

Review on the Concept of PIL in India

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Abstract: The purpose of this paper was to review the meaning, purpose and procedure of Public Interest Litigation. The paper described the meaning, purpose and procedure of Public Interest Litigation. On the behalf of this study, it's concluded that Public interest litigation (PIL) has a vital role in the civil justice system in that it could achieve those objectives which could hardly be achieved through conventional private litigation. PIL, for instance, offers a ladder to justice to disadvantaged sections of society, provides an avenue to enforce diffused or collective rights, and enables civil society to not only spread awareness about human rights but also allows them to participate in government decision making. However, the Indian PIL experience also shows us that it is critical to ensure that PIL does not become a facade to fulfill private interests, settle Political scores or gain easy publicity

Keywords: Public Interest Litigation, Writs, Article 32 & 226 of The Constitution of India

I. INTRODUCTION

PIL was started to protect the fundamental rights of people who are poor, ignorant or in socially/economically disadvantaged position. It is different from ordinary litigation, in that it is not filed by one private person against another for the enforcement of a personal right. The presence of public interest is important to file a PIL. Public Interest Litigation is a sociological strategy of the judicial activism shows comprehensive expansion of the judicial process in the complicated task of mediating between social reality and social change. This judicial strategy is being invoked as an instrument of social change and social development for promoting social welfare. Degraded bonded laborers, humiliated inmates of protective homes, women prisoners, the untouchables, children of prostitutes, victims of custodial violence and rape and many other oppressed and victimized groups are attracting remedial attention of the courts. At the same time the gap between commitment and performance has resulted in chronic over commitment of the judges to provide relief from all kinds of critical social ills afflicting the Indian Society. Almost anything under the sun is covered under the rubric, public interest litigation. Initially Public interest litigation was considered as a strategy to enable public spirited citizens and social activists to mobilize favorable judicial concern on behalf of the victimized and oppressed groups. It has become today a powerful weapon of the judicial activism for involvement in social political and economic affairs of the society.

Meaning and Definition Public Interest Litigation:

The term "Public Interest" means the larger interests of the public, general welfare and interest of the masses ((Oxford English Dictionary 2nd Edn.) Vol.XII) and the word "Litigation" means "a legal action including all proceedings therein, initiated in a court of law with the purpose of enforcing a right or seeking a remedy." Thus, the expression 'Public Interest Litigation' means "any litigation conducted for the benefit of public or for removal of some public grievance." In simple words, public interest litigation means. Any public spirited citizen can move/approach the court for the public cause (or public interest or public welfare) by filing a petition in the Supreme Court under Art.32 of the Constitution or in the High Court under Art.226 of the Constitution or before the Court of Magistrate under Sec. 133 of the Code of Criminal Procedure, 1973. According to Black's Law Dictionary- "Public Interest Litigation means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected." S. Ratnavel Pandian, J. in Janta Dal v. H.S. Chowdhary¹ said, "Lexically the expression "Public Interest Litigation" means a legal action initiated in a Court of law for the enforcement of public interest or general

interest in which the public or a class of community have pecuniary interest or some interest by which their legal rights or liabilities are affected.”

Concept of PIL:

According to the jurisprudence of Article 32 of the Constitution of India, “The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this part is guaranteed”. Public Interest Litigation popularly known as PIL can be broadly defined as litigation in the interest of that nebulous entity: the public in general. Prior to 1980s, only the aggrieved party could personally knock the doors of justice and seek remedy for his grievance and any other person who was not personally affected could not knock the doors of justice as a proxy for the victim or the aggrieved party. In other words, only the affected parties had the locus standi (standing required in law) to file a case and continue the litigation and the non affected persons had no locus standi to do so. And as a result, there was hardly any link between the rights guaranteed by the Constitution of Indian Union and the laws made by the legislature on the one hand and the vast majority of illiterate citizens on the other. However, all these scenario gradually changed when the post emergency Supreme Court tackled the problem of access to justice by people through radical changes and alterations made in the requirements of locus standi and of party aggrieved. The splendid efforts of Justice P N Bhagwati and Justice VR Krishna Iyer were instrumental of this juristic revolution of eighties to convert the apex court of India into a Supreme Court for all Indians. And as a result any citizen of India or any consumer groups or social action groups can approach the apex court of the country seeking legal remedies in all cases where the interests of general public or a section of public are at stake. Further, public interest cases could be filed without investment of heavy court fees as required in private civil litigation. In 1981 Justice P. N. Bhagwati in *S. P. Gupta v. Union of India*², articulated the concept of PIL as follows, “Where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons by reasons of poverty, helplessness or disability or socially or economically disadvantaged position unable to approach the court for relief, any member of public can maintain an application for an appropriate direction, order or writ in the

