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Impact of PIL on Public Administration

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ABSTRACT

The Public Interest Litigation (PIL) commonly known as PIL is the concept which evolved during the year 1979, when the advocate **Mr. Kapila Hingorani** who filed the petition before **Honourable Justice Bhagwati** in the case of **Hussainara Khatoon vs State of Bihar 1979 AIR 1369** to know about the conditions of prisoners in Bihar Jail and it was signed by the prisoners is the first ever petition which initiated the process of public interest litigation. Though the first case was filed by **Mr. Kapila Hingorani** but the seed for PIL was first sowed by **Honourable Justice Krishna Iyer** in the year 1976 while deciding the case **Mumbai Kamagar Sabha, Bombay vs. Abdulbhai Faizullahai & Ors, 1976 AIR 1455**.

The intention behind this litigation is for the welfare of public at large and this includes Pollution, Terrorism, Road Safety, Constructional Hazards, etc. This concept was borrowed from American Jurisprudence. During this pandemic, there were so many public interest litigations filed especially in the matters of Migration of Workers, Welfare of Workers, Police Harassment, Compulsory Vaccination, Violation of Fundamental Rights and even there were litigations filed in questioning about the orders of Lock down, Stringent measures taken during the lock down and its constitutional validity. The legislators and the executives tried to escape through the provisions enabled in ancient act viz., The Epidemic Diseases Act, 1897. Seditious laws were used to suppress the facts and the voice of whistle blowers, and the honourable courts rightly rang the bells of justice and established its constitutional importance and its supremacy.

Generally, only a person who has suffered a legal loss or damage to property or injury to body, mind, reputation, etc in furtherance of violation of his legal right has the right to judicial remedy. This is known as the doctrine of "Locus Standi". PIL is an exception to this doctrine. PIL is a means to Judicial Activation and the researcher dealt in detail the intention behind PIL and the main concept is to ensure the justice within the reach of public at large without any hindrances.

PIL is filed before the court to promote, establish, and vindicate public interest when there are violations of constitutional or legal rights of many people who are poor, ignorant or in a disadvantageous position and have no means to approach the courts. PIL is a silent legal struggle against abuse and misuse of power. PIL ensures the facts and reasons behind the provisions enshrined and encompasses by the Government and it also helps the oppressed class to overcome from it.

The researcher tries to explain the need of PIL, its importance, its benefits, and its demerits along with the nature and scope with the help of judicial interpretations and the decided cases. The researcher questions the significance of PIL and suggests his views towards the same.

KEYWORDS: Public Interest litigation, Administrative Law, Fundamental Rights, Significance of PIL, Judicial Activation.

I. INTRODUCTION

Public Interest Litigation (PIL) in India can fill in as a vehicle for making and implementing rights and is basic to the strength of any government. PIL in India can address the necessities of its residents when authoritative idleness burdens the Indian National. This paper examines how PIL in India can fill in as a model for other non-industrial countries battling with authoritative dormancy and can give plan of action to minimized and burdened networks. Moreover, while PIL clouds the conventional limits of force in a liberal popularity-based

commonwealth, majority rule government is indeed reinforced by the extension of remaining to incorporate any resident who has experienced a right misused.

Meaning of PIL : The term Public Interest Litigation (PIL) is made from two words: 'Public Interest' and 'Litigation'.

The words 'Public Interest' signify "an articulation which shows something in which the overall population or the local area everywhere has some financial interest, or some interest by which their lawful rights or liabilities are influenced." The word 'Litigation' then again signifies "a lawful activity, including all official actions started in a Court of Law determined to uphold a right or looking for a cure. As indicated by Black's Law Dictionary- "Public Interest Litigation implies a legitimate activity started in an official courtroom for the implementation of public interest or general interest where people in general or class of the local area have financial interest or some interest by which their lawful rights or liabilities are influenced."

