

(7)

BEFORE ELECTION COMMISSION OF PAKISTAN
THROUGH ITS SECRETARY, CONSTITUTION AVENUE

ISLAMABAD.

REPRESENTATION No. _____/2018
(Against Draft Delimitation of Constituencies
PB-I Sherani district & PB-II Zhob district).

1
10/03/2018

Sheikh Muhammad Alam s/o Sheikh Fateh Khan,
Chairman Shaheed Sheikh Muhammad Ayoub,
Educational & Development Society,
R/o H.No.137/E Jail Road, Zhob.

.... PETITIONER

**REPRESENTATION IN FORM OF MEMORANDUM
UNDER RULE 12 OF ELECTION RULES 2017 AGAINST
DELIMITATION OF CONSTITUENCIES PB-1 SHERANI
DISTRICT AND PB-2 ZHOB DISTRICT PUBLISHED BY
ELECTION COMMISSION ON RECOMMENDATION
OF DELIMITATION COMMITTEE ON 05-03-2018.**

It is respectfully stated as under:-

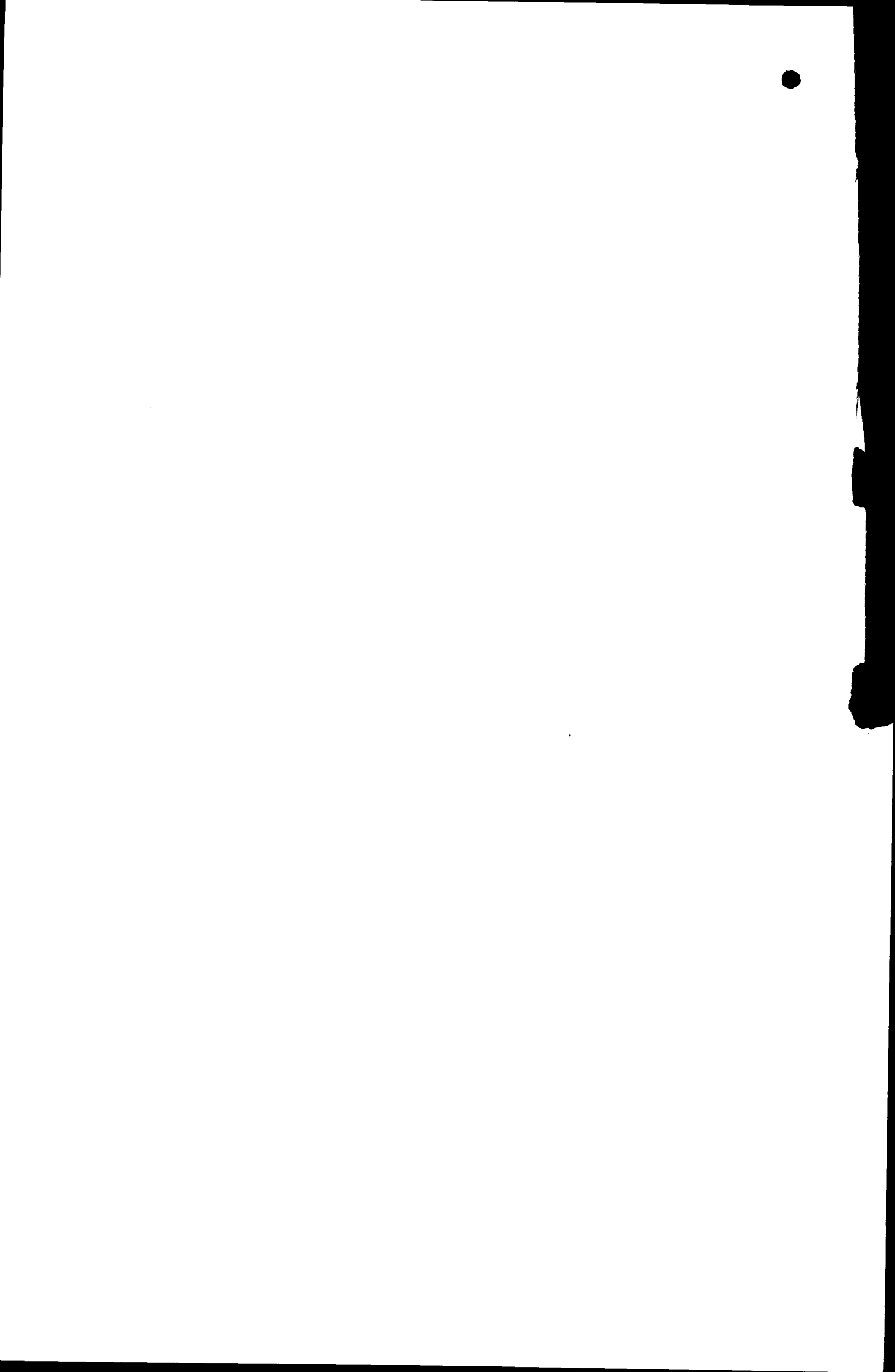
1. That petitioner is a registered voter in Zhob District (PB-2 Zhob) and therefore is entitled to make REPRESENTATION to the Commission.
2. That in retrospect, it would be proper to give short resume of Delimitation of District Zhob since 2002, which consisted of two (02) seats as under:-

