



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 18th OF SEPTEMBER, 2024

WRIT PETITION No. 18943 of 2024

SHAILENDRA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Rishiraj Trivedi, Advocate for the petitioner.

Shri Pranay Joshi- P.L./G.A. for the State.

ORDER

Heard finally, with the consent of the parties.

2] This writ petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

“(a) It is therefore prayed that this Hon’ble court may be pleased to allow the petition and may also be pleased to issue an appropriate writ/order/direction quashing the order impugned Annexure P/3 with a further direction to the respondents to remove the name of the petitioner from the register of surveillance maintained by the respondents no. 2 and 3.

(b) Any other relief which this Hon'ble court deems fit in the light of the facts and circumstances of the case”

3] The petitioner is aggrieved by the letter dated 05.08.2020, passed by the respondent No.2, S.P. Dhar, whereby, the petitioner’s name has been put in surveillance register of the district as per Rule 656 of M.P. Police Regulations. The petition has been filed on the ground that the petitioner was earlier arraigned as an accused in four cases, in which he has already been acquitted during the year 2010-



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2015, copies of the judgements have also been filed on record, but his name still continues to be reflected in the surveillance register.

4] Counsel for the petitioner has submitted that presently, the petitioner is residing peacefully and is earning his livelihood by tailoring, thus by putting his name in the aforesaid surveillance register, grave prejudice is caused to his future and thus, it is submitted that the impugned order be quashed and the respondents be directed to strikeout the name of the petitioner from the aforesaid surveillance register and other documents of the Police Station, in which the name of the petitioner is entered into on the basis of the surveillance register. It is submitted that only because of his name reflecting in the surveillance register, the petitioner is called by the concerned police station every now and then, which causes undue harassment to the petitioner and violates his fundamental rights.

5] A reply to the petition has also been filed and it is submitted that four cases were registered against the petitioner and thus, he has indulged in criminal activities for long which has led his name to be reflected in the surveillance register as provided under Rule 656 of the M.P. Police Regulations.

6] In rebuttal, counsel for the petitioner has also relied upon Rule 855 and 857, as also the decision rendered by the Co-ordinate Bench of this Court at Principal Seat, Jabalpur in the case of *Sanjay Golhani Vs State Government of M.P. and others*, reported as 2011 (2) *M.P.L.J. 416*.

7] Heard counsel for the parties and perused the record.

8] So far as the Rule Nos. 656, 855 and 857 are concerned, the same read as under:-



Chapter-II

656. Surveillance Register.- This is also a confidential register and is kept by the station officer. Entries in it may only be made under the orders of the Superintendent, or his Assistant if he is empowered to pass such orders. The register is merely an index of the names of the persons placed under the surveillance of the police station staff, their movements being recorded in their history sheets. It should be written up afresh at the commencement of every year, and as a general rule, should not contain more than 20 names. Instructions on the subject of surveillance are given in Section III, Chapter VIII, Part VI.??

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Chapter- VIII

[855. Surveillance- persons fit for.-Surveillance proper, as distinct from general supervision, should be restricted to those persons, whether previously convicted or not, against whom reasonable material exists to induce the opinion that they show a determination to lead a life of crime, being confined to such criminal activities as involve public peace and security and are dangerous security risk. Mere convictions in criminal cases where nothing gravely imperils safety of society shall not warrant surveillance under this regulation. When the entries in a history sheet or any other information at his disposal, lead the Superintendent of police to believe that a particular individual is leading a life of crime, as aforesaid, he may order that his name be entered in the Surveillance Register. The Circle Inspector will thereupon open a history sheet, if one is not already in existence and the man will be placed under regular surveillance.]

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857. Surveillance - Duration of. A comparatively short period of surveillance, if effectively maintained, should suffice either to show that the suspicion of criminal livelihood was unfounded, or to furnish evidence justifying a criminal prosecution, or action under the security sections. Superintendents and their assistants should go carefully through the histories of persons under surveillance during their inspections, and remove from the register the names of such as appear to be earning an honest livelihood. Their histories will thereupon be closed and surveillance discontinued. In the case of a person under surveillance who has been lost sight of and is still untraced the name will continue on the register for as long as the Superintendent considers necessary.

(Emphasis Supplied)

9] A perusal of the aforesaid Regulations, namely, 855 and 857



would clearly reveal that the name of a person can be added to the Surveillance register, whether previously convicted or not, against whom reasonable material exists to induce the opinion that they show determination to lead a life of crime. Regulation 855 also provides that mere conviction in criminal cases where nothing gravely affects the safety of society, shall not warrant surveillance under this regulation. Thus, to include a person's name in the surveillance register, it is necessary for the Superintendent of Police to form a reasonable belief that a particular individual is leading a life of crime. Whereas, as per Regulation 857, it is also provided that surveillance is required to be made of the persons having criminal histories and the name of the person(s) can also be removed from the surveillance register if it is found that the person is earning his livelihood in an honest manner and, if it is found that the person is honestly leading his life, his histories will be closed and surveillance shall be discontinued.

10] In the present case, admittedly, the appellant had a criminal history as four cases were registered against him under the IPC from the year 2010 to 2015, and all these four cases, namely, S.T. No.88/2010 under Sections 395 & 397 of IPC and Sections 3/25 of Arms Act; S.T. No.304/2011 under Section 392 of IPC; S.T. No.229 of 2016 under Sections 323, 342, 294, 506 and 34 of IPC; and S.T. No.331 of 2016 under Sections 25 and 27 of Arms Act have resulted in acquittal, copies of which have also been filed on record. In the last case, which was allegedly committed by the petitioner in the year 2015, he has been acquitted on 14.07.2023. In the reply, it is not the respondents' case that after 20.06.2015, on which the last criminal case was registered against the petitioner, he has again indulged in any



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criminal activities, and the respondents have primarily relied upon Regulation 843 (3) of the M.P. Police Manual, which reads as under:-

“843. Surveillance Liability to.- Persons liable to police surveillance may be divided into three classes -

(i) Convicts released conditionally, by the State Government under section 401, (Now Section 432) Criminal Procedure Code, before the expiry of their sentences.

(ii) Convicts subject to an order passed under section 565 (Now section 356) Criminal Procedure Code.

(iii) Ex-Convicts and suspected bad characters, who are placed on the Surveillance Register by an executive order of the Superintendent.”

11] However, the aforesaid provision is not the final provision in respect of ex-convicts or criminals, and there are other provisions also, which have been quoted hereinabove, namely, Regulation 855 and 857, a conjoint reading of the same would clearly reveal that a person's name can be removed from such surveillance register provided certain conditions are met, and in such facts and circumstances of the case, this Court is inclined to dispose of this petition with a liberty to prefer a fresh representation along with all the relevant documents to the respondent No.2/3/competent authority, who shall decide the same in accordance with law, by a reasoned order, also taking into account the observations made hereinabove, after given due opportunity of hearing to the petitioner.

12] Let the aforesaid exercise be completed with a period of four weeks from the date of receipt of copy of this order.

13] With the aforesaid directions the petition stands **disposed of**.

(SUBODH ABHYANKAR)
JUDGE

Bahar