

BEFORE THE ELECTION COMMISSION OF PAKISTAN
THROUGH THE HONOURABLE SECRETARY, AT ISLAMABAD

Aftab Javed Memon
son of Muhammad Ibrahim Memon
Beghani Street, Islampur Muhallah No. 3,
Thatta Municipal Committee,
Taluka Thatta, District Thatta
Vote number: 31

Census Block Number:377030408

.....

Objector

versus

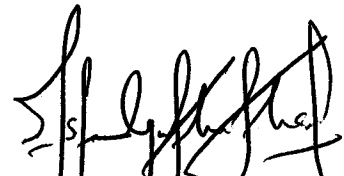
Delimitation Committee Sindh

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Karachi.

Dated: -03-2018


ADVOCATE FOR OBJECTOR

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BEFORE THE ELECTION COMMISSION OF PAKISTAN
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Aftab Javed Memon
son of Muhammad Ibrahim Memon
Beghani Street, Islampur Muhallah No. 3,
Thatta Municipal Committee,
Taluka Thatta, District Thatta
Having CNIC No.41409-9192680-5
Vote number: 31
Census Block Number:377030408

..... Objector

versus

Delimitation Committee Sindh

**REPRESENTATION FILED UNDER SECTION 21(3) OF THE
ELECTIONS ACT, 2017 READ WITH RULE 12 OF THE
ELECTION RULES 2017**

Humbly Sheweth:

Being aggrieved and being dissatisfied by the Preliminary List of delimitation of Provincial Constituencies pertaining to District Thatta, Sindh, the objector named above prefers to file this instant representation on the following facts and grounds amongst others:

Copies of the Preliminary List of Constituencies and Map duly attested by the ECP are filed herewith and marked as Annexure "O-1" & "O-2"

FACTS

1. That the objector named above is a law abiding citizen of Pakistan and is also an engineer by profession and is always concerned for the well being of the constituents of District Thatta. The objector has always strived in his entire life to serve the constituents of his district and has worked hard for their betterment, by partaking in the democratic political process which is enshrined in the Constitution of Islamic Republic of Pakistan, 1973 (Constitution, 1973).

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2. That according to the Constitution, 1973 the present government will complete its tenure of five (05) years in the current year, hence, the general elections shall take place this year i.e. 2018.

3. That under Section 14(1)(a) of the Elections Act, 2017 (Act, 2017) the first measure to be taken by the Election Commission of Pakistan (ECP) under the comprehensive Action Plan is the delimitation of constituencies. The block wise provisional summary results of sixth population and housing census 2017 was published on 03.01.2018 and by virtue of The Constitution (twenty-fourth Amendment) Act, 2017 (Amendment) the Election Commission of Pakistan (ECP) has to conduct the delimitation of constituencies on the basis of the provisional census results. That according to the Constitution, 1973 the number of provincial assembly seats, in the province of Sindh, are 130 (one hundred and thirty) which are elected directly through the ballot. Moreover by virtue of The Constitution (twenty-fourth Amendment) Act, 2017 the proviso of clause 5 of Article 51 of the Constitution, 1973 has been amended and is reproduced as under:

'Provided that for the purposes of the next general elections to be held in 2018 and bye-elections related thereto, the allocation shall be made on the basis of provisional results of 2017 which shall be published by the Federal Government.' (emphasis added)

4. That the population of the province of Sindh according the Provisional Census Results of 2017 is 4,78,86,051 (forty

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seven million eight hundred eighty six thousand and fifty one). This population is to be divided and balanced between the 130 (one hundred and thirty) provincial assembly Seats of the province.

