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**BEFORE THE HONOURABLE ELECTION COMMISSION OF
PAKISTAN**

Representation No. _____ of 2018

In the matter of preliminary de-limitation of constituencies:

Sohail Akhter
S/o Sikander Ali
(CNIC No. 45301-4261812-1)
Post office Kalhora Station
GherGaju, TalukaBhiria
District NaushahroFeroze, Sindh

Handwritten signature and date: 02/04/2018

.....PETITIONER

**Representation Under Section 21 (3) of the Election Act, 2017 r/w
Rule 12 of the Election Rules 2017 Read With Article 222 of the
Constitution alongwith all other enabling provisions of the Law on
behalf of the petitioner for making appropriate amendments,
alterations and/or modifications in the preliminary list of proposed
provincial constituencies of District NaushahroFeroze Sindh.**

The petitioner respectfully submits as follows:

Being aggrieved with the delimitation carried out by the delimitation committee in respect of District NaushahroFeroze (“hereinafter referred to as the **Impugned delimitation**”), the applicant submits the following representation on the facts as narrated hereinbelow;

Summary of the case

1. Before stating the background facts leading to this representation it is significant to highlight fundamental defects, which form part of the crux of the present representation. In essence the Impugned delimitation violates Section 20 of the Election Act 2017 (“Act 2017”) and Rule 12 (5) of the Election Rules 2017 (“Rules 2017”). The impugned delimitation is a classic case of gerrymandering as the same runs contrary to the underlying spirit embodied in the scheme of the Act 2017 as well as the Rules 2017. A bare perusal of PS 35 of the Impugned delimitation makes it clear beyond any shadow of doubt that the same has been done in complete disregard of statutory considerations contained in Section 20 of



the Act 2017 in as much as it completely ignores physical features, facilitation of communication and public convenience and most importantly violates the inviolable i.e. Territorial unity. In particular, the impugned delimitation runs contrary to the scheme of the Act and Rules in as much as it fails to adhere and maintain the mandatory requirements of delimiting a constituency from the northern end of the district and then proceeding in a clockwise manner. In fact a bare perusal of the impugned delimitation reveals that instead of moving in clockwise manner, PS-33 as is obvious from the map, begins from Tapa Bharti, which falls on the West as opposed to the North and even otherwise amounts to delimitation in an anti-clockwise fashion.

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Facts

2. The applicant is a registered voter of District NaushahroFeroze and hails from TapoGherGujo, which has been included in PS 35 of the impugned delimitation. Accordingly, the applicant is aggrieved by the impugned delimitation because the same violates the Act 2017 and the Rules 2017 and is by no means acceptable or feasible to either the people of PS 35 or any other constituency in the District.
3. As far as District NaushahroFeroze is concerned, in general elections 2013, five provincial assembly constituencies represented the entire population of District NaushahroFeroze in that – PS-19 NaushahroFeroze I, PS 20 - NaushahroFeroze II, PS-21 - NaushahroFeroze III, PS-22 NaushahroFeroze IV, PS-23 - NaushahroFeroze V. Now the provincial constituencies have been proposed for district NaushahroFeroze as PS-33 (NaushahroFeroze I); PS-34 (NaushahroFeroze II); PS-35 (NaushahroFeroze III) and PS 36 (NaushahroFeroze IV). Hence, one constituency is being reduced for district NaushahroFeroze of Sindh Province.
4. The instant representation is regarding the Provincial Constituency, PS-35 (NaushahroFeroze I). The petitioner hails from district NaushahroFeroze and is registered voter in PS-35 (NaushahroFeroze I). On behalf of the general public of PS-35, he is filing the titled representation as the proposed constituency; would adversely affect the rights and interests of the area for several reasons as, inter alia, summarized hereinafter.

Grounds

5. That the impugned delimitation has been carried out in violation Section 20 of the Act 2017 and Rule 10(5) of the Rules 2017. For the sake of convenience the



Section 20 of the Act 2017 and the Rule 10(5) of the Rules are reproduced hereinbelow;

Section 20 of the Act 2017 reads as under:

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.

Rule 10(5) of the Rule 2017 reads as under:

10. Draft proposals for delimitation of constituencies.—

(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: 7 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. That preliminary proposal of delimitation for seats of Provincial assembly of Sindh for district NaushahroFeroze has been issued while ignoring the mandatory guidelines given in Section 20 of the Election Act 2017 and rules 7,8,9 and 10 of the Election Rules 2017.
7. That the delimitation committee has proposed the constituencies of PS 35NaushahroFeroze I in utter disregard of the guiding principles of geographically compact areas, physical features of the areas, as proposed constituencies, the convenience is a major issue with public residing in these areas, the facilities of communication and public convenience has also been ignored. Further, the mandatory principle of clockwise is ignored beyond any iota of doubt.**(Copy of the Preliminary Delimitation MAP is annexed herewith and marked as Annexure A-1)**
8. That a bare perusal of Rule 10(5) states that delimitation of any constituency must start from the northern end of the district and then proceed clockwise. Whereas