PB-18 – Zhob-I comprising:

- i) Shirani Sub-Division,
- ii) Municipal Committee Zhob,
- iii) Zhob Cantonment,
- iv) Patwar Circle Gastoi of Zhob Sub-Division.

PB-19 – Zhob-II comprising:

- i) Kakar Khurasan Sub-Division,
- ii) Zhob Sub-division excluding Gastoi Patwar Circle.



Objections were invited and matter came up before Member Election Commission Pakistan for Balochistan on 27-05-2002.

After hearing objections, the said Member reconstituted constituencies of Zhob District as under:-

PB-18 (ZHOB-I).

- i) Shirani Sub Division;
- ii) Zhob Cantt;
- iii) Zhob Municipal Committee; and
- iv) P.C. Gastoi of Zhob Sub Division.

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PB-19 (ZHOB-II).

- i) Kakar Khurasan Sub Division;
- ii) Zhob Sub Division excluding Gastoi P.C.

Copy is filed as **Annexure-A.**

3. That aggrieved form above order of reconstitution, Petition (CP) 258/2002 was filed in Balochistan High Court which was partly allowed by way of Remand, vide order dated 02-07-2002 in following terms:-

“For reasons to be recorded separately, the petition is partly accepted and is remanded to the Election Commission. Election Commission to dispose of the matter expeditiously as early as possible”.

Copy of order is **Annexure-B.**

4. That eventually, vide Gazette of Pakistan of 2002, aforesaid constituencies of Zhob District PB-18 Zhob-I and PB-19 Zhob-II were reconstituted as under:-

PB-18 (ZHOB-I).

- (a) Shirani Sub-Division;
- (b) Under-mentioned Patwar Circles of Zhob Sub-Division:--
 - (i) Abdullah Zai,
 - (ii) Babar, and
 - (iii) Murgha Kib Zai

PB-19 (ZHOB-II).

- (a) Zhob Town.
- (b) Zhob Cantonment.



- (c) (i) Sardar Mandokhel Patwar Circle,
(ii) Gastoi Patwar Circle of Zhob:
Sub-Division, and
(d) Kakar Khurasan Sub-Division;
of Zhob District.

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10/09/2018

Reconstituted constituencies were not further challenged from any quarter.

Relevant copy of Gazette is appended as Annexure-C.

4-A. It may be submitted that National Elections in the year 2002, 2008 and 2013 were held on basis of reconstituted constituencies PB-18 (ZHOB-I) and PB-19 (ZHOB-II) as per aforesaid gazette.

