

BEFORE THE SECRETARY ELECTION COMMISSION OF PAKISTAN

Application No: _____2018

In the matter of:

Furqan Maroof
 Son of Muhammad Maroof Hussain
 Resident of Post Office Mamyaan,
 Tehsil & District Jehlum
 Bearing CNIC No: 37301-9922670-1

...Applicant

REPRESENTATION/OBJECTION UNDER SECTION 21(3) OF THE ELECTION ACT, 2017 READ WITH RULE 12 OF THE ELECTION RULES, 2017 AGAINST GERRYMANDERING IN THE DELIMITATION OF CONSTITUENCIES OF PROVISIONAL ASSEMBLY OF THE PUNJAB OF PP-26

Respectfully Sheweth:

1. That the Applicants registered voter for the election to the Provisional Assembly of Punjab from Constituency No: PP-27, Union Council Chotala being the resident of [REDACTED] Pakistan. Copies of the CNIC and Voter Lists are annexed herewith and marked "A".
2. That the Election Commission of Pakistan, (Hereinafter referred to as the "ECP"), vide Notification No. F.8(3)2018-Elec-1, dated: 05.03. 2018, under Section 21(1) of the Election Act, 2017 (Hereinafter referred to as the "Act") read with Rule 11 of the Elections Rules, 2017, (Hereinafter referred to as the "Rules") as Preliminary List of Constituencies (Hereinafter referred to as the "Impugned Lists") and asked for objection on the Impugned Lists if any till 03.04.2018.
3. That the ECP in the Impugned List has proposed to form the Constituency of PP-26 by deleting the UC Chotala from the Constituency of PP-26 and UC Chotala having registered voters are 22100/- included in the Constituency PP-27 in terms of Provisional Results of Census-2017 (Hereinafter referred to as the "Census-2017"). It is averred that UC Chotala became part of PP-26 in every general election and having facility of communication and public of UC Chotala having convenience with PP-26 and even otherwise UC Chotala under the administrative control of Tehsil Jehlum. It is further averred that during the present delimitation the Commission excluded the Chotala and included the two villages namely Rajo Pindi and Bara Garan having registered voters of 16000/- in the constituency PP-26 which are not interlinked by any communication facility and there is one mountain between the PP-26 and villages as they are far away from the constituency. Copies of the Impugned List of PP-26 and Marked Map are annexed herewith and marked "B & C".

4. That no justification can be attributed to an illegal act, when the Act and the Rules are very much clear in distribution of population among the constituencies of the same Assembly. It is averred that as per Section 20(3) of the Act, that:

“as far as possible, variation in population of Constituencies of an Assemble or a local government shall not ordinarily exceeds 10 per cent”.

It is further averred that as per Section 9(2) of the Delimitation of Constituencies Act, 1974 the ECP is bound to establish constituencies which shall be equal among themselves in population for election to the same Assembly. Section 9(2) of the Act, 1974 is reproduced as under:

“As far as may be the constituencies for election to the same Assembly shall be equal among themselves in population”.

5. That the Impugned Lists are not established as per the principals of delimitation enunciated in Section 9 of the Delimitation of Constituencies Act, 1974. Section 9(1) of the Delimitation of Constituencies Act, 1974 is reproduced as under:

“All the constituencies for general seats shall, as far as practicable, be delimited having regard to the distribution of population in geographically compact areas, existing boundaries of administration units, facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of constituencies”.

It is averred that the exclusion of UC Chotala from PP-26 constitute a geographically compact upon PP-26, as the UC- Chotala is divided from the PP-27 by one Nala and UC has not got any communication facility from PP-27 and even otherwise inclusion of UC into PP-27 cause inconvenience to the voters as the UC from beginning of information has been included in the PP-26.

6. That the inclusion of UC Chotala in PP-27 would create very much difficult for the residents of the Chotala to communicate with the other Tehsil & districts easily and it will also create public inconvenience.
7. That the proposed delimitation of PP-26 are in sheer violation of the ‘principals of delimitation’ envisaged in section 20 of the Act, particularly neither the population has been distributed in ‘geographically compact area’ nor the physical features, existing facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of the instant constituencies.
8. That the constituencies are *de jure* apportionment of space for the purpose of electing representatives of people living in the territorial limits of a democratic state and the elected representatives represent not only the people but also their respective segments of territory, the constituencies.