5. That the Elections Act, 2017 (Act, 2017) has come in to force in Pakistan in order to amend, consolidate and unify laws relating to the conduct of election matters connected therewith or ancillary thereto.
6. According to section 2 (1)(xi) of the Act, 2017 the word 'constituency' has been defined: '*means a constituency delimited under this Act*' (emphasis added). Thus it is understood by the plain reading of the definition that all constituencies are to be delimited under the Act, 2017.
7. That Chapter III of the Act, 2017 deals with delimitation of constituencies and this Chapter consists of six sections, starting from section 17 to 22 of the Act, 2017. The delimitation of constituencies for the purpose of election to provincial assemblies is to be conducted under section 19 of the Act, 2017 by dividing the province into as many separate territorial constituencies as the number of general seats specified in Article 106 of the Constitution, 1973.
8. That according to Rule 8 (4) of the Rules, 2017 the Commission shall determine and notify the share of a district or districts by dividing the total population thereof with the quota per seat of the provincial assembly. Provided that the

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fraction of more than 0.5 shall be counted as one seat and a fraction of less than 0.5 may be ignored.

9. That the population of District Thatta is 979,817 and this population is to be divided by the quota per seat i.e. 368,354. The fraction result comes to 2.65. Therefore by following the Rules, 2017 the share of District Thatta for the provincial assembly seats is 3 (three) and the Election Commission of Pakistan through its Notification dated 15.01.2018 has also determined the abovementioned share in light of provisional results of population census, 2017.

Copies of the Provisional Census Results of District Thatta and Notification dated 15.01.2018 are filed herewith and marked as Annexure "O-3" & "O-4"

10. That the delimitation committee has also not followed the principles of delimitation in its full spirit as it has not taken in to consideration the historical boundaries whilst delimiting the constituencies of District Thatta. This is apparent from the fact that the Tapedari Circle Thatta has completely been separated from Municipal Committee Thatta as per the preliminary list of constituencies, Municipal Committee Thatta falls in the newly constituted PS-77 whereas the Tapedari Circle Thatta has been placed in PS-78. This action of the delimitation committee is unlawful and illegal because the Tapedari Circle Thatta and the Municipal Committee Thatta have a natural and political connection and have been inseparable. Furthermore the delimitation committee under the principles of delimitation has to ensure homogeneity in the constituencies and has to take immense

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care of the fact that their actions do not dilute, divide and separate people having the same communities of interest. By separating Thatta Municipal Committee and the Tapedari Circle Thatta by keeping them in separate provincial constituencies many people sharing the same communities of interests and also having the same castes have been divided. The castes who had an influence and strength in making their own political decisions whilst Tapedari Circle Thatta and Municipal Committee Thatta were in the same constituency are mostly Magsi, Brohi, Jakhra, Samo/Redar, Mallah/Gandiro(Mirburh), Shoro, and Soomro. However due to the separation of Tapedari Circle Thatta and Municipal Committee Thatta into two constituencies these castes/tribes have been divided and diluted between the two constituencies of PS-77 and PS-78 and the same comes within the definition of Gerrymandering.

Copy of the List of Villages of Taluka Thatta is filed herewith and marked as Annexure "O-5"

11. That it is reiterated delimitation committee whilst delimiting the constituencies of district Thatta have to keep in mind that the communities sharing the same interests should be unified rather than being divided in order to ensure cultural homogeneity. That the Var Town that lies in Union Council Khann has a cultural connection with the tapedari Circle Ghulamullah as majority of the castes living in both these areas are same and they share the same interests. Therefore the delimitation committee should unite the same so that they may take their political decisions in a united manner.

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The castes that have been divided by the delimitation committee are Zangiani Baloch, Chandio Baloch, Khushk Baloch, Rind Baloch, Panhwar, Jatt, Memon, Khwaja, Nahiya, Dars and Mallah. As per the preliminary list of constituencies Var Town falls in PS-78 and the Tapedari Circle Ghulamullah falls in PS-79, thereby dividing these castes in two separate constituencies. This action is against the concept of cultural homogeneity and the same comes under the definition of gerrymandering.

