

ROLE OF JUDICIARY IN STRENGTHENING PUBLIC INTEREST LITIGATION

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ABSTRACT

Public Interest Litigation is a device by which public participation in judicial review of administrative action is assured, and it also has the effect of making judicial process little more democratic. Public Interest Litigants, all over the country, have not taken very kindly to some of the courts views talking about preventing unnecessary PILs by imposition of high costs and compensation. 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. However, now Public Interest Litigation does require a complete rethink and restructuring as the overuse and abuse of PIL can only make it stale and ineffective. There is a need for some strong measures to promote and protect the actual purpose for which the PIL came into being, i.e., the enforcement of fundamental and other legal rights of the people who are poor, weak, ignorant of legal redressal system or otherwise in a disadvantageous position, due to their social or economic background.

Keywords: *PIL, Remedy, restructure, enforcement.*

INTRODUCTION

Public Interest legal proceeding could be a device by that public participation in review of body action is assured, and it conjointly has the impact of constructing judicial method very little additional democratic.

The vital object of Public Interest legal proceeding is to safeguard the general public interest, Human Rights and defend constitutional and legal rights of deprived and weaker section of the society.

Thus, the dominant object is to confirm observance to the provisions of the constitution and therefore the alternative laws. it's basically a co-operative or cooperative effort on the a part of petitioner, the state, public authority and therefore the court to secure observance of the constitutional or legal rights, edges and privileges given upon the weaker sections of the society. Public Interest legal proceeding is concerning Human Rights, Labour, Prisoners and Environmental Protection.

The members of the general public by filing a PIL area unit entitled to and get social control of public duty and observance of the constitutional law or legal provisions. Such a legal proceeding will be initiated just for redressal of a public injury, social control of a public duty or vindicating interest of public nature and it's necessary that the petition isn't filed non-public } gain or private motive or for alternative extraneous thought and is filed genuine publicly interest.

Intervention of the courts could also be wanted by manner of PIL in cases wherever the statutory provisions have every which way and without reasoning unnoted the interests of a considerably affected cluster that may otherwise suffer in silence. Public interest could demand judicial intervention in cases wherever the present rules and standards don't seem to be complied with thanks to indifference towards a specific cluster, unjustly denying them any legal entitlements or leading to unfair and hostile treatment. Public Interest legal proceeding provides a platform for projected social values for those that don't have a proper access or voice within the political processes.

A PIL will be filed against a State or Central Government, Municipal Authorities, however not any personal party. However, a 'Private party' will be enclosed within the PIL as 'Respondent', when creating involved state authority, a party. In India, the Supreme Court took the lead by permitting volunteer social activists - lay and legal, to represent the interests of the poor in judicial proceedings. By increasing the ism of locus standi in filing the petition and making informal jurisdiction that enabled it to treat a letter written on behalf of a deprived person as a petition and examine the deserves of the grievances.

In Asian country interpreting was created potential by PIL (Public Interest Litigation). usually speaking, before the Court takes up a matter for assessment, it should be happy that the one that approaches it's sufficient interest within the matter. it absolutely was created therefore in favour of social policy and therefore the court accepts its validity and steps in to line things right. Ideologically, such legal proceeding and judicial intervention born of it's remodeled the classical liberal rights model enshrined within the Constitution into a paradigm provided 'rights'. doubtless, such legal proceeding has provided a normal man associate degree access to the apex court of the country.

It has in an exceedingly manner democratized the judicial method. what is more, the PIL has contributed to the increase of a kind of judicial scrutiny of every and each governmental establishment starting from hospitals, prisons, producing units covering problems with health, setting, safety, security, privacy and welfare, etc.

Judicial activism has been a really frequent and customary development throughout one and a 0.5 decade. it's same to own been born in Asian country in 1986. Its credit goes to Justice P.N. Bhagwati UN agency introduced the tradition of hearing on PIL even on a post card. Justice Bhagwati has clearly expressed, "The Supreme Court has adopted a pro-active approach for the last 2 years, significantly, having regards to the peculiar socio-economic conditions prevailing within the country." Thus, interpreting was born out of a public legal proceeding charm. interpreting is developed in every and each side of life, as well as social, economic, political, religious, academic, etc. doubtless, it's strong the religion of lots within the judiciary of the country.

Public Interest Litigants, everywhere the country, haven't taken terribly kindly to a number of the courts views talking regarding preventing surplus PILs by imposition of high prices and compensation. Since it's a unprecedented remedy out there at a less expensive price to any or all voters of the country, it ought to not be utilized by all litigants as a substitute for standard ones or as a method to file giddy complaints.

