

FULL BENCH

Before D. Falshaw, C.J., Mehar Singh and Harbans Singh, JJ.

SHRI RAM KUMAR SHARMA,—Petitioner

THE PUNJAB STATE AND OTHERS—Respondents

Civil Writ No. 1094 of 1965.

*Punjab Municipal Act (III of 1911)—Ss. 11 and 240(1) (b)—
Whether ultra vires.*

1965

October, 12th.

Held, that the provisions of sections 11 and 240(1) (b) of the Punjab Municipal Act, 1911 are not *ultra vires* as they do not suffer from the infirmity of excessive delegation of legislative power to the Executive, i.e., the State Government.

Petition under Articles 226 and 227 of the Constitution of India praying that a writ of Certiorari, Mandamus or any other appropriate writ, order or direction be issued quashing the elections of Hissar Municipal Committee and directing the State Government to frame rules under section 240 (b) and (c) for the guidance of the authorities regarding the demarcation of wards and restraining the respondents Nos. 4 to 26 from functioning as Municipal Commissioners.

S. C. GOYAL, ADVOCATE, for the Petitioner.

J. N. KAUSHAL, ADVOCATE-GENERAL, ANAND SWAROOP, P. S. JAIN, NARESH CHANDER JAIN AND R. A. SAINI, ADVOCATES, for the Respondents.

ORDER

FALSHAW, C.J.—These are two writ petitions filed under Article 226 of the Constitution regarding municipal elections. The main basis of both the petitions is the contention that the provisions of section 240(1)(b) and (c) of the Punjab Municipal Act of 1911 are invalid on the ground of excessive delegation of authority. Falshaw. C.J.

The first petition in point of time, C.W., No. 1094 of 1965, was filed by a single petitioner, Ram Kumar Sharma, on the 8th of April, 1965 and it was admitted on the 26th of April, 1965, by my learned brother Harbans Singh, J. and myself in ignorance of the fact that writ petitions based on similar grounds had been dismissed by Jindra Lal, J., on the 18th of May, 1964, (C.W. No. 628 of 1964), and by a Division Bench of Dulat and Grover JJ., on the 14th of January, 1965, (C.W. No. 1257 of 1964). The other petition, C.W. No. 1225 of 1965, was filed by 49 petitioners and when

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admitted by the same Bench on the 25th of May, 1965, it was ordered to be heard along with Ram Kumar Sharma's petition. When both the petitions came before Narula J., on the 12th of August, 1965, he thought it necessary that they should be laid before a Full Bench in view of the fact that both of them had been admitted after a similar petition had been dismissed by a Division Bench.

In *Ram Kumar Sharma's case*, the facts are that in connection with the general election of the members of the Municipal Committee of Hissar a notification, dated the 6th of December, 1963, was published in the Gazette (Extraordinary) on the 7th of December, 1963, delimiting the wards and dividing the municipal area of Hissar into 21 constituencies of which two were double-member constituencies and 19 single-member constituencies. This was apparently only a tentative notification and after objections had been received a final notification was issued in a Gazette (Extraordinary) of the 12th of February, 1964, after which the electoral rolls were prepared the result of which is shown in the following table:—

Ward No.	Single or Double	No. of votes.
1.	Single	1339
2.	Single	1468
3.	Single	1069
4.	Single	1331
5.	Single	1278
6.	Double	2257
7.	Single	1083
8.	Single	1646
9.	Single	2476
10.	Double	2738
11.	Single	845
12.	Single	1501
13.	Single	1481
14.	Single	1273
15.	Single	1678
16.	Single	1169
17.	Single	1704
18.	Single	1949
19.	Single	1306
20.	Single	1447
21.	Single	2277

Thereafter the Deputy Commissioner issued an election programme in accordance with the provisions of the Election Rules of 1952, on the 1st of May, 1964, the election proceedings being due to begin with the filing of nomination papers on the 12th of May and culminating in the poll on the 21st of June, 1964.

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It appears that some residents of Hissar (of whom the petitioner does not claim to have been one) were not satisfied with the constitution of the wards and representations were made to the Minister for Local Self Government and the Chief Minister with the result that on the 27th of May, 1964, a notification was issued which reads—

“Under the provisions of rule 3 of the Punjab Municipal Election Rules, 1952, the Governor of Punjab is pleased to invalidate proceedings regarding election to the Municipal Committee, Hissar, taken before the date of the order, dated the 20th May, 1964, issued by the Director of Elections, Local Bodies, Punjab, under the said rule postponing the elections.”

