

Public Interest Litigation Meaning and Significance

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Abstract

Our Indian constitution provides fundamental and other legal rights to all citizens and protects Article 32 and Article 226. But due to economic and other disabilities, many people are not able to enforce their rights. In such a situation, Public Interest Litigation is an instrument from which they can get assistance. The greatest contribution of PIL has been to enhance the accountability of the governments towards the human rights of the poor. The present paper discussed in detail about public interest litigation (PIL), its meaning, and its significance.

Keywords: Public Interest Litigation (PIL), Indian Constitution, Article 32, Article 226.

Introduction

In black's law dictionary (6th edition), 'Public Interest' is defined as follows- "something in which the public the, community at large, has some pecuniary interest, or some interest by which they are legal rights or liabilities are affected. it does not mean anything so narrow as mere curiosity, or as the interest of particular localities, which may be affected by the matters in questions interest shared by citizens generally in affairs local, state or national government."

According to black's law dictionary (7th edition), litigation, on the other hand, means "A legal action including all legal proceedings initiated in a court of law to enforce a right is seeking a remedy."

The council for public interest law set up by the Ford Foundation in the USA defined the "Public Interest Litigation" in its report of public interest law, USA 1976, as follows- Public interest law is the name that has recently been given to efforts to provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary marketplace for legal services fails to provide such services to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others.

In the case of *Guruvayur Devaswom managing committee Vs. C.K. Rajan*,¹ the Supreme Court, explained that- “The Public Interest Litigation has been evolved to render complete justice to the poor, deprived, illiterate, the urban and rural unorganized labour sector. Women, children, and other downtrodden who have no access to justice have been denied justice. So the main object of public interest litigation is to make justice available to down-trodden, etc., regarding the concept of human right.”

The seeds of the concept of public interest litigation were initially sown in India by Justice Krishna Iyer in 1976 (without assigning the terminology) in *Mumbai Kamgar Sabha Vs. Abdul Bhai*², he while disposing of an industrial dispute regarding The Payment of Bonus, has observed- “Our adjectival branch of jurisprudence, by and large, deals not with sophisticated litigants but the rural poor, the urban lay and the weaker societal segments for whom the law will be an added terror if technical misdescriptions and deficiencies in drafting, pleadings and seating out the cause- title create a secret weapon to non-suit a part, where a foul play is absent, and fairness is not faulted latitude is a grace of professional justice.”

Justice Krishna Iyer used the term “Public Interest Litigation” and Justice P.N. Bhagwati in *Fertilizer Corporation Kamgar Union vs. Union of India*³. It was well established by the court in *S.P. Gupta vs. Union of India*.

The main object of Public Interest Litigation is to protect the basic human rights of needy persons and encourage the spirit of the rule of law.

In the case of *People’s Union for Democratic Rights vs. Union of India*, the Supreme Court expressed the opinion that “The rule of law does not mean that the protection of the law must be available only to a fortunate few or that the law should be allowed to be prostituted by the vested interests for protecting and upholding the state quo under the guise of enforcement of their civil and political rights the poor to have civil and political rights and the rule of law is meant for them also”. In this case the Supreme Court further stated that- “The time has now come when the courts must become the courts for the poor and struggling masses of the country. They must shed their character as an upholder of the established order and status quo. They must be sensitized to the need of doing justice to the large masses of the people to whom a cruel and heartless society has denied justice for generations. The realization must come to them that social justice is the signature turn of our constitution. It is their solemn duty under the constitution to enforce the basic human rights of the poor and vulnerable section of the community and actively help in the realization of the constitutional goals.”

In the matter of public interest litigation, the rule of Locus Standi has been relaxed. According to this rule, the person whose fundamental right has been violated may file a petition. Still, in the

¹Appeal (civil) 2148 of 1994, DATE OF JUDGMENT: 14/08/2003

²1976 AIR 1455, 1976 SCR (3) 591 DATE OF JUDGMENT 10/03/1976

³1981 AIR 344, 1981 SCR (2) 52 DATE OF JUDGMENT 13/11/1980

case of public interest litigation, a new rule has been developed that gives the right to be heard to such a person who is working with bonafide intention to prevent injustice and public injury and holds a good interest in filing a petition.

In the case of *S.P. Gupta vs. Union of India*⁴ Supreme Court has observed that- ‘any member of the public having sufficient interest can maintain an action for judicial redress for public injury arising from breach of public duty or some violation of some provision of the constitution or the law and seek enforcement of such public duty and observance of such constitutional or legal provision.’