High Court under Article 226 and in case any breach of fundamental rights of such persons or determinate class of persons, in this court under Article 32 seeking judicial redress for the legal wrong or legal injury caused to such person or determinate class of persons.” The importance of Article 32 is referred to as the doctrine of “Constitutional Remedy” for enforcement of Fundamental Rights. Dr. B. R. Ambedkar described Article 32 as the heart and soul of the Constitution.

II. DISCUSSION

The seeds of the concept of public interest litigation were initially sown in India by Krishna Iyer J., in 1976 in *Mumbai Kamgar Sabha vs. Abdul Thai*³ and was initiated in *Akhil Bharatiya Shoshit Karmachari Sangh v. Union of India*⁴, wherein an Unregistered association of workers was permitted to institute a writ petition under Art.32 of the Constitution for the redressal of common grievances.

The first reported case of PIL was in 1979 focused on the inhuman conditions of prisons and under trial prisoners. In *Hussainara Khatoon v. State of Bihar*⁵, the PIL was filed by an advocate on the basis of the news item published in the Indian Express, highlighting the plight of thousands of under trial prisoners languishing in various jails in Bihar. These proceeding led to the release of more than 40,000 under trial prisoners. Right to speedy justice emerged as a basic fundamental right which had been denied to these prisoners. The same set pattern was adopted in subsequent cases. A new era of the PIL movement was heralded by Justice P.N. Bhagawati in the case of *S.P. Gupta v. 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 Courts or the Supreme Court seeking redressal against violation of a legal or constitutional right 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 executed in 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 general public or a section of public are at stake. In

1981 the case of Anil Yadav v. State of Bihar⁶, exposed the brutalities of the Police. News paper report revealed that about 33 suspected criminals were blinded by the police in Bihar by putting the acid into their eyes. Through interim orders Supreme Court directed the State government to bring the blinded men to Delhi for medical treatment. It also ordered speedy prosecution of the guilty policemen. The court also read right to free legal aid as a fundamental right of every accused. Anil Yadav signaled the growth of social activism and investigative litigation.

Abuse of PIL:-

However, the development of PIL has also uncovered its pitfalls and drawbacks. As a result, the apex court itself has been compelled to lay down certain guidelines to govern the management and disposal of PILs. And the abuse of PIL is also increasing along with its extended and multifaceted use. Of late, many of the PIL activists in the country have found the PIL as a handy tool of harassment since frivolous cases could be filed without investment of heavy court fees as required in private civil litigation and deals could then be negotiated with the victims of stay orders obtained in the so-called PILs. Just as a weapon meant for defence can be used equally effectively for offence, the lowering of the locus standi requirement has permitted privately motivated interests to pose as public interests. The abuse of PIL has become more rampant than its use and genuine causes either receded to the background or began to be viewed with the suspicion generated by spurious causes mooted by privately motivated interests in the disguise of the so-called public interests.

III. CONCLUSION

Public Interest Litigants, all over the country, have not taken very kindly to such court decisions. They do fear that this will sound the death-knell of the people friendly concept of PIL. However, bona fide litigants of India have nothing to fear. Only those PIL activists who prefer to file frivolous complaints will have to pay compensation to their opposite parties. It is actually a welcome move because no one in the country can deny that even PIL activists should be responsible and accountable. In any way, PIL now does require a complete rethink and restructuring. Anyway, overuse and abuse of PIL can only make it stale and ineffective. Since it is an extraordinary remedy available at a cheaper cost to all citizens of the country, it ought not to be used by all litigants as a substitute for ordinary ones or as a means to file frivolous complaints.

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