However, currently Public Interest legal proceeding will need an entire rethink and restructuring because the overuse and abuse of PIL will solely create it stale and ineffective. there's a requirement for a few sturdy measures to market and defend the particular purpose that the PIL came into being, i.e., the social control of elementary and alternative legal rights of the those who area unit poor, weak, unaware of legal redressal system or otherwise in an exceedingly harmful position, thanks to their social or economic background.

JUDICIAL INTEVENTION IN PUBLIC INTEREST LITIGATION

In India, the Supreme Court took the lead by permitting volunteer social activists - lay and legal, to represent the interests of the poor in judicial proceedings. By increasing the philosophy of locus standi in filing the petition and making epistolatory jurisdiction that enabled it to treat a letter written on behalf of a underprivileged person as a petition and examine the deserves of the grievances.

In Bharat rendition was created attainable by PIL (Public Interest Litigation). usually speaking, before the Court takes up a matter for assessment, it should be happy that the one that approaches it's adequate interest within the matter. it absolutely was created therefore in favour of social policy and therefore the court accepts its validity and steps in to line things right. Ideologically, such judicial proceeding and judicial intervention born of it's remodeled the classical liberal rights model enshrined within the Constitution into a paradigm provided 'rights'. beyond any doubt, such judicial proceeding has provided a standard man associate access to the apex court of the country.

It has during a means democratized the judicial method. what is more, the PIL has contributed to the increase of a sort of judicial scrutiny of every and each governmental establishment starting from hospitals, prisons, producing units covering problems with health, atmosphere, safety, security, privacy and welfare, etc.

Judicial activism has been a awfully frequent and customary development throughout one and a [*fr1] decade. it's aforementioned to own been born in Bharat in 1986. Its credit goes to Justice P.N. Bhagwati World Health Organization introduced the tradition of hearing on PIL even on a post card. Justice Bhagwati has clearly expressed, "The Supreme Court has adopted a pro-active approach for the last 2 years, notably, having regards

to the peculiar socio-economic conditions prevailing within the country.” Thus, rendition was born out of a public judicial proceeding charm. rendition is developed in every and each facet of life, together with social, economic, political, religious, academic, etc. beyond any doubt, it's strengthened the religion of masses within the judiciary of the country.

PILs are usually not allowed in criminal matters, because criminal litigation is exclusively between state and respondent and nobody has right to interfere by way of PIL as it would hamper course of justice and cause prejudice to accused denying them a fair trial. Also, PIL are not entertained in service matters.

POSITIVE CONTRIBUTIONS

As the positive contributions of PIL in India are well-known and well documented , only some of the main contributions are noted here briefly. The most important contribution of PIL, in my view, has been to bring courts closer to the disadvantaged sections of society such as prisoners, destitute, child or bonded labourers, women, and scheduled castes/tribes. By taking up the issues affecting these people, PIL truly became a vehicle to bring social revolution through constitutional means, something that the founding fathers had hoped.

Equally important is the part played by PIL in expanding the jurisprudence of fundamental (human) rights in India. As noted before, DPs are not justiciable but the courts imported some of these principles into the FRs thus making various socio-economic rights as important—at least in theory—as civil and political rights. This resulted in the legal recognition of rights as important as education, health, livelihood, pollution-free environment, privacy and speedy trial.

As we have seen before, in the second phase, the PIL became an instrument to promote rule of law, demand fairness and transparency, fight corruption in administration, and enhance the overall accountability of the government agencies. The underlying justification for these public demands and the judicial intervention was to strengthen constitutionalism—a constant desire of the civil society to keep government powers under check. This resulted in the judiciary giving directions to the government to follow its constitutional obligations.

Through PIL, judiciary also triggered legislative reforms and filled in legislative gaps in important areas. Just to illustrate, the Supreme Court in the Vishaka case laid down detailed guidelines on sexual harassment at the workplace. Similarly welcome, were guidelines on arrest and detention laid down by the Court in Basu. To what extent these guidelines have been successful in achieving the intended objectives and whether courts were justified in acting like a legislature are moot points. Nevertheless, such guidelines, which were totally in consonance with the mandate of the Indian Constitution as well as various international covenants ratified by the Indian government, helped in enhancing sensitivity to these issues.

The Indian judiciary, courtesy of PIL, has helped in cooling down a couple of debatable policy queries on that the society was sharply divided. One may regarding } the arguing about the reservation of seats for SCs/STs and different backwards categories employed or educations establishments, the govt. policies of easement and privatisation, and therefore the oppose height of the Narmada dam as samples of this sort of contribution.

