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BEFORE THE HONOURABLE ELECTION COMMISSION OF PAKISTAN

Representation No. Of 2018

Shoaib Abbass Abbasi
son of Ghullam Abbass Abbasi
resident of Dastagir Colony
Ward # 8, P.O Tharu Shah,
Taluka Bhiria
District Naushahro Feroz
Mob: 0300-2099231-----

APPLICANT

VERSUS

The Election Commission of Pakistan,
The Delimitation Committee,
through the Secretary, Election
Commission of Pakistan (Islamabad)-----

RESPONDENT

**REPRESENTATION UNDER SECTION 21 OF THE ELECTIONS ACT
2017 READ WITH RULE 12 OF THE ELECTION RULES 2017**

Being aggrieved of the Preliminary Report and Delimitation Proposal published by the Election Commission of Pakistan ['ECP'] in the official gazette dated 5.3.2018, the Applicant respectfully begs to submit as under:-

FACTS

1. That the Applicant permanently resides at the address mentioned above and is a voter in PS-34 (as presently proposed by the Delimitation Committee). Copies of his CNIC and his Voter Registration Certificate are annexed herewith as Annexure 'A-1' and 'A-2'. He is presently an advocate by profession enrolled in the Sindh bar Council from Naushahro Feroz District

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2. For the reasons set out in the grounds below, it is submitted that the proposed delimitation for District Naushahro Feroze (Provincial Assembly general seats) as published by the ECP on 5.3.2018 is patently defective and violative, inter alia, of Articles 2-A, 4, 10-A, 17, 25 and 222 of the Constitution and section 20 of the Elections Act 2017 and Rules 8 and 10 of the Election Rules 2017 and is, even otherwise, unreasonable, arbitrary and distorted. *Copies of the ECP Preliminary Report along with the extract of Delimitation Proposal for District Naushahro Feroze (Provincial Assembly general seats) as well as the ECP Map of District Naushahro Feroze (PS-33 to PS-36 inclusive) are annexed herewith as Annexure 'B-1', 'B-2' and 'B-3' respectively. A copy of the extract of the Census for District Naushahro Feroze is annexed herewith as Annexure 'C'.*

3. That the Applicant does hereby propose an alternative delimitation for District Naushahro Feroze (Provincial Assembly general seats) that fully satisfies the mandate and requirements of the Constitution, the Election Act 2018 and the Election Rules 2017 and is in keeping with the principles of electoral representation. *A copy of the Applicant's proposed delimitation map and the details thereof are annexed herewith as Annexure 'D-1' and 'D-2'.*

4. That the constituencies as per the ECP proposal are as follows:

Constituency	Extent of Constituency	Population
PS-33	A) Kandiaro Taluka	321,439
	B) Halani Town Committee of Mehrabpur Taluqa	23,419
	C) The following Tapedar	

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	<p>Circle of STC Halani</p> <p>Taluka Mehrabpur:-</p> <p>i. Halani 8,932</p> <p>ii. Dehat 20,435</p> <p>iii. Kotri Kabir 17,750</p>	
	TOTAL	392,795
PS-34	<p>A) Mehrabpur Taluka excluding the following areas:</p> <p>i) Halani Town Committee</p> <p>ii) Tapedar Circle Halani</p> <p>iii) Tapedar Circle Kotri Kabir</p> <p>iv) Tapedar Circle Dehat of STC Halani Taluka Mehrab pur</p> <p>B) Bhiria Taluka excluding the following areas:</p> <p>i) Tapedar Circle Mad Alim</p> <p>ii) Tapedar Circle Tharu Shah</p> <p>iii) Tapedar Circle Molhan</p>	<p>176,924</p> <p>219,290</p>

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	iv) Tapedar Circle Dalipota of STC Bhiria	
	v) Tapedar Circle Gher Gaju of STC Bhiria Road	
	TOTAL	396,214
PS-35	A) Naushahro Feroz excluding the following Tapedar Circles of STC Darya Khan Mari: i) Vissar ii) Sahib Khan iii) Masur Ji Wah B) The following areas of Taluka Bhiria from STC Bhiria: i) Tapedar Circle Mad Alim 27,659 ii) Tapedar Circle Tharo Shah 10,769 iii) Tapedar Circle Molhan 11,541 iv) Tapedar Circle Dalipota v) Tapedar Circle Gher Gaju of STC Bhiria Road 14,448 17,337	348,226

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	TOTAL	429,980
PS-36	A) Entire Taluka Moro B) The following Tapedar Circles of STC Darya Khan Mari Taluka Naushahro Feroz: i) Vissar ii) Sahib Khan iii) Masur Ji Wah	368,789 12,920 4,877 6,798
	TOTAL	393,384

