

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP (Crl) No. 104/2023

CrIM No. 1868/2023

Rajinder Singh

.....Appellant(s)/Petitioner(s)

Through: Mr. Jamrodh Singh, Advocate.

vs

UT of J&K & Ors.

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG.

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER

16.07.2025

1. Through the medium of the instant petition, filed under the provisions of Article 226 of the Constitution of India, the petitioner has sought the issuance of a writ/order upon the respondents in the nature of mandamus for directing them to remove his name from the Register maintained under the **Surveillance of Bad Characters Circular** issued vide Notification No. 13 of 02.01.1892 along with his photograph from the Police Station, Gandhi Nagar, Jammu.
2. It is the case of the petitioner that he is having the overseas citizenship of India (OCI) as well as the citizenship of United Kingdom and as such, is entitled to enjoyment of fundamental rights under the Constitution of India; that he is a businessman of good reputation, possessing immovable property as an owner in the districts of Jammu and Rajouri; that he was implicated in false criminal cases and stands already acquitted in all the cases by the learned trial Courts; that presently there

is no case either pending or registered against him; that he is an income tax payee and a law abiding OCI; that his name has been entered in the Register Nos. 9 and 10 of the Surveillance of Bad Characters Circular issued vide Notification No. 13 dated 02.01.1892; in violation of the Rule 1 of the said circular; that he has not been convicted by any Court so far and the false prosecution launched against him stands dismissed by his acquittal; that he is being detained as and when there is any disturbance in the area without any cause or reason; that his photograph has also been displayed in the Police Station, Gandhi Nagar, Jammu, whereby his image in the estimation of public has been lowered down; that he is, at present, settled in the United Kingdom and whenever he arrives in India, respondent No. 3 uses to call him in his Police Station without any summons or notice; that on 21.10.2023, when he was with his wife at home, he was called upon by the respondent no. 3 during night hours in his police station, which subjected him to great inconvenience and undue harassment; that he has a fundamental right to enjoy his life peacefully and move freely; that keeping unnecessary surveillance upon him by the respondents impairs his right to life and privacy; that he was not furnished with the copy of the order under which his name was entered in Register No. 10, maintained for Surveillance of Bad Characters, despite making an application for that purpose.

3. The respondents filed their objections and resisted the plea of the petitioner on the grounds that none of his constitutional, legal or statutory rights stand infringed or violated by the respondents, which is *sine qua non*, for invoking of the writ jurisdiction under Article 226 of Constitution of India; that the writ petition filed by the petitioner is grossly misconceived and without any legal justification, thus merits outright dismissal; that petitioner is a history-sheeter of Police Station, Gandhi Nagar, Jammu, who is involved in case FIR Nos. (1) 477/1990 under Sections 324/326 RPC 4/27A Act, (2) 336/1991 under Sections 307/148/149 RPC 4/27A Act and (3) 362/1994 under Sections 307/148/149/341 RPC 4/25, 3/25 A Act, all of Police Station, Gandhi Nagar, Jammu; that challans in all the cases were produced before the Court of law for judicial determination; that it is evident from the police records that petitioner has consistently engaged in criminal activities creating a nuisance in the Nai Basti, Jammu area and its adjoining localities; that due to his habitual criminal behaviour, the residents of the area feel threatened and are reluctant to lodge complaints or file FIRs against him; that given the petitioner's history of intimidating and threatening innocent people, his pleas taken in the petition fall flat; that history sheet of the petitioner was duly opened in accordance with the police procedures, after obtaining the proper approval from the higher authorities on 10.06.1992 and the petition filed by the petitioner is a

clear abuse of the process of law and an attempt to divert the attention from his criminal activities.

4. Heard learned counsel for the parties and considered their submissions.
5. Learned counsel for the petitioner, Mr. Jamroth Singh, Advocate, while reiterating his stand taken in the writ petition submitted that petitioner's name as a history-sheeter has been incorporated in Register No. 10, maintained under the Surveillance of Bad Characters Circular issued vide Notification No. 13 dated 02.01.1892, in violation of the rules framed under the Surveillance of Bad Characters Circular and the police rules, as well, which, *inter alia*, contemplate an opportunity of hearing to the indicated person. He further contended that no review, which was meant to be conducted by the respondents, stands done in the case of petitioner. He further submitted that all the three case FIRs referred to by the respondents in their objections, as the basis for the incorporation of the petitioner in the Register Nos. 09 and 10, stand dismissed by the trial Courts with the acquittal of the petitioner. He further submitted that the respondents have not made any allegation or accusation against the petitioner subsequent to the date of registration of last alleged FIR No. 362/1994. He submitted that the continued enlistment of the petitioner in the Register Nos. 9 and 10 is violative of the rules framed under the Surveillance of Bad Characters Circular, as well as of the police rules and J&K Habitual Offenders (Control and Reforms) Act, 1956. He further submitted that the action of the respondents in continuing his

name in the relevant Register Nos. 9 and 10 amounts to the violation of petitioner's fundamental rights to life and privacy.

