

**HIGH COURT OF JAMMU AND KASHMIR  
AT JAMMU.**

**OWP No. 429/2010                          Date of decision:28.07.2011  
CMP No. 587/2010**

---

**Tulsi Dass.                                  v.                                  State of J&K and ors.**

---

**CORAM:**

**MR. JUSTICE J.P. SINGH.**

---

***Appearing Counsel:***

For Petitioner(s ) : Mr. Virender Bhat, Advocate.

For Respondent(s ) : Mr. Gagan Basotra, AAG.

---

- |     |  |   |               |
|-----|--|---|---------------|
| i)  | Whether approved for reporting<br>in Press/Journal/Media | : | <b>Yes/No</b> |
| ii) | Whether to be reported<br>in Digest/Journal              | : | <b>Yes/No</b> |
- 

The petitioner-Tulsi Dass has approached this Court seeking a Command to the State-respondents not to register him a Habitual Offender/History Sheeter, or subject him to Surveillance under the Surveillance of Bad Characters Circular.

According to him, before his retirement on superannuation, he had rendered meritorious service in the Indian Army and was awarded Sena Sewa Medal, Paschami Star, Raksha Medal, 9 years Sewa Medal, Sangram Medal, besides 25<sup>th</sup> Independence Anniversary Medal for his services.

His name is stated to have been entered in Register No. 10 maintained under the Surveillance of Bad Characters Circular, with mala fide intentions and against the provisions of law, to cause him harassment when there was no sustainable material with the Police to enter his name in the Register and the cases registered against him stood dismissed by the competent Courts of jurisdiction.

According to the respondents, the petitioner was involved in various criminal cases and keeping in view the fact that he was habitual of committing crimes, a History Sheet was opened against him at Police Station, Ramban on the instructions of the Superintendent of Police and his name thereafter entered in Register No. 10 in terms of Rules, 698 (3) (b) and 699 (2) of the Jammu & Kashmir Police Rules.

The cases registered against him are indicated as:-

1. FIR No. 82/1985 under Sections 451/354 RPC.
2. FIR No. 105/85 under Sections 447/427/332 RPC.
3. FIR No. 89/87 under Sections 341/382 RPC.
4. FIR No. 25/97 under Sections 302/149 RPC.
5. FIR No. 4/2005 under Sections 147/452 RPC.

6. FIR No. 31/2005 under Sections 420/417 /379/447 RPC.
7. FIR No. 62/2006 under Sections 341/325/382 RPC.
8. FIR No. 21/2008 under Sections 341/325/382 RPC.

Some of the cases registered against the petitioner are admitted not to have been substantiated in the Court of law whereas others were still pending.

Appearing for the petitioner, his learned counsel Mr. Bhat submitted that entry of the petitioner's name in Register No.10 was unwarranted and needs to be deleted from the Register because before introducing his name in the Register, the concerned Police had neither heard him nor allowed opportunity to file his Objections, as required by the Rules in force, which renders the entry legally unsustainable.

Conceding fairly that the petitioner was not allowed opportunity of hearing before his name was entered in Register No.10, the learned State Counsel submitted that the State Police, was within its powers to keep Surveillance over Bad characters for prevention of offences and in this view of the matter,

the petitioner cannot seek issuance of any Command to the respondents to refrain from discharging their statutory functions. He, however, submitted that the petitioner has not been declared as a proclaimed offender.

I have considered the submissions of learned counsel for the parties and perused the provisions of the Rules framed under the Surveillance of Bad Characters Circular and the Jammu & Kashmir Police Rules.

It is no doubt true that in exercise of the powers vested in the Police 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 and the Police Rules,

which, *inter alia*, contemplate opportunity of hearing to the indicted persons.

Rules 698 and 699 besides other Rules of the Police Rules dealing with Surveillance of Bad Characters, reiterate the provisions of the Rules framed under the Surveillance of Bad Characters Circular.

In terms of the Rules framed under the Surveillance of Bad Characters and the Police Rules, it is obligatory on the Superintendent of Police, to hear the objections of the person concerned before recording his satisfaction that such person's name needed to be entered in Register No. 10 for Surveillance.

In view of the admitted position that the petitioner was not heard by the Superintendent of Police before taking the decision to enter his name in Register No. 10, the entry of petitioner's name in the Register, becomes illegal and in violation of the Rules, which cannot, therefore, be sustained. A direction to the respondents to delete the

petitioner's name from Register No. 10 is, therefore, warranted.

This Petition, accordingly, succeeds and is, therefore, allowed.

A direction shall issue to the State-respondents to delete the petitioner's name from Register No. 10.

( J.P. Singh )  
**Judge**

**Jammu:**  
**28.07.2011.**

Tilak, Secy.