



1

BEFORE THE SECRETARY ELECTION COMMISSION
OF PAKISTAN, ISLAMABAD

M.O. No. _____ / 2018

Rashid Saleem Khan Son of Muhammad Saleem Khan Resident of House
No. 127 / A, Sector 1 Khalabat Township, District Haripur.

VS

District Election Commission, Haripur.

MEMORANDUM OF OBJECTION UNDER SECTION 21 (3) OF THE
ELECTION ACT, 2017 READ WITH RULE 11 (4) OF THE ELECTION
RULES, 2017

It is respectfully submitted as under that:

1. That the Objector/Petitioner is as a law abiding citizen, a man of noble instinct, profound sincerity and enjoying the prestigious and respectable status in the society.
2. That the Election Commission of Pakistan (ECP) had issued preliminary report of draft proposals for the delimitation of constituencies for National Assembly as well as for the Provincial Assemblies. The ECP has also invited constituents to file representations / objections upon the said proposals.
3. That the principles for delimitation were ignored while constituting the constituencies of PK 40 and PK 42 and an natural bifurcation an administrative unit i-e Tehsil Headquarter Haripur is detached from the proposed Constituency of PK-40 which is comprising of all other rest area of Tehsil Haripur creating huge difficulty for the public of MC Haripur creating illegitimacy in proposed delimitation of the constituencies of PK 40 and PK 42 which is required to be rectified.

4. That there are three Tehsils in District Haripur, namely, Haripur, Khanpur and Ghazi, whereby, the District Haripur has been proposed to be divided into three provincial constituencies and referred to as PK-40, PK-41 and PK-42 under the proposed constituency by the Election Commission of Pakistan.
5. That it is pertinent to mention over here that the Tehsils Haripur and Ghazi have their independent respective Municipal Committees.

MUNICIPAL COMMITTEE (MC) HARIPUR:

6. The Municipal Committee Haripur (MC – Haripur) has been composed of three (3) union councils, namely, Union Council North, Union Council Central and Union Council South and as per the Census 2017, District and Tehsil level population summary with region backup the MC – Haripur has **population of 85,739**, which is referred to as Census Charge No. 5 therein.
7. That the Offices of Tehsil headquarters of Tehsil Haripur including the Judicial Complex, Offices of District Police Officer, EDOs of Health, Education, Public Works Department, Revenue, etc. Sui Gas, Electricity, General Post Office, etc. are established within the territorial limits of the MC – Haripur and dispensing their services there from to the public-at-large.
8. That both the Municipal Committees of the District i-e MC Haripur and MC Ghazi are included in one constituency of PK-42, contrary to the principles laid down for delimitation under the law, in the proposed constituency, wherein, the rudimentary elements of geographical compactness of area, existing boundaries of administrative units, facilities of communications and public convenience were mechanically brushed aside.

9. That historically the MC – Haripur was part of the proposed PK-40, which was initially referred to as PF-40 from 1988 to 2002 and subsequently, referred to as PF/PK-50 from 2002 to 2017, and the inhabitants have never been left without a Tehsil Headquarter.
10. That all the area of PK-40 is based upon Tehsil Haripur, however the administrative head of MC Haripur is not included in the said constituency of PK-40 and the same is attached with PK-42 which comprises of more than 85 person landed area of Tehsil Ghazi including MC Ghazi.
11. That it is submitted that the proposed addition of the MC – Haripur into PK 42 instead of PK 40 depicts the picture of the "Delta" as it is proposed without taking into account the principles for delimitation and clock-wise formula provided under the law which shows the real aspect of the case.
12. That as a testimony of fact that the said inclusion not only deprives the PK 40 from Tehsil Headquarter / Urban Area but in reality leaves PK 40 to a rural constituency, furthermore, the proposed act created two Tehsil Head Quarters in PK 42 and none in PK 40. However, this representation pertains to the proposed PK 40, which is purely based in Tehsil Haripur and having no part in any other Tehsil.

PATWAR CIRCLE (PC) JAGAL, DHENDA, CHOCHAR AND MC

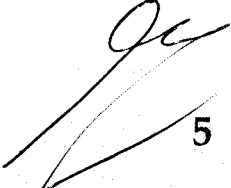
KHALABAT:

13. That, as per the Census, 2017 three Patwar Circles (the PCs), namely, Jagal, Dhenda and Chohar Sharif and Khalabat (mentioned as MC in the District and Tehsil level population summary composite of two UCs, namely, Terbela and Khalabat and referred to as Census Charge No. 6) collectively holds **population of 73,008** and have bonafide mistakenly been added to PK-40, whereas, the same merits to be included in PK-42.

