

IN THE ELECTION COMMISSION OF PAKISTAN

*Through
Secretary*

Representation No. _____/2018

*JA 30/03/2018
1-12*

1. Sardar Fateh Muhammad Muhammad Hasani, S/o Haji Gul Muhammad Hasni, Dalbadin District Chagai.
2. Mir Majeed-ur-Rehman S/o Mir Dos Muhammad Hasni, Asfandabad News Jangian Washuk

Applicants / petitioners

REPRESENTATION CUM OBJECTIONS IN TERMS OF SECTION 21 OF THE ELECTION ACT, 2017 R/W RULES 12 OF ELECTION RULES, 2017 FURTHER R/W ARTICLE 218 (3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.

The applicants submits as under:-

1. That applicant / petitioner No.1 is a registered voter of Killi Khadai Raheem (south) District Chagai Statistic Block code 455950103 Silsla . No 414 now part of NA-268 (Chagai- Kalat-Mastung-Nushki-Sikandarabad) and applicant / petitioner No.2 is registered voter of District Washuk sub Tehsil Gari Shahoo Tehsil Jhangian Statistic Block Code No. 479090101, Silsla No. 100 now part of NA-270 (Awaran-Kharan-Panjgur-Washuk).
2. That its worth mentioning here that applicant / petitioner No.1 namely Sardar Fateh Muhammad Muhammad Hasani was twice elected as Member National Assembly of Pakistan, for the periods 1985 to 1990 and again 2004 to 2008 he remained Federal Minister for

Communication , Federal Minister for Production and Advisor to the Prime Minister with the status of Federal Minister. He also remained Senator from Balochistan from 2012 to 2018. Similarly applicant / petitioner No.2 remained a member Provincial Assembly and a Provincial Minister from 2013 to 2018. He also remain District Nazim for two terms i.e 2001 -2005 and 2005-2009.

3. That both the applicants / petitioners being senior and seasoned politicians / public representatives of the respective area have a right to make representation regarding fixing, marking of, describing the limits of boundary lines which is called delimitation of their area.
4. That the population of Constituency NA-268 has been shown approximately 11, lacs , as per prescribed criteria required population for the National Assembly constituency is 771546, whereas the National Assembly NA-268 has been proposed having the population of 1093546.
5. That as per the preliminary delimitation of NA -268 it is to be noted that Shaheed Sikandarabad is faraway and the distance between Chaghai to Shaheed Sikandarabad is more than 1200 KM from Chaghai towards Shaheed Siokandarabad people will have to cross Queta another constituency than move to Sikandarabad. It is very difficult / hard and long journey to look-after the interest and welfare of the voters according to their necessities. There are heavy ranges of mountains , Raini Rivers on the way to Sikandarabad, Chagai , Kalat ,

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Mastung and Nushki and could not meet the boundaries with each other contrary to the public convenient.

6. That the preliminary / proposed new NA-268 constituency has never been remained a single Administrative Unit because Chagai , Nushki falls under Jurisdiction of Quetta Division, whereas Mastung and Kalat falls under the administrative Jurisdiction of Kalat Division . Similarly Sikandarabad falls under the administrative jurisdiction of Khuzdar Division. Thus , the interest of the voters of the proposed constituency NA 268 conflicts with each other and is against the principles laid down under section 20 of the Elections Act, 2017 being not practicable. Beside this the five Districts are not adjacent / neighboring each other and geographically their boundaries not interlinked.
7. Facts that due to farflung area voters / general public neither interacts with the public representatives of the proposed constituency nor representatives do so.
8. That formation of proposed constituency No-268 is not based on better means of communication, public convenience and easy approach. As the Districts are not interlinked communication wise comparatively have very poor and rear links.
9. That it is important to note and understand that tribes that inhabit the Districts constituting NA -268 which is as under
- i. **Chagai** Main Tribes are :- Sasoli-Muhammadzai-Sanjrani-Notezai-Muhammad Hasni-Samalani-Raki etc

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- ii. **Noshki** Main Tribe are :- Mangal-Muhammad Hasni-Badani-Jamaldini-Sasoli-Samalani etc
- iii. **Mastung** Main Tribes are :- Deware-Bangulzai-Shahwani-Jattak-Kurd-Muhammadshahi-Langoe etc
- iv. **Kalat** Main Tribes are :- Ahmedzai-Lango-Qambrani-Bangulzai-Kurd-Lehri-Zehri etc.
- v. **Shaheed Sikandarabad** Main Tribes are:- Lehri-Zehri-Mangal-Jattak etc.

