

Handwritten signature and date: 11/05/2018

**BEFORE THE SECRETARY, ELECTION COMMISSION OF PAKISTAN,
ISLAMABAD**

1. Siraj Ud Din son of Mashooq Khan r/o Post Office Inayat Kalay, Nawakli, Tehsil Khar, District Bajur Agency.
2. Gul Zada s/o Gul Marjan r/o DamaDom Sultan Bek, Post Office Inayat Kalay, tehsil Mamund, District Bajur Agency.

Representation/ Objection under section 21(3) of the Elections Act, 2017 read with Rule 12 of the Election Rules 2017 and other enabling provisions of law against the impugned Preliminary Report/List of constituencies regarding NA-52 and NA 53, Islamabad.

Respectfully Sheweth;

The petitioner/ undersigned seek indulgence of this Honorable Commission against the Preliminary List of Constituencies published by the Election Commission by which it has wrongly delimited the constituencies of NA-52 and NA-53, inter alia, on the following Facts and Grounds;

FACTS:

1. That the petitioner No. 1 is enrolled and entitled to vote in NA 41, District Bajur Agency while the Petitioner No. 2 is entitled to vote in NA 42, District Bajur Agency, District Islamabad and also contesting the general elections as candidate for Member National Assembly.

(Copy of the Voter Certificate of the Petitioner is attached and marked as Annexure B).

2. That the Honorable Commission was pleased to publish the preliminary report and the list of constituencies, in the official gazette, in respect of National Assembly and the Provincial Assemblies. **(Annexure-A).**
3. That according to the impugned Preliminary List of Constituencies (List), the detail of both the constituencies is as under;

NA 40 Bajur Agency- I Tribal Area-I

Extent of the Constituency;

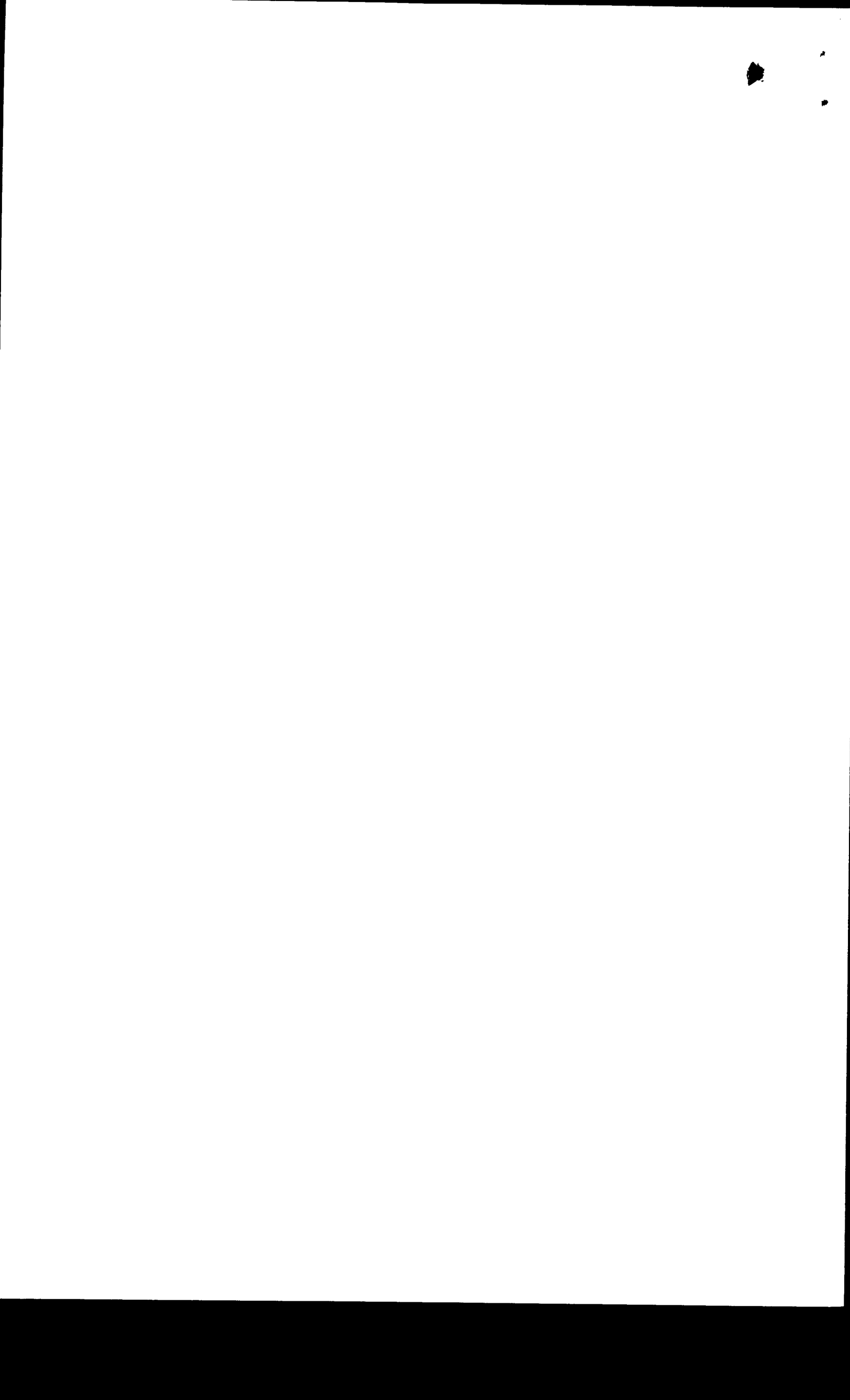
- a. Salarzai Tehsil excluding Mandal and Shamoza sections of Salarzai tehsil of Bajaur Agency.
- b. Utman Khel Tehsil of Bajur Agency
- c. Mamund section-I part of Mamund Tehsil of Bajur Agency

