

ELECTION COMMISSION OF PAKISTAN

Present:

Mr. Sikandar Sultan Raja, Chairman
 Mr. Shah Mohammad Jatoi, Member
 Mr. Justice (R) IkramUllah Khan, Member

**INREF: WRIT PETITION NO 3040 & 3121/2022 TITLED AS RASHEED
 HUSSAIN VS ECP & MUHAMMAD RAMZAN VS ECP
 REMANDED BACK BY THE HON'BLE ISLAMABAD
 HIGH COURT VIDE ORDER DATED 02.12.2022**

Mr. Rasheed Hussain & Muhammad Ramzan

Versus

Election Commission of Pakistan and others

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On Commission's notice

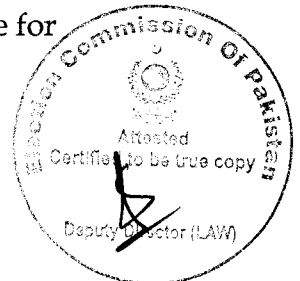
- : 1. Rasheed Hussain
- : 2. Muhammad Ramzan
- : 3. Nazeer Ahmed
- : 4. Nasrullah Khan,
- : 5. Ch Muhammad Anwar,
- : 6. Syed Nayyer Abbas,
- : 7. Ghulam Shabbir,
- : 8. Mehboob Ali,
- : 9. Mansoor Aalam,
- : 10. Muhammad Abu Bakar Siddique,
- : 11. Mohuddin Khan,
- : 12. Ghulam Yasin,
- : 13. Muhammad Waqas,
- : 14. Muhammad Sajjad

...Petitioners/Objectors

For the Writ Petitioners

For the objectors

- : Mr. Sajjad Baloch & Asif Iqbal, Advocates
- : Mr. Asif Iqbal Advocate for Nasrullah Khan
- : Mr. Imran Feroze Malik for Mr. Muhammad Sajjad
- : Mr. Abu Bakkar Siddiqui in-person
- : Mr. Makhdoom Muhammad Safdar Qureshi for Mansoor Alam
- : Muhammad Ramzan Advocate for
- : Muhammad Waqas



Rao Muhammad Akram Khurram Advocate
for Mehboob Hussain, Ghulam Shabbir
and Nayyar Abbas

For the Delimitation Committee

- : Mr. Aleem Shahab REC, RWP.
- : Mr. Shabbar Abbas Bukhari, REC,
Faisalabad.
- : Mr. Shakeel Ahmed, DEC, Sahiwal.
- : Mr. Ibrar Ahmad Jatoy, DEC, BWP.
- : Ms. Nighat Saddique (ADG

Date of hearing : 05.01.2023

ORDER

59 **Sikandar Sultan Raja, Chairman:** According to Article 51(3) of the Constitution of the Islamic Republic of Pakistan and after 25th Constitutional Amendment, the National Assembly was allocated 266 General Seats and 60 Reserved Seats for women. The Election Commission on 11th April 2022, initiated the delimitation exercise afresh in accordance with the number of seats in National as well as Provincial Assemblies as specified in Article 51 and Article 106 of the Constitution of the Islamic Republic of Pakistan. District Layyah with the population of 1,823,995 was allocated 2 National Assembly seats and per seat quota is 911,998. Similarly, District Layyah was allocated 05 Provincial Assembly seats, as per seat quota of 364,799. After publication of preliminary delimitation vide notification dated 31st May, 2022, Election Commission ("ECP") invited representations from the voters of the Constituencies against the preliminary delimitation. The Commission received twelve (12) representations in respect of District Layyah against the preliminary delimitation of the National and Provincial Assemblies and after hearing the petitioners passed a common order dated 26-07-2022 by disposing of all 12 representations in respect of National as well as Provincial Assemblies constituencies of District Layyah.

