

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-3877 of 2018

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Omar Siyal.

Muhammad JamPetitioner

Versus

Election Commission of Pakistan & others.....Respondents

Date of hearing 05.06.2018

Syed Mureed Ali Shah, Advocate for the petitioner.

Mr. Salahuddin Gandapur, Advocate for the Election Commission of Pakistan.

Mr. Shaikh Liaquat Hussain, DAG.

Mr. Abdullah Hanjra, Law Officer, Election Commission a/w Sain Bux Channer, Director (H.Q.) and Zaheer Ahmed Sehto, Deputy Election Commissioner, Kashmore.

Muhammad Ali Mazhar, J: The learned counsel for the petitioner argued that the petitioner intends to contest forthcoming elections for the seat of National/Provincial Assembly from Umerkot and he is also a registered voter in his constituency. The petitioner had filed a representation in respect of preliminary delimitation of district Umerkot and proposed the exclusion of ***T.C. Additional Kaplore from PS-53 (Taluka Umerkot) and inclusion in PS-52; exclusion of T.C. Padrio & T.C. Jhiluri, Taluka Samaro from P.S. 51 and inclusion in PS. 53 and exclusion of T.C. Walidad & T.C. Karna, Umerkot from PS-53 and inclusion in PS-51.*** His representation was rejected by the Election Commission vide order dated 25.04.2018 with the observation made in paragraph 4 of order as under:-

“4. We have heard the arguments and perused the previous delimitation as well as newly proposed delimitation scheme. We have also minutely perused the maps displayed by learned counsel for the petitioners as well as by concerned members of delimitation committee. After having discussed the matter, we reached to the conclusion that prayer sought by the petitioners is not ordinarily permissible because if the proposals of petitioners at such a large scale are accepted then the variation of population will go beyond the limit given in section 20 of the Election Act. [emphasis applied] In such view of the matter proposals cannot acceded to under the prevailing law. However, error, if any, in the map be corrected”.

2. The learned counsel for the petitioner further argued that there shall be no significant change or issue if the proposal tabled by the petitioner is accepted but without considering the proposal the representation was rejected. Whereas, the representative of the Election Commission of Pakistan argued that in fact the petitioner wants huge changes in existing Tapedar Circle in PS-51 to 53 and if the proposal is accepted the population will exceed much more than 10% due to radical changes. He further argued that the Election Commission has passed just and reasoned order after considering all crucial aspects and there is no illegality in the order.

3. Under Section 20 of the Elections Act, 2017 the principles of delimitation have been provided. The letters of the law clearly stipulate that as far as practicable all constituencies 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. It is further provided that as far as possible variation in population shall not ordinarily exceed 10%. At the same time sub-rule 4 of Rule 10 of the Elections Rules, 2017

expounds that the constituency for an Assembly shall not ordinarily extend to more than one district except in exceptional circumstances for the reasons to be recorded by the Delimitation Committee. While the proviso attached to this sub-rule further enumerates that the Patwari Circle or as the case may be, a Tapedar Circle shall be the basic unit for delimitation and it shall not be broken under any circumstances. The changes in almost three constituencies cannot be claimed as a vested right which may result accumulation of huge population in another constituency exceeding the threshold of much more 10% variation. The petitioner merely for the reason that he wants to contest elections, cannot claim delimitation on his own whims and leisure but any such proposal must have some logical justification. In fact through this petition, the petitioner essentially wants huge changes by delimitation in T.C. Additional Kaplore, PS-53 (Taluka Umerkot) and its inclusion in PS-52; the exclusion of T.C. Padrio & T.C. Jhiluri, Taluka Samaro from P.S. 51 and inclusion in PS-53 and exclusion of T.C. Walidad & T.C. Karna, Umerkot from PS-53 and its inclusion in PS-51 which proposal at such a large scale seems to be unjustified. The impugned delimitation order reflects that before the EC, four persons including the petitioner had filed the representations but except the petitioner, no other person has filed any petition to challenge the common order of EC. The representation filed by the petitioner has dismissed rightly by the EC so we do not warrant any interference.

4. The petition was dismissed in limine vide our short order dated 05.06.2018. Above are the reasons for our short order.

Karachi.

Dated: 06.06.2018

JUDGE

JUDGE