

BEFORE THE HON'BLE ELECTION COMMISSION OF PAKISTAN, ISLAMABAD

Representation No. _____/2018

In the matter of de-limitation of constituencies:

1. **Sayyed Umer Farooq** s/o Sayyed Akbar Ali Shah
(CNIC.16101-6230462-7)
Kuz Kanday, Baghdada,
District Mardan

2. **Asfandyar Khan** s/o Sherzada Khan
(CNIC.1601-1240446-3)
Baira, Garhi Dolatzai,
District Mardan

3. **Waqar Ahmed** s/o Jehanzeb Khan
(CNIC.16101-5623182-5)
Jehanabad, Bakhshali Road, Katta Khat
District Mardan


-----Petitioners

Representation under § 21(3) of the Election Act, 2017 r/w the Provisions of Chapter-III, Part.A of Election Rules, 2017 on behalf of Petitioners for making appropriate amendments, alterations or modification in the Preliminary List of Proposed Constituencies of District Mardan, KPK, *inter alia*, proposed PK.50, (Mardan-III)

INDEX

No.	Detail	Date	Page
1.	Representation on behalf of Petitioners - Distt Mardan	31-03-2018	1-4
2.	Voter List Form & CNIC	----	5A-5C
3.	Relevant provisions of the Constitution	1973	6-14
4.	Relevant provisions of Election Act, 2017	02-10-2017	15-30
5.	Relevant Provisions of Election Rules, 2017	09-11-2017	31-40
6.	Preliminary Report - Notification No: F.8(3)/2018-elec-I	05-03-2018	41-61
7.	Form-5: NA.20, 21 and 22, PK.48 to PK.55, Distt Mardan	05-03-2018	62-65
8.	Summary of Population of District Mardan- Census Div	2017	66
9.	Block-wise Population of Distt Mardan	2017	67-103
10.	Power of Attorney (Wakalatnama)	31-03-2018	104
11.	ECP Marked MAP of Distt Mardan	2018	105

Dated: 31-03-2018

Barrister Gohar Ali Khan, ASC 

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The Petitioners respectfully submit as follows:

1. The Petitioners are registered voters of District Mardan, KPK and enjoy good reputation and are known for their dedication, integrity and public work. The relevant record of their being registered voters of the concerned constituencies are being appended herewith. It may be added that Petitioner Nos.2 and 3 are members of the District Council, Mardan.
2. As far as relevant and material to the titled presentations, it is submitted that **Article 51** of the Constitution provides that there shall be **342** of the National Assembly, including seats reserved for women and non-Muslims. According to this Art.51, **39 General Seats** and **9 reserved seats for Women** have been allocated to the Province of Khyber Pakhtunkhwa ('KPK') for **National Assembly**. According to Art.106 of the Constitution, **99 General Seats**, **22 Reserved Seats for Women** and **3 Seats Reserved for Minority** have been allocated to the Province of KPK for Provincial Assembly.
3. As far as District Mardan, KPK, is concerned, it had been allocated three (03) National Assembly Constituencies - **NA.9, NA.10 and NA.11** in 2002, 2008 and in

the last General Elections 2013. While for the Province of KPK, District Mardan was having eight (08) constituencies as PF.23 (Mardan-I) to PF.30 (Mardan-VIII).

4. Now in light of Census Report 2017, District Mardan has been allocated three constituencies for National Assembly, now Proposed as NA.20 to NA.21 (Mardan-I to Mardan-III) with a population of 2,373,061. Provincial Constituencies have been proposed for District Mardan as PK.48 (Mardan-I) to PK-55 (Mardan-VIII). Accordingly, as far as constituencies are concerned there is no change in the number of constituencies whether National or Provincial.
5. The titled presentation is basically about the Provincial Constituencies, proposed as PK.49 (Mardan-II), PK.50 (Mardan-III), PK.51 (Mardan-IV), PK.52 (Mardan-V), and PK.53 (Mardan-VI). Despite the fact that there is no change in the number of constituencies, the already limited and marked constituencies have been changed to the detriment of the people in as much as most of those areas that were earlier part of one constituency have now been included in another constituencies without taking into account the ground realities and compactness of the area in question.
6. Therefore, the Petitioners on their behalf and on behalf of general public of (now Proposed constituencies as aforesaid, are filing the titled presentation as the 'proposed constituencies; would adversely affect the rights and interests of the area for several reasons as, *inter alia*, summarized hereinafter.
7. It is submitted that Art.222 of the Constitution provides that 'Parliament may by law provide for, (a) the allocation of seats in the National Assembly as required under Art.51 (3) and (4) of the Constitution (in case of provincial assemblies as provided in Art.106), and (b) the delimitation of constituencies by the Election Commission of Pakistan. It is thus, constitutional obligation of this Hon'ble Commission to delimit the constituencies in accordance with law. Now, Section 17 of the Election Act, 2017 provides that '*Election Commission shall delimit the constituencies after every census officially published*'.
8. To delimit a constituency, the broader principles have been summarized in § 20 of the Election Act, 2017 that as far as practicable, be delimited having regard to the (i) distribution of population in geographically compact areas, (ii) physical features, (iii) existing boundaries of administrative units, (iv) facilities of communication and public convenience and (v) other cognate factors to ensure homogeneity in the creation of constituencies. It has also been provided that 'as

far as possible, variation in population of constituencies of Assembly shall not ordinarily exceed ten percent'.