2. The Petitioners Rasheed Hussain & Muhammad Ramzan (petitioners in W.P No. 3040 & 3121/2022, respectively) being dis-satisfied with the above said order of the Commission challenged the same before the Hon'ble Islamabad High Court. The



Hon'ble Court vide order dated 02.12.2022, remanded the matters back to this Commission in the following terms:-

"The objection petitions will be deemed pending before the learned ECP, which after issuing the notices and affording the parties a right to be heard will decide it in accordance with law and record its reasons for the manner in which it exercises its authority"

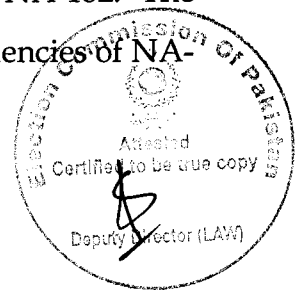
3. In pursuance of the order of the Hon'ble Court, the petitioners and other concerned parties i.e. the petitioners who had filed representations against the preliminary delimitation were issued notices for 05.01.2023. The following parties attended the hearing of the Commission:-

1. Rasheed Hussain
2. Muhammad Ramzan
3. Mehboob Ali,
4. Mansoor Aalam,
5. Muhammad Abu Bakar Siddique,
6. Ghulam Yasin,
7. Muhammad Sajjad
8. Nasrullah Khan
9. Syed Nayyer Abbas
10. Ghulam Shabbir
11. Muhammad Waqas

However, despite notice, the under-mentioned parties remained absent during the hearing:-

1. Nazeer Ahmed
2. Ch Muhammad Anwar
3. Mohuddin Khan

4. The main grievance of the petitioner No. 1.Mr. Rasheed Hussain as argued is that Qanungo Halqa Mirhan of Tehsil Layyah be excluded from NA-182 and included in NA-181. The learned counsel for the petitioner emphasized that in the preliminary delimitation, Qanungo Halqa Mirhan of Tehsil Layyah was part of NA-181 and Qanungo Halqa Sumra Nasheb of Tehsil Layyah was part of NA-182. The Commission in its order dated 19-07-2022, amended the extent of constituencies of NA-



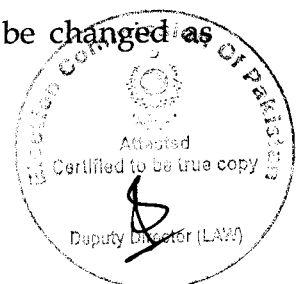
181 and NA-182 with the following amendments in the final notification of delimitation published on 5th August, 2022: -

1. QH Sumra Nasheb of Tehsil Layyah was excluded from NA-182 and included in NA-181.
2. QH Mirhanof Tehsil Layyah was excluded from NA-181 and included in NA-182.

5. Learned counsel further stated that the QH Sumra Nasheb naturally falls with NA-182 which has been made a part of NA-181 and the QH Mirhan that was previously falling with NA-181, has been included in NA-182. The final delimitation has caused inconvenience to the public and is also against the principles of delimitation. Moreover, people of QH Mirhan have cultural, trade and business links and share a similar pattern of life with the Chubara Tehsil. On the other hand, QH Sumra Nasheb is located near MC Layyah and has urban characteristics and previously it was a part of NA-182, so it ought to be attached with NA-182 Layyah-II.

6. Petitioner No.2. Muhammad Ramzan (petitioner in W.P No. 3121) has also the similar grievances as of Petitioner No. 1 and has contended that QH Sumra Nasheb remained part of NA-182, Layyah-II in previous delimitation carried out in 2018, as such, it is also geographically more suitable to be included in NA-182 Layyah-II. Making QH Sumra Nasheb part of NA-181 Layyah-I is against the principles of delimitation as laid down in the Elections Act, 2017. The preliminary delimitation was similar to delimitation carried out and finalized in 2018 which was finalized by the Commission after due consideration. The petitioner also argued that linkage and communication of QH Sumra Nasheb is more better with Tehsil Layyah instead of Tehsil Karor Lal Esan. While the communication of QH Mirhan is more better with tehsil Choubara instead of Tehsil Layyah.