14. That historically, the PCs, namely, Jagal, Dhenda and Chohar Sharif along with MC – Khalabat (composite of the UCs' Terbela and Khalabat) were part of proposed PK 42, which was previously referred to as PF 41 from 1988 to 2002 and abolished thereafter
15. That the voters and population of the said four units do see convenience and wish to associated with their previous historic constituency and by virtue of adding the said four units of the PCs, namely, Jagal, Dhenda and Chohar Sharif along with MC – Khalabat that the required population of both the constituency of PK-40 as well as PK-42 will remain compact and in accordance with the requisite criterion.
16. That in the Proposed ECP's MAP, the Tarballa Reservoir has been portrayed as a Mass Land part of Land which actually is a water reservoir and the same addition could be termed to as bona-fide mistake, therefore, the PCs, namely, Jagal, Dhenda and Chohar Sharif along with MC – Khalabat (composite of the UCs' Terbela and Khalabat) collectively holding population of 73,008 have mistakenly been added to PK 40. It is a matter of fact that the inhabitants of these PCs are effectees of Tarballa Dam and holds concrete clans and tribes bonding in the areas belonging to PK 42, hence, merits to be excluded from proposed PK 40 and included in proposed PK 42.

POPULATION CHART:

17. That in view the sanctity of the matter, the verification above omission shall have no bearing on the Quota per Seat's bench mark, however, it has bearing on the constitutional and democratic right of the inhabitants of PK 40 and PK 42, hence; this Petition wants admission by exclusion of three PCs, namely, Jagal, Dhenda and Chohar Sharif and pronounced MC – Khalabat (composite of the UCs'


5

Terbela and Khalabat) collectively having population of 73,008 in PK-42 and inclusion of MC – Haripur having population of 85,739, into PK-40 whereupon, the population of PK 40 and PK 42 will become as under:

Constituency	ECP's Proposed Population	By Inclusion/Exchange	Proposed Population by the Objector
PK 40	326, 482	85,739	339,213
PK 42	332,073	73,008	319,342

Constituency	ECP's Proposed Population	Suggested Population
PK-40	326,482	339, 213
PK-42	332,073	319, 342

GROUND:

- a. That the principles lay down by the legislators is based upon the distribution of population in geographical compact area, physical feature, facilities of communication and public convenience as narrated in section 20 of the Election ACT, 2017 which is reproduced for ready reference:

"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.

(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 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."

- b. That this Hon'able commission is vested with powers under the elections laws including Act and Rules of 2017 as to rectify the delimitation of constituencies after considering the representations of the objectors/applicants under sub clause (4) of section 21 which is reproduce as under;

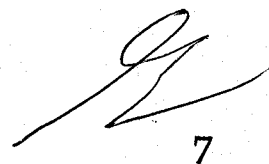
"21. Reports of Commission and list of constituencies.—

(4) The Commission shall, after hearing and considering the representations, if any, received by it, make such amendments, alterations or modifications in the preliminary list of constituencies published under sub-section (1) as it thinks fit or necessary, and shall, within a period of thirty days from the last date fixed for making representation under sub-section (2), publish in the official Gazette and on its website, the final report and list of constituencies showing the areas included in each constituency"

- c. That the people of the above mentioned has every right to be leaded by candidate of their choice amongst reasonable territory within the population in geographically compact areas and facilities of communications there convenience ensuring the homogeneity in the delimited constituency.]
- d. That the legislator have also specifically intended to facilitate the tribal areas in accordance with their customs and tribal sections even if the their limits are comprising of two are more separate areas which is expressly narrated in the sub section (2) of section 20 of the Election Act, 2017 which is as under;

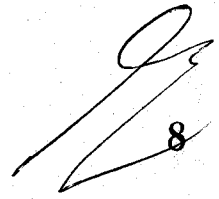
"20. (2) For the purpose of delimiting constituencies for the general seats of the National Assembly for the Tribal Areas two or more separate areas may be grouped into one constituency."

