

NA-199	(i) Tapedar Circle Jano of STC Shikarpur.	24,159
Shikarpur-II	(ii) Taluka Garhi Yasin	315,883
	(iii) Taluka Lakhi	248,143
		588,185

3. After the publication of the preliminary delimitation by the ECP as above and pursuant to section 21 of the Elections Act 2017, ECP invited representations from all stakeholders. Twenty-two representations (including that of the petitioner) were received by the ECP. The petitioner's representation was that District Shikarpur should be delimited as follows:

Constituency	Area included	Population
NA-198	(i) Taluka Shikarpur <u>excluding</u> STC Jaggan	346,762
Shikarpur-I	(ii) Taluka Khanpur	276,283
		623,045
NA-199	(i) STC Jaggan of Taluka Shikarpur	44,410
Shikarpur-II	(ii) Taluka Garhi Yasin	315,883
	(iii) Taluka Lakhi	248,143
		588,185

4. The ECP however, after hearing all parties, rejected all representations filed seeking an amended delimitation of the Shikarpur constituency as far as the National Assembly seats were concerned. The final delimitation was as shown in the table in paragraph 2 above. The petitioner being aggrieved by the final delimitation order of the ECP has now invoked the writ jurisdiction of this court.

5. We have heard the learned counsel for the petitioner, learned counsel for the intervenors, learned DAG, AAG, State Counsel and the representatives of the ECP and have also perused the maps of the constituency with their able assistance. Our observations are as follows:

6. The learned counsels for the petitioner, have limited their arguments on two grounds. Firstly, that the proposal given by them would have led to a better balance between the population on NA-198 and NA-199. They have argued that the difference in population between the two constituencies i.e. NA-198 and NA-199 according to the

delimitation carried out by the ECP is 55,111 but if the petitioners proposal had been accepted, this difference would have been 14,609; thus a better parity between the two constituencies would have been achieved.

7. Secondly, the learned counsels have argued that Tapedar Circle Jano has been separated from Municipal Committee Shikarpur in the delimitation carried out by the ECP. They have argued that this separation was not lawful as Tapedar Circle Jano is part of the Municipal Committee Shikarpur and as the Municipal Committee Shikarpur is the headquarters of Taluka Shikarpur it would but be natural that the Tapedar Circle Jano remain with its headquarters. The delimitation of the ECP thus has the effect of separating a Tapedar Circle from its headquarters.

8. The learned counsel for the intervenors have supported the delimitation carried out by the ECP and have argued that the same has been done within the four corners of the law.

9. Section 20 of the Elections Act 2017 stipulates the principles which must be followed for delimitation. For ease of reference, section 20 is reproduced below:

20. 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 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.

(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.

(3) As far as possible, variation in population of constituencies of an Assembly or a local government 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.

10. In addition to the aforementioned provision of the Act, reference to Rule 10(4) of the Election Rules 2017 is also important. This sub-rule provides as follows:

The constituency for an Assembly shall not ordinarily extend to more than one district except in exceptional circumstances for reasons to be recorded by the Delimitation Committee:

Provided that a Patwar 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:

Provided further that in case of urban areas census circle shall not be broken under any circumstances.

11. Averting to the first argument raised by the learned counsel for the petitioner regarding better parity between the two constituencies, we note that the law provides that *“as far as possible, variation in population of constituencies of an Assembly shall not ordinarily exceed ten percent.”* The delimitation of the two constituencies as carried out by the ECP shows that the population variation between them is 9.4% i.e. below the threshold that needs to be generally observed. While we are appreciative of the work done by the learned counsel for the petitioners in drafting a proposal that might perhaps lead to a better parity, we are also cognizant of the fact that the population of Sindh has increased substantially and that the population variation is only one factor amongst several others that had to be kept in consideration while delimiting constituencies. The other factors are stipulated in the provisions of law mentioned above. There is nothing unlawful that the ECP has done in delimiting the constituencies in the manner that it has. Needless to say that several permutations and combinations could have been effected in the delimitation, which perhaps could have even led to an absolute balance between constituencies. However, the task of delimitation (within certain parameters) was given to the ECP by the parliament and in the absence of any malafide or violation of the parameters set by parliament or violation of any provision of the Constitution, the decisions taken by the ECP should not easily be upset. In the larger national interest, it is imperative that the general elections be held within the time frame mandated by the Constitution. If delimitation, as conducted by the ECP is challenged and set aside on the desires of individuals, no doubt it is the national interest that will be affected, and when a personal desire is confronted with national interest, it is the latter that must necessarily prevail. It must also not be lost sight of that the petitioner is only one of the twenty-two persons who filed representations before the ECP. We are therefore not convinced that the first argument raised by the petitioner merits any interference with the decision of the ECP’s delimitation committee.

12. Now averting to the second argument raised by the petitioner i.e. Tapedar Circle Jano should not be separated from its headquarters i.e. Taluka Shikarpur. For starters, it is admitted by the parties that Tapedar Circle Jano is not actually the headquarters of Taluka Shikarpur but by some stretched theory it has been suggested by the petitioner to be inseparable from the said Taluka i.e. it is a part of the Municipal Committee Shikarpur which is then the headquarters of Taluka Shikarpur. The ECP representative argued that Tapedar Circle Jano is a rural unit whereas a Municipal Committee is an urban unit and hence Tapedar Circle Jano cannot be the headquarters of the Taluka. The learned counsel for the petitioner agreed that a rural and urban area should not usually be joined however he has argued that the area comprising Tapedar Circle Jano cannot

be considered a rural area. In support of his argument he has put on record a map of the constituency showing certain important offices and courts situated within that area. He has argued that the map in itself evidences the urban nature of the area. The learned counsel did not however place before us an official Government communication to evidence that Tapedar Circle Jano is included in the urban area of District Shikarpur. Be that as it may and with much respect, the learned counsels for the petitioner has been unable to prove to our satisfaction that the principles of delimitation as contained in the Act have been breached in any manner by the ECP in including Tapedar Circle Jano within the constituency of NA-199.

13. In view of the above, the petition along with the listed application stands dismissed.

JUDGE

JUDGE