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M. J. Khan  
31/4/18

**BEFORE THE SECRETARY ELECTION COMMISSION OF PAKISTAN**

Application No: \_\_\_\_\_ 2018

In the matter of:

**Mir Aamir Khan Rind**

Son of Mir Haji Saleh Muhammad Rind

Resident of Rind House Rind Garh

Post Office Dhadar, Gahi, Tehsil Dhadar, District Kachhi, Balochistan,

Bearing CNIC No: 53306-1321286-3

...Applicant

**REPRESENTATION/OBJECTION UNDER SECTION 21(3) 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 BALCHISTAN OF NA-259, NA-260 AND NA-262**

Respectfully Sheweth:

1. That the Applicant is registered voter for the election to the National Assembly of Pakistan from Constituency No: NA-262, Kachhi-cum-Jhal Magsi being the resident of District Kachhi, Balochistan, Pakistan. Copies of the CNIC are annexed herewith and marked "A".
2. That the Election Commission of Pakistan, (Hereinafter referred to as the "ECP"), vide Notification No. F.8 (3)2018-Elec-1, dated: 05.03. 2018, under Section 21(1) of the Election Act, 2017 (Hereinafter referred to as the "Act") read with Rule 11 of the Elections Rules, 2017, (Hereinafter referred to as the "Rules") as Preliminary List of Constituencies (Hereinafter referred to as the "Impugned Lists") and asked for objection on the Impugned Lists if any till 03.04.2018.
3. That the ECP in the Impugned List has proposed to form the Constituency of NA-262-Kachhi-cum-Jhal Magsi by including Kachhi District with population of 237,030 in terms of Provisional Results of Census-2017 (Hereinafter referred to as the "Census-2017") and Jhal Magsi District with population of 149,225 as per Census-2017, hence, total population for NA-262 is proposed by the ECP to be 3,862,255. However, according to the Impugned List, NA-259-Dera Bugti-cum-Kohlu-cum-Barkhan-cum-Sibi-cum-Lehri includes Dera Bugti District with population of 312,603, Kohlu District with population of 214,350, Barkhan District with population of 171,556, Sibi District with population of 135,572 and Lehri District with population of 115,975, thus total population for NA-259 is proposed to be 950,056, which indicates that ECP have assigned disproportionate population to the constituencies of NA-259 and NA-262 by assigning more than double population to NA-259 as compared to NA-262. Copy of the Impugned Lists of NA-262 & NA-259 and Marked Map of the same are annexed herewith and marked "B", "B/1" & "C" & "C/1" respectively.



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4. That no justification can be attributed to an illegal act, when the Act and the Rules are very much clear in distribution of population among the constituencies of the same Assembly. It is averred that as per Section 20(3) of the Act, that:

*"as far as possible, variation in population of Constituencies of an Assemble or a local government shall not ordinarily exceeds 10 per cent"*.

It is further averred that as per Section 9(2) of the Delimitation of Constituencies Act, 1974 the ECP is bound to establish constituencies which shall be equal among themselves in population for election to the same Assembly. Section 9(2) of the Act, 1974 is reproduced as under:

*"As far as may be the constituencies for election to the same Assembly shall be equal among themselves in population"*.

5. That the Impugned Lists are not established as per the principals of delimitation enunciated in Section 9 of the Delimitation of Constituencies Act, 1974. Section 9(1) of the Delimitation of Constituencies Act, 1974 is reproduced as under:

*"All the constituencies for general seats shall, as far as practicable, be delimited having regard to the distribution of population in geographically compact areas, existing boundaries of administration units, facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of constituencies"*.

It is averred that the inclusion of Sibi District and Lehri District in NA-259 with Dera Bugti District, Kohlu District and Barkhan District does not constitute a geographically compact constituency, as the Kohlu District and Barkhan District are at the border of Punjab whereas the Sibi District and Lehri District are connected and adjacent to the Kachhi District.

6. That the inclusion of Sibi District and Lehri District in NA-259 with Dera Bugti District, Kohlu District and Barkhan District would create very much difficult for the residents of the Sibi District and Lehri District to communicate with the other districts easily and it will also create public inconvenience.
7. That the ECP has constituted NA-259 comprising of five districts with a population of 950056, thus constituted one of the most populated constituency of the province, with no reason or justification assigned by the ECP for the gross illegality.
8. That ECP has constituted in the Impugned List, NA-260 Nasirabad with a population of only 492609. It is averred that NA-260 has a population difference of 50% less than other constituency of the province, whereas as per Section 20(3) of the Act, variation of population shall not exceed 10% for the same Assembly. Copy of Marked Map of NA- 260 is annexed herewith and marked "D".
9. That the proposed delimitation of NA-259, NA-260 & NA-262 are in sheer violation of the 'principals of delimitation' envisaged in section 20 of the Act, particularly neither the population has been distributed in 'geographically compact area' nor the physical features, existing facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of the instant constituencies.