9. Now according to the Preliminary Report on Proposed Constituencies issued by this Hon'ble Commission, Province of KPK has been divided into 99 territorial constituencies on the Census of 2017. The quota per seat in respect of each Provincial Assembly seat has been determined in relation to KPK as under:

Total Population of KPK: 30,523,371
 Total PA Seats of KPK: 99
 Quota Per Seat: $30523371/99 = 308,317$

10. Based on the aforesaid population and seat quota with a variation of about 10% as provided in § 20 of the Election Act, 2017, eight seats, now proposed for District Mardan out of the 99 seats allocated to the entire Province of KPK, have been drawn up as under:

- | | |
|-----------------------|-------------------------|
| 1) PK.48, Mardan-I | - (Population, 295,485) |
| 2) PK.49, Mardan-II | - (Population, 307,610) |
| 3) PK.50, Mardan-III | - (Population, 295,308) |
| 4) PK.51, Mardan-IV | - (Population, 289,112) |
| 5) PK.52, Mardan-V | - (Population, 290,595) |
| 6) PK.53, Mardan-VI | - (Population, 292,448) |
| 7) PK.54, Mardan-VII | - (Population, 302,237) |
| 8) PK.55, Mardan-VIII | - (Population, 300,266) |

11. As far as relevant here, it is submitted on behalf of the Petitioners that the proposed constituencies (PK.49 (Mardan-II) to PK.53 (Mardan-VI) as objected to herein by the Petitioners, be finalized by the Hon'ble Commission as suggested by the Petitioners herein. The 'suggested' constituencies are better than the 'proposed' constituencies. In the suggested constituencies, the Petitioners' suggestions are as under:

- (a) PK.49, Mardan-I: PC Kata khat be excluded from this constituency and instead PC Gadar be included therein. This will bring its population to 297,402.
- (b) PK.50, Mardan-II: PCs namely Garhi Dawlatzai and PC Gadar be excluded from this constituency. Instead, Circles.5, 6 and 7 of Charge-5 and Kata Khat be included therein. This will make up its population to 296,750.
- (c) PK.51, Mardan-IV: PC Mayar be excluded from it and instead Garhi Dawlatzai be include therein. This will bring its population to 296,495.

(d) PK.52, Mardan-V: Circles 5, 6 and 7 of Charge-5 be excluded from this constituency and Circle.6 of Charge.4, PC Mayar be included in this constituency. The population will come upto 303,036.

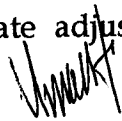
(e) PK.53, Mardan-VI: lastly, Circle.6 of Charge-4 be excluded from this constituency. This will bring its population to 281,390.

12. It is submitted that it is settled law and international practice in delimitation of the constituencies that 'totality of circumstances' to be taken into account also known or called as 'redistricting standard'. Accordingly, in view of the 'totality of circumstances' standard, the best presentation is what has been suggested hereinabove. It may be added that, *inter alia*, it is the constitutional right of the general public of the area under Article.17 to have "real representatives". In case, the 'proposed constituencies' are not reviewed, altered and modified as suggested, the rights and interests of the people of the area would be adversely affected and prejudiced. It is submitted that in fact 'people of the area' are being kept apart as the people.

13. Hence, this presentation before the Hon'ble Commission of Pakistan for directions as suggested hereinabove. The Petitioners crave leave of the Hon'ble Commission to take additional grounds or make further suggestions during oral arguments of the titled presentations including but not limited to the presentation of detailed suggested maps emphasizing the need for modifications in the 'proposed' constituencies in light of the 'Petitioners' suggestions.

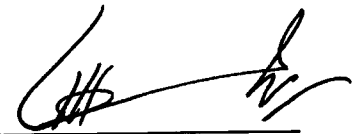
It is therefore most respectfully prayed that the Hon'ble Commission may kindly be pleased to consider and allow the titled presentation and finalize, *inter alia*, PK.49 (Mardan-II) to PK.53 (Mardan-VI) as suggested hereinabove by the Petitioners. This Hon'ble Commission may further be pleased to make all appropriate adjustment, amendment, alteration and modification in the interest of justice.

WABGAR AHMAD.

Petitioners

Through



Barrister Gohar Ali Khan, ASC

Dated: 31-03-2018