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BEFORE THE HONORABLE ELECTION COMMISSION OF PAKISTAN

REPRESENTATION NO. _____ OF 2018

MR. WAQAR AHMED, SON OF, RAJA MUMTAZ ALI, RESIDENT OF, PHULGRAN, TEHSIL AND DISTRICT, ISLAMABAD, BEARING CNIC No. 61101-0583145-5.

APPLICANT

**REPRESENTATION UNDER SECTION 21 OF THE ELECTION ACT, 2017
(THE "ACT") READ WITH RULE 11/12 OF THE ELECTION RULES, 2017
(THE "RULES") AND ALL ENABLING PROVISIONS OF THE LAW AGAINST
(I) DRAFT LIST OF DELIMITATION OF CONSTITUENCIES, PARTICULARLY
IN RESPECT OF THE NATIONAL ASSEMBLY SEAT OF NA-53, ICT-II AND
(II) THE ELECTION COMMISSION OF PAKISTAN'S REPORT PUBLISHED
VIDE NOTIFICATION DATED 05-03-2018**

RESPECTFULLY SHEWETH;

- That the basic principle is that a Patwar Circle cannot be broken yet that is exactly what has been done via the Proposed Delimitation of the Federal Capital Territory, in as much as that Patwar Circle of Farash, which comprised of Chak Bira Singh, Chak Shehzad, Farash, Lakhwal, Panjgran, Paratal, Sik Nal, Tamma, has been included in NA 52, ICT-II, however, the two Mouzas Chak Shehzad and Lakhwal have been excluded and they have been included in NA-53, ICT-II. The said exercise is entirely illegal and can be the sole basis of setting aside the Proposed Delimitations with respect to the Federal Capital Territory.

FACTS AND GROUNDS;

1. That the Applicant is a voter member of Phulgran, Islamabad Capital Territory and is enrolled as a voter on the electoral roll of the National Assembly Seat now numbered as per proposed delimitation as NA-53-ICT-II.

2. That this Honorable Commission got published the Preliminary Proposals for Delimitation of National and Provincial Assembly constituencies in the form of Form 5 (the "PRELIMINARY PROPOSAL") along with the ECP's Report dated 05-03-2018 (the "REPORT") for information of the general public as required under Section 21 of the Act read with Rule 11 of the Rules.

3. That, however, the district-wise maps of the proposed constituencies of the National and Provincial Assemblies (based on the Preliminary Proposal and the ECP's Report) were updated on the ECP's website after a period of Ten days i.e. on 15-03-2018. The map for the National Assembly constituencies of ICT were also up-loaded on the ECP's website on the same day. ("MAPS").

4. That the limitation period prescribed under Section 21 (2) read with Rule 12 (1) of the Rules is a period of Thirty days from the date of the publication of the Preliminary Proposal and the ECP's Report under the aforesaid provisions of law. The said period expires on 03-02-2018; hence the instant Representation in the form of a Memorandum is being filed within the prescribed limitation period.

5. That as per the Notification dated 08-03-2013 published in the official gazette, the ECP notified the final list of constituencies and as such the Islamabad Capital Territory was awarded two National Assembly seats bearing Nos. NA-48 Islamabad-I and NA-49 Islamabad II. These two seats were issued in favor of the Islamabad Capital Territory since the scheme of Delimitation of 2002 and were also retained in 2007.

6. That the Applicant was enrolled as a voter on the electoral roll of NA-49 Islamabad I, under the scheme of Delimitation of 2013.

7. That vide ECP's notification dated 05-03-2018, the number of National Assembly Seats for Islamabad Capital Territory has been increased from Two (02) seats to Three (03) seats bearing Nos. NA 52-ICT-I, NA 53-ICT-II and NA 54-ICT-III.

8. That the Maps for the Three National Assembly Seats / constituencies were also uploaded by the ECP on 15-03-2018. (COPIES ARE ATTACHED).

9. That it is upon perusal of the said Preliminary Proposals, ECP's Report and delimitation Maps issued by the ECP for the ICT (collectively referred to as Scheme of Delimitation, 2018), that it dawned upon the Applicant that the same is bound to have numerous repercussions upon him, his community and the rest of the entire constituency.

10. That the Applicant is severely aggrieved of the Scheme of Delimitation, 2018 on various accounts, one being that while preparing the fresh delimitation of constituencies of ICT for National Assembly, the relevant Committee failed to adhere to the fundamental and mandatory principles and procedures enshrined in the Act and Rules, in letter and spirit, hence the dire need to revisit the same. Furthermore the Proposed Delimitation *prima facie* appears to be in violation of conflict with Articles 51 of the Constitution.

11. That the Proposed Delimitation is discriminatory qua distribution of population in the three constituencies. More so, the population specified for NA 53 ICT-1 is 670683, whereas the other two constituencies bear the numbers of 700744 and 630152.

12. That the irregular distribution of the population amongst the three constituencies primarily seems to be on account of the surprisingly variant delimitation of the three constituencies proposed by the Delimitation Committee, wherein three Patwar Circles namely PC Jandala, PC Kuri and PC Pind Begwal have been included in NA 52, ICT-1 as per the proposed delimitation, without considering the fact that one seat having been allocated to the ICT, denotes the distribution of PCs, however, the same is to be done in compliance with the principles of geographic compactness and as such the same should have been included in NA, 53, ICT-II.

