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BEFORE THE SECRETARY ELECTION COMMISSION OF PAKISTAN

1. **Tariq Pervaiz Niazi**
Son of Ubaid Ullah Khan
Resident of Raja Bazaar,
Post Office Kachha Khuh, Chak No: 22/10-R,
Tehsil and District Khanewal, Punjab,
Bearing CNIC No: 36103-1630655-1

2. **Mazhar Iqbal**
Son of Ghulam Muhammad
Resident of Khanrranwala, Post Office Chak No: 80/10-R,
Pirowal, Chak No: 78/10-R,
Tehsil and District Khanewal, Punjab
Bearing CNIC No: 37102-1253252-9
Voter No: 128, Chak No: 78/10-R

...Applicants

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 PROVINCIAL ASSEMBLY OF PUNJAB OF PP-206, PP-208 & PP-209

Respectfully Sheweth:

1. That the Applicants are registered voters for the election to the Provincial Assembly of Punjab of Constituency No: PP-209, Khanewal-VII being the residents of District Khanewal, Punjab, Pakistan. Copies of the CNIC are annexed herewith and marked "**A**" & "**A/1**".

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 Elections Act, 2017 (Hereinafter referred to as the "Act") read with Rule 11 of the Elections Rules, 2017, (Hereinafter referred to as the "Rules") has published a list as Preliminary List of Constituencies (Hereinafter referred to as the "Impugned Lists"), and asked for objections on the Impugned Lists if any, till 03.04.2018.

3. That the ECP in the Impugned Lists has proposed to form the Constituency of PP-209-Khanewal-VII by assigning five Patwar Circles of Tehsil Khanewal i.e., Khanewal-I QH, Mamba QH, Chakshahana QH, Khanewal-II QH and Kacha Khuh QH, and total population of PP-209 as proposed by the ECP is 385,357 in terms of Provisional Results of Census-2017 (Hereinafter referred to as the "Census-2017").

4. That the ECP has included two Patwar Circles i.e., PC- 62/15-L and PC: 67/15-L of Mamba QH, in PP-209-Khanewal-VII both having population of 27,656, (Hereinafter referred to as "Included Patwar Circles"), which are under administrative unit of District Mian Channu. It is further averred that the ECP has also excludes one Patwar Circle i.e., PC- 76/10-R of Khanewal-II QH from the north west end of PP-209, having population of 13,223, (Hereinafter referred to as "Excluded Patwar Circle"), which was part of this constituency since previous delimitation conducted in 2002.

5. That the ECP in its Impugned List has assigned a population of 384,384 to PP-206 which is adjacent to PP-209, whereas, ECP has assigned 347,430 to PP-208 which is in southern east of PP-209. It is averred that the population of PP-208, 209 & 206 could be managed in such terms that all three constituencies could be proportionate in population but the ECP failed to do so which indicates that ECP has intentionally assigned disproportionate population to the constituencies of PP-206 and PP-209 as compared to PP-208 by wrongfully merging two Patwar Circles of District Mian Channu into PP-209 and by excluding the regular and essential part of Excluded Patwar Circle from PP-209. Copy of the Impugned List of PP-208, PP-209 & PP-206 and Marked Map of PP-208, PP-209 & PP-206 is annexed herewith and marked "**B**" & "**C**" respectively.

6. That the Excluded Patwar Circle of PP-209 is the area which was included in PP-209 since 2002 as the previous list of constituencies which had marked/delimited the present PP-209 as PP-218, had also formulated PP-209 (PP-218) by including the Excluded Patwar Circle of Tehsil Khanewal in PP-209 (PP-218).

7. That the Included Patwar Circles of PP-209 is not in the administrative unit of Khanewal rather it comes under administrative unit of Mian Channu which constitutes PP-208. It is averred that Included Patwar of PP-209 is located more near to Mian Channu rather than Tehsil Khanewal as the distance of Included Patwar Circle from Tehsil Khanewal is 70 km and the distance from District Mian Channu is only 32 km.

8. That the Excluded Patwar Circle has been added in PP-206 which were never been part of the PP-206, since it was never been part of PP-206 earlier before delimitation of 2002, hence, the inclusion of PC: 76/10-R is in violation of the principles that, "*old constituencies must not be disturbed without any lawful justification*".

9. 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 Assembly 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*".

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10. That the Impugned Lists are not established as per the principals of delimitation enunciated in Section 9 of the Act. 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 inclusion of area of District Mian Channu in PP-209 and exclusion of area of northern west Patwar Circle from PP-209 does not constitute a geographically compact constituency, as the Included Area is at the border of District Vehari and District Mian Channu and the same is only about 32 km far from administrative unit of District Mian Channu but that is illogically included in constituency of Tehsil Khanewal, i.e., PP-209 which is about 70 km far from the area.

11. That the inclusion of Included Patwar Circles would create very much difficulty for the residents of the District Mian Channu to travel as much as of 70 km to reach the administrative unit of Tehsil Khanewal and it will also create public inconvenience.

12. That the ECP has constituted PP-209 and PP-206 with more population than that of PP-208 while having other proposal for proportionate distribution of population, thus constituted the constituencies of the Province with no reason or justification assigned by the ECP for this gross illegality.

13. 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.

14. 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.

15. 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 organised 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.

(4)

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.

17. 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.

18. 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.*

(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.

19. 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:

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- 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,

20. 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 per cent present and the Delimitation Committee shall record reasons if, in exceptional circumstances, the variation has to exceed the limit.

21. That the Principle of Geographical Compactness of constituencies has been seriously violated and the administrative unit of Mian Channu stands divided into two parts and are not even contiguous, hence the same are not sustainable and required to be corrected.

22. That keeping in view the principles as enshrined under the Election Act, 2017 read with Rule 10 of the Election Rules, 2017, a plausible proposed constituency has been prepared for the 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.

23. 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 of Khanewal District. 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 district Bahawalpur in the larger interest of people and to correct the legal defects of constituencies of the district.

(6)

24. 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.

25. That the proposal has been supported with a marked map showing extents of three adjacent Provincial Assembly constituencies of district Khanewal. 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 of the district Khanewal. It is, therefore, very humbly requested that the proposal / suggestion may kindly be considered on merits and any type of gerrymandering is condemned to give free, fair and just election in accordance with the constitution and the law and to ensure free level playing fields to all candidates and to promote the essence of democracy.

Proposals:

26. That the Included two Patwars Circle of Mian Channu which are wrongfully included in PP-209 are proposed to be excluded and added in PP-208 and total population of 208 which is now 347,430 shall be 375,086 after this change. It is further proposed that the Excluded Patwar Circle of Khanewal-II shall be excluded from PP-206 and should be included in PP-209 which will balance the population of all the three constituencies. That the cumulative effect on the population of PP-206, PP-208 & PP-209 after the aforementioned changes would be as below:

Impugned List		Proposed List	
PP-206 Khanewal-IV	384383	PP-206 Khanewal-IV	371161
PP-208 Khanewal-VI	347430	PP-208 Khanewal-VI	375086
PP-209 Khanewal-VII	385357	PP-209 Khanewal-VII	370924

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-206, PP-208 and PP-209 is in conformity with the statutory provision and the rules made thereunder 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.

3-11-2018

Masroor Shah

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[Signature]

Applicants

Through:

[Signature]

Barrister Masroor Shah, MCI Arb
Advocate Supreme Court of Pakistan

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Hasnain Sikandar
Advocate High Court

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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.

3-11-2018

Masroor Shah

Applicants