



drishti

PILs: From Public Interest to 'Publicity Interest' Litigations

drishtiias.com/printpdf/pils-from-public-interest-to-publicity-interest-litigations

(This editorial is based on the article 'PILs: From Public Interest to 'Publicity Interest' Litigations' which appeared in 'The Outlook' on 19th March, 2019. The article talks about the nature of PILs and the change it has undergone over a period of time.)

Almost exactly 40 years ago, in March, 1979, Kapila Hingorani made history by filing and securing the release of nearly 40,000 under trials languishing in the jails of Bihar's Patna and Muzzafarpur, in the 'Hussainara Khatoon' case.

The 'Hussainara Khatoon' case established a new paradigm in the Indian justice system, which until 1979 was accessible to only those personally affected by the law or facing penal action.

The court allowed Hingorani to pursue a case in which she had no personal locus standi making Public Interest Litigations (PILs) a permanent fixture in Indian jurisprudence. Ever since, PILs has become the champion of the underprivileged and those wronged by the system.

Public Interest Litigation

Public interest litigation uses the law to advance human rights and equality, or raise issues of broad public concern. It helps advance the cause of minority or disadvantaged groups or individuals.

Public interest cases can arise from both public and private law matters concerning various rules and regulations that govern the exercise of power by public bodies and even when a public body is not involved such as employment law or family law.

It has most ideally and commonly been used to challenge the decisions of public authorities by judicial review to review the lawfulness of a decision or action, or a failure to act, by a public body.

PILs have been responsible for landmark verdicts that have outlawed instant triple talaq,

identified privacy as a fundamental right, opened the doors of the Sabarimala temple in Kerala and Mumbai's Haji Ali shrine to women, legalised consensual homosexual relations and made passive euthanasia permissible etc.

Procedures to File A PIL In The Court

Any citizen of India can approach the court for public case (upon the interest of public) by filing a petition:

- Under the Supreme Court, under Article 32 of the Constitution
- Under the High Court, under Article 226 of the Constitution
- Under Court of Magistrate under Section 133 of CrPC

At present, a court can treat a letter as a writ petition and take action upon it. In such cases, the court has to be satisfied that the writ petition complies with the following;

- Where the letter is addressed by the aggrieved person
- A public-spirited individual
- A social action group for the enforcement of legal or constitutional rights to any person who, upon poverty or disability, are not able to approach the court for redress.

From Public to Publicity

- PIL was introduced in Indian jurisprudence to help raise the cause of social justice. Unfortunately, it has instead become a tool for people to use these as either to gain publicity or for political agenda.
- PILs these days are being used as a means to further bigotry and communal hate in the name of public interest. Filing of flippant cases has resulted in the erosion of the sanctity of the PIL system, which has been responsible for some of the most progressive verdicts delivered by various courts.
- In the absence of any robust mechanism to filter genuine pleas from frivolous pleas known as “publicity interest” or “political interest” litigations, irrational petitions have soared in great numbers. The courts place the onus of curbing the menace on litigants' moral conscience.
- Frivolous filing of PILs has not only resulted in added burden on judiciary but has significantly led to trust erosion in the entire exercise, even if a frivolous plea is eventually dismissed, the judges have to spend a lot of time in going through the prayer and, on most occasions, hearing the petitioner.

Present System of Checks

- Under the present system, only judges have the power to decide if a petition should be admitted or dismissed while the job of the Registry (of the SC or of any high court) is to ensure that technical requirements of filing a petition have been fulfilled by the litigant.
- Petition gets listed for admission irrespective of its merit, eating away the court's time that could otherwise be utilised to hear the massive backlog of cases.
- Total number of cases pending before the SC, as on December 1 last year, stood at 56,994. The National Judicial Data Grid puts the total number of cases pending before various high courts, as on March 17, at a whopping 42.89 lakh.

The Desired Steps

- There is a need for an effective deterrent to prevent such frivolous cases, especially those that blatantly violate the Constitution, from being filed. Judiciary needs to be more proactive in dealing with those who file cases purely to gain publicity.
- A litigant who takes liberties with the truth or with the procedures of the court should be left in no doubt about the consequences to follow. All the courts should impose exemplary cost against petitioners who try to choke the judicial system with absurd PILs mocking both the basic law of justice as well as the secular fabric of the nation.
- The court cannot abdicate its responsibility (of deciding whether a case deserves to be heard) in favour of the Registry as it is within the powers of the court, and its Chief Justice, to lay down broad guidelines for the Registry to follow while deciding what kind of cases deserve to be listed
- The Registry should be empowered to at least check the credentials of the person filing a PIL and those who have a prior record of filing such cases should be warned of the consequences.

Way Forward

- In the 40 years since its inception as a course for judicial remedy, the PIL system has emerged as a potent tool for ensuring transparency in governance and enabler of social justice.
- Litigations such as those demanding deportation of Indian Muslims to Pakistan strikes at the very core of the purpose that a PIL is supposed to serve—public interest, necessitating timely and stern actions against the 'Lousy Litigants' to make evident the deterrent cost of publicity.
- Public Interest Litigation is a weapon which should be used with great care and circumspection and the Judiciary needs to be extremely careful so that ugly private malice, vested interest is not seen lurking behind the beautiful veil of public interest.