7. The Objectors No. 8 & 12 i.e. Mr. Mehboob Ali and Ghulam Yasin are present in person who have supported the final delimitation published by the ECP. They contended that final delimitation is compact and needs not to be changed as



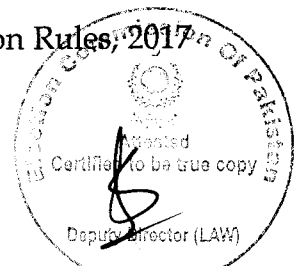
alteration/modification made by the ECP in NA-181, Layyah-I and NA-182, Layyah-II vide order dated 19.07.2022 have purely been made for the sake of public convenience and to ensure compactness and contiguity of the said constituencies.

8. Objector No. 14. Mr. Muhammad Sajjad has prayed that patwar circle Patti Bahaudin and Patti Yousaf of QH Karor Nasheb be excluded from PP-281 and included in PP-280. These Patwar Circles are adjacent with the Tehsil Headquarter Karor and MC Karor City which is already part of PP-280. Thus, these PCs will be more homogeneous and more suitable for public convenience and also in the larger interest of justice.

9. Objector No. 9. Mr. Mansoor Aalam prayed that PC Chak No. 127/TDA be excluded from PP-281 and included in PP-283 Layyah City as this PC has historically been remained part of constituency of MC Layyah.

10. Objector No. 10. Mr. Muhammad Abu Bakar Siddique prayed that PC Chak No. 125/TDA be excluded from PP-281 and included in PP-283 Layyah City as the said PC falls near Tehsil Headquarter and within the jurisdiction of Thana City Layyah. By adding the said PC in PP-283 after exclusion from PP-281, the difference of population between the Provincial Constituencies will be reduced.

11. After hearing the petitioners and the Objectors, the response of Delimitation Committee was taken which apprised that NA-181 consists of Tehsil Karor Lala Esan, Choubara and QH Sumra Nasheb of Tehsil Layyah with a total population of 917858 and NA-182 comprises of Tehsil Layyah except QH Sumra Nasheb with a population of 906137. The Committee further contended that while delimiting the constituencies, geographical features, Natural boundaries, administrative units of QHs of Tehsils have been kept in mind as QH Sumra Nasheb is adjacent to MC Layyah and the natural flow of the inhabitants of the area is aligned with each other. Similarly, QH Mirhan is located near to Tehsil Choubara and the Committee keeping in view the public convenience included this area in constituency NA-181. The Committee further apprised that the delimitation of District Layyah was started from the northern end as per Rule 10(5) of the Election Rules, 2017.

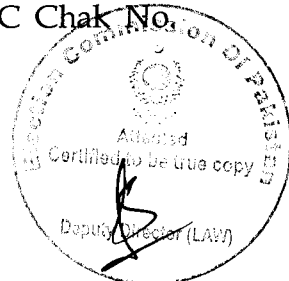


and after inclusion of entire Tehsils Karor Lal Easan, Choubara and while proceeding clockwise, the first QH Mirhan having population 62,011 was included in NA-181 to fulfill the population quota. On the other side, QH Sumra Nasheb being quite adjacent to Tehsil Headquarter Layyah instead of Tehsil Karor Lal Easan, was made part of NA-182 Layyah-II.

12. After hearing the petitioners, objectors and their learned counsels as well as the Delimitation Committee at length and with the help of record, maps and other relevant data, Commission has come to the conclusion that the proposal of the petitioner namely **Muhammad Sajjad** is not feasible. By inclusion of two PCs i.e Patti Bahauddin and Patti Yousaf of QH Karor Nasheb, population of PP-280 comes to 394,449 which exceed the upper limit of population quota. In case the prayer of the petitioner is accepted it would defeat the provisions of sub-section 3 of section 20 of the Elections Act, 2017. Hence, the prayer of the petitioner being devoid of law stands rejected.

sd 13. The prayer of Mr. **Mansoor Aalam** is with regard to exclusion of PC 127/TDA of QH Mandi Town-II of Tehsil Layyah from PP-281 and its inclusion in PP-283. It has been observed that during the preliminary delimitation, QH Mandi Town-II has been kept intact and has been added in PP-281. Whereas, the petitioner wishes inclusion of PC 127/TDA of said QH in PP-283 only. In case of acceptance of proposal of the petitioner, the QH Mandi Town-II would be broken which is violative of sub-section 1 of section 20 of the Elections Act, 2017. Hence, prayer of the petitioner is stands rejected being contrary to law.