Later, however, a fresh election programme was announced by the Deputy Commissioner on the 14th of December, with dates fixed for the various steps leading up to the poll on the 25th of October, 1964. Further objections to the Minister led to a further postponement, but eventually a programme was issued which ended with polling on the 15th of November, 1964, the persons, who are impleaded as respondents 4 to 26 being elected. A notification regarding the election of 22 of them was issued on the 5th of January, 1965 and the election of one candidate Baldev Tayal, was notified on the 12th of February, 1965. Oaths of office were administered to the elected members on the 20th of February, 1965, and although it would appear that the writ petition was drafted and the petitioner's affidavit signed on the 2nd of March, 1965, the petition was only filed in this Court on the 8th of April, 1965. The petitioner merely claims to be a rate-payer and a registered voter in Ward No. 18, but he has made sweeping allegations of unfairness in the delimitation of the wards, and, as I have said, the fundamental basis of his attack is that the provisions of the Municipal Act, under which this was done are invalid.

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In the other case in which the 49 petitioners merely describe themselves as rate-payers and registered voters of the area of the Municipality of Amritsar without even revealing in which wards any of them is registered, the election has not yet taken place. According to the election programme which holds the field at present polling is due to take place on the 19th of September, 1965, but I am given to understand that owing to the outbreak of fighting the municipal elections have been postponed.

The main grievance of the petitioners relates to one particular ward. Under its powers under the Act the Government has divided the municipal area of Amritsar into 41 wards of which 37 are single-member and 4 double-member constituency wards.

At this point it may be mentioned that there is no dispute about the fact that the idea of creating double-member constituency wards for municipal elections, as for Assembly elections, to give representation to the Scheduled Castes, one member in each of the double-member constituency being drawn from them, and double-member constituency wards are supposed to be created in those parts of the municipal area where members of the Scheduled Castes are most thickly concentrated.

The grievance of the petitioners appears to be that one of the double-member constituency wards was changed from the original scheme and was then changed twice before the final delimitation was published. I may here mention the explanation given for these changes in the written statement filed by the Assistant Director of Elections (Local Bodies), Punjab. In the first delimitation all the four double-member wards were located in the Civil Lines area outside the old city, and it was felt, after consultation with the sitting Municipal Commissioners, representatives of the political parties and members of the public at a meeting convened in the Town Hall of Amritsar by the Director, that one of the double-member wards should be located within the city walls and a revised delimitation was published in which one of the double-member wards was located in the city. It appears, however, that although the rules provide for the preparation of the electoral roll for the municipal elections, the roll is based on the Assembly roll of electors and it was found that the proposed double-member ward in the city included parts

of two different Assembly wards and this involved considerable inconvenience. Hence the proposed double-member ward was split up again and a new double-member ward No. 18 was created as Ward No. 18 by combining the previous Wards Nos. 18 and 19, this giving the next heaviest concentration of the Scheduled Castes population as compared with the one previously selected. In this case also the main attack was on the validity of the provisions of section 240 of the Act.

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The only relevant provisions of the Act, are contained in sections 11 and 240. Section 11 reads—

“There shall be established for each municipality a committee having authority over the municipality and consisting of such number of members, not less than five, as the State Government may fix in this behalf.”

Section 240 is the rule-making section the relevant portion of which reads—

“(1) The State Government may frame forms for any proceeding of a committee and may make any rules consistent with this Act, to carry out the purposes thereof and in particular and without prejudice to the generality of the foregoing power may make rules—

* * * *

- (b) as to the division of municipalities into wards, or of the inhabitants into classes or both;
- (c) as to the number of representatives proper for each ward or class;
- (d) as to the qualifications of electors and of candidates for election;
- (e) as to the registration of electors;
- (f) as to the nomination of candidates, the time of election and the mode of recording votes;
- (g) regulating the procedure for elections under this Act, the contribution towards election expenses by candidates, the deposit of security by candidates and the conditions of forfeiture of such deposits.

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- (6) A rule under this section may be general for all municipalities or for all municipalities not expressly excepted from its operation, or may be special for the whole or any part of any one or more municipalities as the State Government direct."

Under section 240, the Government has notified a set of rules styled 'the Municipal Election Rules, 1952', but it is clear that these rules deal entirely with the matters covered by (d), (e), (f) and (g) of section 240, and there are no general rules regarding the division of municipalities into wards or of the inhabitants into classes or as to the number of representatives proper for each ward or class.

