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BEFORE THE HONOURABLE ELECTION COMMISSION OF PAKISTAN

In Re: Representation under Section 21(3) of the Election Act, 2017 read with Rule 12(1) of the Election Rules, 2017 in relation to the Provincial Assembly Constituency PK-56 (Charsadda-I)

It is respectfully submitted as under:

1. This is a representation under Section 21(3) of the Elections Act, 2017 ("Elections Act") read with Rule 12(1) of the Election Rules, 2017 ("Election Rules") with reference to the draft proposal for delimitation by the Honourable Election Commission of Pakistan ("Commission") of the Provincial Assembly constituency PK-56 (Charsadda-I) (and other constituencies proposed within District Charsadda) as contained in the draft proposal of delimitation of the said constituency prepared and notified by the Commission pursuant to Section 17 and 20 of the Elections Act and Rule 7 and 10 of the Election Rules as its Preliminary Proposal for delimitation as provided for in Rule 11(2) of the Election Rules ("Preliminary Proposal").
2. This representation is filed with the learned Secretary of the Commission in compliance with Rule 12(4) of the Election Rules by Mr. Sikandar Hayat Khan son of Mr. Aftab Ahmad Khan Sherpao (hereinafter referred to as the "Petitioner") who is a permanent resident and voter of the constituency PK-56 (Charsadda-I) with Block Code Number 035011507. Furthermore, the Petitioner has remained a Member of the Provincial Assembly from Khyber Pakhtunkwa for essentially the areas comprising of this very constituency having been elected as a member from the constituency PF-21 on three occasions.
3. Without prejudice to the prayers, submissions, averments and statements made hereinafter, the grievance of the Petitioner relates essentially to the exclusion of the Ziam Patwaar Circle of Tangi Qanungo Halqa ("Ziam PC")

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from PK-56, the inclusion thereof in PK-57 and the separation thereof from the area of Sherpao. It will be established through this Petition that the areas and the people of Ziam PC and Sherpao are for all practical and legal purposes the same and the division thereof in two constituencies offends *inter alia* the principles laid down in the Elections Act as well as the Election Rules. Additionally, the Petitioner is aggrieved by the inclusion of Hisara Barani Payan PC in PK-56 when it naturally belongs in PK-57. Through this representation, the Petitioner *inter alia* prays that the Ziam PC be removed from PK-57 and included in PK-56 and that Hisara Barani Payan PC may be excluded from PK-56 and included in PK-57.

4. The principal grounds on which this representation is moved and on the basis of which amendments, alterations and modifications in the preliminary proposals of delimitation by the Commission to the delimitation of PK-56 (and other constituencies proposed within District Charsadda) are as under:

(i) The delimitation of PK-56 is not compliant with the requirements of Section 20 of the Elections Act as, *inter alia*, the constituency has not been properly, correctly and lawfully delimited by giving due weight and regard to the following statutorily prescribed factors:

(a) Distribution of population in geographically compact areas:

The area of Ziam PC (including the smaller areas contained therein such as Hawara) have a clear connection with the areas in PK-56 and not PK-57. These two areas have always been considered one geographically compact area;

(b) Physical features:

Ziam PC forms a natural part of Sherpao and other areas situated in PK-56 is separated from PK-57 by lack of road, communications or other networks. Ziam PC is essentially an extension of Sherpao geographically comprise essentially one area;

(c) Existing boundaries of administrative units:

Historically the areas of Ziam and Sherpao have always been treated as the same not only by its people but also by the administration. There appears to be no viable justification for separating the areas of Ziam and Sherpao;

(d) Facilities of communication and public and voter convenience:

The people of Ziam PC depend upon the health, education, road and other networks and facilities of the area of Sherpao and are integrally connected with the areas comprising of PK-56.

The Post Office (Daak Khana) of Ziam is Sherpao.

The area of Ziam does not have its own Rural Health Centre ("RHC") and depends upon and uses the RHC, Sherpao. A certificate dated 29-3-2018 from the PMO, RHC, Sherpao is appended herewith which states that 59% of the patients in RHC Sherpao are from Union Council Ziam/Hawara.

The people of Ziam PC also heavily rely upon the educational institutions of Sherpao. A certificate from the Principal GHSS Sherpao is appended herewith which states that of the total of 1414 students studying in GHSS Sherpao, a total of 600 belong to the Ziam area. Similarly, a certificate from the Office of the Principal GGHSS Sherpao appended herewith states that of the total 1082 students obtaining their education from GGHSS Sherpao, a total of 510 students belong to UC Ziam.

Even otherwise, and in addition to the foregoing, the people of Ziam and Sherpao are heavily connected and integrated to the extent that they are unable to be differentiated. Historically this has always been one area which (without prejudice) with the passage of time and increase in population, has been divided into two PCs.