That the constituencies as per the proposal of the Applicant are as follows:

Constituency	Extent of Constituency	Population
PS-33	A) Including Tapa Shaikhani, Tapa KhanWahan, Tapa Gul Shah of STC Gul Shah of Taluka Kandiaro	55651
	B) Including Tapa Sethar, Tapa Chachak, Tapa Mirzapur, Tapa Ghanghara, Tapa Kandiaro and Town Committee Kandiaro of STC Kandiaro of Taluka Kandiaro	97293
	C) Including Whole Taluka	247280

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	Mehrabpur with Town Committee Halani and Town Committee Mehrabpur	
	TOTAL	400224
PS-34	A) Including STC Bhiria Road and Tapa Khahi Qasim, Tapa Kanjar, Tapa Jalbani of STC Bhiria of Taluka Bhiria	123556
	B) Including Town Committee Bhiria City and Town Committee Bhiria Road of Taluka Bhiria	39091
	C) Including Town Committee Naushahro Feroze, Tapa Kur Hasan and Tapa Naushahro Feroze of Taluka Naushahro Feroze	84702
	D) Including Town Committee Padidan and STC Padidan excluding Tapa Phull of Taluka Naushahro Feroze	96993
	E) Including Town Committee Darya Khan	52675

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	Mari and STC Darya Khan Mari excluding Tapa Vissor of Taluka Naushahro Feroze	
	TOTAL	397017
PS-35	A) Taluka Moro Complete B) Including Tapa Vissor of STC Darya Khan Mari and Tapa Noorpur of STC Naushahro Feroze of Taluka Naushahro Feroze C) Including Tapa Phull of STC Padidan of Taluka Naushahro Feroze	368789 23493 19172
	TOTAL	411454
PS-36	A) Including Tapa Kajhar, Tapa Wagan, Tapa Abji, Tapa Mithiani of STC Naushahro Feroze of Taluka Naushahro Feroze B) Including Town Committee Mithiani of Taluka Naushahro Feroze C) Including Town	65400 30386 138397

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	Tharushah and Tapa Dalipota, Tapa Machur, Tapa Bhiria, Tapa Dali, Tapa Madalim, Tapa Tharushah and Tapa Molhan of STC Bhiria of Taluka Bhiria	
	D) Including STC Dabhro and Tapa Ghulam Shah, Tapa Shahmir Dero, Tapa Selahpur of STC Kandiaro of Taluka Kandiaro	142792
	E) Including Tapa Mooso Dero of STC Gul Shah of Taluka Kandiaro	26703
	TOTAL	403,678

GROUNDS

A) That Rule 10 (5) of the Election Rules 2017 requires, inter alia, that "[a]s far as possible, the delimitation of constituencies shall start from the Northern end of the district [and] then proceed clockwise in a zigzag manner keeping in view that the population among the constituencies of an Assembly shall remain as close as may be practicable to the quota." As such, the delimitation of District Naushahro Feroze should have been started from Tapa Kamal Dero which is the northernmost Tapedar circle in the District and then other Tapedar circles should have been added to the constituency in a clockwise and zigzag manner. However, the present proposal of the ECP does not follow the prescribed manner of delimitation and is thus

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defective and unlawful. The Applicant's proposal – on the other hand – follows this prescription fully.

B) That section 20 (3) of the Election Act 2017 requires that variation in population of constituencies “shall not ordinarily exceed 10%” save in “an exceptional case” and then only for reasons to be recorded “in the delimitation order”. The average quota for a constituency of the Sindh Assembly is 368,410. The present delimitation proposal of the ECP for District Naushahro Feroz causes the population of PS-35 (being 429,980) to substantially exceed the 10% deviation limit. As per the ECP proposal, PS-35 has a population nearly 17% in excess of the provincial average quota. The ECP has not advanced any reason for this deviation. Moreover, Rule 10 (5) requires that the populations among constituencies shall “remain as close as practicable to the quota: Provided that the quota under this sub-rule shall be determined by dividing total population of the district [...] with number of seats allocated to that district.” The total population of District Naushahro Feroze is 1,612,373 and it has been allocated four provincial assembly seat and thus the quota comes to 403,093 per constituency. The table below illustrates the population of each constituency as per the ECP's proposal and the Applicant's proposal and the latter clearly adheres to the legal prescriptions more closely.

	ECP Proposal	Applicant's Proposal
PS-33	392,795	400,224
PS-34	396,214	397,017
PS-35	429,980	411,454
PS-36	393,384	403,678

C) Indeed, as far as PS-35 is concerned, the only reason why its population is much larger than all the other constituencies in the District and exceeds both the provincial and the district average quota is because five Tapedar circles from Taluka Bhiria were added – for no discernible reason – to the existing Naushahro Feroze Taluka. This not only added to the lopsidedness of PS-35's population but also made it even more geographically dispersed which clearly demonstrates the arbitrariness of the ECP Delimitation Proposal.

