowledge and belief.


Petitioner