Although in the petitions the vires of only clauses (b) and (c) of section 240, were challenged, the attack was extended in the course of the arguments to one on section 11 of the Act. It was in fact argued that the Legislature was guilty of excessive delegation of its powers by giving the State Government unfettered discretion in deciding how many members should constitute the committee of any particular municipal area except for placing minimum limit of 5, and also by leaving it to the State Government to frame rules on how municipal areas should be divided into wards without giving any indication in the Act of the general principles on which such rules should be based. A further grievance was that actually no rules under section 240(b) had been framed and that the notifications delimiting the wards in Amritsar and Hissar, which purport to be rules notified under section 240 (b) were not in fact rules. It was pointed out that in other statutes dealing with kind red matters the Legislature had thought fit to indicate the lines on which these things should be done. For instance, in the Delimitation Commission Act, LXXXI of 1952, section 8(2) reads—

"The Commission shall, in the manner herein provided, then distribute the seats allotted to each of the States, the seats assigned to the Legislative Assemblyto territorial constituencies and delimit them in accordance with the provisions of the Constitution and of the said section 3 on the basis of the latest census

figures and in doing so the Commission shall have regard to the following provisions, namely:—

- (a) all constituencies shall be either single member constituencies or two-member constituencies;
- (b) wherever practicable, seats may be reserved for the Scheduled Castes or for the Scheduled Tribes in single-member constituencies;
- (c) in every two-member constituency one seat shall be reserved either for the Scheduled Castes or for the Scheduled Tribes, and the other seat shall not be so reserved;
- (d) constituencies in which a seat is reserved either for the Scheduled Castes or for the Scheduled Tribes shall, as far as practicable, be located in areas in which the population of the Scheduled Castes or, as the case may be, of the Scheduled Tribes is most concentrated, but in regard to Scheduled Castes, care should be taken to distribute the reserved seats in different areas of the State; and
- (e) all constituencies shall, as far as practicable, consist of geographically compact areas and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience."

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More nearly akin to the matters raised in these petitions are the relevant provisions of the United Provinces Municipalities Act of 1916. Section 9 of this Act reads—

"Except as otherwise provided by section 10, a board shall consist of:—

- (a) a President; and
- (b) the elected members who shall be not less than 15 and not more than 50 as the State Government may by notification in the official gazette specify."

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Section 9-A reads—

- (1) Seats shall be reserved for Scheduled Castes in each board.
- (2) The number of seats reserved under sub-section (1) shall bear as nearly as may be the same proportion to the total number of seats on the board as the population of the Scheduled Castes in the municipality bears to its total population as determined at the last census held under the provisions of the Indian Census Act, 1950."

Section 10 empowers the State Government to vary the normal composition of boards in special circumstances, but a proviso makes this section inapplicable to any municipality which was already constituted under the Act before the commencement of the Amendment Act of 1952. Section 11-A reads--

- "(1) For purposes of elections to a board there shall be wards provided by Order under section 11-B.
- (2) The representation of each ward "shall be on the basis of population of that ward as ascertained at the last census and shall as far as possible be in the same proportion as the total number of seats for the municipality and its population."

Section 11-B reads—

- "(1) The State Government shall, by Order, determine—
 - (a) the wards in which each municipality shall be divided for purposes of elections to the board;
 - (b) the extent of each ward;
 - (c) the number of seats allotted to each ward; and
 - (d) the number of seats, if any, reserved for the Scheduled Castes.
- (2) The draft of the Order under subsection (1) shall be published for objections for a period of not less than 15 days and a copy of the same shall be sent to the board or boards concerned for comments.

(3) The State Government shall consider any objections and the comments filed under sub-section (2) and the draft Order shall, if necessary, be amended, altered or modified accordingly and thereupon it shall become final.”

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It was pointed out that whereas in the U.P. Act the lines on which delimitation of wards and reservation of seats for Scheduled Castes were to be carried out were clearly laid down in this manner in the Act itself, not only did the Punjab Act not provide for these matters, but even under the rule making powers conferred on the State Government to regulate these matters no general rules had been framed. Reliance was also placed on the well-known case, *Messrs Dwarka Parsad Laxmi Narain v. State of Uttar Pradesh and others* (1), in which the U. P. Coal Control Order of 1953 was struck down because it gave unfettered powers to the State Coal Controller to grant, withhold or cancel licences to deal in coal or to grant exemptions without any indication of the lines on which this discretion was to be exercised and at the same time did not give any aggrieved dealer any right of redress by way of appeal.