14. The stance of objector Mr. **Muhammad Abu Bakar Siddique** is that PC 125/TDA of QH Mandi Town-II of Tehsil Layyah be excluded from PP-281 and included in PP-283. It has been observed that during preliminary delimitation, QH Mandi Town-II has been kept intact by adding in PP-281. The Committee has also clarified that Chak No. 125/TDA is not a patwar circle and it is a Revenue Estate of PC 124/TDA of QH Mandi Town-II. Under sub-rule 4 of Rule 10 of the Election Rules, 2017, patwar circles cannot be broken in any case. In case the entire PC Chak No.



124/TDA is included in the constituency of PP-283, the QH Mandi Town-II would be broken, which is violative of sub-section 1 of section 20 of the Elections Act, 2017. Hence, prayer of the petitioner/objector stands rejected.

15. The request of petitioner/objectors i.e. **Mr. Mehboob Ali and Mr. Ghulam Yasin** regarding keeping intact final delimitation of constituencies notified on 5th August, 2022, was duly considered by the Commission. In view of facts highlighted by the petitioners Mr. Rasheed Hussain, Mr. Muhammad Ramzan and Delimitation Committee referred above, it was found that their contentions and proposals bear weight which are more suitable and convenient and also in accordance with section 20 of the Elections Act, 2017. Hence, the request of the petitioners Mr. Mehboob Ali and Mr. Ghulam Yasin, being contrary to section 20 of the Elections Act, 2017, cannot be acceded to.

16. The Commission has thoroughly examined all the relevant factors and found that the prayer of petitioners i.e. Mr. Muhammad Rasheed and Mr. Muhammad Ramzan is appropriate and viable owing to the following reasons:-

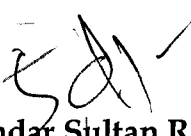
- i) The learned bench of the Commission while passing order dated 26.07.2022 kept in mind the compactness of the areas by ignoring the facility of communication and public convenience. The Commission during the hearing observed that the Delimitation Committee while conducting the preliminary delimitation included QH Sumra Nasheb Tehsil Layyah in NA-182 Layyah-II due to adjacent with MC Layyah and having urban characteristics.
- ii) Further the Commission is of the view that QH Mirhan is also near to MC Choubara of Tehsil Choubara and inclusion of above said QH in constituency NA-181 will facilitate the public at large.




- iii) Furthermore, inclusion of QH Mirhan of Tehsil Layyah in NA-181 Layyah-I and QH Sumra Nasheb in NA-182 Layyah-II will reduce the difference of population between the constituencies.

17. The above facts and level of confidence of general public on the preliminary delimitation published by the Commission leads us to the conclusion that the delimitation carried out by the Delimitation Committee in respect of constituencies NA-181 and NA-182 is more suitable and convenient to the public. The prayer and proposal of the petitioners i.e. Mr. Muhammad Rasheed and Mr. Muhammad Ramzan is hereby accepted and preliminary delimitation in respect of constituencies NA-181 and NA-182 is hereby restored and declared as final delimitation.

18. Therefore, the Delimitation Committee is directed to finalize the delimitation of National Assembly Constituencies in District Layyah in the above noted terms and take all necessary measures for notification of final delimitation in the official gazette at the earliest. Order accordingly.


Sikandar Sultan Raja.
Chairman


Shah Mohammad Jatoi,
Member


Justice (R) Ikram Ullah Khan,
Member