The Supreme Court has taken a liberal approach in public interest litigation and provided relief in the ordinary procedure. Only letters addressed to the Supreme Court and the high court has been treated as a writ petition in gross violation of fundamental rights. Thus a new jurisdiction has been created called – “Epistolary jurisdiction”.

In the case of *Bandhua Mukti Morcha vs. Union Of India*,⁵ an organization dedicated to the cause of the release of bonded labourers gave a letter to the supreme court and thereby informed it about the existence of the bonded labourers in Faridabad district of the State of Haryana and prayed for the issue of a writ for release of the bonded labourers and for proper implementation of the various provisions of the constitution statutes intending to end suffering and helplessness of such labourers the court treated the letter as a writ petition.

They have even taken suo-moto cognizance of news published in the newspaper and TV channels and treated them as petitions in the same cases.

In the case of *Hussainara Khatoon(I) vs. Home Secretary, the State Of Bihar*, the petition of Habeas Corpus was removed based on the news report. The court allowed the petition and ordered the release of all the under-trial prisoners named in the news report.

The simplicity of legal procedure where on the one hand it has given great relief to the people on the other hand thereof danger of its misuse. In the State of Uttaranchal vs. Balwant Singh Chufal, the Supreme Court issues certain guidelines to preserve the purity and sanctity of the public interest litigation. These guidelines are as follows-

1. The court must encourage genuine and bonafide Public Interest Litigation. It would be appropriate for each High Court to properly formulate a rule to encourage the genuine PIL and discuss it with oblique motives.
2. The court should prima facie satisfied that substantial public interest litigation is involved before entertaining the petition.

⁴AIR 1982 SC 149, 1981 Supp (1) SCC 87, 1982 2 SCR 365

⁵(1997) 10 SCC 549

3. Before entertaining the PIL, the court should ensure that the PIL is aimed at redressing genuine public harm or public injury. The court should also ensure no personal gain, private motive or oblique behind filing the public interest litigation.
4. The court should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.

In the words of Kuldeep Singh, J. a former judge of the supreme court, PIL is a potent weapon in the hands of the judiciary and that it is for the judiciary to see that the promises made to the people in the constitution are fulfilled, and the PIL is one of the means to attain this.

Thus Public Interest Litigation is a useful instrument for public good and welfare, but it should be used with great care.

Some Landmark Judgements

The seeds of the concept of public interest litigation were initially sown in India by Justice Krishna Iyer in 1976 in *Mumbai Kamagar Sabha vs. Abdul Thai*.

The first reported case of PIL was *Hussainara Khatoon vs. the State of Bihar* (1979) that focused on the inhuman conditions of prisons and under trial prisoners that led to the release of more than 40,000 under trial prisoners.

The right to speedy justice emerged as a basic fundamental right that had been denied to these prisoners. The same set pattern was adopted in subsequent cases.

Justice P.N. Bhagwati heralded a new era of the PIL movement in *S.P. Gupta vs. Union of India*.

In this case, it was held that “any member of the public or social action group acting bonafide” can invoke the Writ Jurisdiction of the High Court’s (under article 226) or the Supreme Court (under Article 32) seeking redressal against violation of legal or constitutional rights of persons who due to social or economic or any other disability cannot approach the Court.

By this judgment, PIL became a potent weapon for the enforcement of “public duties” where executive action or misdeed resulted in public injury. And as a result, any citizen of India or any consumer groups or social action groups can now approach the apex court of the country seeking legal remedies in all cases where the interests of the general public or a section of the public are at stake.

Justice Bhagwati did a lot to ensure that the concept of PILs was enunciated. He did not insist on observing procedural technicalities and even treated ordinary letters from public-minded individuals as writ petitions.

The Supreme Court in Indian Banks’ Association, Bombay & Ors. vs. M/s Devkala Consultancy Service and Ors held:- “In an appropriate case, where the petitioner might have moved a court in her private interest and for redressal of the personal grievance, the court in furtherance of Public Interest may treat it a necessity to enquire into the state of affairs of the subject of litigation in the interest of justice.” Thus, a private interest case can also be treated as a public interest case.

M.C. Mehta vs. Union of India: In a Public Interest Litigation brought against Ganga water pollution to prevent any further pollution of Ganga water. Supreme Court held that petitioner, although not a riparian owner, is entitled to move the court to enforce statutory provisions. He is the person interested in protecting the lives of the people who use Ganga water.

