Form No: HCJD/C

JUDGEMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

1. Writ Petition No. 1630 of 2018

Ameer Abbas Sial.

VS

Election Commission of Pakistan, etc.

2. Writ Petition No. 1683 of 2018

Kashif Imran.

VS

Election Commission of Pakistan, etc.

3. Writ Petition No. 1969 of 2018

Nasir Abbas Khalid.

VS

Election Commission of Pakistan, etc.

Petitioners by	**:**	**Mr. Salman Aslam Butt, Advocate for the petitioner in W.P No. 1630 of 2018.** **Mr. Muhammad Afzal Khan, Advocate for the petitioner in W.P No. 1683 of 2018.** **Mr. Aman Ullah Kayani, Advocate for the petitioner in W.P No. 1969 of 2018.**
Respondents by	**:**	**Mr. Mobeen Ud Din Qazi, Advocate for Respondent No.6, Mr. Khalid Ishaq, Advocate for the respondents No. 3 & 5, Mr. Munir Ahmed Sadhana, Advocate for the respondents No. 2, 4 & 8.** **Malik Mujtaba Ahmed, Additional D.G, Election Commission of Pakistan.**
Date of Decision	**:**	**29.05.2018**

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AAMER FAROOQ, J. - This judgment shall decide the instant petition as well as Writ Petitions No. 1683 of 2018 and W.P No. 1969 of 2018 as common questions of law and fact are involved.

2. Learned counsel for the petitioner, inter alia, contended that representations were filed to the proposed delimitation with respect to the National Assembly Constituency NA-114 and Provincial Assembly Constituencies PP-124, PP-125 and PP-128 and on the basis thereof, the proposed delimitation has been altered. It was further submitted that the process of delimitation has been provided in Elections Act, 2017 and Rules framed there under which involves a multi stage process. In this behalf, it was contended that Election Commission constitutes Delimitation Committee which carries out delimitation process in line with the Principles/Rules provided in section 20 of the Elections Act, 2017 and Rule 9,10 & 11 of the Election Rules 2017. It was further contended that after the work has been done by Delimitation Committee, the report of delimitation is presented to the Election Commission of Pakistan and only when the Election Commission is satisfied that the proposed delimitation conforms to the principles of law, it allows it to be published in Gazette. It was contended that in light of the above exercise done by Election Commission of Pakistan the changes that have been made in the impugned order violates the principles laid down in section 20 ibid. It was further contended that representation is in form of review of the earlier decision taken by Election Commission of Pakistan

when it satisfies itself regarding the work carried out by the Delimitation Committee. It was further contended that in the garb of changes made vide the impugned order denovo delimitation has been made which is not permissible under the law. It was further contended that the reasons given for the changes is that there is only one bridge in the locality which is not the case as the examination of the map of the area shows that there are three bridges. It was further contended that the changes made after the impugned order violates the principle of 10% variation, as now the same is more than that. It was further contended that even the factors of compactness and communication has also not been taken into account. It was further contended that the impugned order is without jurisdiction inasmuch as it was decided by three (03) Members Bench, which is not permissible, as Election Commission constitutes the Chairman and four (04) Members. It was further contended that the order is in violation of section 24-A of General Clauses Act, 1897.

3. Learned counsel for the petitioner in Writ Petition No. 1683 of 2018 and W.P No. 1969 of 2018 adopted the arguments by learned counsel for the petitioner in the instant petition.

4. Learned counsel for the respondents, *inter alia,* contended that after the changes made the communication is more convenient and also constituencies are geographically compact. It was submitted that though there is variation of more than 10%, however, the same is permissible under the

law. It was further contended that reasons have been provided in the impugned order for the changes made.

5. Election Commission of Pakistan vide impugned order dated 20.04.2018 has made changes in the proposed delimitation of National Assembly Constituencies NA-114, NA-115 & NA-116 and Provincial Constituencies PP-128, PP-124 & PP-125. There are no reasons provided for making the changes, hence, the impugned order is in violation of section 24-A of General Clauses Act, 1897. Moreover, the reasons sought for changing the proposed delimitation was that there is only one bridge available in the area which fact seems to be not correct, in view of the map placed on record by the petitioners. Moreover, there also seems to be variation in population of more than 10% which though is permissible under section 20(3) and 20(4) of Elections Act, 2017, however, the Election Commission of Pakistan has to render reasons for the same.

5. In view of foregoing, instant petitions mentioned hereinabove are allowed and the impugned order dated 20.04.2018 is set aside. Consequently, the representations filed shall be deemed to be pending and be decided in accordance with law. In case there is variation of more than 10% the reason for the same shall be duly recorded. The parties shall appear before Election Commission of Pakistan on **04.06.2018.**

(AAMER FAROOQ)
JUDGE

Shakeel Afzal

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IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

Writ Petition No. 1683 of 2018

Kashif Imran.

VS

Election Commission of Pakistan, etc.

Petitioners by	**:**	**Mr. Muhammad Afzal Khan, Advocate for the petitioner in W.P No. 1683 of 2018.**
Respondents by	**:**	**Mr. Mobeen Ud Din Qazi, Advocate for Respondent No.6, Mr. Khalid Ishaq, Advocate for the respondents No. 3 & 5, Mr. Munir Ahmed Sadhana, Advocate for the respondents No. 2, 4 & 8.** **Malik Mujtaba Ahmed, Additional D.G, Election Commission of Pakistan.**
Date of Decision	**:**	**29.05.2018**

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AAMER FAROOQ, J. - For the reasons recorded in detailed judgment of even date passed in Writ Petition No. 1630 of 2018, instant petition is also allowed.

(AAMER FAROOQ)
JUDGE

Shakeel Afzal

Form No: HCJD/C

JUDGEMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

Writ Petition No. 1969 of 2018

Nasir Abbas Khalid.

VS

Election Commission of Pakistan, etc.

Petitioners by	**:**	**Mr. Aman Ullah Kayani, Advocate for the petitioner in W.P No. 1969 of 2018.**
Respondents by	**:**	**Mr. Mobeen Ud Din Qazi, Advocate for Respondent No.6, Mr. Khalid Ishaq, Advocate for the respondents No. 3 & 5, Mr. Munir Ahmed Sadhana, Advocate for the respondents No. 2, 4 & 8.** **Malik Mujtaba Ahmed, Additional D.G, Election Commission of Pakistan.**
Date of Decision	**:**	**29.05.2018**

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AAMER FAROOQ, J. - For the reasons recorded in detailed judgment of even date passed in Writ Petition No. 1630 of 2018, instant petition is also allowed.

(AAMER FAROOQ)
JUDGE

Shakeel Afzal

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