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9. That these two — the land and the people — and the prevailing law of the country provide the basis for constituency boundaries and their delimitation. The laws concerning constituencies can have two dimensions. The first is related to the laws of enfranchisement as to who among the population have the right to vote. This gives the total number of electors and the number of representatives to be elected and the other aspect of constituencies is the actual drawing of boundaries and enclosing people within the constituency framework. This is indeed a sensitive issue for several reasons.
 10. That first, a lack of understanding of the human geography of the area can divide up people who may in effect lose their representation or voice in the legislature. Second, the division of space into constituencies can be so organized that it may carve out either a safe support base for a party or a candidate, or create a combination of societal forces which are opposed to a particular party or candidate. Thirdly, a new boundary can change the pattern of electoral representation in the legislature.
 11. That different sets of electoral constituency boundaries can produce different election outcomes, even if the underlying vote patterns are identical. Electoral abuses such as ill-proportioned constituencies (electoral constituency that vary substantially in population) and electoral constituency that have been "gerrymandered" (constituency boundaries intentionally drawn to advantage one political group at the expense of others) can have profound effects on the outcome of an election and the composition of a parliament or an elected body of representatives. If voters and other stakeholders suspect that the constituency boundaries have been unfairly manipulated to produce a particular political outcome, this will affect the credibility of the delimitation process. The legitimacy of the electoral outcome itself could be questioned.
 12. The basic object of delimitation is to secure, so far as practicable, equal representation for equal segments of the population in legislative bodies. Apportionment or delimitation or redistricting has the aim of equalizing the population (or electorate) per seat, in accordance with the principle of "one person, one vote, one value". This is usually done with regard to stated constraints of administrative convenience, contiguity, geographical, and communication factors; and unstated influences of party or political advantage. In other words, the delimitation aims at ensuring the observance of the basic tenet of democracy, "one man, one vote". The Principles of delimitation under the Election Act, 2017, include having regard to distribution of population in geographically compact areas, existing boundaries of administrative units, facilities of communication and public convenience and other cogent factors to ensure homogeneity in the creation of constituencies.
 13. That the **Principle of Delimitation** have been enumerated under section 20 of the Election Act, 2017, which reproduced as under:

Section: 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.*

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(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.

14. That we can easily identify and enumerate the Principles of Delimitation which law provides to be complied with, respected and implemented in letter and spirit while delimiting the electoral constituencies, so the not only the candidates but also the voters could be benefited. We can number such principles as under:

- i. **Distribution of Equal Population,**
- ii. **Geographical Compactness,**
- iii. **Physical Features,**
- iv. **Existing Boundaries of Administrative Units,**
- v. **Facility of Communication,**
- vi. **Public Convenience, And**
- vii. **Homogeneity,**

15. That procedure for delimiting constituencies has been provided under Sub-rules 3 to 5 of Rule 10 of the Election Rules, 2017, reproduced as under:

“(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 an 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 Circle shall be the basic unit for delimitation and it shall 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 far 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 that 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 reasons if, in exceptional circumstances, the variation has to exceed the limit.”

consideration of this August Commission and the counter proposal has strictly been framed in compliance of principles of delimitation in their entirety, totality and spirit.

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17. That suggestion is submitted to avoid gerrymandering in any manner to create a safe constituency for a particular candidate or contestant and rectify the errors done in the Preliminary list of Constituencies. The proposal is submitted, meets the requirement of law and based on Principles of Delimitation of Constituencies for the conduct of free, fair and just elections in the larger interest of people and to correct the legal defects of constituencies of the district.
18. That just and fair creation of electoral constituencies is the pre-requisite of just and fair elections, if the constituencies are gerrymandered, the election's results cannot attain legitimacy which resultantly injure the credibility of Parliament and Legislative bodies.
19. That the proposals have been supported with a proposed map showing extents of one constituency . The proposed constituencies demarcated on the map are geographically compact areas and the population has been distributed almost equally. Whereas all the constituencies ensure complete homogeneity and facility of people. Communication network has dully been kept in view while carving out all constituencies.

PROPOSALS BY THE APPLICANT:

20. That UC Chotala are proposed to be included in PP-26 and Village Rajo Pindi and Bara Garan be excluded from the PP-26. Copy of the Proposed Map for PP-26 is annexed herewith and marked "**D**".

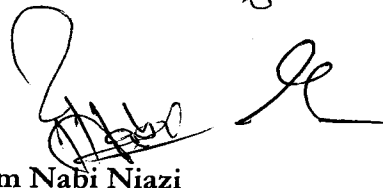
PRAYER:

WHEREFORE IN THE PREMISE, it is graciously prayed that the instant representation may kindly be allowed and the proposed changes hereinabove may kindly be incorporated to ensure the delimitation of PP-26 is in conformity with the statutory provision and the rules made there under and any type of gerrymandering is condemned to ensure free, fair and just election in accordance with the constitution and the law and to give level playing fields to all candidates and to promote the essence of democracy and also to attach legitimacy with the elected representatives of the Parliament and Provincial Assemblies.

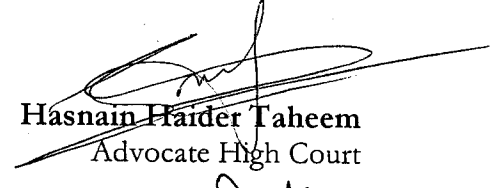
Through:

Applicant

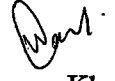
Hasnain Sikandar
Advocate High Court



Ghulam Nabi Niazi
Advocate High Court



Hasnain Haider Taheem
Advocate High Court



Usama Khalid
Advocate

Verification:

Verified on oath this 1st day of April 2018, at Islamabad that the contents of this Representation set out in paras are true and correct according to the best of my knowledge and that no material information has been concealed from this Honorable Commission.


Applicant