Vishaka v. the State of Rajasthan: The judgement of the case recognized sexual harassment as a violation of the fundamental constitutional rights of Article 14, Article 15 and Article 21. The guidelines also directed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Factors Responsible for the Growth of PIL in India

The character of the Indian Constitution. Through Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy), India has a written constitution that provides a framework for regulating relations between the state and its citizens and between citizens inter-se.

India has some of the most progressive social legislation to be found anywhere globally, whether relating to bonded labor, minimum wages, land ceiling, environmental protection, etc. This has made it easier for the courts to haul up the executive when it is not performing its duties in ensuring the rights of the poor as per the law of the land.

The liberal interpretation of locus standi where any person can apply to the court on behalf of those economically or physically unable to come before it has helped. Judges themselves have, in some cases, initiated suo moto action based on newspaper articles or letters received.

Although social and economic rights given in the Indian Constitution under Part IV are not legally enforceable, courts have creatively read these into fundamental rights, thereby making them judicially enforceable. For instance, the “right to life” in Article 21 has been expanded to include free legal aid, right to live with dignity, right to education, right to work, freedom from torture, bar fetters and handcuffing in prisons, etc.

Judicial innovations to help the poor and marginalized: For instance, in the Bandhua Mukti Morcha, the Supreme Court put the burden of proof on the respondent stating it would treat every forced labour case as a case of bonded labor unless proven otherwise by the employer. Similarly, in the Asiad Workers judgment case, Justice P.N. Bhagwati held that anyone getting less than the minimum wage could approach the Supreme Court directly without going through the labor commissioner and lower courts.

In PIL cases where the petitioner is not able to provide all the necessary evidence, either because it is voluminous or because the parties are weak socially or economically, courts have appointed commissions to collect information on facts and present it before the bench.

Who Can File a PIL and Against Whom?

Any citizen can file a public case by filing a petition:

Under Art 32 of the Indian Constitution, in the Supreme Court.

Under Art 226 of the Indian Constitution, in the High Court.

Under sec. 133 of the Criminal Procedure Code, in the Court of Magistrate.

However, the court must be satisfied that the Writ petition fulfils some basic needs for PIL as the letter is addressed by the aggrieved person, public-spirited individual and a social action group for the enforcement of legal or Constitutional rights to any person who is not able to approach the court for redress.

A Public Interest Litigation can be filed against a State/ Central Govt., Municipal Authorities, and not any private party. The definition of the state is the same as given under Article 12 of the Constitution, and this includes the Governmental and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

Significance of PIL

PIL aims to give the common people access to the courts to obtain legal redress. PIL is an important instrument of social change and maintains the Rule of law and accelerates the balance between law and justice. The original purposes of PILs have been to make justice accessible to the poor and the marginalized. It is an important tool to make human rights reach those who have been denied rights. It democratizes the access of justice to all. Any capable citizen or organization can file petitions on behalf of those who cannot or do not have the means to do so. It helps in judicial monitoring of state institutions like prisons, asylums, protective homes, etc. It is an important tool for implementing the concept of judicial review. The inception assures enhanced public participation in judicial review of administrative action of PILs.

Certain Weaknesses of PIL

PIL actions may sometimes give rise to the problem of competing rights. For instance, when a court orders the closure of a polluting industry, the interests of the workmen and their families who are deprived of their livelihood may not be considered. It could lead to overburdening of courts with frivolous PILs by parties with vested interests. PIL's today has been appropriated for corporate, political and personal gains. Today the PIL is no more limited to problems of the poor

and the oppressed. Cases of Judicial Overreach by the judiciary in solving socio-economic or environmental problems can take place through the PIL's. PIL matters concerning the exploited and disadvantaged groups are pending for many years. Inordinate delays in the disposal of PIL cases may render many leading judgments merely of academic value.

Conclusion

Public Interest Litigation has produced astonishing results which were unthinkable three decades ago. Degraded bonded laborers', tortured under trials and women prisoners, humiliated inmates of protective women's homes, blinded prisoners, exploited children, beggars, and many others have been given relief through judicial intervention.

The greatest contribution of PIL has been to enhance the accountability of the governments towards the human rights of the poor.

The PIL develops a new jurisprudence of the state's accountability for constitutional and legal violations adversely affecting the interests of the weaker elements in the community.

However, the judiciary should be cautious enough in applying PILs to avoid Judicial Overreach that is violative of the principle of Separation of Power.

Besides, the frivolous PILs with vested interests must be discouraged to keep their workload manageable.

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