On a theoretical level, PIL has helped the Indian judiciary to achieve public confidence and establish legitimacy within the society. The role of associate freelance judiciary during a democracy is after all vital. however provided that judges square measure neither elective by public nor square measure they responsible to public or their representatives normally, the judiciary during a democracy is liable to public criticism for representing the elite or being authoritarian and anti-majoritarian. Therefore, it becomes vital for the judiciary to be seen by the general public to be not solely freelance however conjointly in reality with social realities.

One positive contribution of PIL in Bharat, that has extended outside the Indian territory, deserves a special mention. The Indian PIL jurisprudence has conjointly contributed to the trans-judicial influence—especially in South Asia—in that courts in Islamic Republic of Pakistan, Sri Lanka, Asian nation and Nepal have cited .India PIL cases to develop their own PIL jurisprudence. during a few cases, even city courts have cited Indian PIL cases, above all cases handling environmental problems. provided that the civil society that's following the event of PIL in China is aware of the Indian PIL jurisprudence, it's attainable that Indian PIL cases may be cited even before the Chinese courts within the future.

It ought to be noted that this trans-judicial influence is associate example of a second tier trans-judicial influence—the 1st tier being Indian courts looking forward to the US judicial choices to determine the PIL jurisprudence within the Seventies. usually what we tend to see is that the 1st tier trans-judicial influence therein common law courts of former colonies (such as Bharat and Hong Kong) cite and bank heavily on the judgments

of the US and UK courts. The second tier trans-judicial influence could be a welcome addition within the sense that it would facilitate in fostering learning dialogues (not unidirectional influence) among courts at the horizontal level instead of at a vertical level.

THE DARK facet

PIL has, however, crystal rectifier to new issues like associate unforeseen increase within the work of the superior courts, lack of judicial infrastructure to see factual matters, gap between the promise and reality, abuse of method, friction and confrontation with fellow organs of the govt., and dangers inherent in judicial ism. Before elaborating these issues, let ME take readers to a fast tour of some recent PIL cases that may provide a sign of this dark facet.

ROLE OF THE COURTS

The role of the courts has been essentially altered by adoption of the constitutional norms within the governance of the country. varied constitutional and statutory provisions have established governmental establishments regulation their conduct along side that of business enterprises and voters, during a wide selection of subjects like, financial aid, industrial relations, shopper protection, improvement of atmosphere and protection of forests, industrial health, protection of monuments and places of national importance, welfare of youngsters and girls.

The fundamental alternative that faces the courts in handling the new laws and establishments involved with public rights and interests is of the role that judiciary ought to play within the governance of the country as a very important limb of the State. The question is, ought to the judiciary's role be restricted to preventing prohibited encroachments on the rights of personal people by examining the extent of infringement of individual rights and therefore the regularity of law and administration solely to it restricted extent, or will its judicial operate embrace a constitutional duty to confine the legislative and govt organs of the State within their powers within the interest of the public? Lord Denning regarded it as a matter of high constitutional principle that if there's sensible ground for supposing that a section or a public authority is transgressing the law, or is near to transgress it during a means that offends or injures thousands of subjects, then anyone of them pained or lac will draw it to the eye of the courts of law and get to own the law enforced , and therefore the courts in their discretion will grant no matter remedy is acceptable.

The Judiciary, on the idea of the philosophy of checks and balances, has a major part to play in curbing excesses of power by the legislature and by the executive. The question for consideration by the court would be whether the action challenged is unlawful being outside the ambit of the power conferred on the relevant state authority, or whether the prescribed mandatory procedures have not been followed in the exercise of power, or that an error of law is involved or that the principles of natural justice have not been followed.

On the other hand, there are obvious limits to judicial expertise and to the information upon which judges have to decide cases. The common law adjudicatory process is not always the best way of tackling difficult issues of law and administration, and the costs, delays, and possible injustices to others inherent in expanding the role in the administrative process may more than outweigh any countervailing benefit. Also, Court-ordered commissions of inquiry have often been adopted as means of finding out the relevant facts, and the relief granted sometimes takes the form of a series of quasi-legislative directives, ordering governmental agencies to carry out remedial programs and establishing monitoring procedures whereby the Court may review progress.

RELIEF: GRANT OF REMEDIES

Many statutes allow courts to grant specific remedies in a wide variety of circumstances. While many of these remedies are similar to those available in the general law, such as, injunction and declaratory relief, some statutes have created new forms of reliefs, for example the environment protection laws.

In proceedings relating to a matter arising under the Constitution or involving its interpretation or arising under an enactment or are against the government or other public authority, relief in PIL would be in the nature of a

statutory remedy similar to a remedy available on judicial review and prerogative writs, associated by means of a declaration or an injunction.