In 1981, **Justice P. N. Bhagwati**, enunciated the idea of PIL as follows, "Where a lawful off-base or a legitimate physical issue is caused to an individual or to a determinate class of people by reason of infringement of any protected or lawful right or any weight is forced in negation of any sacred or lawful arrangement or without power of law or any such lawful off-base or lawful injury or illicit weight is undermined and such individual or determinate class of people by reasons of destitution, weakness or incapacity or socially or monetarily hindered position unfit to move toward the court for alleviation, any individual from public can keep an application for a proper heading, request or writ in the High Court under Article 226 and on the off chance that any break of major privileges of such people or determinate class of people, in this court under Article 32 looking for legal change for the lawful off-base or lawful injury caused to such individual or determinate class of people."

Public interest suit is the utilization of the law to propel basic liberties and fairness or raise issues of wide-open concern. It helps advance the reason for minority or hindered gatherings or people. Public interest cases might emerge from both public and private law matters. Public law concerns the different standards and guidelines that administer the activity of force by open bodies. Private law concerns those cases where a public body isn't included and can be found in regions like work law or family law. Public interest prosecution is most ordinarily used to challenge the choices of public specialists by legal audit. A legal survey is a type of court continuing in which an adjudicator audits the legitimacy of a choice or activity, or an inability to act, by a public body. It is worried about whether the law has been accurately applied, and the right techniques have been followed.

As it is said that this request can be documented by any open energetic individual, so it implies that there ought not be interest in just himself. There in word just says that it very well may be conceivable that in that represent which he is recording a PIL there is a little piece of his advantage additionally covered up: But it doesn't imply that he can't document. If this is considering a legitimate concern for the general population, he can record public interest prosecution. Public Interest Litigation isn't characterized in any rule or any Act. It has been deciphered by the adjudicator to think about the expectation of people in general on the loose. This is like a writ request which is documented in the High Court or Supreme Court under Article 226 for the high court and Article 32 for the high court. At the point when public interest is influenced everywhere then this will be documented yet warmth on only one individual isn't a ground for recording this appeal. There are different regions where public interest litigation can be recorded.

II. WHERE/WHEN A PIL CAN BE FILED?

The PIL can be filed when

- i. there is violation of basic human rights
- ii. context or conduct of Government Policy violates FRs
- iii. Compelling municipal authorities to perform their duties
- iv. violation of any spiritual rights or fundamental rights
- v. When a factory / industry is polluting, and the nearby areas are getting affected by that
- vi. Where, in a neighbourhood offence/street there are not any streetlights, causing inconvenience to the commuters.
- vii. Where some "Banquet Hall" plays loud music in the dark, causing sound pollution.
- viii. Where some construction company is lowering trees, causing environmental pollution.
- ix. When the state government imposes heavy tax?

For directing the law-and-order professionals, prison officials to take appropriate decisions about reforms in the prison, keeping convicts separately, trial process when gets delayed, on remand dates, producing the convicts before the court of law.

- i. For abolishing child labour and bondage.
- ii. Where working women are suffering from harassment.
- iii. For keeping a check on corruption and crime involving holders of high political office.
- iv. For maintaining roads, sewers, etc in good conditions.
- v. For removal of massive hoarding and signboard from the busy road to avoid traffic problems.

III. ADVANTAGES OF PUBLIC INTEREST LITIGATION

- i. Where a manufacturing plant/modern unit is causing contamination and other close by individuals are getting influenced. Then PIL can be filed and get legally evacuate/correct the factory. PIL (Public Interest Litigation), because the name says perhaps case (the method to require genuine movement) in or by the open's benefit. An open vivacious individual or the manhandled can send a letter to the court which might act upon it.
- ii. Residents get a modest solution for unwind the issue of wrongdoing as there's just an ostensible pace of court charges.
- iii. Courts can consider bigger public issues like the issues of Human Rights, buyer government assistance, and the climate. PILs have made it simpler for the legal executive to draw up the central when it's not playing out its obligations appropriately.
- iv. If the candidate (the one that has documented the PIL) is socially or monetarily powerless and can't give the essential proof to help his case, the court orders delegated commissions to appear into and gather data about the case.