Copies of the List of Villages of Taluka Mirpur Sakro and Details of Villages of Taluka Ghorabari are filed herewith and marked as Annexure "O-6" & "O-7".

12. That the Commission may accept this instant representation on the following grounds:

GROUND

- A. The Principles of delimitation are laid down in section 20 of the Act, 2017 and are reproduced as under:

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 area, 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.*

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(3) *As far as possible, variation in population of constituencies of an assembly.....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.*

That the delimitation committee has delimited the constituencies of district Thatta in utter disregard of the principles laid down in the section mentioned hereinabove as it has created constituencies by not taking public convenience in mind and has not ensured homogeneity. Therefore the preliminary list is liable to be set aside.

- B. It is also a statutory duty of the Election Commission of Pakistan that while delimiting the boundaries of a constituency should keep in mind certain important factors as the boundaries according to law must be drawn in such a manner that the constituents should have an opportunity to elect candidates they feel truly represent them. This usually means that constituency boundaries should coincide with communities of interest as much as possible. Communities of interest can be defined in a variety of ways. For example, they can be geographically defined communities through physical features such as mountains or islands, or they can be 'communities' that share a common race, ethnic or tribal background, or the same religion or language. If constituencies are not composed of communities of interest, however defined, it may be difficult for representatives to

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serve the constituency well. Therefore on this ground alone the preliminary list of constituencies is liable to be side.

- C. That unbalanced or discriminatory delimitation is called gerrymandering. Gerrymandering may be used to help or hinder a particular demographic, such as a political, ethnic, racial, linguistic, religious, or class group and in the instant case the dilution of many castes in the districts of Thatta falls under the definition of gerrymandering hence on this ground alone the Preliminary delimitation of the constituencies of Districts Thatta may be set aside and the this instant proposal may be accepted.
- D. That the Tapedari Circle Thatta Can not be separated from Municipal Committee Thatta due to the reason that they share the same name and also have a historical connection with each other.
- E. That it is urged that additional grounds may also be added at the time of hearing of this petition.

PROPOSAL

THATTA PS-77 (I)

- | | | |
|----|--|----------------|
| 1. | Taluka Thatta excluding tapedar circles hajeji, tanka and khakar hala of Thatta STC. | 342,321 |
|----|--|----------------|

THATTA PS-78 (II)

- | | | |
|----|--------------------------------------|---------|
| 1. | Ghorabari Taluka | 174,088 |
| 2. | Keti Bunder Taluka | 58,832 |
| 3. | Tanka Tapedar Circle from STC Thatta | 28,764 |

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4.	Tapedar circle Buhara of Ghulamullah STC of Mirpur Sakro Taluka	34,400
5.	Tapedar circle Ghulamullah of STC Ghulamullah of Mirpur Sakro Taluka	27,305
	Total	323,389

THATTA PS-79 (III)

1.	Mirpur Sakro Taluka excluding Tapedar Circles Buhara and Ghulamullah of STC Ghulamullah	279,129
2.	Hajeji Tapedar Circle of Stc Thatta	14,337
3.	Khakar Hala Tapedar Circle of Stc Thatta	20,641
	Total	314,107

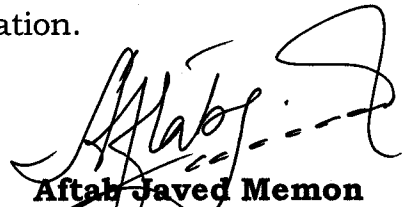
Copy of the Coloured Map in terms of the above proposal is filed herewith and marked as Annexure "O-8".

PRAYER

It is therefore, prayed in the interest justice, equity and good conscience that the Election Commission of Pakistan may graciously be pleased to:

- (i) Set-aside the preliminary list of provincial assembly constituencies and accept the above proposal and delimit the three provincial assembly constituencies of District Thatta according to this representation.

DATED:- .03.2018



Aftab Javed Memon
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ADVOCATE FOR OBJECTOR