



ROLE OF PUBLIC INTEREST LITIGATION IN THE INDIAN JUDICIAL SYSTEM

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ABSTRACT:

Independence of Judiciary has granted freedom to courts to identify, interpret and review legislative and executive actions. This has enabled them to explore copious legislations, that form the legal framework of the country's Constitution. Revolutionary changes by way of landmark judgements, have been brought about by Public Interest Litigations. A Public Interest Litigation therefore becomes an instrument by which socially, politically and economically disadvantaged parties, seek justice, irrespective of whether they have been directly/indirectly affected in the matter. It can be regarded as a privilege that is bestowed upon citizens to take up issues, thriving to get justice. This article aims to cover certain relevant case laws that reflect upon the merits of PILs. Nevertheless, it has also received widespread criticism for its deviation from the doctrine of separation of powers. The result of my study suggests that with the evolution of PILs people have regained faith in the Justice delivery system. These lines of research are based on understandings of various perspectives,

intended to create a healthier ability to comprehend the situation before us.

INTRODUCTION:

Public Interest Litigation in short means, litigation proceedings that take place in courts of law for the protection of the interest of the public at large. According to the sixth edition of the Black Law's Dictionary, public interest can further be defined as something in which the community has some pecuniary, or any other interest by which their rights and liabilities are being affected. However, Public Interest Litigation per se has not been defined in any statute, but has been the result of interpretation by judges and constant judicial activism with time. One of the most essential elements of a Public Interest Litigation is, the freedom granted to any private party, other than the aggrieved party to file a case before a competent court, due to lack of resources to commence the suit, and hence prevent encroachment upon their right to seek remedy for his/her grievance.

CONCEPT AND EVOLUTION OF PUBLIC INTEREST LITIGATION:

Article 32 of the Indian Constitution provides only the damaged party with the right to seek redress. Nevertheless, in a PIL, the rules of locus standi are not rigidly looked at, as, permission to a person, acting in good faith, having sufficient interest in the matter, is granted, and he/she is the only individual who is said to have the requisite locus standi in the concerned case¹. It was also held by the Supreme Court that a case of private interest could also be viewed as a public interest case².

The concept of PIL in India is different from that of the United States of America. The Indian notion of PIL is a more humane/moral idea of providing justice to that individual or group of victims in matters relating to infraction of legal rights and denial of certain specific privileges on various grounds. Prof. Baxi, hence contended that the term '*Social Action Litigation*' could be an equivalent label for the Indian context of Public Interest Litigation. The 80s was a period, wherein only the injured party could knock the doors of justice. However, the post emergency era witnessed many innovative changes in the functions of the judicial system. Now, even a person or a civil society group, who is not party to the case, could also

approach the court on behalf of the affected individual.

During the reign of Indira Gandhi, there was widespread state repression, custodial violence and governmental lawlessness in the country. Members of the opposition party were unlawfully sent to prison and people were entirely deprived of their civil and political rights. The occurrence of such detentions, enabled the judges of the Apex Court to openly condemn such unlawful actions of the government. Justice V.R Krishna Iyer and Justice P.N Bhagwat vouched for accessibility of justice to all citizens irrespective of their social status. Therefore, PIL blossomed as a outcome of a dynamic society, proactive judges, enthusiastic newsman, and sincere social activists and also marked the birth of modern justice delivery system, different from that of the traditional one.

RELEVANT CASE LAWS:

The first case of PIL was reported in the year 1979, that addressed the issues of ill-treatment under trial prisoners were facing. In *Hussainara Khatoon v. State of Bihar*³, a PIL was filed by an advocate when he came across a headline in the Indian Express newspaper, that highlighted the predicament of the prisoners, and the atrocities that were being carried out against them in the jails of Bihar.

This led to the discharge of over 40,000 prisoners, and the emergence of the right to speedy trial as a fundamental right, whose enjoyment was earlier declined to these prisoners. This landmark case then came to be known as the '*Mother of PILs*', as its principles were later adopted in subsequent cases.

In the case of *Citizen for Democracy v. State of Assam*⁴, the Supreme Court of India firmly ascertained that fetters shall not be mandatorily upon prisoners, while in jail or while being transported from one jail to another or to the court and back.