IV. DISADVANTAGES OF PUBLIC INTEREST LITIGATION

- i. It urges litigation to document unjustifiable, evil, invented cases, and maltreatment of the technique for the court.
- ii. It shows fixed status and shortcoming in organization. Organization to travel reliable with the way during which they need until the request for the court. For example, in **Ratlam Municipality v. Vardhichand**¹only the direction came, the municipality worked however authoritative failure is also because of its managers.
- iii. In the PIL, the court sits inside the judgment of the political part of the state legal executive who collides with the political part of the state legal executive clashes with the political branch. In **Vishakha v. Territory of Rajasthan**²rules were given, yet not viable, the victim gets relief is only saviour.
- iv. PIL is attempting to shrink away the precept of Doctrine of Separation of Power. **Montesquieu's Doctrine** that there ought to be the separation of power for example the organs of the govt. ought to bind their job to the PIL legal executive infringes into the area

V. IMPACT ON PUBLIC ADMINISTRATION

PIL is a part that empowers the oppressed community to get relief. The progression of this genuine instrument exhibited worthwhile for making a country like India. PIL has been used as a procedure to fight the evil entities winning in the overall population. It very well might be reasonable to wrap up by referring to Cunningham, **"Indian PIL may preferably be a Phoenix: an out and out new inventive arising out of the remaining parts of the old solicitation."** The incredible nature of the lawful chief should be utilized for the open extraordinary and for each situation unreservedly excitement inside the organization of the people. to control immaterial suits by fitting check at the part and lively expulsion is that the major fix. The legitimate leader can bear not any more conspicuous shortfall of trustworthiness than a perception that its solicitations are routinely

¹1980 AIR 1622, 1981 SCR (1) 97

²AIR 1997 SC 3011

scorned with no likely repercussions. This court should swear off passing solicitations that can't be carried out, regardless of whether the fundamental right could similarly be and at any rate satisfactory the explanation. It fills no compelling reason to give some status mandamus or declaration which will remain simply on paper. Though generally the Supreme Court rapidly relaxes orders for lightening, inconsistently may the last choice be given, and in by far most of the cases, the follow-up is poor. The courts in this manner, found the opportunity to keep a psyche the cases being recorded and guarantee the real energy of the specialist and henceforth the possibility of the explanation for movement, to avoid futile suits. It is quite natural that people often misusing the tool, that holds good for PIL also. In a development of decision equity, Ajith Pasayat has repeated the rules that PIL wasn't meant to set off the political enmity and squaring of the political scores under the appearance of PIL in **Ashok Kumar Pandey v. State of West Bengal**³. Court set out specific conditions on which the court must fulfil itself while engaging PIL.

VI. JUDICIAL INTERVENTIONS/INTERPRETATIONS

- i. As held in the case, **Shubash Kumar v State of Bihar**⁴, the abuse of PIL can be evident. In this case, there was a person who was working in the organization and who was terminated by the chief of that organization. The worker preferred PIL and stated that there was something illegal happening in the organization. The Court interpret the intention behind the PIL and dismissed it.
- ii. As held in the case, **SP Gupta v Union of India**⁵, the abuse of PIL was dealt in detail in this case.
- iii. As held in the case, **ChettriyaPradushan Sangharsh Samiti v State of Uttar Pradesh**⁶, in this case land was sold by individuals and due to increase in land costs in the individuals who sold the property requested for returning it. The Samiti has not revealed the real purpose of acquisition of such lands and hence the Supreme Court has dismissed the petition and set out the terms and conditions for filing PIL.
- iv. As held in **Dr. Upendra Baxi (I) vs. State of Uttar Pradesh & Another two**⁷, the professors wrote a letter to the court mentioning the inhuman activities at Agra Protective Home and the court treated the letters as PIL and ordered for corrective measures in the Agra Protective Home.
- v. As held in **Prem Shankar Shukla v Delhi Administration**⁸, the prisoner who sent a telegram to the court that he was mishandled and humiliated and handcuffed which resulted in mental agony. The Court took a telegram as PIL and directed the administration to treat the prisoners effectively and protecting the human rights.
- vi. As held in **Public Interest Foundation v Union of India**⁹, this PIL was filed to prevent from individuals contesting elections, if there are any criminal charges pending against such individuals.
- vii. In a remarkable judgement for the PIL filed during the year 2018, the honourable Supreme Court delivered judgement for the case **Indian Young Lawyers Association v State of Kerala**¹⁰, allowing all to enter the temple of Sabarimala, stating that the women especially during menstruating years can enter the premises of temple and prohibiting them is violation of fundamental rights.
- viii. In a 4:1 verdict delivered by the honourable supreme court in the case of **K.S.Puttasamy v Union of India**¹¹, the supreme court held that Aadhar act is constitutionally valid. Further it was stated that curtailed its wide ambit by striking down provisions which had allowed non-state parties to make Aadhaar mandatory.

