

BEFORE THE ELECTION COMMISSION OF PAKISTAN

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9/3/03/2018

Sheikh Allauddin
Son of, Sheikh Rafiuddin
Resident of, Gillan Wala, Kotsandrus, Tehsil Chunian,
District Kasur.

.....Applicant

**REPRESENTATION UNDER SECTION 21(2) AND (3) OF THE
ELECTION ACT 2017 READ WITH RULE 12 OF ELECTION RULES 2017
IN RESPECT OF PRELIMINARY REPORT AND LIST OF
CONSTITUENCIES DATED 05-03-2018**

Respectfully Sheweth:-

1. That the democracy is a rich and normative concept. It rested on two basis i.e. the sovereignty of the people, this sovereignty is exercised in free election held on regular basis in which the people chose their representatives, who in turn represent their views. This aspect of democracy is manifested in majority rule and in the centrality of the legislative body through which the people representatives act. This is a formal aspect of democracy. It is of central importance, since without it the regime is not democratic. The second aspect of democracy is reflected in the rule of values (other than the value of majority rule) the characterized democracy. The most important of these values are separation of powers, rule of law, judicial independence, human rights and basic principle that reflects yet another value (such as morality and justice) social objectives (such as public peace and security) and appropriate ways of behavior (reasonableness, good faith). The aspect of democracy is the rule of democratic values. This is a substantive aspect of democracy. It too is of central importance without which a regime is not democratic.

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2. That the principle of one man one vote flows from the concept of political justice. In our jurisprudence, constitutional right to vote has been reorganized in the multiple judgments of the apex courts. The protection of right to vote has been expanded recently by the August Supreme Court of Pakistan by holding that "An accurate electoral role is a sine qua non for the holding of a free, fair and transparent election which is not only the command of the constitution but also the fundamental right of the citizens".
3. That the growing electoral jurisprudence shows that right to vote actually translates into a more potent and substantial right to equal voting power. The electoral process other than ensuring fair and free poll is to ensure that the weight of the vote of a citizen is not diluted or discriminated prior to the polls during the delimitation of constituency. Delimitation is a vital and indispensable milestone in the electoral process as it defines and fashions the strength, weight of the vote fair and transparent delimitation of constituencies is pivotal for holding honest, fair and just elections. The central focus of any fair and just electoral system is to ensure that the right to vote is properly guarded against the scourge of vote dilution or discrimination during the process of delimitation. Any electoral system must, therefore, be designed to protect the right to vote any step or stage in the process which has a bearing on the right to vote is an indispensable part of election or electoral process.
4. That the symbiotic relationship between right to vote and delimitation requires us to examine the meaning, nature and character of the authority which is to carry out delimitation. Delimitation, means the demarcation of the boundaries of an electoral constituency in order to ensure fair, just and proportional representation of the people in the elections. The basic object of

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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 constraint of administrative convenience, contiguity, geographical and communication factors and unstated influences of party political advantage. In other words the delimitation aims at ensuring the observance of the basic tenet of democracy one man one vote. It is commonsensical that delimitation must be a natural exercise conducted by neutral body. The election Commission of Pakistan in the wake of the section 17 of the Elections Act 2017 pursuant to the provisions of Article 222(B) of the Constitution of the Islamic Republic of Pakistan 1973 prepared the preliminary report of constituencies and published the same through a notification dated 05-03-2018 while in pursuance of the section 21 (2) of the Act ibid has invited representations in respect of the Preliminary Report.

5. That the applicant is a voter of PP-179 as per the proposed delimitation report and exactly of PP-181 (as per delimitation 2002) and a resident of Kot Sandrus, Chunia Kasur filling the objections on the aforesaid preliminary report of the commission with respect to the list of constituency of District Kasur is given hereunder: - (Copy of voter list 2012 is hereby annexed as annexure "A1")

**GROUND OF REPRESENTATION AND DETAILS OF HOW THE
CONSTITUENCY OF AN ASSEMBLY IN THE DISTRICT KASUR MAY
BE DELIMITED**

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I. That the notification through which the preliminary report and list of constituencies of District Kasur was taken place is in flagrant violation of the mandatory provisions of The Election Act 2017 and The Election Rules 2017. Rule 10(4) and 10(5) of the Election Rules 2017 which reads as follows:-

10(4) "The constituency for an assembly shall not ordinarily extend to more than one district except in exception circumstances for the 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.

10(5) As far as possible, the delimitation of the constituencies of an assembly shall start from the Northern end of the district, or, as the case may be, the agency and then proceed clockwise in Zig-Zag manner keeping in view that population amongst the constituency of an assembly shall remain as close as may be practicable to the quota;

Provided that a 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 10% and the delimitation committee shall record reasons if, in exceptional circumstances the variation has to exceed the limit.

As from the bare reading of the aforesaid rules, it appears that the Patwar

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Circle or as the case may be Tapedar Circle shall be the basic unit for delimitation and in no circumstances the same shall be broken. Same is the case with the urban areas whereby the *Census Circle* shall not be broken under any circumstances. The officials of the election commission while conducting the delimitation process and preparing the preliminary Report of the constituencies ignored the aforesaid aspect altogether in District Kasur generally and while delimitation of the constituency of PP-178 in particular. It is astonishingly notable that the Patwar Circle Chunnia Uthar which is consisted upon Chunniah Municipal Committee (Chuniah MC) and Kot Sandrus is broken as a result of which the Chuniah MC is made part of PP-178, whereas Kot Sandrus is made part of PP-179 in draft list of constituencies prepared in the nature of Form 5 of rule 10(7) of the Election Rules 2017 but on the contrary in the map prepared in the light of preliminary report the delimitation committee, Kot Sandrus appears to be a part of PP-178. Patwar circle and as the case may be census circle of Chunian Uthar is broken.