- e. That the actual gist and rational behind the democratic process under fundamental rights protected under the constitution is on the basis of rational appropriate and customize delimitation.



7

- f.** That it is vested duty of this Hon'able Commission to rectify the delimitation of the elections constituency which are against the elections laws, norms, customs, rational and convenience of the public.
- g.** The Impugned Report does not contain any spec of legal reasoning, which is therefore erroneous and not sustainable in the eyes of law.
- h.** The Delimitation Committee misconstrued the matter in complete departure with law and did not advert to the procedure for the delimitation of constituencies provide under the law and proceeded to pass whimsical proposal the Impugned Report, thus committing illegality, hence the instant Representation.
- i.** That in violation of law, the MC – Haripur holding population of 85,739 has been wrongly included into PK 42 and in fact it portrays the reflection of the Delta within PK 40 by disturbing the geographic compactness which fact not only deprives the inhabitants of PK 40 from a Tehsil Headquarter / Urban Area but in fact leaves PK 40 to a rural constituency, consequently, crates public inconvenience and communication gap.
- j.** That there are material errors, irregularities and illegalities found in the exercise of functions of Committee, which shows the whole exercise to be tainted with professional error floating on the surface of the proposal challenged under this Petition, which is liable to be set aside.
- k.** The Delimitation Committee erred in law in proposing the Impugned Report as the valuable rights of the Petitioner are involved in the case, which could not be denied for whimsical reasons and the substantive loss may occur to the Petitioner if this Petition is not accorded with, hence, the Petition merits Admission.
- l.** That the District of Haripur comprises of Three Tehsils Headquarter i-e Haripur, Khanpur and Ghazi and also has three proposed provincial constituencies with justified that every constituency should be comprising of Tehsil Headquarter for the reasonable adequate and better administrative and communicated way out for the people of vicinity.



PRAYER:

In the circumstances it is respectfully prayed that the instant Petition may kindly be allowed and delimitation of PK 40 and PK 42 may kindly be rectified, considering the objections of the objector in terms;

- i. The Municipal Committee (MC) –Haripur having population of 85,739 may kindly be included into proposed PK 40 instead of PK 42;
- ii. The three Patwar Circle (PC), namely, Jagal, Dhenda and Chohar Sharif and MC–Khalabat (composite of the UCs' Terbela and Khalabat) collectively having population of 73,008 may kindly be excluded from existing PK 40 and be included in proposed PK 42.
- iii. Any other relief which this Hon'ble Commission thinks just may also be ordered for the rederassal of the grievance of the Petitioner.



OBJECTOR / PETITIONER

Through



(SYED KHAWAR AMEER BUKHARI)

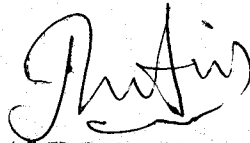
Advocate High Court

Office # 4 & 5, Haroon ur Rasheed Block

F-8 Markaz, Islamabad.

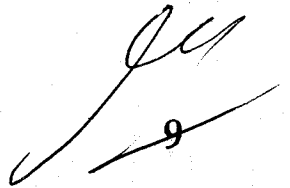
Cell: 0300-5003510

E-mail: bdlawassociates786@gmail.com



(MUHAMMAD ASIF JAVED)

Advocate



BEFORE THE SECRETARY ELECTION COMMISSION
OF PAKISTAN, ISLAMABAD

M.O. No.: _____ / 2018

Rashid Saleem Khan Son of Muhammad Saleem Khan Resident of House No. 127 / A, Sector 1 Khalabat Township, District Haripur.

VS

District Election Commission, Haripur

MEMORANDUM OF OBJECTION UNDER SECTION 21 (3) OF THE
ELECTION ACT, 2017 READ WITH RULE 11 (4) OF THE ELECTION
RULES, 2017

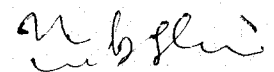
AFFIDAVIT

I, **Rashid Saleem Khan** son of Muhammad Saleem Khan resident of House No. 127 / A, Sector 1, Khalabat Township, District Haripur, do hereby solemnly affirm and declare on oath that the contents the accompanied petition are true and correct to the best of my knowledge and nothing has been concealed therein.



DEPONENT

Verified on oath on 2nd day of April, 2018 that the contents of above Affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed or misrepresented therein.



DEPONENT