5. That on 02.10.2017, a legislation called: ELECTION ACT 2017 (Act No.XXXIII of 2017) was passed, important features whereof may be referred:-

- A) (a) By section 241, following laws were repealed:
- i) Electoral Act 1974 (Act No.XXI of 1974);
 - ii) The delimitation of constituencies Act 1974 (Act NoXXXIV of 1974);
 - iii) The Senate (Election) Act 1975 (Act No.LI of 1975);
 - iv) The Representation of People Act 1976 (Act No.XXXV of 1976);
 - v) Election Commission Order 2002 (Chief Executive's Order No.7 of 2002).
 - vi) Political Parties Order 2002 (Chief Executive Order No.18 of 2002); and
 - vii) The Allocation of Symbols Order 2002.
- B) Sections-19 and 20 of Election Act, 1917 dealt with;
- (i) Delimitation of Constituencies, and
 - (ii) Principles of Delimitation: and are reproduced:

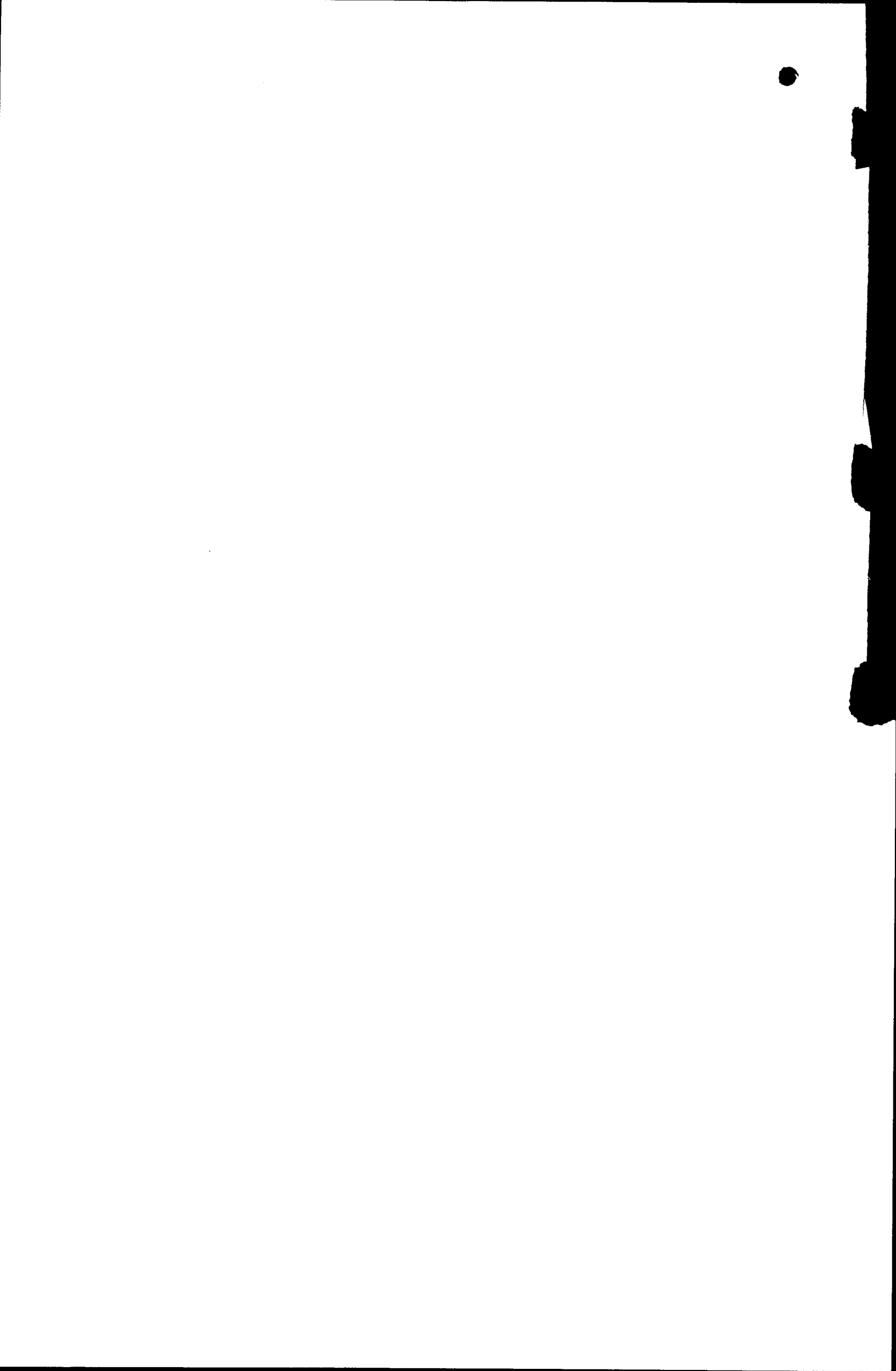
"19.Delimitation of constituencies.—

(1) For the purpose of election to

the National Assembly, the Commission shall divide---

(a) Each Province into as many separate territorial constituencies as the number of general seats allocated to that Province in Article 51; and

(b) Islamabad Capital Territory and the Federally Administered Tribal Areas into as many separate territorial constituencies as the number of general seats respectively allocated to the Islamabad Capital Territory and the Federally Administered Tribal Areas in Article 51.



9/05/07/2018 (4)

- (2) A Province shall be a single constituency for all seats reserved for women which are allocated to each Province in Article 51.
- (3) The constituency for all seats reserved for non-Muslims in the National Assembly shall be the whole country.
- (4) **For the purpose of election in Provincial Assemblies, the Commission shall divide each province into as many separate territorial constituencies as the number of general seats specified in Article 106.**
- (5) The constituencies for the seats reserved for women and non-Muslims in the Provincial assemblies shall be such that each Province forms one constituency with as many such seats as are allocated to that Province in Article 106.
- (6) For the purpose of election to the local governments, the Commission shall carry out delimitation with due regard to the applicable local government law.

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.

* *Physical geography:*

The branch of geography concerned with the study of the earth's natural features, e.g. mountain ranges, ocean currents etc.

CHAMBERS 21st Century Dictionary.

** *Cognate:*

- 1. *Descended from or related to a common ancestor.*
- 2. *Said of words or languages derived from the same original form.*
- 3. *related, akin CHAMBERS ibid.*

- (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.

HA/03/09/2019 (5)