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the impugned delimitation quite contrary to the said rule, begins from Tapa Bhorti which by no stretch of imagination could be termed as northern end of the district. In this respect assuming for the sake of argument the delimitation authority has proceeded on the basis of Tapa Kamal Dero and considered it as the northern end (albeit wrongly). The same has resulted in an anticlockwise delimitation stretching the boundaries of PS 33 towards the western side of the District when in fact the same should have been carried out in a clockwise manner. In this respect the applicant submits his proposals along with a map of four constituencies of the District (*which are attached as ANNEX B-1 and B-2* hereinafter referred to as the proposed delimitation). At this juncture it is significant to point out that the proposed delimitation takes into consideration the entire Scheme of the law and in particular Section 20 of the Act 2017 and 10(5) of the Rules 2017. The proposed delimitation (as illustrated in the map) begins from the northern end of the District i.e. Tapa Dehat and as required by the rules, runs in a clockwise fashion. Furthermore, the proposed delimitation fully adheres to and complies with Section 20 of the Act in as much as the statutory considerations contained therein are not violated unlike the impugned delimitation.

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9. That constituency termed as PS 34 in the impugned delimitation not only violates rule 10 (5) as the same does not run in a clockwise manner but has rather been delimited in complete disregard of the statutory considerations contained in Section 20 of the Act. Quite clearly the Constituency is an odd one out as the same is stretched well over 50 kilometers, quite unlike any other constituency of the district. This aspect in itself violates two important considerations contained in Section 20 (1) i.e. convenience of the public and maintain homogeneity, which ought to be kept in mind when delimiting a constituency. Furthermore, what is startling to note is that PS-34 in the impugned delimitation also fails to maintain territorial unity of the Constituency between Tapa Luthi and Tapa Mithiani as in between the two tapa's, quite remarkably, PS-35 (a completely separate constituency) has been inserted. If the impugned delimitation is examined in this context, there is no territorial unity between Tapa Luthi and Tapa Mithiani. As soon as the limits of tapa Luthi finish, PS-35 has been inserted and thereafter once the boundary of PS-35 is earmarked, the limits of PS-34 start once again by adjoining Tapa Mithiani. The proposed delimitation caters to requirements envisaged under both the Act as well as the rules and have been proposed in the best interest of the people of the constituency and would save the people from inconvenience otherwise imposed upon them through the impugned delimitation.
10. In view of the foregoing, it is submitted that Article 222 of the constitution provides that parliament may by law provide for, (a) the allocation of seats in the National Assembly as required under Article 51 (3) and (4) of the constitution, and (b) the delimitation of constituencies by the Election Commission of Pakistan.



It is thus, constitutional obligation of this Honourable 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."

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11. To delimit a constituency, the broader principles have been summarized in Section 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."

12. Now according to the preliminary report on proposed constituencies issued by this Honourable Commission, province of Sindh has been divided into 130 territorial constituencies on the census of 2017. The quota per seat in respect of each provincial assembly seat has been determined in relation to Sindh as under:

Total Population of Sindh: 47,893,244

Total PA Seats of Sindh : 130

Quota Per Seat: $47,893,233/130 = 368,410$

13. Based on the aforesaid population and seat quota with a variation of about 10% as provided in section 20 of the Election Act, 2017, four seats, now proposed for District NaushahroFeroze out of the 130 seats allocated to the entire province of Sindh, have been drawn up as per the preliminary delimitation are as under:

- 1) PS-33, NaushahroFeroze I - (Population, 392,795)
- 2) PS-34, NaushahroFeroze II - (Population, 396,214)
- 3) PS-35, NaushahroFeroze III - (Population, 429,980)
- 4) PS-36, NaushahroFeroze IV - (Population, 393,384)

14. In light of the aforementioned, it is most humbly prayed that the impugned delimitation be revisited and the delimitation proposed by the applicant be accepted as the same is in accordance with law and fosters the cause of justice.

15. That the petitioner seeks indulgence of the Honourable Commission to urge more grounds from the record at the time of hearing of this representation.



PRAYER

The Petitioners, therefore, respectfully, pray that this Honorable Court be pleased to allow this representation and to further:

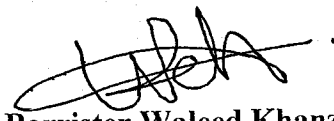
- a) Honourable Commission may kindly be pleased to consider and allow the titled representation and finalize, inter alia, PS-33 (NaushahroFeroze I); PS-34 (NaushahroFeroze II); PS-35 (NaushahroFeroze III) and PS 36 (NaushahroFeroze IV) as proposed through instant representation and may further be pleased to make all appropriate adjustment, amendment, alteration and modification to the proposed constituency in the interest of justice.
- b) Grant any other relief, additional and or moulded as this Honorable Commission may deem fit, proper and or necessary in the circumstances of the case.

9/02/2018



**Sohail Akhter
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Through



**Barrister Waleed Khanzada
Advocate**

Dated:

