

RE: MEMORANDUM OF OBJECTIONS

BEFORE THE ELECTION COMMISSION OF PAKISTAN

*HA/29/03/2018
1-2*

1. **M. Shaharyar Khan Mahar**
s/o Ghous Bux Khan Mahar
Muslim, adult
Resident of:-
 - a) **Village Wazirabad**
Taluka Lakhi
District Shikarpur
Sindh
 - b) **Presently r/o House No. 15-B,**
12th Central Street
DHA, Phase II
Karachi

2. **Nasrullah Khan s/o Lutufullah Dad**
Muslim, adult
r/o Amrote Sharif
Taluka Garhi Yaseen
District Shikarpur
Sindh

3. **Fayyaz Ahmed s/o Mian Shaif M. Mahar**
Muslim, adult
r/o Mahar House, Sadar Mohallah
Taluka and District Shikarpur
Sindh.....Petitioners

VERSUS

1. **Province of Sindh,**
Through Chief Secretary
Government of Sindh, Tughlaq House
Sindh Secretariat
Karachi

2. a) **Election commission of Pakistan**
Constitution avenue, G-5/2
Islamabad
Through its secretary

b) **Provincial Election Commissioner, Sindh**
Having office at Barrack No.44-A
Pakistan Secretariat
Shahrah-e-Kamal Attaturk
Karachi.....Respondents

29/03/2018

MEMORANDUM OF OBJECTIONS TO THE PROVISIONAL DELIMITATION IN RESPECT OF THE CONSTITUTENCIES PS-7 PS-8 (mainly) AND PS-9 IN SINDH I.E. DISTRICT SHIKARPUR

The Petitioners above named most respectfully submit as under:-

1. That the Petitioner no.1 is a sitting MPA in the Sindh Assembly, having been elected in the General Elections of 2013. Earlier also he was duly elected as an MPA in the Provincial Sindh Assembly in the general elections of 2008. The Petitioner no.1 is a voter in PS-8, a copy of the Voter's Certificate is enclosed as **Annex A**.

2. The Petitioner No.2 is an agriculturalist and has remained the Nazim of Union Council Amrote in 2005. The said Petitioner No.2 is the voter falling in PS-9, and a copy of the voters' certificate is enclosed as **Annex A-1**.

3. The Petitioner No.3 is a lawyer and a voter in PS-7. A copy of the voters' certificate is enclosed as **Annex A-2**.

NB: The description of the Petitioners falling in the respective constituencies of PS-7, PS-8 and PS-9, as mentioned above, is based upon the provisional delimitation which is being objected to by the said Petitioners. Furthermore, the certificates of the voters' have been provided as were issued by the District Election Commissioner of District Shikarpur.

4. Presently, the Petitioner no.1 is an MPA hailing from PS-10 Sindh, covering Taluka Lakhi and some parts of Taluka Shikarpur. Before the

A 29/03/2018

impugned provisional delimitation, there were 4 constituencies in the area in issue, which are spelt out as follows:-

- | | | | | | |
|------|--------|---|---|---|---------------------|
| i) | PS-9 | - | - | - | Taluka Ghari Yaseen |
| ii) | PS-10- | - | - | - | Taluka Lakhi |
| iii) | PS-11- | - | - | - | Taluka Shikarpur |
| iv) | PS-12 | - | - | - | Taluka Khanpur |

5. After the 2017 census the provincial constituencies in the area in question have been reduced from 4 to 3, which are reflected as follows:-

- i) PS-7; comprising major portion of Taluka Shikarpur, part of Taluka Ghari Yaseen and part of Taluka Khanpur and Taluka Ghari Yaseen;
- ii) PS-8; comprising Taluka Khanpur and Taluka Lakhi;
- iii) PS-9; comprising principally Taluka Ghari Yaseen and Taluka Shikarpur and part of Taluka Lakhi.

6. The provisional delimitation is squarely against the principles of delimitation having been spelt out in section 20 of the Elections Act, 2017, in as much as that:-

- a) It is the elementary principle for causing delimitation that the constituencies of the Provincial Assembly are to be carved from the constituencies of the National Assembly so as to ensure continuity and homogeneity. In the present case the constituency of the National Assembly i.e. NA 198 comprises Taluka Shikarpur, part of Taluka Khanpur. Similarly, the National Assembly constituency bearing No. NA-199 comprises full Taluka Ghari Yaseen and full Taluka Lakhi and a small part of Taluka Shikarpur to balance the population whereas the Provincial Assembly constituencies of

29/03/2013

PS-7, PS-8 and PS-9, as proposed now, have been carved out in the manner that each of them fall in more than one National Assembly Constituency, thus violating the principle of continuity and homogeneity;

- b) Under the Sindh Revenue Act, 1967, the boundaries of Talukas have been carved out in terms of the notification bearing No.1/10/78-Rev-I(IV)186, Hyderabad dated 30.1.1979. Copy of the latter notification is enclosed as **Annex B**. As per the principles of the delimitation the constituencies are to be divided in a manner that they are in geographically compact areas and the existing boundaries of administration units are maintained. This is absolutely necessary for the facility and ease of the people of the area. However, the proposed delimitation is against this elementary principle of delimitation. It is respectfully submitted that the previous delimitation of the area was in consonance with the existing administrative boundaries as per Sindh Land Revenue Act, 1967 which is liable to be immediately restored;
- c) the constituencies proposed by the Petitioners have been carved out of the existing NA constituency of the district, so as to provide ease to all political parties as it will save unnecessary expenses and will provide opportunity to the middle and lower class people to participate as well, and contact on MNA; otherwise the people of the same constituency of the Provincial Assembly will have to contact two different MNAs/MPAs, which will give rise to

discrimination, militating against Article 25 of the Constitution;