(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”.

6. That, in pursuance of Election Act, Rules called: The Election Rules 2017 were framed on 09-11-2017, Chapter-III whereof provided for Delimitation of Constituencies of Assemblies where-under the Commission had to carry out Delimitation of Constituencies of general seats in an Assembly in accordance with Section-19 and the procedure laid down in Chapter-III on the basis of population in accordance with last preceding census officially published.

It may here be submitted that there is consensus that last preceding census held in 2017 was not officially published.

As shown hereafter amongst grounds of representation, the very exercise of delimitation on the basis of population may not be found lawful.

7. That, it would have been seen from principles of delimitation under Section 20 that there are two main rules to be followed in delimitation. One requires the constituencies not to vary more than 10pc in population and the other calls for them to remain within district boundaries. They both have merits but certainly cannot be adhered to simultaneously. If one is followed, the other is violated.

This equalization of population has not been followed and variation in population is more than 10pc.

This has happened despite Election Act 2017 calling for constituencies to be equal in population as far as possible and asking the Election Commission to provide justification if the size of constituencies varies by more than 10pc. Election Commission has provided justification where it considered necessary. But in most instances, inequality is direct outcome of the law itself that set the principles of delimitation.

A constituency is not allowed to cut across district boundaries which also means that each district shall have a whole number of seats.

21/09/2018 (6)

8. That Sherani district was created in 2006 with a population of 153116 – as against population of Zhob district (after bifurcation) being 310544. As will be seen from the photographs appended hereto, Sherani district has no infrastructure with the result that all its important offices are situate within Zhob district – left after its bifurcation. Photographs are appended as Annexure-D with their breakup as under:-

- i) Deputy Commissioner office and residency - Photograph is Annexure D/1.
 - ii) Chairman District and Vice Chairman office, Photograph is Annexure D/2.
 - iii) D.P.O office, Sherani, Photograph is Annexure D/3.
 - iv) Judicial Magistrate Sherani, Photograph is Annexure D/4.
 - v) Election Commission Office, Sherani, Photograph is Annexure D/5.
 - vi) Principle Office, Inter Boys College, Sherani, Photograph is Annexure D/6.
- (vii) Treasury office District Sherani at Zhob .