At this stage I may refer to the decisions in the cases in which some of these points were raised and which were thought to necessitate the reference of these cases to a Full Bench. In Civil Writ No. 628 of 1964, *Baldev Raj Dhiman v. State of Punjab and others*, decided by Jindra Lal, J., on the 18th of May, 1964, the delimitation of wards for the municipal area of the town of Kurali was challenged. In that case a notification styled as rules under section 240(1) (b) had been issued and it was argued that some general rules laying down the principles should have been framed. The learned Judge has observed in the concluding paragraph of his judgment that section 240 was not challenged as violative of article 14 of the Constitution, which means that the point of excessive delegation of power by the Legislature was not raised, excessive delegation being an offshoot or an aspect of the principle embodied in article 14. The writ petition was in fact dismissed simply on the ground that the final notification did not precede by a preliminary notification in which objections had been invited and nobody had come forward to object. Thus the points now raised were not decided at all.

(1) A. I. R. 1954 S. C. 224.

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The other case, *Jagdish Chand and others v. State of Punjab and others*, Civil Writ No. 1257 of 1964, was decided by Dulat and Grover, JJ. on the 14th January, 1965. This petition was filed after the municipal elections of Ballabgarh had been held on the basis of a so-called rule notified under section 240 (1)(b). It seems from the judgment that some argument was advanced that section 240(1)(b) suffered from excessive delegation of Legislature's power and it was argued that no general rules had been framed, but the argument does not appear to have been elaborated or seriously pressed and the learned Judges dismissed the petition because on an examination of the voting strength of the wards they could not discover any serious inequality. Thus the vires of section 240 (1)(b) were again left undecided.

In general it seems to me that the Court should be reluctant to strike down laws which have stood the test of time, like the Punjab Municipal Act of 1911, and even allowing for the fact that statutory provisions could only be scrutinised by the High Courts for the purpose of ascertaining their constitutional validity after the Constitution came into force in January, 1950, it seems remarkable that 14 or 15 years had to elapse before anybody thought of challenging section 11 and 240(1)(b). The case was argued on behalf of the respondents in these petitions almost entirely by learned counsel representing groups of the elected members who were respondents in the Hissar petition. It was argued that it was difficult to lay down any hard and fast rules for the delimitation of wards in municipal areas because of the vastly different conditions obtaining to the various municipal areas both in size and geography. I do not know what the upper and lower limits of voting strength area in the various municipalities in the Punjab, but I see from the cases before us that they vary from a town like Ballabgarh with a total voting strength of about 5,000 divided into 7 single and 2 double-member constituencies representing an average voting strength per member of between 400 and 500 to Amritsar with a total voting strength of 1,70,000 divided into 37 single and 4 double-member constituencies, an average per member of over 4,000 voters.

It was also argued that a statute was not necessarily bad because it leaves a wide discretion open to the authority to which certain powers are delegated and this is particularly so when the authority is the State Government

itself or some very high officer. In *Sri Ram, Ram Narain Medhi and others v. State of Bombay* (2), certain provisions of the Bombay Tenancy and Agricultural Lands (Amendment) Act of 1956 were challenged and one of the objections was to excessive delegation. In dealing with this point Bhagwati, J., who delivered the judgment of the Court observed in paragraph 48—

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“It is also to be remembered that this power of variation of the ceiling area and the economic holding is vested in the State Government and is left to its subjective satisfaction having regard to the criteria therein specified. As was observed by Kania C.J., in *Dr. N. B. Khare v. State of Delhi* (3), at page 526—

‘This whole argument is based on the assumption that the Provincial Government when making the order will not perform its duty and may abuse the provisions of the section. In my opinion it is not proper to start with such an assumption and decide the legality of an Act on that basis. Abuse of the power, given by a law sometimes occurs; but the validity of the law cannot be contested because of such an apprehension.’

These observations of Kania C. J. were quoted with approval by Patanjali Sastri C.J. in *State of West Bengal v. Anwar Ali Sarkar* (4) at p. 301, where it was stated:—

‘Whether a law conferring discretionary powers on an administrative authority is constitutionally valid or not should not be determined on the assumption that such authority will act in an arbitrary manner in exercising the discretion committed to it.’