NA 41, Bajur Agency-II Tribal Area-II

- a. Barang Tehsil
- b. Khar Tehsil
- c. Mandal and Shamoza sections of Salarzai Tehsil

NA- 42, Bajur Agency-III Tribal Area -III

- a. Mamund Tehsil excluding Mamund section-I (part)
- b. Nawagai Tehsil
- c. Bar Chamarkand Tehsil



9/12/09/2018

Draft list of constituencies in which the boundaries are proposed

4. That the Delimitation Officer/s have wrongly separated the following areas of Mamund section-I Part in NA-42 and wrongly incorporated in NA-40 which is being challenged by the Petitioners by means of this Representation;

- | | | |
|-------|---------------------|---|
| i. | DamaDola NO. 1 | 081020101
081020102
081020103
081020104 |
| ii. | DamaDola No.2 | 081020105
081020106 |
| iii. | DamaDola No. 3 | |
| iv. | DamaDola No. 4 | |
| v. | DamaDola No. 5 | |
| vi. | DamaDola No. 6 | |
| vii. | DamaDola No. 7 | |
| viii. | Inam Khawaro Changa | 081020109
081020110 |
| ix. | Lashako Haji Khan | 081020113 |
| x. | Mito Changai | 081020107
081020108 |
| xi. | Sessai | 081020111 |
| xii. | Tanai | 081020112 |
| xiii. | Chingai | 081020514
081020515
081020516
081020517
081020518 |

5. That the above mentioned areas belong to the Mamund section of Tarkani Tribe. The population as well as voters of these areas are associated with tehsil Mahmud and facilities of communication and convenience of the people of these areas is also linked with Tehsil Mahmud which have wrongly been excluded from NA-42. These areas are geographically compact with NA-42 and if these areas are incorporated in NA-42, there would be no bifurcation in any of the administrative unit i.e Union Council or Tehsil Headquarter.
6. Similarly, the areas of Tehsil Chamrkand and Tehsil Nawagai were wrongly incorporated in NA-42. Geographically these areas are associated with NA 41 and should be incorporated in NA 41 not in NA 42. The areas of Tehsil Chamrkand and Tehsil Nawagai are located on a distance of 35 kilometers from NA 42 but bothe tehsils are geographically attachws with NA 41 and the tribes and populations is also the same.

AA/05/04/2018

GROUNDS

- i. That the delimitation does not reflect the true compliance of the principles of delimitation enunciated by the law and the Dicta laid down by the Superior Courts of the Country ensuing the impugned List/Notification illegal, unconstitutional, arbitrary, unlawful, void ab-initio having no legal effect.
- ii. That process of delimitation of constituencies for an election is one of the important steps to organize and conduct elections because it was only with reference to a constituency that a candidate would exercise his right/option to contest and a voter would exercise his right to vote. That Delimitation of constituencies was part of the process of organizing and holding elections honestly, justly and fairly.
- iii. That the Election Commission was bound to follow the principles of delimitation i.e. distribution of population in geographically compact areas, territorial unity, facilities of communication and public convenience enshrined in Section 20 of the Elections Act, 2017 and Rule 10 and 12 of the Election Rules, 2017 to ensure homogeneity in the creation of constituencies. The Commission was obligated to implement the provisions, including principles of equality of the vote, effective remedy, restrictions for non-discrimination, transparency and public participation and permitted derogations but he shoddily failed to do so.
- iv. That the legal requirement of distribution of population, geographically compact areas, facilitating communication and roads approached for the public convenience has been overlooked in the process of delimitation of the above mentioned constituencies.
- v. That the variation in (population limit of) constituencies is violative of the principle of 'one man one vote' and equality of representation which is fully entrenched in our country in view of Articles 51(5) and 25 of the Constitution. The delimitation of a constituency has to be read down to ensure uniformity in population of Union Councils, failing which it would be violative of Article 25 of the Constitution. The impugned list is in violation of the principle of 'one man one vote' and is void and against Articles 25 and 51(5) of the Constitution.
- vi. That in essence, the exercise of delimitation is cumbersome and requires proper analysis, assessment and application of mind from many facts. The Election Commission was not justified to carry out the exercise of delimitation in a manner which was premeditated, fanciful and nothing but a smoke-screen, violating the elementary principle of structuring the discretion. As such the entire exercise of delimitation carried out in the said areas of both the constituencies is

unconstitutional and void while undertaking the process of delimitation and the discretion exercised by him besides being unstructured was arbitrary which has the effect of eroding the transparency and fairness of the election process as mandated under Article 218(3) of the Constitution.
- vii. That the impugned list is prepared in a fanciful and haphazard manner, is inadequate, void and is not tenable in law due to disparity in the population as well as geographical criteria and is liable to be modified to dispense political justice.

2/02/04/2018

PRAYER:

The Petitioner, therefore, respectfully pray that this Honorable Commission be pleased to graciously set aside the impugned Preliminary List and modify/alter it as per the following proposal;

- i. The areas mentioned in (Para 4 of the Facts) may kindly be incorporated in NA 42.
- ii. The areas mentioned in Para 6 (of the Facts) may kindly be incorporated in NA 41.

Sinj
Petitioners 

Through Counsel

Farrukh Shahzad Dall
Advocate High Court
Election Commission of Pakistan
Federal Service Tribunal
Islamabad
0300-6007663 