GROUND.

A) Because, in circumstances, first priority would be to restore the constituencies as notified in the gazette of June 28, 2002 (Annexure-D in PARA-4 refers).

There appears to be no just reason for delimiting the two constituencies PB-18 District Sherani and PB-19 Zhob-II.

Draft list of constituencies in Form-5 warrants interference.

B) Because, indeed, as pointed out in para-6 supra, admitted position is that the last preceding census conducted in year 2017 has not been officially published. Therefore, exercise of delimitation of constituencies done by the Election commission through Delimitation Committee was futile and not in conformity with Sub-Article 2 of Article 17 read with Rule-7 of the Election Rules 2017.

Clause (2) of Article 17 reads:

“(2) The Commission shall delimit constituencies
after every census officially published”.

Submission is further borne out from definition of population under section 2 (XXIX) of Election Act 2017 as: Population means the population in accordance with the last preceding census officially published.



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11/03/04/2019

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C) Because, delimitation as notified in the gazette of 28th June, 2002 in relation to PB-18 (Zhob-I) and PB-19 (Zhob-II) conformed to the principles of delimitation as given in Section 20 of Election Act having regard to distribution of population in geographically compact areas, physical features, boundaries of existing units, facilities of communication, public convenience and other cognate factors to ensure homogeneity in the creation of constituencies.

D) Because, attention is invited to draft list of constituencies for PB-7 Ziarat-cum-Harnai, PB-42 Washuk-cum-Kharan and PB-41 Awaran-cum-Panjgur. Relevant plans are appended herewith as Annexures-K, L & M respectively.

E) the preferences are as under:

A) 1st Preference

Because, on the basis of population of Sherani District i.e. 1,53,116 it has been allocated one seat. On this Sherani formula, considering population of Zhob district i.e. 3,10,544 Zhob District deserved two (2) seats.