The above observations of Kania C.J. were then quoted and the judgment proceeded:—

‘On the contrary it is to be ‘presumed that a public authority will act honestly and reasonably in the exercise of its statutory powers.’

(2) A. I. R. 1959 S. C. 459.

(3) 1959 S. C. R. 519.

(4) 1952 S. C. R. 284.

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We may lastly refer to the observations of this Court in *Pannalal v. Union of India* (5) at page 257—

“It may also be remembered that this power vested not in minor officials, but in top-ranking authorities like the Commissioner of Income-tax and the Central Board of Revenue who act on the information supplied to them by the Income-tax Officers concerned. This power is discretionary and not necessarily discriminatory and abuse of power cannot be easily assumed where the discretion is vested in such high officials.”

It is perhaps unfortunate that we did not have the advantage of arguments from any counsel representing the State in these cases, but I feel quite certain from the replies filed in both the petitions, and in particular the Amritsar petition, that there are some standing orders or instructions regarding the delimitation of wards and regarding the representation of the Scheduled Castes by creating double-member constituency wards which are on the lines of the relevant provisions in this behalf contained in the U.P. Municipal Act set out above, and that these general directions have been closely followed in the present two cases with the exception of one or two inequalities in the Hissar figures where one of the single-member constituency has a larger voting strength than one of the double-member constituencies, and one of the single-member constituencies has a voting strength of only 845 as against the average per member of about 1,440. If in fact such standing orders or directions are in existence, I consider that it is desirable that they should be embodied in a rule added to the Municipal Elections Rules of 1952 so as to avoid all criticism on these grounds, but I should not be prepared to strike down section 240(1)(b) on the ground that this has not been done.

It was argued on behalf of the petitioners that even if it was not necessary to frame any general rule under section 240(1)(b) it was necessary first to frame rules for each municipality under section 240(6) and then to demarcate the boundaries of the wards in a separate order. This objection appears to me to be captious and I cannot see any

objection to the form of the notification. I quote the notification regarding the election at Hissar dated the 12th of February 1964 :—

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“No D.E.-64/3A/1257. With reference to the Punjab Government notification No. DE/63/3A/10179 dated the 6th December, 1963, (i.e., the so-called draft rules in the preliminary notification) and in exercise of the powers conferred by section 240 of the Punjab Municipal Act, 1911 (Punjab Act, III of 1911) and all other power enabling him in this behalf, the Governor of Punjab is pleased to make the following rules as to the division of the Municipality of Hissar into wards and fixation of the number of representatives for election from each such ward:—

RULES.

1. For purposes of election of members of Municipal Committee, Hissar, the Municipality shall be divided into 19 single-member constituencies and two double-member constituencies. The boundaries of the wards are described in the sub-joined schedule.
2. One representative shall be elected from each single-member constituency and two, of whom one shall be a member of a Scheduled Caste, from the double-member one.”

Then follows the schedule of boundaries describing the boundaries of each ward *seriatim*.

Once it is found that the provisions of section 240 (1) (b) or section 11 of the Act are not *ultra vires*, it seems to me that the petition of Ram Kumar Sharma regarding the election of Hissar must be dismissed. Since he only claims to be interested as a rate-payer and voter in one of the wards his petition must be regarded as one for a writ of *quo warranto*, and although it appears to be settled by the decision in *Bindra Ban and others v. Sham Sunder and others* (6) that a private relator in the position of Ram Kumar Sharma is entitled to bring such a petition, it could only succeed on the basis that the law and rules under

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which the election was conducted were invalid. If he wished to proceed merely on the basis that the rules, while not invalid, had been abused in this case by the creation of constituencies of unequal voting strength, I am of the opinion that the petition should be thrown out on the ground that it is *mala fide* and a camouflaged election petition on behalf of the candidates of the Jan Sangh party who stood at the election and were defeated. It has been alleged by the respondents, and not denied, that the petitioner is a prominent member of the local Jan Sangh party in which he has been an office-bearer, and he fought the previous municipal election in 1959 on the Jan Sangh ticket and also stood as a candidate for the last Assembly election in 1962 from the Hissar constituency which includes the town of Hissar on behalf of Jan Sangh party. Apart from that his allegations are very vague and contain no details at all regarding how any particular candidate who was defeated at the election was affected by the alleged unfair demarcation of the wards. Speaking for myself, I would never upset a whole election at the instance of such a petitioner unless compelled to do so by reason of a patent illegality in the whole proceedings such as would have justified the acceptance of a petition for a writ of *quo warranto*.