2. That it goes without saying that earlier elections of the year 2013 which were conducted in the light of the delimitation report of the year 2002 prepared under the delimitation of Constituencies Act 1974, Kot Sandrus was under the constituency of PP-181 presently PP-178 but the delimitation committee while conducting the delimitation process ignored this particular material aspect. It is worthy to mention here that the Union Council Kot Sandrus is a part of Patwar Circle Chunniah Uthar even is not reflected in the Preliminary Delimitation Report prepared and published on 05-03-2018 which by itself is not only illegality but the same makes the delimitation of the District Kasur in general and of PP-178 in particular as void.

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3. That similarly, while preparing the preliminary report of constituencies of District Kasur in general and of PP-178 in particular, the Patwar Circle Deo Sial and Rakh Deo Sial are included in the constituency of PP-178 whereas the said Patwar Circles are included in violation of the Elections Act 2017 as well as Election Rules 2017 as the rule 10(5) of the Election Rules 2017 categorically narrates that the delimitation of the constituency of an assembly shall start from the Northern end of the district **and then the same shall proceed clockwise in a zig-zag manner** keeping in mind the population amongst the constituency of an assembly shall remain as close as applicable to the quota. The population of the Patwar Circle Deo Sial is consisted upon 9122 persons and the population of Patwar Circle Rakh Deo Sial is consisted upon 4635 persons its makes the total of 13757 persons.
4. That quite interestingly the existing preliminary report of constituencies of District Kasur in general and PP-178 in particular does not reflect the total Patwar Circles, Union Councils, Mauzas and Qanoongo Halqas etc in the Preliminary Delimitation Report.
5. That similarly, the Patwar Circle Arzanipur which was earlier the part of PP-181 presently PP-178 consisted upon Arzanipur, Koraysial and Mastowal consisted upon total population of 19895 persons has been made part of PP-177 once again by violating the mandatory provisions of rule 10(5) of the Election Rules 2017 and the Election Act 2017 whereas on the contrary Patwar Circle Gahlun consisted upon Ghelan Utarh, Babarkhel and Bakapur comprised of total population of 22527 persons has been made part of PP-178. It is worthy to mention here that again the Patwar Circle Gahlun has been made part of PP-178 by violating the mandatory provisions of Election Rules 2017 and Elections Act 2017. It is worthy to mention here that

Arzanipur is also traditionally, historically, socially, culturally and geographically becomes a part of PP-178.

6. That in the light of above, proposal for amendment in preliminary proposal regarding following patwar circles is liable to be made part of different constituencies: -

i. Kot Sandrus has been made part of PP-179 by breaking the patwar Circle as mentioned above is liable to be made part of PP-178.

ii. Patwar Circle Deo Sial and Rakh Deo Sial are made part of PP-178 whereas the same is liable to be made part of PP-179 as mentioned above.

Aforesaid (i) and (ii) are more specifically defined in Annexure "A2, A3, A4"

iii. Patwar Circle Irzani pur consisted upon Koray Sial and Mastowaal are made part of PP-177 by violating the mandatory provisions of law as mentioned above the same is liable to be made part of PP-178.

iv. Patwar circle Galun is made part of PP-178 whereas the same is liable to be made part of PP-177.

Aforesaid (iii) and (iv) are more specifically defined on annexure "A5 and A6".

By making the aforesaid changes the total population of the constituencies shall be as follows: -

Sr. No.	Constituency	Existing population as per preliminary report.	Population with proposed amendments
1	PP-177	385820	388452/
2	PP-178	390649	405410/
3	PP-179	365800	348407/

v. The applicant has given the complete details though map annexed with the representation that how the constituencies of the assembly

may be in District Kasur. The application for the sake of clarity has annexed the map of delimitation for the year 2002 of District Kasur, The Current Map prepared through Preliminary Report dated 05-03-2018 and the proposed Map showing the details that how the constituency in District Kasur may be for conduction free and fair election. The maps are annexed as annexure "A", "B" and "C" & C1).

- vi. That the present the preliminary report of constituencies notified on 05-03-2018 is against the mandatory provisions of law and the same is against the gerrymandering principle which states that drawing of district boundaries so as to favour one's own chances in future elections strategy for gerrymandering have been characterized as staking, packing and cracking each of which seeks to minimize the influence of those seeking the vote.
- vii. That it is reiterated that the Preliminary Delimitation Report dated 05-03-2018 lacks the proper specification, the areas and constituencies which is a part and parcel of the delimitation without which the spirit of conducting free, fair and independent elections shall die its own death. Moreover, unfair and partisan delimitation can lead to screwed results, tarnishing electoral integrity, making a mockery of elections and turning the principle of justice on its head.
- viii. That as per the Elections Act 2017 and the Election Rules 2017, delimitation is made on the basis of Patwari Circles and Census Circle as the case may be but quite astonishingly the Preliminary

Delimitation Report under Form 5 of the Rule 10(5) of the Rules
ibid is consisted upon the Qanoongo Halqa which neither has any
legal value nor the same is any where mentioned in the Act or the
Rules ibid. (Copy of Form 5 annexure "D")

- ix. That the aforestated facts for the proposed constituencies of
District Kasur shall ensure that the voting equality and the vote of
one citizen must in no manner be less than the vote of another
citizen, other than geographical compactness and the homogeneity
of interest of the community.

In the light of above it is prayed that the representation may kindly
be accepted and the provincial constituencies of District Kasur be
made in accordance with annexure "C" & C1".

Dated 29-03-2018



Applicant
Sheikh Allauddin
Son of, Sheikh Rafiuddin
Resident of, Gillan Wala, Kotsandrus,
Tehsil Chunian, District Kasur.