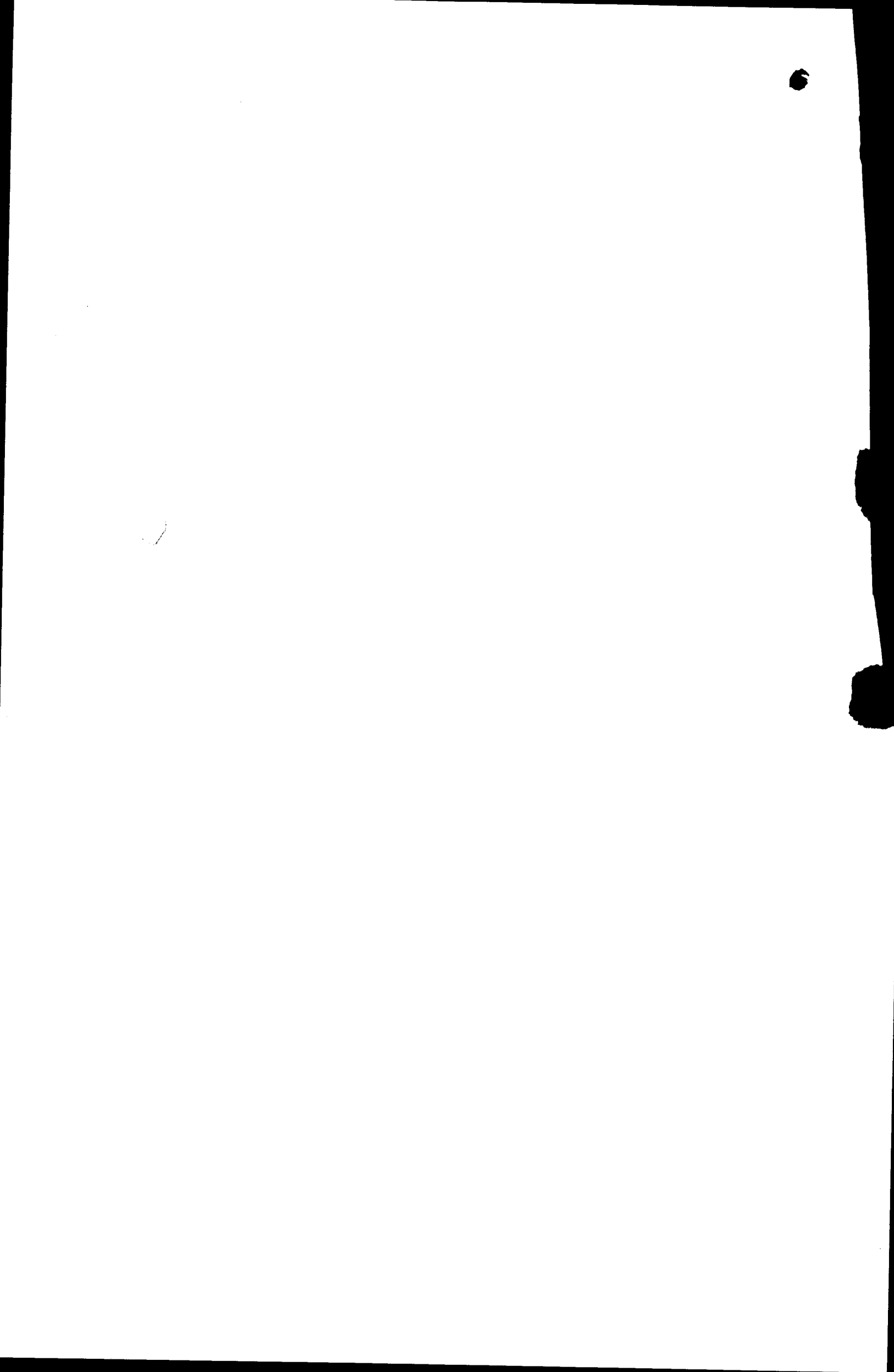
B) That petitioner seeks Review and Recall of DRAFT list of constituencies as concerns PB-I Sherani for Sherani district and PB-II for Zhob district, and to restore/to be reconstituted in the same manner as per Gazette Notification of 2002 (vide Annexure 'C') as a 2nd Priority:

a) PB-I Sherani-cum-Zhob.

- a) Sherani District
- b) The following Patwar Circles of Zhob Sub-Division
 - (i) Abdullah Zai.
 - (ii) Babar and
 - (iii) Murgha Kib Zai.

PB-II Zhob of Zhob District with following areas:-

- (a) Zhob Town.
- (b) Zhob Cantonment.
- (c) (i) Saddar Mandokhel Patwar Circle,
 - (ii) Gastoi Patwar Circle of Zhob:
Sub-Division, and
- (d) Kakar Khurasan Sub-Division of Zhob District



03/04/2018 (8)

F) Because, yet another circumstance going in favour of petitioner in the present Representation was that the considerations for reconstitution of constituencies in PB-7 Ziarat-cum-Harnai, PB-42 Washuk-cum-Kharan and PB-44 Awaran-cum- Panjgur supported the case of petitioner and the same deserves consideration for accepting.

It is prayed accordingly.



PETITIONER-IN-PERSON

(Sheikh Muhammad Alam)

Chairman, Shaheed Sheikh Muhammad
Ayoub, Educational & Development Society,
R/o H.No.137/E Jail Road, Zhob.

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Dated. 31st March, 2018.

ENCLOSURES:

- i) As per Index.
- ii) Eight (08) copies Representation alongwith duly marked equal number of relevant Maps obtained from Commission, Pakistan Bureau of Statistics of The Revenue Department on the scale approved by the Commission indicating therein existing administrative an revenue units in the district.

