This is not an authority for the proposition that persons chosen from zones should not be elected in a general meeting of the committee. The other judgment really does not touch the point in dispute and need not be adverted to.

(28) In the result the petition must be allowed and the elections which have been held on basis of the election programme are accordingly quashed. This is in pursuance of our conclusion that section 77 of the Punjab Co-operative Societies Act, 1961, suffers from the blemish of excessive delegation and is declared *ultra vires.* There would be no order as to costs of this petition.

R. S. NARULA, J.—I agree entirely.

K.S.K.

FULL BENCH

Before Mehar Singh, C.J, R. S. Narula and P. C. Jain, JJ.

DURGA DASS,—*Appellant*

versus

TARA RANI,—*Respondent.*

Letters Patent Appeal No. 483 of 1968

Civil Miscellaneous 5674 of 1968

May 14, 1969.

Hindu Marriage Act (XXV of 1955)—Sections 13 and 25—Decree of divorce granted under section 13—Party to the decree applying after the decree for maintenance under section 25(1)—Such an application—Whether lies.

Held, that when the language of sub-section (3) of section 25 of the Hindu Marriage Act, 1955, is taken along with the provisions of sub-section 1 of the same section, there can be no manner of doubt that in section 25, the statute has used the description of the parties as husband or wife to proceedings under the Act, not only confined to a stage before or by the time of passing of a decree under the Act, but for the purposes of the grant of permanent alimony even after that. When there is an order granting permanent alimony to one of the spouses under sub-section (1), for his or her conduct referred to in sub-section (3) as husband or wife, as the case may be, the order can be rescinded. So that the description of the parties for the matter of section 25 continues to be exactly the same as it was in the proceedings originally initiated under the provisions of the Act for any decree

under those provisions. The fact that proceedings for the grant of permanent alimony are incidental to the main proceedings, merely lends support to this approach, which is even otherwise made clear, beyond the pail of controversy or argument, by sub-section (3) of section 25 of the Act. **Hence a party to a decree of divorce can apply for maintenance under sub-section 1** of section 25 of the Act after such a decree has been **granted. (Para 5)**

Case referred by Hon'ble the Chief Justice Mr. Mehar Singh and the Hon'ble Mr. Justice Prem Chand Jain on 6th May, 1969, to a Full Bench for decision of an important question involved in the case. The Full Bench consisting of the Hon'ble the Chief Justice Mr. Mehar Singh, the Hon'ble Mr. Justice R. S. Narula and the Hon'ble Mr. Justice Prem Chand Jain on 14th May, 1969, after deciding the questions referred to returned the case to the Division Bench for decision. The Division Bench consisting of the Hon'ble the Chief Justice Mr. Mehar Singh and the Hon'ble Mr. Justice Prem Chand Jain, finally decided the case on 21st May, 1969.

Letters Patent appeal under clause X of the Letters Patent against the judgment of the Hon'ble Mr. Justice D. K. Mahajan.

R. L. AGGARWAL AND RAM RANG, ADVOCATES, for the Appellant.

H. L. SIBAL AND R. N. MITTAL, ADVOCATES, for the Respondents.

ORDER OF THE FULL BENCH

MEHAR SINGH, C.J.—The question that is for consideration of this Bench is—

> "Whether a party to a decree of divorce can apply for maintenance under sub-section (1) of section 25 of Act 25 of 1955 after such a decree has been granted?"

(2) On August 23, 1968, a learned Single Judge affirmed the decree of divorce against Tara Rani *alias* Tara Devi respondent, obtained by her husband, Durga Dass appellant, from the Court of the Senior Subordinate Judge of Ludhiana. At the same time and in the same order the learned Judge proceeded to accept an application by the respondent under section 25(1) of the Hindu Marriage Act, 1955 (Act 25 of 1955), and allowed a sum of Rs. 50 per mensem as alimony to her till remarriage and maintenance of chastity, making the amount of alimony a charge on the moveable and immovable property of the appellant. It is against the order made under section 25(1) of the Act by the learned Judge that this appeal This is not an authority for the proposition that persons chosen Patent.

(3) On the side of the appellant, before the Division Bench it was urged that in the case of a decree of nullity of marriage or decree of divorce, after such a decree has been made, having regard to section 25 of the Act, an application for alimony is not competent; because by reason of such a decree the status of the parties as husband and wife comes to an end and the provisions of the section are only attracted so long as the parties continue in that status. Support for this view was sought from *Mehta Gunvantray Maganlal* v. *Bai Prabha Keshavji* (1). On the other side, however, reference was made to the observations of a Division Bench of this Court in *Jagdish Chander Gulati* v. *Parkash Vati* (2), which did not support the view taken by the learned Single Judge in the Gujarat case, but as the case before the Division Bench was one arising out of proceedings for judicial separation under section 10 of the Act, it did not strictly apply to the present case. However, in view of the importance of the question, the argument on the side of the wife, the respondent, that section 25 of the Act refers to all proceedings, including proceedings in a decree of divorce, and so an application for alimony under it may be made by a party to the proceedings under the Act either before or after the decree, and in the absence of any authoritative pronouncement on the point, the question, as above, was referred to a Full Bench, and this is how this appeal has come before us.

(4) In the Act, section 25, which alone has been the subject of consideration during the arguments reads—

> "25. (1) Any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall, while the applicant remains unmarried, pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant and the conduct of the parties, it may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.

(1) A.I.R. 1963 Guj. 242.
(2) 1965 Curr. Law Journal Pb. 696.

(2) If the court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the court may deem just.

