

The reference is answered accordingly and the assessee will recover costs of this petition which we assess at Rs. 250.

There was also a writ petition which was filed by the Commissioner of Income-tax in which the identical issues were raised. This writ petition was filed as a measure of abundant caution in case this Court took the view that no reference was competent. The petition for writ automatically fails in view of our decision in the reference.

The Commissioner of Income-tax, Simla

v.

M/s. Ganeshi Lal-Prabhu Dayal, Mandi Phul

G. D. Khosla, A.C.J.

DULAT, J.—I agree.

Dulat, J.

B.R.T.

#### CRIMINAL WRIT

Before G. D. Khosla and Tek Chand. JJ.

TIRLOK SINGH,—*Petitioneer*

*versus*

THE SUPERINTENDENT OF POLICE, FEROZEPORE,—  
*Respondent.*

Criminal Writ No. 16 of 1958

*Punjab Police Rules—Rule 23.4—Maintenance of Surveillance Register under—Whether legal and constitutional—Entry of a person's name in the Police Register No. 10—Whether infringes any of his rights.*

1959

Mar., 3rd

*Held*, that the maintaining of Surveillance Register commonly known as Police Register No. 10, under Rule 23.4 of the Punjab Police Rules is, in no way, unconstitutional or illegal, provided the police officer does not interfere with the personal liberty or movements of the individuals whose names are entered in this register. The maintaining of this register is an absolute necessity for the better performance of police duties.

*Held*, that the mere placing of a person's name in the Surveillance Register No. 10 and subjecting him to secret

and confidential surveillance does not infringe his rights in any way.

*Petition under article 226 of the Constitution of India praying that an appropriate writ direction or order be issued restraining the respondent from calling the petitioner to the Police Station and prohibiting him from making a call on the petitioner and directing him to remove his name from the register of Badmashes.*

B. S. CHAWALA, for Petitioner.

L. D. KAUSHAL, for Respondent.

#### ORDER

G. D. Khosla, J.      G. D. KHOSLA, J.—In this petition under article 226 of the Constitution the legality of maintaining a surveillance register commonly known as Register No. 10 under Punjab Police Rule 23.4 has been challenged. The petitioner is Tirlok Singh who in 1957 was prosecuted under section 454, Indian Penal Code. The prosecution was, however, dropped. Subsequently (so the petitioner alleges) he was asked to give his thumb-impressions and his footprints at Police Station Guru Har Sahai. His name was then entered in the Surveillance Register No. 10 and he was asked to report his absence from his village at the police station. He was also asked to attend a roll-call every night by some police officer or other. He further alleges that his photograph is being kept among the photographs of bad characters at the police station. He says that this contravenes the rights given to him under article 19(1)(d) and is also an infringement of article 14 of the Constitution. In the written reply filed by the Department it is denied that any restrictions have been placed upon the movements of the petitioner. He is not asked to report his movements or his departure from his village at the police station, nor is he asked to attend any roll-call. It is further denied that any photograph of his is being kept at the police station. It is,

however, admitted that his name has been entered in the surveillance register and that confidential and secret surveillance is kept over him as is the practice in respect of other bad characters.

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In view of this reply, the only grievance which the petitioner can have is that his name has been entered in Police Register No. 10, and the question for our decision, therefore, is whether any entry in respect of the petitioner made in the surveillance register infringes any of his rights or affects him adversely. Mr. Chawla who appeared on behalf of the petitioner contended that the presence of his name in the register restricted his free movements. However, the reply of the Department is quite clear on this point that the petitioner's movements are not being restricted in any manner and the surveillance which is kept on him is secret and confidential. Our attention was drawn to the direction given in rule 23.7 which requires police officers not to make any illegal interference with the liberty of persons over whom surveillance is being exercised.

G. D. Khosla, J.

Mr. Chawla, however, argued that the very keeping of this register was unconstitutional and was not warranted by the Police Act. Section 12 of the Police Act empowers the Inspector-General of Police to draw up rules for various purposes. Among them he can draw up rules laying down the particular services to be performed by police officers and "for collecting and communicating by them of intelligence and information". It is part of the duties of the police force to maintain internal order, to prevent crime and to apprehend criminals. Section 23 of the Act lays down details of some of the duties of police officers, and among them is the duty "to collect and communicate intelligence affecting the public peace". It is clear that to keep a watch over bad characters and

Tirloak Singh potential criminals is part of the duties of police force, and this can be done most effectively by keeping a confidential record of such persons.

The Superintendent of Police, Ferozepore

G. D. Khosla, J.

There is no doubt that to apprehend a person who is not alleged to have committed a crime or to restrict his liberty in any way, would be illegal, but to keep watch over a bad character cannot be said to infringe any right given to him under the Constitution or by any law. The rules quite clearly lay down that the surveillance register is a confidential document and an entry made in it does not affect the personal liberty of the individual in any way. Therefore, it is not necessary that any notice should be given to the person concerned before his name is entered in this register. The register is no more than a confidential police record which enables the police to perform its duties more efficiently. A police officer in charge of a police station comes to know the bad characters within his jurisdiction. He keeps watch over them and after preparing their history sheets and considering the matter carefully enters the name of any particular bad character in Register No. 10. When he is transferred and is succeeded by another person, this record helps his successor to perform his duties more efficiently. It is clear that the maintaining of this register is, in no way, illegal and is, in fact, an absolute necessity for the better performance of police duties. We cannot hold that the mere placing of a person's name in the register and subjecting him to secret and confidential surveillance infringes his rights in any way. If his personal liberty is at any time interfered with, then the aggrieved person has a clear remedy under law. In the present petition there is no allegation that the petitioner was ever prevented from going where he wanted to go. His allegations regarding the roll-call and the intimidation of his intending departure from his village

are denied by the Department. In this view of the matter, I must come to the conclusion that there is no force in this petition and that the petitioner has no grievance whatsoever. I am clearly of the view that the maintaining of Surveillance Register No. 10, is, in no way, unconstitutional or illegal provided the police officer does not interfere with the personal liberty or movements of the individuals whose names are entered in this register. This petition must fail and I would dismiss it.

Tirlok Singh  
v.  
The Superintendent of Police,  
Ferozepore  
G. D. Khosla, J.

TEK CHAND, J.—I agree.

Tek Chand, J.

B.R.T.

#### CIVIL WRIT

Before G. D. Khosla, Acting C.J. and S. S. Dulat, J.

THE SHIROMANI GURDWARA PARBANDIK COMMITTEE, AMRITSAR AND ANOTHER,—*Petitioners*

*versus*

THE GOVERNOR OF THE PUNJAB AND ANOTHER,—  
*Respondents.*

Civil Writ No. 802 of 1958

*Sikh Gurdwaras (Amendment) Act (I of 1959)—Whether offends against Article 26 of the Constitution of India—Section 148-A(2)(iii) and (iv)—Provision for electoral colleges in—Whether amounts to interference in Sikh religious affairs—Nominations by Governor—Whether offends against the right of the Sikhs to manage their own religious affairs—Constitutionality of an Act—Considerations for determination—Motive of individual members of the Legislature—Whether relevant.*

1959  
Mar., 4th

*Held*, that the Sikh Gurdwaras (Amendment) Act, 1959 does not offend against Article 26 of the Constitution of India as it does not interfere with the right of a religious denomination to manage its own affairs and to administer its property. The provision of electoral colleges for the