Another case named *Anil Yadav v. State of Bihar*⁵ that uncovered the brutalities of the police, was filed in the year 1981. About 33 suspects were tortured and eventually lost their eyesight as acid was being poured into their eyes. The court then directed the government of Bihar to be conveyed to Delhi for medical assistance and treatment. Therefore, the policemen were held to be guilty and their speedy prosecution was ordered. This indicated the growth of investigative litigation.

ASPECTS OF PIL:

- ***Remedial in Nature-***

This aspect is a slight deviation from the standard requirements of locus standi.

There exists a relaxation with respect to the rules to be followed. The incorporation of principles laid down in Part IV into Part III is done, i.e. the Judiciary altered the rigid nature of law into a more flexible one. Example case law - *Unnikrishnan v. State of Andhra Pradesh*⁶, in which the Supreme Court held that the right to basic education is implied in Article 21 of the Constitution, when read in conjunction with the directive principle on education, (Article 41).

- ***Representative Standing-***

It can be viewed as a standing exception that allows for a third party to file a writ of habeas corpus in case of injury to the aggrieved party. With reference to this aspect, the Indian version of a PIL is broader than that of the United States of America.

- ***Non- adversarial Litigation-***

In *People's Union for Democratic Rights v. Union of India*⁷, the Supreme Court reiterated that a public interest litigation is thoroughly a different kind of litigation, when compared to the customary operation of litigation proceedings, which is more often adversary in nature, where one can see two parties to the case claiming/seeking relief against the other.

CRITICISMS OF PIL:

The major debate is about the limitation upon Judicial activism in India. A bill namely, Public Interest Litigation (Regulation) Bill of 1996, initiated by the private members of the Parliament, focused on the drawbacks prevalent in this system of justice delivery. They went on to further state that PILs were being exploited by many on account of providing justice to the downtrodden. Due to its unparalleled importance and impact, PILs were being prioritised over other cases, that ultimately resulted in the pendency of cases before the court. This also gave rise to numerous cases due to flexibility in terms of locus standi, which in turn increased the burden of courts, pressurizing them for speedy disposal of cases. The method adopted in handling litigations is still not structured and has many deficiencies that need to be filled by innovating better techniques.

CONCLUSION:

The PIL has never failed to emphasize upon the importance of public protection. It has been a medium through which many areas of uncertainty have been acknowledged and clarified, misinterpretations were mended and conclusively people have been able to seek justice without grounds for discrimination. A few landmark cases that modified the way these

subjects were being dealt with, are, - the *Vishaka v. State of Rajasthan*⁸ case in which the Supreme Court laid down guidelines for the prevention of sexual harassment at workplace, and the case of *Delhi Domestic Working Women's Forum v. Union of India*⁹ where guidelines were laid down for rehabilitation and compensation for working women who have been victims of rape. These cases have marked a watershed moment in the history of the justice system. In a country like India which is known for its ethnicity and religious diversity, a robust system of justice could be a failure. Red Tapism, low literacy rates and lack of awareness, would create apprehension in the minds of people, which would eventually lead to denial of justice. With the dynamism of the society it is wise to adopt to a more inquisitorial system of justice delivery, wherein real world problems are addressed and resolved, creating hope amongst the public. PIL has no doubt given a different angle to the jurisprudence of the accountability of state entities for constitutional violation of rights of the weekend sections. This experiment has entirely transformed the functioning of the judicial system in India, for the good of the community.



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Endnotes:

1. *Ashok Kumar Pandey v. State of West Bengal.*, (2004) 3 SCC 349.
2. *Indian Bank's Association, Bombay and ors v. M/s Devakala Consultancy Service and Ors.*, 2004 (4) SC 587.
3. (AIR 1979 SC 1360)
4. (1995) 3 SCC 743)
5. (AIR 1982 SC 1008)
6. 1993 AIR 2178, 1993 SCR (1) 594
7. (AIR 1982 S.C. 1473)
8. (AIR 1997 SC 3011)
9. (1995 1 SCC 14)



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