

- 1 -

Ger

BEFORE SECRETARY, ELECTION COMMISSION OF
PAKISTAN

**KARAM ELAHI BANDIAL, S/o Fazal Elahi Bandia, R/o Bandial Janoobi,
Tehsil Quaid-a-Bad, District Khushab (Vote Block Code No. 145020205, Serial
No. 158 Bandial Janoobi, Tehsil Quaid-a-bad, District Khushab)**

.... PETITIONER/APPLICANT

REPRESENTATION UNDER SECTION 21(3) OF ELECTION
ACT 2017 READ WITH RULE 12 OF THE ELECTION RULES
2017 AGAINST THE DRAFT PROPOSAL OF DELIMITATION
OF CONSTITUENCIES OF PROVINCIAL ASSEMBLY ISSUED
VIDE NOTIFICATION DATED 05-03-2018 IN RESPECT OF
DISTRICT KHUSHAB (PUNJAB)

Respectfully Sheweth,

1. That up-until the General/Provincial Elections held in 2013, District Khushab (Punjab) comprised of four constituencies in the Punjab Provincial Assembly i.e. PP-39 (Khushab I), PP-40 (Khushab II), PP-41 (Khushab III) and PP 42 (Khushab IV) whereas there were two seats in the National Assembly from District Khushab i.e. NA-69 (Khushab-I) and NA-70 (Khushab-II).
2. That after the population census of 2017 and the formulae given therein and also mandated under Article 51(5) of the Constitution of Islamic Republic of Pakistan 1973, the Election Commission of Pakistan (ECP) started to conduct Delimitation of the constituencies of National & Provincial Assemblies in accordance with the provisions of newly enacted Election Act 2017 (Act of 2017) and the Election Rules 2017 (Rules of 2017) made thereunder.
3. That while exercising powers under Rule 10 of the Election Rules 2017, the ECP, vide Notification Dated 05-03-2018 has issued proposed new

composition ("Impugned") of the Provincial Assembly Seats in District Khushab whereby the number of Provincial Assembly Seats have been reduced from Four (4) to Three (3) with the nomenclature of PP-82 (Khushab I), PP-83 (Khushab II) and PP-84 (Khushab III) whereas for the National Assembly there are two seats in the District Khushab with the nomenclature of NA-93 (Khushab-I) and NA-94 (Khushab-II).

The comparison inter-se the constituencies in District Khushab during the Elections 2013 and the proposed draft ("Impugned") issued vide notification dated 2017 is reproduced hereunder:

Constituencies During Provincial Elections 2013	Proposed Draft List of Constituencies in 2017
<p>(1) PP-39 (Khushab- I)</p> <ul style="list-style-type: none"> i) Nowshehra including Nowshehra TC ii) Pail iii) Kund Shumali iv) Katha Sagral v) Khushab-I excluding the following PCs <ul style="list-style-type: none"> a) Khushab; b) Sihwala and; c) Namewali vi) Khushab - II excluding the following PCs <ul style="list-style-type: none"> a) Chak No. 54/MB and b) Chak No. 60/MB vii) The following PCs of Jauharabad QH:- <ul style="list-style-type: none"> a) Kund Janubi b) Nara Janubi and 	<p>(1) PP-82 (Khushab-I)</p> <ul style="list-style-type: none"> i) Noor pur Thal Tehsil ii) The following QHs of Khushab Tehsil <ul style="list-style-type: none"> (a) Girot (b) Mitha Tiwana (c) MC Mitha Tiwana <p>(2) PP-83 (Khushab-II)</p> <ul style="list-style-type: none"> (a) MC Khushab (b) MC Jauharabad (c) MC Hadali (d) The following QHs of Khushab Tehsil:- <ul style="list-style-type: none"> (1) Khushab-I (2) Khushab-II (3) Kund Shumali (4) Jauharabad <p>(3) PP-84 (Khushab-III)</p> <ul style="list-style-type: none"> (a) Quadiabad Tehsil (b) Nowshehra Tehsil

