

(2007) 02 AHC CK 0157
In the Allahabad High Court
Case No : Writ Petition No. 2394 (MB) of 2005

Faiyaz Ahmad

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 22-02-2007

Acts Referred:

Uttar Pradesh Police Regulations, 1948 — Chapter 20 Rule 231

Citation : (2007) 02 AHC CK 0157

Hon'ble Judges : O.P.Srivastava, J and Shiv Charan Sharma, J

Final Decision : Allowed

Judgement

1. Through this writ petition, the petitioner has prayed for a writ in the nature of mandamus commanding the opposite parties to discontinue/close the history sheet of the petitioner opened in the year 1996 as History Sheet No. 37A at Police Station Kurwar, District Sultanpur.
2. Petitioner's contention is that since 1996 for two years there was no criminal case lodged against him and he was not found involved in any criminal activity and that under Chapter XX Rule 231 of U.P. Police Regulations, the history sheet ought to have been closed after two consecutive years but just with the purpose to harass the petitioner, police is not closing the history sheet and is harassing the petitioner in the name of surveillance.
3. The writ petition has been contested on behalf of the State by filing counteraffidavit. A list of the cases against petitioner is also enclosed alongwith counteraffidavit.
4. We have considered the submissions made before us on either side.
5. It is not disputed that history sheet of the petitioner was of ClassA and not "starred". The relevant provision regarding maintenance of history sheet of ClassA is contained in Chapter XX Rule 231 of the U.P. Police Regulations which is reproduced herebelow :

?(231) The subjects of history sheets of class A will unless they are 'starred' remain under surveillance for at least two consecutive year of which they have spent no part in jail. When the subject of a history sheet of class A whose name has not been 'starred' who has never been convicted of cognizable offence and has not been in jail or suspected of any offence or absented himself in suspicious circumstances for two consecutive years his surveillance will be discontinued, unless for special reasons to be recorded in the inspection book of the police station the Superintendent decides that it should continue.

When the subject of a history sheet of class A is "starred" he will remain starred for at least two consecutive years during which he has not been in jail or been suspected of a cognizable offence or had any suspicious absence recorded against him. At the end of that period if he is believed to have reformed he will cease to be "starred" but will remain subject to surveillance will be discontinued only if during that period no complaints have been recorded against him.

In closing the history sheets of an "unstarring" exconvicts and especially exconvict dacoits great care should be exercised.?

6. From the above, it is apparent that surveillance in respect of a person whose history sheet of Class A has been opened, is to be continued for two consecutive years subject to his not having being in jail for any part of said two years. It is also clear from above that history sheet beyond two years cannot continue unless by special order or he has been found to have been convicted in any cognizable offence and has been in jail or was suspected for any offence or absented himself in suspicious circumstances during said two consecutive years.

7. Criminal history annexed to the counter affidavit shows that a case under Sections 41/411 I.P.C. and 3/8 Cow Slaughters Act was registered against petitioner in 1997. In this way, history sheet could be continued for two years beyond 1997 and thereafter since no case was registered against the petitioner in the next two consecutive years and he had never been in Jail or convicted of any cognizable offence during two years after 1997, the history sheet could not be continued beyond that unless Superintendent decided so far special reasons who recorded in the inspection book of the police station.

8. The intention of the Regulation 231 is not that history sheet should remain open against anyone for all times to come. Once the person maintains good conduct and he is not convicted in any cognizable offence or has been in Jail during that period and also he was not suspected of any offence or absented himself in suspicious circumstances for the said two consecutive years, his surveillance is to be discontinued except under orders of Superintendent on the basis of reason recorded at Police Station during inspection. No such eventuality has happened to occur in the matter of petitioner during the said two consecutive years, therefore, history sheet ought to have been closed.

9. Continuance of history sheet beyond the period as indicated above is wrong and, therefore, petitioner deserves to the relief prayed for.

10. The writ petition is, therefore, allowed.

11. Let writ of mandamus be issued directing the opposite party No. 3 to discontinue history sheet No. 37A of the petitioner at Police Station Kurwar, District Sultanpur.