6. *Per contra*, learned counsel appearing for the respondents, Ms. Monika Kohli, Senior AAG submitted that the name of the petitioner was incorporated in the relevant Register No. 10, maintained under the Surveillance of Bad Characters Circular issued vide Notification no. 13 dated 02.01.1892, as per rules and regulations governing the same after seeking the appropriate approval from the higher authorities. She submitted that the petitioner is a habitual offender and the people of local areas are scared of him; that he stands involved in a series of case FIRs bearing Nos. 477/1990 u/s 324/326 RPC 4/27 A Act, 336/1991 u/s 307/148/149 RPC 4/27 A Act and 362/1994 u/s 307/148/149/341 RPC 4/25, 3/25 A Act all of Police station, Gandhi Nagar, Jammu; that the petitioner has been found constantly engaged in criminal activities creating nuisance in the Nai Basti, Jammu area and its adjoining localities; that the residents of the area feel threatened and are reluctant to lodge complaints or FIRs against him. She further contended that the right of the petitioner to life and privacy has to be balanced against the collective right of the whole society to such liberty and privacy. The learned counsel prayed for the dismissal of the writ petition.
7. The respondents justify the inclusion of petitioner's name in the relevant Register Nos. 9 and 10, which stand opened for Surveillance of Bad Characters, in view of the Circular issued vide Notification No. 13

pursuant to State Council Resolution No. 29 of 02.01.1892, on the ground that he is a habitual offender, who uses to intimidate and threaten innocent people who are scared of him and reluctant to even lodge complaint or FIR against him; that the history-sheet of the petitioner was duly opened in accordance with the police procedures. The respondents have mainly based the inclusion of the petitioner in the relevant registers on the ground that he is involved in three case FIRs bearing Nos. 477/1990 u/s 324/326 RPC 4/27 A Act, 336/1991 u/s 307/148/149 RPC 4/27 A Act and 362/1994 u/s 307/148/149/341 RPC 4/25, 3/25 A Act all of Police station, Gandhi Nagar, Jammu.

8. It is true that in exercise of the powers vested in it in terms of the Jammu and Kashmir Police Rules, 1960 and the Surveillance of Bad Characters Circular, the Police may keep discreet surveillance over bad characters, habitual offenders and other potential offenders, and for that purpose enter their names in Register Nos. 9 & 10 for prevention of offences; but before entering the names in the Registers, it is required to follow the Rules framed under the Surveillance of Bad Characters Circulars Dated 17th April 1897 and the Police Rules, which, *inter alia*, contemplate opportunity of being heard to the indicted persons.
9. Rules 698 and 699, besides other Police Rules, dealing with Surveillance of Bad Characters, reiterate the provisions of the Rules framed under the Surveillance of Bad Characters Circular, dated 17.04.1897.

10. The rules framed, determine the circumstances under which a person's name be entered in Register Nos. 9 & 10, and authorize the Superintendent of Police to enter the names of Bad Characters in these Registers. According to Rule 1 of the rules framed under the Surveillance of Bad Characters Circular, a person shall not be entered in Register No. 10 unless it is satisfactorily proved:-

- a) That he is in the habit of committing cognizable offences;
- b) That there is apprehension of commission of offences on his part if there is no check on his movements and he is not subjected to surveillance;
- c) That he has no ostensible means of subsistence and is released on security for good behaviour.

Explanation: A person who is proved to have been previously convicted thrice of cognizable offences, shall be understood to be taken as, "habitual offender"

11. In terms of Rule 2 of the rules, the Superintendent of Police may, on his own accord, or on the report of any officer subordinate to him, on being satisfied about the existence of one or the other conditions contemplated by Rule 1, may enter a person's name in Register No. 10, only after hearing that person/considering his objections and thereafter fully satisfying himself that the name of such person needs to be entered in the Register, on such condition(s) as he may consider proper so to impose.

12. As per the Rule 10 of the Rules of 17.04.1897, concerned Sessions Judge, Superintendent of Police or any other officer empowered by the government in this behalf, shall examine such entries in the Register from time to time. They shall have the powers to remove the names of persons from the Register on account of good behaviour or for some other reasons. A bad character may apply to the Superintendent of Police concerned for removal of his name from the Register on the ground that entries of good behaviour have been made in his favour and Superintendent of Police may, after making enquiry, pass proper orders on such application. Appeal from such orders shall also lie to the Sessions Judge concerned.

As per the Rule 20, the Superintendent of Police, from time to time, will make necessary correction by removing the names of persons who died or gave up their residence in that area.

13. The respondents have not disputed the contention of the petitioner to the effect that he stands already acquitted in all the case FIRs referred to in the objections and basing his inclusion in the relevant Registers. Learned counsel for the petitioner has furnished the copies of the judgments rendered by the learned trial Courts in all the three case FIRs, which reveal his acquittal in all of them.
14. The respondents have not been able to level any allegation against the petitioner subsequent to the date of registration of the case FIR No.

362/1994 of Police Station, Gandhi Nagar, Jammu, in which also, he stands acquitted.

15. It appears that the respondents have not made any review of the case of the petitioner, which was meant to be conducted as per the rules.
16. The continuance of the inclusion of the name of the petitioner in the Register Nos. 9 and 10 (pertaining to Surveillance of Bad Characters) is violative of his fundamental rights to life and personal liberty, as guaranteed under Article 21 of our Constitution.
17. For the foregoing discussion, the petition is allowed and the respondents are directed to delete the petitioner's name from the concerned Registers and to also remove his photograph from the Police Station, Gandhi Nagar, Jammu.
18. **Disposed of.**

(MOHD. YOUSUF WANI)
JUDGE

Jammu
16.07.2025
Vishal Sharma

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| i) | Whether order is reportable? | Yes. |
| ii) | Whether order is speaking? | Yes. |