<p>viii) Jabbi Shumali Patwar Circles of Warcha QH of Quaidabad Tehsil of District Khushab</p> <p>(2) PP-40 Khushab-II</p> <p>a) Quaidabad Tehsil excluding Jabbi Shumali Patwar Circles of Warchha QH;</p> <p>b) The following areas of Tehsil Khushab</p> <p>i) Mitha Tiwana MC;</p> <p>ii) Mitha Tiwana QH and</p> <p>iii) Chak No. 45/AMB/PC of Jauharabad of Khushab District</p> <p>(3) PP-41 Khushab-III</p> <p>i) Khushab Municipality</p> <p>ii) Hadalli Town Committee</p> <p>iii) Jauharabad Town Committee</p> <p>iv) Joharabad QH excluding the following PCs</p> <p>a) Chak No. 45/AMB</p> <p>b) Kund Junubi and</p> <p>c) Nara Junubi</p> <p>v) The following PCs of Khushab QH of Khushab Tehsil</p>	<p>(c) Katha Saghral QH Of Khushab Tehsil</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------

<p>a) Khushab Namewali</p> <p>b) Shiwala</p> <p>c) Chak No. 54/MB</p> <p>d) Chak No. 60/MB and</p> <p>vi) The following Patwar Circles of Girot QH</p> <p>a) Kurpalka</p> <p>b) Joyia</p> <p>c) Hassan Pur Tiwana (Amoka) and</p> <p>d) Mali Pir Bakhsh</p> <p>(4) PP-42 Khushab IV</p> <p>a) Noorpur Tehsil</p> <p>b) Girot QH oh Khushab Tehsil excluding the following Patwar Circles</p> <p>i) Kurpalka</p> <p>ii) Joyia</p> <p>iii) Hassan Pur Tiwana (Amoka) and</p> <p>iv) Mali Pir Bakhsh</p>	
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

4. That the impugned proposed draft of delimitation issued vide the notification, has been carried out in sheer violation of the provisions of the Act of 2017 and the Rules 2017 enacted thereunder; therefore the same is liable to be rejected, inter-alia on the strength of the following amongst other grounds:

GROUNDS:

- I) That the proposed draft for delimitation of constituencies issued vide the impugned notification is in violation of Sections 20, 21 and 22 of the Election Act 2017 and Rule 10 of the Election Rules 2017 made thereunder.

- II) That Section 20 of the Election Act 2017, prescribes the Principles of delimitation, which is reproduced hereunder:
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.

As per Section 20 supra, while making the impugned draft proposals for delimitation, the geographical compact areas, physical features, existing boundaries of administrative units, facilities of communication and public convenience and homogeneity in the creation of constituency must be considered

as relevant parameters for carrying out delimitation. However, in the present case, these pre-requisite conditions have been fully ignored; which thus requires interference by this August Commission.

III) That, in addition, Rule 10 of the Election Rules 2017 provides the mechanism for implementation of Section 20 of the Election Act 2017. The Rule 10 of the Election Rules 2017 is reproduced hereunder:

10. Draft proposals for delimitation of constituencies:

(1) A Delimitation Committee constituted under rule shall, immediately after its constitution, proceed to obtain from Pakistan Bureau of Statistics, population data of last census officially published along with relevant maps showing therein census charges, census circles and census blocks along with description, relating to a Province, a district, an agency, or any other administrative or revenue unit as it may require.

(2) The Delimitation Committee shall also obtain district maps along with description, duly authenticated by Pakistan Bureau of Statistics, or, as the case may be, the district head of Revenue Department, prepared on a uniform scale as may be determined by the Commission indicating therein details of all administrative and revenue units in the district to the level of a Patwar Circle or, as the case may be, a Tapedar Circle, as well as prominent geographical and physical features, such as rivers and mountains and any other information as may be determined by the Commission or required by the Committee.

(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.

(6) For the purpose of preparation of draft proposals for delimitation, the Delimitation Committee may require assistance from any Federal, Provincial or, as the case may be, a Local Government Authority.

(7) After the draft proposals for delimitation of constituencies are finalized on Form-5, the Delimitation Committee shall send the same to the Commission, within the time specified and in the manner as may be determined by the Commission.

IV) That as per Rule 9(3) of the Rules 2017, the ECP was also mandated to issue 'guidelines' to conduct the delimitation in order to guard the same from any influence so that elections could be conducted in free, fair and just manner. However the ECP did not issue any such guidelines until the entire process

was nearing its end; therefore the draft delimitation have been issued on the entire whims and desires of the officials of the committee.

- V) That as per Sub-Rule 5 of Rule 10 of the Rules of 2017, the delimitation of the constituency of the Assembly was to be started from the North-End (of the District) towards the South and proceed Clock-wise in a zig-zag manner, keeping in view the population amongst the constituencies of an Assembly which shall remain as closed as may be practicable to the quota.