In the Amritsar case the petitioners cannot succeed on the basis that the law and rules are invalid, and although no question of *quo warranto* arises in their case since they came to this Court before the election has been held, they could only succeed if they clearly established any flagrant malpractice in the delimitation of wards. As I have said their objection was to the final delimitation of the double-member constituency within the area of the walled city, and on this matter it seems to me that a completely satisfactory explanation of the changes made after the notification has been given in the return. If their grievance is regarding the Scheduled Caste seat for double-member constituency in the city, though this is not at all clear, it does not seem to me that they have any serious grievance since the number of Scheduled Caste voters in the ward finally demarcated is only about 40 less than in the one proposed earlier, and this small difference would certainly not justify interference in a petition under Article 226 of the Constitution. The result is that I would dismiss both the writ petitions, but the parties may be left to bear their own costs.

Mehar Singh, J.

MEHAR SINGH, J.—I agree.

HARBANS SINGH, J.—I agree with the order proposed in these two petitions. In the Amritsar case, no gross injustice is involved which requires to be remedied by the exercise of the extraordinary jurisdiction under Article 226, because the division of the wards seems to be on a uniform basis and the State Government has given good reasons for changing the double-member constituencies. So far as Hissar petition is concerned, I am in respectful agreement with my Lord the Chief Justice that it is a camouflaged election petition on behalf of the candidates of a particular party and there is no reason why the aggrieved party should not have approached this Court before the election was actually held.

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Two law points were raised in these petitions. First, that sections 240(1)(b) and 11 of the Act were *ultra vires* because of excessive delegation to the executive, and secondly, the actual division of a municipality into wards without framing any general rules under section 240(1)(b) did not amount to compliance with the provisions of the law. Whereas I find myself in agreement with the view taken by my Lord the Chief Justice that the above-mentioned provisions are not *ultra vires*, I am of the view that compliance with the provisions of section 240(1)(b) would require that general rules be framed for all the municipal committees, or for an individual municipal committee, or for a group of such committees on the basis of which the division of municipal area can be made into wards. According to clause (b) the State Government has to frame rules "as to the division of municipalities into wards" This, to my mind, clearly means that the basis on which wards have to be created must be laid down in the form of rules and subsequently the wards have to be created consistent with the rules so made. I cannot understand how actual division of a municipality into wards can be treated as "rules as to the division of municipalities into wards." It was urged on behalf of the respondents that it would be very difficult for the Government to frame such rules because the circumstances of each municipal committee differ. I cannot see that there can be any such difficulty. When such general rules have been framed under section 8(2) of the Delimitation Commission Act for the whole of India, there can be no difficulty in framing rules on the same or similar lines for all the municipal committees, for a group of such committees, or even for a particular municipal committee. Once such general rules are laid down, the

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chances of misuse are definitely eliminated and, in any case, regularity or otherwise of the actual division of the wards of the municipal area can be challenged or tested by the rules so framed. When no such general rules are framed, the result achieved can smack of favouritism or injustice as has happened in the case of Municipal Committee, Hissar, where the difference in the voters' strength of different wards is glaring and one of the single-member constituencies has even more voters than another double-member constituency. As I am agreeing with the order proposed, it is not necessary to further elaborate this point.

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versus

THE PUNJAB STATE AND OTHERS—*Respondents*

Civil Writ No. 579 of 1962.

1965
October, 15th.

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act (L of 1948)—S. 36—"At any time"—Meaning of—Power under S. 36—Whether can be exercised after the scheme comes into force—Order under S. 36—Whether administrative or quasi-judicial.

Held, by majority (Mehar Singh, R. P. Khosla, I. D. Dua and P. C. Pandit, JJ.; H. R. Khanna, J. *Contra*)—That the context of section 36 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, itself provides material from which the conclusion can only be that those words have limitation as to time during which the power under this section can be exercised.

The setting in which this section appears in Chapter III of the Act, and having regard to the object and purpose of the statute and the consolidation of holdings, there is material which goes to show clearly the limitation placed on the expression 'at any time' in this section as being terminable with the coming to end of the jurisdiction of the Settlement Officer (Consolidation) in the estate. The consolidation of holdings comes to an end and completion by the coming into force of the scheme. That is the stage when both the Consolidation Officer and the Settlement Officer