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IN THE ELECTION COMMISSION OF PAKISTAN

Representation No. _____/2018

Sardar Noor Ahmed , S/o Sardar Nawab Khan by Caste Tareen, R/o Harnai.

Applicant/ petitioner

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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 is a law abiding faithful and petroit citizen of Pakistan and registered voter of Tehsil & District Harnai Statistic Block Code No. 466010205 , Silsla No. 46 now part of PB-7 (harnai and Ziarat),
2. That its worth mentioning here that applicant / petitioner's father namely Sardar Nawab Khan remained a member Provincial Assembly and a Provincial Minister from 1993 to 1996. The petitioner being sone of the Elected MPA remained in touch with his father and also having awareness of the problems of the area.
3. That the applicant / petitioner 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 his area.

4. That the population of Constituency PB-7 has been shown as 2,97,439 as per prescribed criteria required population for the Provincial Assembly constituency, whereas the Provincial Assembly seat PB-7 is having the population approximately 2,42,054. Whoever some of the union councils / Patwar Sector have been shown in PB-7 although in PB-6 the total area is 1,53,000 which is not equal according to the prescribed criteria.
5. Facts that due to farflung area voters / general public neither interacts with the public representatives of the proposed constituency nor representatives do so.
6. That formation of proposed constituency BP-7 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.
7. That this major deviation and drastic departure from the guiding principles of delimitation has rendered the preliminary delimited PB-7 as against the law and Rules on the following amongst other:-

GROUNDS

- 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

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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:-

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“ 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.

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(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 for 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.

(6). For the purpose of preparation of draft proposals for delimitation , the delimitation Committee may requires 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 Provincial 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 106 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	51	$12,334,739 \div 51 = 2,42,054$

Hence the average population quota of a single Provincial Assembly seat comes to a population of 2,42,054.

c. That on the said ratio the seats of Provincial Assembly of PB-7 and few others 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		
		Provincial Assembly		
		Shares		Number of seats
Harnai	97,017	.13		1
Ziarat	160,422	.21		
Duki	1,53,000	.20		

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It is to be noted that on the basis of above said formula the share of PB-7 comes to .34 with a total population of 2,97,438 hence there is an increase. shares in the allocation of Provincial Assembly Seat , whereas in the above mentioned table approximately 2 seats have been shown who have much less than 1 share.

- 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.

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- 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.
- j. That the delimitation of provincial assembly seat of the province of Balochistan have been totally done by ignoring the principle of uniformity and a discrimination has been made out.
- k. That the principle was that the district was to be made as basis for the allocation of Provincial Assembly seat, whereas nowhere in Balochistan two district have been combine and given one single seat.
- l. That previously both Harnai and Ziarat were allocated separate provincial Assembly Seat.
- h. That as per the policy any area that has share of more than 0.5 is to be allocated a complete seat and on the contrary a single seat has been allocated to Duki i.e PB-6 with a share of .20, Population 1,53,000, Share formula is to be adhered to then the only way is that the delimitation should start from a higher share towards the lowest.
- i. That the area of District Hrnai is 864640 HA and that of District Ziarat is _____ and the total district of PB-7 Harnai Cum Ziarat comes to _____. It is to be noted that this constituency i.e PB-7 Harnai cum Ziarat is also happened to be the largest area wise constituency of Pakistan. Being a very sensitive area its requires great administrative and political efforts to maintain law and orders and curb the menace of insurgencies. As the area is waste having scatted population having little means of communications and infrastructures which requires special attention and special programs for development. In case

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two districts are not separated the projects and the area would suffer irreparable loss.

- 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:-

PROPOSAL

- i. That Patwar Sectors (i) Poi having population of 24, 439 (ii) Sadar Samalan having population 37,954 and (iii) Baghaw having population 7,724 which is actually is the Patwar circle of PB-6 but the same has been entered in PB-7 Harnai Cum Ziarat.
 - ii. That the above stated Patwar Circle is totally having population of 70, 115, the same be transferred to the actual area of PB-6 Duki
 - iii. That as stated above the total population of the PB-6 are not within the meaning of prescribed criteria, and if the same be transferred to the actual area of PB-6 the requirement of the act be fulfilled
- 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 accordingly 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.

Applicant / petitioner

Sardar Noor Ahmed , S/o Sardar Nawab Khan by Caste Tareen, R/o Harnai

Through:-

Mian Tahir Iqbal Khattak

(Mian Tahir Iqbal Khattak)
Advocate Supreme Court of Pakistan

Dated:- 31-03-2018.

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