Litigation can solely fall within the class of PIL if the remedies wanted square measure in 'public' in nature like the high exclusive right writs. The petitioners could get during a PIL a declaration that a selected sculpture is unconstitutional or that a rule or regulation is invalid. they'll get associate injunction to restrain a public authority from acting in far more than its statutory powers. In some cases, the court could appoint a committee, or commissioner to appear into the matter or it should conjointly provide final orders by means of direction to abide by inside a stipulated time.

A instrument of prohibition and writ lie on behalf of anyone World Health Organization could be a 'person aggrieved' which includes anyone whose interest is also prejudicially stricken by what's happening. It doesn't embrace a mere busy body that's intrusive in things, that don't concern him; however it includes anyone World Health Organization includes a real grievance as a result of one thing has been done that affects him.

The instrument of writ could be a judicial command compelling the respondent to perform its duty. The order, however, cannot direct the style within which the duty are going to be performed, though the explanations given for the order can typically guide the involved official. once any order/direction in nature of judicial command is wanted during a PIL, it's vital for the court to contemplate the character of the duty and therefore the persons to whom it's owed.

The instrument of habeas corpus could be a means that of safeguarding individual liberty and it's a remedy to secure unharness of an individual lawfully detained. it's invariably been accepted that, anyone could get the remedy once an individual is control incommunicative.

The instrument of hearing will be issued in PIL involving determination of the validity of appointments to offices of a public nature and should be used, for example, to check that of the 2 rival claimants is that the lawful appointee.

When a non-public individual needs to bring associate action for associate injunction or declaration to enforce public rights, the relief is also granted provided that right of a category to that that person belongs has been at the same time interfered with.

Some of the involved cases square measure as follows:

As recognized earlier the locus standi construct is totally completely different publicly Interest judicial proceeding. The Supreme Court within the case of:

Peoples Union for Democratic Rights v. Union of Bharat The court currently permits Public Interest judicial proceeding or Social Interest judicial proceeding at the instance of "Public spirited citizens" for the social control of constitutional & legal rights of anyone or cluster of persons World Health Organization owing to their socially or economically underprivileged position square measure unable to approach court for relief. Public interest judicial proceeding could be a part of the method of participate justice and standing in civil judicial proceeding of that pattern should have liberal reception at the judicial door steps.

In the case of M.C Mehta V. Union of Bharat, during a Public Interest judicial proceeding brought against Ganga pollution therefore on forestall from now on pollution of Ganga water. Supreme Court control that petitioner though not a bank owner is entitled to maneuver the court for the social control of statutory provisions, as he's the person curious about protective the lives of the those that build use of Ganga water.

Shriram Food & chemical case through Public Interest judicial proceeding directed the Co. producing venturesome & fatal chemical and gases movement danger to life and health of workmen & to require all necessary safety measures before re-opening the plant.

Public Interest Litigants, everywhere the country, haven't taken terribly kindly to a number of the courts views talking regarding preventing extra PILs by imposition of high prices and compensation. Since it's a unprecedented remedy offered at a less expensive price to any or all voters of the country, it ought to not be utilized by all litigants as a substitute for normal ones or as a way to file light complaints.

However, currently Public Interest judicial proceeding will need a whole rethink and restructuring because the overuse and abuse of PIL will solely build it stale and ineffective. there's a necessity for a few robust measures to push and shield the particular purpose that the PIL came into being, i.e., the social control of basic and

different legal rights of the those that square measure poor, weak, blind to legal redressal system or otherwise during a harmful position, thanks to their social or economic background.

CONCLUSION

Public Interest judicial proceeding is functioning as a crucial instrument of social amendment. it's operating for the welfare of each section of society. It's the weapon system of each one used just for taking the justice. The innovation of this legitimate instrument tested useful for the developing country like Asian nation. PIL has been used as a technique to combat the atrocities prevailing in society. It's AN institutional initiative towards the welfare of the poor category of the society. In *Bandhua Mukti Morcha v. Union of Asian nation*, Supreme Court ordered for the discharge of guaranteed labourers. In *Vishaka v. State of Rajasthan*, Supreme court has set down thorough tips for preventing molestation of operating ladies in situ of their work

By closing the project, during this manner, our judiciary has used the tool of PIL quite effectively for the explanation for environmental protection. however the judiciary has shown knowledge in denying false petitions seeking to advance non-public interests through PIL as evident from the choice of the Supreme Court. Hence, PIL has tested to be a good weapon within the hands of upper courts for cover of atmosphere & our judiciary has actually used this weapon of PIL in absolute best manner.

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