(e) Other cognate factors to ensure homogeneity in the creation of constituencies in District Charsadda:

It is submitted that the state of homogeneity requires a state of uniformity, similarity and consistency. The people of Ziam PC are essentially the same people of Sherpao by inter alia family, tribe, blood ties, culture, social ties and history. Ziam is essentially an extension of Sherpao. The people of Sherpao own property in Ziam (and vice versa) and historically this has always been treated as one area not only by its people but also by the administration. The people of Ziam and Sherpao are so connected that they even use one graveyard (Adeera) which is situated in Sherpao.

It is an admitted fact that the people of Ziam PC and Sherpao have such strong links that they are virtually in differentiable.

- (ii) It is submitted that the statutorily prescribed factors mentioned in subparagraph (i) above would require that the area of Hisara Barani Pyan PC be excluded from PK-56 and included in PK-57 as this area forms a natural part of PK-57 (in particular the Dhakki PC, Amirabad PC and Bari Bandan PC) in terms of distribution of population, physical features, existing boundaries of administrative units, facilities of communication and public and voter convenience as well as other cognate factors to ensure homogeneity.
- (iii) It is submitted that there has been no substantial change in the District of Charsadda except proportional increase in population (and a decrease in Provincial Assembly seats) and all other factors and principles were and are intact up to the satisfaction of voters. Therefore, there was no need to change the existing and established boundaries and the change in boundaries (in particular the separation of the Sherpao and Ziam areas) suggested in the Preliminary Proposal would adversely alter the scenario and disturb the established and already settled down factors. It is submitted that the contents of this Memorandum of Representation will establish that the removal of Ziam PC from PK-56 and the inclusion thereof in PK-57 not only has no legal justification but also defies all logic and offends the established principles of

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delimitation. It is further submitted that it would be in the public and national interest these should be kept the same as they have been in the past.

- (iv) The constituency PK-56 has not been delimited in accordance with the principles set out in Rule 10(5) of the 2017 Rules *vis-à-vis* the requirements of starting from the Northern end of the District and then proceeding clock-wise in zigzag manner keeping in view of the population quota prescribed therein. From a bare perusal of the map of district Charsadda as prepared and issued by the Commission ("Map of Charsadda") it is evident that the very exclusion of the Ziam PC from PK-56 and the inclusion of Hisara Barani Payan PC therein forms a peculiar shape and does not conform to the principles of keeping geographical areas within a compact shape. Furthermore, there appears to be no apparent reason or logic to exclude the Ziam PC from the Sherpao PC.
- (v) According to the report of the 2017 national census ("2017 Census Report") the total population of District Charsadda is 1,616,198 so the population "quota" for the five Provincial Assembly seats in the district of Charsadda under Rule 10(5) of the Election Rules is 323,239.6. It is submitted that the contents of the following tables establish that the prayer being sought by the Petitioner through this representation will not offend the quota or any provision of the Elections Act or the Election Rules:

| Area | Population |
|------------------------|------------|
| Ziam PC | 29,089 |
| Hisara Barani Payan PC | 21,763 |

| Constituency | Old Population | New Population after <i>inclusion</i> of Ziam PC and <i>exclusion</i> of Hisara Barani Payan PC |
|--------------|----------------|---|
| PK-56 | 319,711 | 327,037 |

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| Constituency | Old Population | New Population after <i>exclusion</i> of Ziam PC and <i>inclusion</i> of Hisara Barani Payan PC |
|--------------|----------------|---|
| PK-57 | 326,610 | 319,284 |

5. The Petitioner seeks and prays for the following amendments, alterations and modifications to the preliminary proposal of the Commission for delimitation of PK-56 (Charsadda-I):

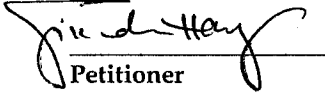
(a) The Petitioner prays that all of the area described and known as Ziam PC falling within Tangi Qanungo Halqa may be included in the constituency PK-56 and excluded from PK-57.

(b) The Petitioner further prays that area described and known as Hisara Barani Payan PC may be excluded from PK-56 and included in PK-57.

PRAYER

Wherefore the Petitioner respectfully prays that the instant representation be graciously accepted by the Commission and that the Commission graciously make the amendments, alterations and modifications sought to the draft proposal for delimitation of PK-56 (Charsadda-I) by the Petitioner (and all make all applicable and consequential amendments, alterations and modifications sought to the draft proposal for delimitation of PK-56 and consequentially PK-57) all as detailed in this representation and as also depicted in the map at Annexure B hereto.

Any other relief which this Honourable Commission may deem fit and appropriate.


Petitioner

Through: **Sikandar Bashir Mohmand**
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