³WP No. 17805 (w) of 2014

⁴1991 SCR (1) 5

⁵AIR 1982 SC 149

⁶1990 AIR 2060

⁷1983 (2) SCC 308

⁸AIR 1980 SC 1535

⁹(2019) 3 SCC 224

¹⁰AIR 2018 SC

¹¹(2017) 10 SCC 1

- ix. As held in the case **Rajeev Suri v The Delhi Development Authority**¹², this was filed before Delhi High Court but Supreme Court on itself transferred all cases pertaining to the similar matter. The subject matter of the PIL is about Central Vista Project and asked for Judicial Scrutiny. The honourable SC dismissed the petition stating that these are all politically motivated PIL.
- x. As held in the case **Lalit Valecha v Union of India**¹³, the PIL was filed to stop the news about the death and spread of COVID 19 virus, but the court rejected the plea and dismissed the petition stating that broadcasting about spread and death due to COVID 19 is not a negative news subject to that the news should be true and correct.
- xi. As held in the case, **Pratyush Prasanna and Anr v State of NCT of Delhi**¹⁴, the PIL was challenged to audit the funds received by Delhi Government regarding COVID19. The Court dismissed the petition stating that PIL has been filed without proper homework and it has been simply filed based on the tweets of some persons.
- xii. As held in the case, **SPV Paul Raj v The Chief Electoral Officer and Anr**¹⁵, the PIL was filed to test the candidates who are contesting in the election for COVID19, to prevent near about 6,29,43,512 voters from infections. The Court dismissed the petition stating that this petition was frivolous and barred the petitioner from filing PIL for one year along with costs.

VII. CONCLUSION

PIL is an effective tool, and the judicial activism is widely known through this public interest litigations. It is pertinent to note that, sometimes court on its own takes the issue and pass orders/directions to set right the problem or correct the measures. On 30th June 2021, in the case of **Court on its own motion v Union of India and others**¹⁶, the honourable high court of Punjab and Haryana concerned about the issue of increasing cases of COVID19 and worried about the issues in respect of filing of cases in the court, parties were not able to reach the advocates to proceed further and about the law and order. The Court appointed Adv. Shri Anupam Gupta, the learned senior counsel to assist the court in this regard. The Court extended the dates of compliance because of the veracity of the situation. Thus PIL helped a lot in making the authorities/public administration to act accordingly to the provisions of the law.

Suggestions : India is the vast country with second largest population in the world. So many legislations are enacted, and people are not aware of the basic laws including the provisions enshrined in Constitution of India. So many laws disciplining and controlling the citizens and people living in India does have so many provisions for administrative authorities. The delay in justice is the denial of justice, hence people must use this effective tool of Public Interest Litigation and through Judicial Activism set right this nation. The legal education should be inculcated in the younger age i.e., school education, so that the basic rights will be made known to the public. Though it is there in the school level education, but the rights enshrined in the constitution have not reached the public at large. Moreover, the public interest litigation is an effective tool when the authorities or government curb the fundamental rights / rights enshrined in the constitution and other statutory provisions violated, through honourable courts they can be set aside. This must be educated. In the recent past, there are so many litigations in public interest to fight for their rights filed by the activists and public at large. Sometimes it is because of some unwanted social elements and over enthusiastic elements file PIL to square off their political difference or personal difference with the authorities which should not be encouraged, and the courts have handled this vibrantly and shut the doors for further and fined them heftily.

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