(3) If the court is satisfied that the party in whose favour an order has been made under this section has re-married or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he has had sexual intercourse with any woman outside wedlock, it shall rescind the order."

It is urged by the learned counsel for the appellant that soon as a decree was granted to the appellant for divorce against the respondent, the status of the parties as husband and wife ceased to exist. They no longer continued to have the status of the appellant being the husband and the respondent being the wife. It is urged that sub-section (1) of section 25 only envisages an order of alimony so long as the status of husband and wife continues to exist as between the parties. On the grant of a decree of divorce in this case, such relationship and status ceased to exist between the parties. So sub-section (1) of section 25 not having any application to this case the order of the learned Judge ought not to be maintained. Support for this is sought from the observations of Raju, J., in the Gujarat case cited before. The reply on the side of the respondent is that sub-section (1) of section 25 applies to all proceedings under the Act covering also proceedings for divorce and nullity of marriage. No proceedings under the Act being excepted from the purview of sub-section (1) of section 25, it is urged that an argument is not available to the appellant so as to limit the meaning and scope of sub-section (1) of section 25 only to proceedings under the Act other than those for divorce or nullity of marriage. It is said that there is no justification for confining the application of this provision to proceedings other than those for divorce or nullity of marriage. It would mean that while in the case of such proceedings application for alimony under sub-section (1) of section 25 must be made before the decree is made, though in other proceedings under the Act such as those for judicial separation, such an application will be competent even after the decree has been made. Sub-section (1) of section 25 justifies no such distinction and it applies to the status of the parties as in the original proceedings and a right of alimony is given to a party against whom a decree is made,

as in the original proceedings, the subsequent making of the decree resulting in no change in this respect. It is also pointed out by the learned counsel for the respondent that this argument finds conclusive support from sub-section (3) of section 25, because after a decree in proceedings under the Act if the Court is satisfied that a party in whose favour an order of alimony has been made, has remarried or, if such a party is the wife, that she has not remained chaste, or, if such a party is the husband, that he has had sexual intercourse with any woman outside the wedlock, it shall rescind the order granting alimony. It is obvious that the statute continues to describe the parties as husband and wife, even after a decree has been obtained in proceedings under the Act when the Court is called upon to decide whether an order of alimony made under sub-section (1) of section 25 should or should not be continued because of particular conduct of one or the other of the parties, that is to say, husband or the wife. Thus sub-section (3) continues to give the description of husband and wife to the parties even after a decree has been made in proceedings under the Act and when alimony has been granted to one of them against the other. In support of this approach the learned counsel for the respondent has first relied on *Patel Dharamshi Premji* v. *Bai Sakar Kanji* (3), in which a Division Bench of the Gujrat High Court has not approved the observations of Raju, J., in the earlier case of *Mehta Gunvantray Maganlal* (1), and has proceeded to a contrary view on considerations substantially as advanced in these arguments. He has sought support next from *Arya Kumar Bal* v. *Ila Bal* (4), in which same view has been taken and the learned Judges have pointed out that the relief for the grant of permanent alimony is really a relief which is incidental to the passing of a decree in the main proceedings under the Act, so that the parties continue to be described in the same manner in and with the same status in this respect as before.

(5) When the language of sub-section (3) of section 25 is taken along with the provisions of sub-section (1) of the same section, there can be no manner of argument that in section 25 the statute has used the description of the parties as husband or wife to proceedings under the Act not only confined to a stage before or by the time of passing of a decree under the Act, but for the purposes of the grant of permanent alimony even after that. When there is

(3) A.I.R. 1968 Guj. 150.
(4) A.I.R. 1968 Cal. 276.

an order granting permanent alimony to one of the spouses under sub-section (1), for his or her conduct referred to in sub-section (3) as husband or wife, as the case may be, the order can be rescinded. So that the description of the parties for the matter of section 25 continues to be exactly the same as it was in the proceedings originally initiated under the provisions of the Act for any decree under those provisions. The fact that proceedings for the grant of permanent alimony are incidental to the main proceedings, merely lends support to this approach, which is even otherwise made clear, beyond the pail of controversy or argument, by sub-section (3) of section 25 of the Act. In this approach, no exception can be taken to the order of the learned Single Judge granting alimony to the respondent merely because an application in this respect was made on her behalf after the decree for divorce had been made against her. So the answer to the question is in the affirmative. The costs in this reference will abide the event.

NARULA, J.—(6) I agree with the answer proposed by my Lord, the Chief Justice and also with the reasons given in support thereof.

PREM CHAND JAIN, J.—I agree.

K. S. K.

FULL BENCH

Before Harbans Singh, D. K. Mahajan and S. S. Sandhawalia, JJ.

GURDIT SINGH AULAKH,—*Petitioner*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents.*

Civil Writ No. 2788 of 1966

April 23, 1970.

Punjab Sikh Gurdwaras Act (VIII of 1925)—Sections 12(1), 12(5) *and* 14(1)—*Sikh Gurdwara Tribunal—Dissolution of—Power of the Government for—Whether to be exercised only on the exhaustion of all judicial work before the Tribunal—Such power—Whether subject to the conditions laid down in section* 12(1)—*Petitions referred to under section* 14(1) *and pending before a dissolved Tribunal—Re-constituted Tribunal—Whether has jurisdiction to decide such petitions—Punjab Governor's Secretariat Order* (1966)—*Para* 3(*a*)—*Rules of Business of Government of Punjab* (1953)—*Rules* 11 *and* 31 *and items* 14 *and* 21 *of the Schedule—Order of dissolution of the Tribunal—Whether to be passed by the Governor himself—Concurrence of the Finance Department before passing the order—Whether necessary.*