10. That in order to a better understanding of the issue the Tribes inhabiting the two districts of Washuk and Kharan are giving as under:-

- i. **Washuk** Main Tribes are:- Muhammad Hasni-Reki-Essazai-Sasoli etc.
- ii. **Kharan** Main Tribes are :- Badani-Muhammad Hasni-Nousharwani-Mangal etc.

11. That It is to be noted that the tribes inhabiting the Districts of Chagai and Noshki are almost the same and none of these tribes inhabit the Districts of Mastung Kalat and Sikandarabad, whereas the same tribes dwell/ inhabit the adjoining districts of Washuk and Kharan as all these four districts are inhabited by 90% of the same ethnic tribes whereas these tribes almost do not exist in the district of Mastung-Kalat and Shaheed Sikandarabad.

12. That this major deviation and drastic departure from the guiding principles of delimitation has rendered the preliminary delimited NA-

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268 , NA-270 as against the law and Rules on the following amongst other:-

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GROUND

- a. That it is the settled law that the legality and correctness of delimitation of a constituency is to be seen and examined on the touchstone of the principle of delimitation as provided under section 20 of Election Act, 2017 R/W Rule 10 of Election Rules 2017 for the sake of convenience of section 20 of Election Act, 2017 and Rule 10 of Election Rules 2017 are reproduced hereunder:-

“ 20. Principles of delimitation”, --- (1) All constituencies for general seats shall , as for 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 for as possible, variation in population of constituencies of an Assembly of a local Government shall not ordinarily exceed ten percent.

(4). If the limit of ten percent under subsection (3) is exceeded in a exceptional case, the commission shall record reasons thereof in the delimitation order.

Rules 10 of Election Rules 2017

“ 10. Draft proposals for delimitation of constituencies”---(1). A delimitation committee constituted under Rule 9 shall , immediately after its constitution, proceed to obtain from Pakistan Bureau of Statistics population data of last c census officially

published along with relevant maps showing therein census charges, census circles and census blocks along with description, relating to 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 statistic, 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 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 a 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 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 the 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 reason it, in exceptional circumstances, the variation has to exceed the limit.

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- (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.
- (7). After the draft proposals for delimitation or 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 committee.

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- b. That the proposed / preliminary delimitation of the mentioned constituencies has been done in violation of the legal principle i.e “*Supply of Casus Omissus*”: which provides that clear provision of law cannot be allowed to be brushed aside when the policy is spelled out by the statute / Law. In the instant delimitation the policy under which quota per seat in the National Assembly from the province of Balochistan has been determined by dividing the entire population of the province on the number of seats as available under Article 51 (3) of the constitution of Islamic Republic of Pakistan, the same comes to as under:-

Province / Area / Agency	Population	No. of seats	Quota per seat
1	2	3	4
Balochistan	12,334,739	16	$12,334,739 \div 16 = 771,546$

Hence the average population quota of a single National Assembly seat comes to a population of 771,546.

- c. That on the said ratio the seats of National Assembly NA-268, NA-270 and NA-260, 261 & 262 were to be determined and was done according to the following table.

Area/ Agency/ Districts	Population as per 2017 census	Shares and seats in respect of each district		
		National Assembly		
		Shares		Number of seats
Kalat	211,480	.27	1.40	1
Shaheed Sikandarabad	200,752	.26		
Mastung	266,461	.35		
Chagai	226,008	.29		
Noshki	178,796	.23		
Kharan	156,152	.20	1.00	1
Washuk	176,206	.23		
Awaran	122,011	.16		
Panjgur	316,385	.41		
Nasirabad	492,604	.67		1
Sohbatpur	200,538	.26	.93	1
Jaffarabad	513,813	.67		
Kachi	237,030	.31	0.50	1
Jhalmagsi	149,225	.19		

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It is to be noted that on the basis of above said formula the share of NA-268 (Kalat-Shaheed Sikandarabad-Mastung-Chagai-Noshki) comes to 1.40 with a total population of 10,93,546 , the share of NA-270 (Kharan-Washuk-Awaran-Puanjgor) comes to 1.00 with the total population of 7,70,754, the share of NA-260 Nasirabad comes to 0.64 with the total population of 492,604, the share of NA-261 Jaffarabad-Sohbatpur comes to 0.93 with the total population of 7,14,351 and that of NA-262 Kachi-Jhalmagsi comes to 0.50 with the total Population of 3,86,255. A bear perusal of the above

discriminatorily wrong use of policy and formula makes the delimitation as not sustainable.