29/03/2018

- d) The ECP has proposed the PS-8 constituency by joining Taluka Khanpur and Taluka Lakhi. The problem here is that Taluka Lakhi is dominated by the Mahar tribe and Taluka Khanpur has the Jatoi tribe in abundance and is a known fact that these 2 tribes have recently come at peace after a long bloody feud which resulted in loss of more than 350 precious lives (newspaper clippings, Jirga Decisions Applications/Complaints and copies of FIRs are attached as **Annex C to C-26**). So to maintain peace in the area it is very important that these 2 Talukas should not be joined but if there is other option available then a part Taluka Khanpur may be joined with Taluka Lakhi to create a constituency. The joining of these two Talukas will violate the fundamental rights of life of the people of these two Constituencies, guaranteed under articles 9 and 14 of the Constitution.
- e) Since 1979 Taluka Ghari Yaseen and Taluka Lakhi had the status of subdivision whereas Taluka Shikarpur and Taluka Khanpur had the same and this is how the people are affiliated even today;
- f) The Petitioners' political party i.e. PML(F) has carried out a lot of development work in Talukas Ghari Yaseen and Lakhi as both the MNA and MPA hail from PML(F). Now if the Petitioner No.1 moves to a different constituency his

opponent will have an edge over him as he will be new in the area, thereby not providing him with equal footing or level playing field to contest the elections;

- g) There are hardly any roads between Taluka Lakhi and Khanpur whereas Taluka Lakhi and Ghari Yaseen are attached together. The proposed delimitation is against the delimitation of constituency rules 2017.

7. It is respectfully pointed out that earlier Mr. Syed Nadir Shah s/o Syed More Ali Shah and Mr. Mehboob Ali Mahar s/o Janib Ali had filed proposals with the learned Secretary ECP at Islamabad, a copy whereof is enclosed as **Annex D**. However, the same was given no credence.

8. There is an apparent error/discrepancy between the proposed delimitation notification viz a viz the official map relatable thereto as in the map Tapa Garhi Dakho of Taluka Khanpur has been shown is part of PS-7, however, in the notification it has been shown as part of PS-8.

9. The Petitioners are filing copies of their respective CNICs, which are enclosed as **Annex E, E-1 and E-2**.

10. As per requirements of law the Petitioners are filing the following maps/documents:-

SA 29/03/2018

8/02/2018
A/29/03/2018

- a) The map of Shikarpur District showing 2 National Assembly constituencies, as proposed by the ECP, which have been impugned in these objections, which is attached as **Annex-F**;
- b) The map of Shikarpur District showing the Sindh Provincial Assembly constituencies, as proposed by the ECP, which have been impugned in these objections, which is attached as **Annex-F-1**;
- c) The copy of the map of Shikarpur District showing the constituencies as per the proposal of the Petitioners, which is attached as **Annex-F-2**;
- d) Copy of the impugned proposal is attached as **Annex-G**;
- e) Copy of the proposal of the Petitioners in tabulated form is enclosed as **Annex-H**.

11. In sum and substance the impugned proposal constitutes gerrymandering at the behest of the ruling PPP's Government of Sindh. The idea is to create constituencies so that the MPAs and MNAs hailing from PML(F), including the Petitioners, are not elected in the forthcoming general elections of Provincial and National Assembly.

12. Also the impugned proposal of delimitation is squarely and principles of delimitation as spelt out in section 20 of the Elections Act, 2017 so also the general principles of delimitation, in that 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, have not been maintained.

29/03/2018

13. The Petitioners crave permission of this august Commission to permit their counsel or the said Petitioners to raise or urge any other point or ground at the time of hearing of the petition/memorandum of objections.

PRAYER

In light of the above, it is most humbly prayed that the Hon'ble Election Commission of Pakistan may kindly be pleased to recall the proposed delimitation of the relevant area and create the constituencies in terms of maps attached, according to which the proposed constituencies may be as follows i.e. as per Annex F-2 hereof:-

- a) PS-7, highlighted in white may comprise principally Taluka Shikarpur and some part of Taluka Khanpur;
- b) PS-8, highlighted in green colour may comprise parts of Taluka Lakhi and part of Taluka Khanpur;
- c) PS-9, highlighted in blue may comprise principally Taluka Ghari Yaseen and part of Taluka Shikarpur;
- d) Any other order deemed fit may be passed in the interest of justice.



PETITIONER NO.1



PETITIONER NO.2



PETITIONER NO.3

Karachi:

Dated: _____

VERIFICATION

We, (i) Muhammad Shaharyar Khan Mahar son of Ghous Bux Khan Mahar, r/o Village Wazirabad, Taluka Lakhi District Shikarpur and House No. 15-B, 12th Central Street, DHA, Phase II Karachi (ii) Nasrullah Khan s/o Lutufullah Dal r/o Taluka Garhi Yaseen District Shikarpur Sindh, (iii) Fayyaz Ahmed s/o Mian Shaif M. Mahar r/o Mahar House, Sadar Mohallah Taluka and District Shikarpur Sindh, Muslims, adults, do hereby verify on oath that whatever stated in the petition is true and correct to the best of my knowledge and belief.



DEPONENT NO.1
 CNIC NO. 42000-0495144-5
 CELL NO. 0300 8287103
0307 2633409.



DEPONENT NO.2
 CNIC NO. 43301-0817513-5
 CELL NO. 0300-8313854



DEPONENT NO.3
 CNIC NO. 43302-3513328-1
 CELL NO. 0333 7264388