Form No.: HCJD/C

JUDGEMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

JUDICIAL DEPARTMENT.

Writ Petition No. 1824 of 2018

Muhammad Saeed Chaudary, etc

Versus

Election Commission of Pakistan, etc

Writ Petition No. 1697 of 2018

Mian Rafat-u-Rehmani, etc

Versus

The Election Commission of Pakistan, etc

Writ Petition No. 1726 of 2018

Malik Ahmad Usman Nawaz

Versus

Election Commission of Pakistan, etc

Writ Petition No. 1745 of 2018

Saud Majeed

Versus

Election Commission of Pakistan, etc

Writ Petition No. 1740 of 2018

Mohammad Imran, etc

Versus

Election Commission of Pakistan, etc

Writ Petition No. 1792 of 2018

Malik Shahnawaz

Versus

The Election Commission of Pakistan, etc

For the Petitioners:	**Mr. Muhammad Shahzad Shaukat, Advocate(in W.P. No.1824/2018), Mr. Mustafa Ramdy, Advocate (in W.P. No.1740/2018), Mr. Saeed Khursheed Ahmad, Advocate (in W.P. No.1792/2018), Mr. Muhammad Akbar Ansari, Advocate (in W.P. No.1697/2018), Malik M. Hafeez and Mr. Bilal Ahmad Qazi, Advocates (in W.P. No.1726/2018) and Mr. Bilal Ahmad Qazi, Advocate (in W.P. No.1745/2018)**
For Respondents:	**Malik Mujtaba Ahmad, Additional Director General, ECP, Mr. Muhammad Mubeen Qazi, Advocate (in W.P. No. 1824/2018), Barrister Gohar Ali Khan, Advocate (in W.P. No. 1745/2018 for respondent No.4).**
Date of decision:	**28.05.2018.**

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AAMER FAROOQ J : This judgement shall decide the instant petition as well as W.P. No.1740/2018, 1726/2018, 1697/2018, 1745/22018 and 1792/2018, as common questions of law and fact are involved and all the petitions assail order dated 19.04.2018, passed by Election Commission of Pakistan with

respect to constituencies NA-171 to NA-174 and PP-249 to PP 252 and PP 254.

2. Learned counsel for the petitioner in the instant petition contended that while passing the impugned order the Election Commission of Pakistan has directed the exclusion of Baghdad-ul-Jadid QH from NA-172 and inclusion in NA-173 which is palpably non-speaking and sketchy. It was further contended NA-172 Bahawalpur 3 is related to Yazman Tehsil hence portions of Bahawalpur Saddar were rightly made part of NA-172 Bahawalpur 3 in the proposed delimitation. It was contended that the only communication link between Tehsil Yazman and District headquarter Bahawalpur is Yazman Bahawalur Road and exclusion of the said QH has the effect of land locked constituency. It was further contended that the concept homogeneity and caste/cognate factors have not taken into account.

3. Learned counsel for the petitioner in W.P. No. 1740/2018, inter alia, contended that the population of the area is of Abadkars who have to be included and they have to be adjusted accordingly. It was further contended that as a result of amendment in the limitation of Baghdad-ul-Jadid QH has been excluded and Hamatian QH has been framed in NA-172. It was contended that the compactness of the area has not taken into account even the cognate factors ignored to as well as the public convenience. It was

contended that the impugned order is a result of Gerry Mandery which is illegal and unlawful.

4. The learned counsel for the petitioner in W.P. No. 1726/2018, inter alia, contended that the principles of delimitation as provided in Section 20 have not been followed. It was contended that the impugned decision brought NA-172 at 693156 and other constituencies had fallen less than 10% of the Election Rules 2017; that exclusion of the Baghdad-e-Jadid never required as the same was never part of NA-172 or PP-252; that the Baghdad-e-Jadid QH has no homogeneity with the rest of the constituencies.

5. The petitioner in W.P. No. 1697/2018, inter alia, contended that the District Bahawalpur is divided into 10 provincial constituencies and every constituency has population of 366810; that at the time of hearing, the Election Commission of Pakistan did not take into account the population statistics.

6. Learned counsel adopted the arguments of learned counsel for the petitioner in W.P. No.1824/2018.

7. Learned counsel for the petitioner in W.P. No. 1745/2018, inter alia, contended that exclusion of Baghdad-e-Jalil from NA-172 and its inclusion in NA-173 has done away with geographical compactness, continuity and means of communication. It was further contended that NA-172 has Bahawalpur Baghadad Road as its main artery which has not take into account and the result is land locked constituency; order impugned consequently is non

speaking and in violation of the principles of General Clauses Act, 1897; Social blood relationships of the habitants of Baghdad-e-Jadid Qanoongi with the rest of NA-172 have not been considered; that the cognate factors have not been taken into account.

8. Learned counsel for the petitioner in W.P. No. 1792/2018, also adopted the arguments addressed in W.P. No. 1745/2018.

9. The representative of Election Commission of Pakistan, inter alia, contended that the order is in accordance with law.

10. Perusal of the impugned order shows certain changes have been made in the proposed delimitation, however, no reasons have been provided for the same hence the order impugned is in violation of Section 24-A of General Clauses Act, 1897, and indicates that the representation/objections raised have not been met with through cogent reasons.

11. In view of the above the instant petition as well as the petitions mentioned above are allowed. The order impugned dated 19.04.2018, is set-aside consequently the representations filed by shall be deemed to be pending and be decided in accordance with law. The parties shall appear before Election Commission of Pakistan on 04.06.2018.

(AAMER FAROOQ)
JUDGE

M. Junaid Usman

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