Public Interest Litigation

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Introduction

- The expression 'Public Interest Litigation' has been borrowed from American jurisprudence, where it was designed to provide legal representation to previously unrepresented groups like the poor, the racial minorities, unorganised consumers, citizens who were passionate about the environmental issues, etc.
- **Public interest Litigation (PIL)** means litigation filed in a court of law, for the protection of "Public Interest", such as Pollution, Terrorism, Road safety, Constructional hazards etc. Any matter where the interest of public at large is affected can be redressed by filing a Public Interest Litigation in a court of law.
- **Public interest litigation is not defined in any statute or in any act.** It has been interpreted by judges to consider the intent of public at large.
- Public interest litigation is the power given to the public by courts through judicial activism. However, the person filing the petition must prove to the satisfaction of the court that the petition is being filed for a public interest and not just as a frivolous litigation by a busy body.
- The court can itself take cognizance of the matter and proceed suo motu or cases can commence on the petition of any public spirited individual.
- Some of the matters which are entertained under PIL are:
    - Bonded Labour matters
    - Neglected Children
    - Non-payment of minimum wages to workers and exploitation of casual workers
    - Atrocities on women
    - Environmental pollution and disturbance of ecological balance
    - Food adulteration
    - Maintenance of heritage and culture

Genesis and Evolution of PIL in India: 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. 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.

  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 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 Courts (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 general public or a section of the public are at stake.
  - Justice Bhagwati did a lot to ensure that the concept of PILs was clearly enunciated. He did not insist on the observance of 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 public interest case.**
- **M.C Mehta vs. Union of India**: In a Public Interest Litigation brought against Ganga water pollution so as to prevent any further pollution of Ganga water. Supreme Court held that petitioner although not a riparian owner is entitled to move the court for the enforcement of statutory provisions, as he is the person interested in protecting the lives of the people who make use of Ganga water.
- **Vishaka v. 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 for 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.** India has a written constitution which through Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy) 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 legislations** to be found anywhere in the world whether it be 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 who are 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 right to free legal aid, right to live with dignity, right to education, right to work, freedom from torture, bar fetters and hand cuffing in prisons, etc.
- **Judicial innovations to help the poor and marginalised:** For instance, in the **Bandhua Mukti Morcha,** the Supreme Court put the burden of proof on the respondent stating it would treat every case of forced labor 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 can approach the Supreme Court directly without going through the labor commissioner and lower courts.
- In PIL cases where the petitioner is not in a position 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 are 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 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

- The aim of PIL is to give to the common people access to the courts to obtain legal redress.
- PIL is an important **instrument of social change** and for maintaining the Rule of law and accelerating the balance between law and justice.
- The original purpose of PILs have been **to make justice accessible to the poor and the marginalised.**
- It is an important tool to make human rights reach those who have been denied rights.
- It **democratises the access of justice** to all. Any citizen or organisation who is capable 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.
- Enhanced public participation in judicial review of administrative action is assured by the inception 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 taken into account by the court.
- It could lead to overburdening of courts with **frivolous PILs by parties with vested interests.** PILs 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 the process of solving socio-economic or environmental problems can take place through the PILs.
- 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 labourers, tortured under trials and women prisoners, humiliated inmates of protective women's home, 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 accountability of the state for constitutional and legal violations adversely affecting the interests of the weaker elements in the community.
- However, the Judiciary should be cautious enough in the application of PILs to avoid Judicial Overreach that are violative of the principle of Separation of Power.
- Besides, the frivolous PILs with vested interests must be discouraged to keep its workload manageable.