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10. 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.
11. 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.
12. 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 organized 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.
13. 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.
14. 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 or 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.
15. That the **Principle of Delimitation** have been enumerated under section 20 of the Election Act, 2017, which reproduced as under:



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Section: 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.*

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(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.*

16. 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**
- vii. **Homogeneity,**

17. 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 tent present and the Delimitation Committee shall record reasons if, in exceptional circumstances, the variation has to exceed the limit."

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18. That the Principle of Geographical Compactness of constituencies has been seriously violated and the Constituencies NA 194 and NA 195 stands divided into two parts and are not even contiguous, hence the same are not sustainable and required to be corrected.
19. That keeping in view the principles as enshrined under the Election Act, 2017 read with Rule 10 of the Election Rules, 2017, a plausible proposed suggestion has been prepared for the consideration of this August Commission and the counter proposal has strictly been framed in compliance of principles of delimitation in their entirety, totality and spirit.
20. That suggestion is submitted to avoid gerrymandering in any manner to create a safe constituency for a particular candidate or contestant and rectify the errors done in the Preliminary list of Constituencies. 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 the larger interest of people and to correct the legal defects of constituencies of the district.
21. That 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.
22. That the proposals have been supported with a proposed map showing extents of all Three National Assembly constituencies. The proposed 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 constituencies.

**PROPOSALS BY THE APPLICANT:**

23. That Sibi District, Lehri District and Kachhi District are proposed to be constituted as one constituency as NA-262 Kachhi-cum-Sibi-cum-Lehri with total population of 488577. Copy of the Proposed Map for NA-262 is annexed herewith and marked "E". That the cumulative effect on the population of NA-262 after the aforementioned changes would be as below:

<b>Impugned List</b>		<b>Proposed List</b>	
Kachhi District:	237030	Kachhi District	237030
Jhal Magsi District:	149225	Sibi District	135572
		Lehri District	115975
<b>Total:</b>	<b>386255</b>	<b>Total:</b>	<b>488577</b>



24. That if Sibi District, Lehri District and Kachhi District would be included in NA-262 the remaining District in NA-259 would be Dera Bugti District, Kohlu District and Barkhan District with a total population of 698509. Copy of the Proposed Map for NA- 259 is annexed herewith and marked "F". That the cumulative effect on the population of NA-259 after the aforementioned changes would be as below:

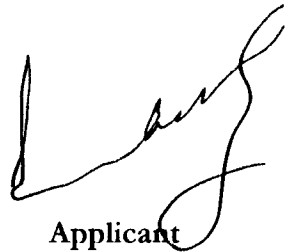
<b>Impugned List</b>		<b>Proposed:</b>	
Dera Bugti District:	312603	Dera Bugti District:	312603
Kohlu District:	214350	Kohlu District:	214350
Barkhan District:	171556	Barkhan District:	171556
Sibi District:	135572		
Lehri District:	115975		
		<hr/>	
		<b>Total:</b>	<b>698509</b>
<hr/>	<b>Total: 950056</b>		

25. That the Jhal Magsi District with a population of 149225 may kindly be assign to NA-260 Nasirabad, which have a population of only 492609 and if both the District are mingled it would constitute NA-260 Nasir Abad-cum-Jhal Magsi with a population 641834. Copy of the Proposed Map for NA-260 is annexed herewith and marked "G". That the cumulative effect on the population of NA-260 after the aforementioned changes would be as below:

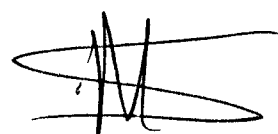
<b>Impugned List</b>		<b>Proposed:</b>	
Only Nasir Abad District:	492609	Nasir Abad District:	492609
		Jhal Magsi District:	149225
		<hr/>	
		<b>Total:</b>	<b>641834</b>

**PRAYER:**

WHEREFORE IN THE PREMISE, it is graciously prayed that the instant representation may kindly be allowed and the proposed changes hereinabove may kindly be incorporated to ensure the delimitation of NA-259, NA-260 and NA-262 is in conformity with the statutory provision and the rules made thereunder and any type of gerrymandering is condemned to ensure 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.

  
Applicant

Through:

  
**Barrister Masroor Shah, MCI Arb**  
Advocate Supreme Court of Pakistan



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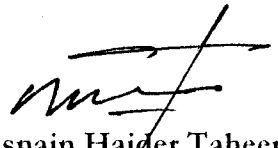
**Hasnain Sikandar**  
Advocate High Court



**Ghulam Nabi Niazi**  
Advocate High Court



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**Verification:**

Verified on oath this 1<sup>st</sup> day of April 2018, at Islamabad that the contents of this Representation set out in paras are true and correct according to the best of my knowledge and that no material information has been concealed from this Honorable Commission.



**Applicant**