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D) That section 20 (1) of the Election Act 2017 requires, inter alia, that constituencies be delimited having regard to "*the distribution of population in geographically compact areas*". In other words, the constituency should not be unreasonably spread out and should be as compact as possible. The table below illustrates the longest distance between two points in each constituency (PS-33, 34, 35 and 36) as per the ECP's proposal and as per the Applicant's proposal:

	ECP Proposal	Applicant's Proposal
PS-33	48km (From Bhorti to Dehat)	34.24km (From Sheikhani to Bago Daro)
PS-34	35km (From Bela Wah to Saleh Sahito, Tapa Behlani)	37.19km (From Mango to Masur Ji Wah)
PS-35	50km (From Bukar to Tapa Mithiani)	24.48km (From Vissar to Khairodero)
PS-36	42km (From Masur Ji Wai to Khairo Dero)	36.18km (From Mithiani to Kamaldero)

Copies from Google Maps illustrating the aforesaid distances are annexed herewith as Annexures 'E-1' to 'E-8'.

D) That section 20 (1) of the Election Act 2017 also requires, inter alia, that constituencies be delimited having regard to "*facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of constituencies*". In particular, for obvious reasons it is essential that a constituency's delimitation be carried out in such a way as to facilitate the constituents' access to their representatives/candidates (and polling stations) and vice versa. For this reason, the various parts of a constituency should be – as far as possible – well connected through transport links. A brief perusal of the official road maps of District Naushahro Feroze will show that the constituencies delimited as per the Applicant's proposal are much better connected through an internal road network than that proposed by the ECP. *Copies of the official road maps with the ECP proposed*

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constituencies and the Applicant's proposed constituencies marked thereon are annexed herewith as Annexure 'F-1' to 'F-2'.

- E) As far as the requirement of homogeneity of constituencies in section 20 (1) of the Election Act 2017 is concerned – as per the ECP delimitation proposal, Tharu Shah Town Committee has been separated from the Tharu Shah Tapedar Circle so that the former lies in PS-34 and the latter in PS-33. It is respectfully submitted the Tharu Shah town extends into the Tharu Shah Tapedar Circle and bears strong socio-economic ties with the same and is part of a homogenous community. It is clearly unreasonable to divide the two into different constituencies.
- F) That section 20 of the Election Act 2017 also requires that regard shall be paid to “existing boundaries of administrative units”. The relevant administrative units within the District are Talukas, Supervising Tapedar Circles and Tapedar Circles (and Town Committees). In this regard, however, as far as Talukas are concerned, it is not possible to make any delimitation in District Naushahro Feroze (while maintaining geographical compactness and relative population parity between the constituencies) that does not transgress Taluka boundaries. Thus both the ECP proposal and the Applicant's proposal do not maintain Taluka boundaries. On the other hand, both the ECP's proposal and the Applicant's proposal fully observe and respect the boundaries of the various Tapedar Circles and Town Committees. As far as Supervising Tapedar Circles are concerned, ECP's proposal contemplates the division of four Supervising Tapedar Circles whereas the Applicant's proposal contemplates the division of five Supervising Tapedar Circles.
- G) That the Applicant craves leave to raise further grounds at the time of hearing.

PRAYERS

- i) That the Honorable Election Commission of Pakistan may be pleased to set aside the preliminary delimitation of the constituencies of Provincial Assembly in District Naushahro

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Feroze of Sindh Province and accept the proposal of Applicant for final List of Constituencies

- ii) Any other relief deemed fit and proper under the circumstances of the case.

ISLAMABAD
DATED: -03-2018

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APPLICANT

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ADVOCATE FOR APPELLANT

VERIFICATION

I, Sardar Muhammad Usman s/o Muhammad Alim Almani Baloch, resident of Almani House, Station Road, Dak Khana Tharu Shah, District Naushahro Feroz, Muslim, adult, do hereby verify on oath that whatever stated above is true and correct to the best of my knowledge, belief and information.

ISLAMABAD:
DATED: -03-2018

DEPONENT

The deponent above named is known to me and identified by me to the commissioner for taking affidavits.

ADVOCATE

Solemnly affirmed before me at Hyderabad on this _____, day of March, **2018** by the deponent who is identified to me by **Mr. _____ Advocate** who is known to me personally.

COMMISSIONER FOR TAKING AFFIDAVITS

DOCUMENTS FILED & RELIED UPON