- d. That the Preliminary delimitation can be termed as Gerry Mandering, Gerry Mandering is a practice in the process of settling electoral districts / constituencies with the attempt to established a political advantage of a particular group or party by manipulating the district Boundaries etc.
- e. That the preliminary delimitation process has been carried out in contravention of the basic principles of delimitation i.e Traditional boundaries, Physical characteristics and on lines drawn based on social, political and cultural context of the areas.
- f. That the instant delimitation is not carried out in accordance with the principles of Delimitation as provided U/s 20 of Election Act, 2017, whereby it is provided that delimitation has to be done having regard to distribution of population in geographically compete 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.
- g. That the whole process of delimitation has been carried out by ignoring the settled principle of law that what is prescribed to be done in a particular manner has to be done the same way or not at all.
- h. That delimitation is a serious business and cannot be allowed to be done in a slipshod manner or on the spur of moment but requires hectic and strenuous efforts.
- i. That it is settled principles that a proviso attached to a section cannot be read in isolation. Powers given in the proviso cannot be uncontrolled or independent to the original section.

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- h. That the applicants / petitioners reserve the right to argue any other ground during the hearing of the representation.

For whatever lawful and factual points have been stated above , it is proposed that the delimitation process of the said constituencies be revisited and delimited on the basis of fallowing proposal:-

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PROPOSAL

A. Since the entire population of Nasirabad Division comprising (NA 260 –NA-261 & NA-262) comes to 15,93,215 whereas according to the policy and Rules each NA seat is allotted on a population of 771,546 which according to the prescribed formula suggest that the three seats of Nasirabad can be delimited and converted into two seats as under :-

- i. Nasirabad with a population of 492,604 and a share of .64 cum Jhalmagsi with the population of 1,49,225 with a share of 0.19 cum Kachi with a population of 2,37,030 and a share of 0.31. The total population of these three adjoining districts comes to 8,78,859 and the share comes to 1.14 hence squarely and lawfully only one seat can be given to them.
- ii. Jaffarabad with a population of 5,13,813 and a share of 0.67 cum Sohbatpur with a population of 2,00,538 and a share of 0.26. The total population of these two districts comes to 7,14,351 with the share of 0.93 hence these two districts according to the Law and Rules are fit to be given one NA seat

This delimitation process would spare one National Assembly seat which can be given according to the following proposal.

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- iii. Mastung with a total population of 2,66,461 and a share of 0.35 cum Kalat with the total population of 2,11,480 with the share of 0.27 cum Sikandarabad with a population of 2,00,752 with the share of 0.26. The total population of Kalat cum Mastung cum Sikandarabad comes to 6,78,693 with the total share of 0.88. hence they also qualify to be allotted one National Assembly Seat accordingly.
- iv. Chagai with a total population of 2,26,008 with share of 0.29 cum Noshki with the population of 1,78,796 with the share of 0.23 cum Washuk with the population of 1,76,206 and share of 0.23 cum Kharan with the population of 1,56,152 with the share of 0.20. The total population of Noshki cum Chagai cum Washuk cum Kharan comes to 7,37,162 with the share of 0.95 hence they also qualify to be allotted one National Assembly Seat.
- v. Panjgor with a total population of 3,16,385 with a share of 0.41 cum Awaran with the population of 1,22,011 with the share of 0.16 cum PB-45 Kech-1 with the population of 2,33,765 and the share of 0.41. The total population of Panjgor cum Awaran Cum PB-45 Kech-I comes to 6,72,161 with the share of 0.87. Hence they also qualify to be allotted one National Assembly seat.

Copies of all preliminary delimited constituencies and proposed constituencies are annexed with the representation.

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PRAYER

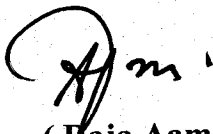
Keeping in view the above facts, circumstances, law points and proposals it is respectfully prayed that the preliminary delimitation may be revised as per the proposals in the interest of justice fair-play and equity.

Any other relief has deem fit and proper in the circumstances of the matter.

Applicants / petitioners

1. **Sardar Fatch Muhammad Muhammad. Hasani,**
S/o Haji Gul Muhammad Hasni , Dalbadin District Chagai.
2. **Mir Majeed-ur-Rehman** S/o Mir Dos Muhammad Hasni, Asfandabad News Jangian Washuk

Through:-


(Raja Aamir Abbas)
Advocate Supreme Court of Pakistan

Dated:- 28-03-2018.