13. That it is true that earlier the said PCs fell within the same National Assembly seat, however, it is also to be considered that at the said time the PCs in large numbers fell within the same constituency and not otherwise, which is no longer the position as per the Proposed Delimitation. The three Patwar Circles namely PC Jandala, PC Kuri and PC Pind Begwal, keeping in conformity with the principles of distribution of population in geographically compact areas should have been excluded from NA52, ICT-1 and should instead have been included in NA53, ICT-II.

14. That a bare perusal of the map of the constituency would reflect that the three Patwar Circles namely PC Jandala, PC Kuri and PC Pind Begwal fall inconveniently in the constituency of NA, 52 ICT-1 having better facilities of communication and public convenience features aligned with the constituency of NA, 53-ICT-II.

15. That instead of diverting the line emanating from Rewat in NA 52, ICT-1 as per the proposed limitation and placing it quite awkwardly upward into a different area i.e. Khana Dak to Chatta Bakhtawar, onward to Mohra Noor, Rakh Bani Gala ending at Mera Begwal, with different access routes, could have been easily and more conveniently, keeping in context with homogeneity and much more plausibly diverted from Khana Dak and taken straight through to Rakh Tumair via Lehtrar Road, thus ensuring the compactness of the constituency, thus the compact regions / mouzas of PC Pind Begwal, PC Jandala and PC Kuri would naturally stand aligned with NA-53, ICT-II, as they naturally should instead of NA 52, ICT-I.

16. That the Proposed Delimitation Committee fails to take into account the principles as enshrined and encapsulated in Section 20 of the Act which provide for taking due regard of 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.

17. That the concept of physical features of the area proposed to be demarcated seemed to have escaped notice of the Delimitation Committee since a bare perusal of the Map reveals the uncomfortable position in which the three Patwar Circles as aforementioned have been placed in the NA, 52-ICT-I. These three PCs seem to have been forced onto the constituency of NA, 52-ICT-I, simply to reach the bench figure of 700, 000, without, taking into account the practical repercussions / consequences that are to stem from such an exercise.

18. That the ECP having regard to the principles as averred above and keeping in lieu the concepts adverted to in law of choosing the northern point to initiate the process of delimitation and then to proceed with in a clockwise or zigzag manner. ECP was required to delimit the entire National Assembly constituencies in their entirety, having regard, inter alia, 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.

19. That the ECP was required to give detailed reasons and the basis on which the constituencies have been proposed to be delimited in the manner that they have been, however, a plain perusal of the Report reveals that no such reasons have been accorded to the delimitation of the constituencies of the ICT / Federal Capital. The only fact visible from Paragraph 26 of the Report is to the effect that on account of increase in population, three seats have been allocated. Though there is no dispute with respect to an extra allocation of seat and the rise in population, yet that is solely and exclusively a reason for allocation of an extra seat but the entire report is bereft of the reasons for choosing the manner of delimitation as has been proposed.

20. That furthermore, the proposed delimitation includes two charges namely, Census Charge 11 and 12 in NA, 53, ICT-II when the same should naturally be excluded from this constituency and added in NA 54, ICT-III, on the same principles averred above and not reiterated for the sake of brevity.

21. That the Applicant most bona fide proposes that the three Patwar Circles namely PC Jandala, PC Kuri and PC Pind Begwal be excluded from the National Assembly constituency of NA 52, ICT-I and except be included in NA, 53, ICT-II, since the three aforementioned Patwar Circles are linked to Simli Dam Road thus connecting to the Bara Kahu area. The present proposed delimitation aligns the said Patwar Circles to Lehtrar Raod, which has no communication / connectivity with. The Proposed Delimitation by the Applicant would assist in bringing the Scheme of Delimitation, 2018 in relation to the Federal Capital Territory within the conforming principles of geographic compactness and physical features of the area along with facilities of communication and public convenience.

22. That the Applicant also proposes that the dividing line between the two constituencies of NA 53 and NA 54, ICT-II and III respectively, should be fixed as 09th Avenue, which is a naturally defined administrative line and the same would be easily achievable by excluding Charges No. 11 and 12 from NA-53, ICT-II and included in NA54, ICT-III, with the exception of I-8 Sector, in order to fully encapsulate the purpose of carrying out the delimitations in line with 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. Lastly the Patwar Circle be kept intact and the two Mouzas of Chak Shehzad and Lakhwal falling in PC Farash be included in NA-52, ICT-I along with PC Farash and as such be taken out from NA 53, ICT-II.

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23. That the Proposal of the Delimitations as presented by the Applicant has been highlighted in the Map appended, herewith. For the convenience of this Honorable Commission, the constituencies have been colored, with variance, clearly defining the proposed delimitations as proposed by the Applicant. (COPIES ARE ATTACHED).

PRAYER: -

In lieu of the averments made above, it is most respectfully prayed that this Honorable Commission may graciously be pleased to accept the Representation of the Applicant and may kindly accept his humble proposal for delimitation of the National Assembly seats of the Federal Capital Territory, in the manner as proposed in Paragraphs No. 21 and 22 and issue directions for appropriate modifications, in the interests of justice.

THROUGH COUNSEL

APPLICANT


**TAIMOOR ASLAM KHAN
ADVOCATE HIGH COURT**

ISLAMABAD

03-04-2018

CERTIFICATE: -

It is certified on oath on the date and place mentioned above that the contents of the accompanying Representation are true and correct to the best of my knowledge and belief and information supplied and this is the first representation filed against the Proposed Delimitations by me and nothing has been kept concealed therein.

DEPONENT