- VI) That in the present case, while drafting proposals of delimitation of provincial assembly, the delimitation had commenced from the South-end to the North (of the District Khushab) and that too anti-clockwise and also not in the zig zag manner, which has thus clearly violated Sub-Rule (5) of Rule 10 of the Rules of 2017. It be examined in the impugned proposed map attached, that **Khushab-I (PP-82)** constituency starts from the South-End and the delimitation has been carried out in an anti-clockwise manner, perverse to the mandate of the Rules, supra. On the contrary, as per the proposed draft for the constituencies of National Assembly in District Khushab, the delimitation had been carried out from the North-End to the South i.e. NA-93 (Khushab-I). It is relevant to note that by resorting to such opposite methodology, the composition of the constituencies in District Khushab have been severely affected.

- VII) That previously Tehsil Noushera, which is a mountainous and hilly area, was part of Tehsil Khushab and was thus part of one constituency i.e. formerly **PP-39 (Khushab-I)**, due to its geographical features, connectivity and transportation. One Provincial highway and one District highway, carrying local and public transport, connected Tehsil Noushera with other areas (Tehsil Quaidabad and suburbs) in District through Tehsil Khushab (Khushab City). However as per the impugned



proposed draft, Tehsil Noushera has been merged with Tehsil Quaidabad as well as Katha Sangral QH in PP-84 (Khushab III).

- VIII) That it be noted that the said merger is anti-clockwise from start of the north-end of the District. Furthermore, as such there is no connection of local transport inter-se the two said Tehsils and Katha Sagral QH, which now form one constituency, hence any person wishing to travel from Quaidabad to Noushera or Katha Sagral QH shall commute through Tehsil Khushab (Khushab City), which is impracticable and violative of the Rules of 2017. The impugned proposed draft therefore also adversely affects the rights of the voters of the constituency. Copy of the Road Maps is attached as Mark A.

- IX) That the delimitation of District Khushab vide the impugned draft proposal has also violated the Administrative convenience of the local public.

- X) That the Delimitation Committee had also failed to appreciate the convenience of the local public and disregarded the distance within the constituency PP-84 (Khushab III) in the following manner:
 - i) The QH Quaidabad (District Khushab) is situated on the boundary of District Mianwali whereas Tehsil Nousehra laying on the boundary of District Chakwal in the same constituency i.e. PP-84 (Khushab III) and the distance inter-se the said two points is approximately 137 Kms.

 - ii) Whereas Katha Sagral QH is located at the boundary of District Jhelum and the distance inter-se the starting point of QH Quaidabad as well as QH Katha Sagral, which are included in the same constituency, is approximately 104 Kms.

Total Population - 428,428

- II) That the remaining part of Tehsil Khushab and Tehsil Quaidabad should form one constituency with the nomenclature of **PP-83 (Khushab-II)**. The said constituency shall comprise of the following areas:

PP-83 (Khushab-II)

- i) Joharabad QH, excluding MC Joharabad of Tehsil Khushab - 104460
- ii) MC Mitha Tiwana - 33479
- iii) Mitha Tiwana QH of Tehsil Khushab - 49632
- iv) Tehsil Quaidabad - 230320

Total Population - 417,891

- III) That the remaining area of Tehsil Khushab and Noor pur Thal area of District Khushab should form one constituency with the nomenclature of **PP-84 (Khushab-III)**. The said constituency shall comprise of the following areas:

PP-84 (Khushab-III)

- i) MC Joharabad of Tehsil Khushab - 91254
- ii) Girot QH of Tehsil Khushab - 100431
- iii) Tehsil Noor Pur Thal - 243295

Total Population - 434,980

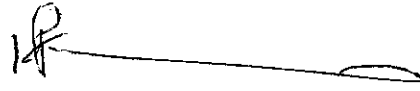
The above mentioned proposed delimitation alongwith the map is attached herewith as Mark B.

- IV) That the above mentioned proposals are suggested keeping in view the provisions of the Act & Rules made thereunder as well as the convenience and welfare of the local public.

PRAYER:

It is therefore respectfully prayed that in lieu of the facts narrated above, the instant objection petition be accepted and the Notification Dated 05-03-2018 to the extent of existing Provincial Assembly Seats in District Khushab proposed to be converted into 82, 83 & 84 may graciously be set-aside and the same may be delimited strictly as proposed by the Petitioner/Applicant, in the interest of justice.

Any other relief, which this Honourable Court deems fit and proper in the circumstances, may also be granted.



PETITIONER,

Through Counsel(s)

SHAH KHAWAR

Advocate Supreme Court of Pakistan

SHAHZEB JAFFAR

Advocate

HASAN RASHID QAMAR

Advocate