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PUBLIC INTEREST LITIGATION WITH SPECIFIC REFERENCE TO BONDED LABOUR IN INDIA

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Introduction

Public Interest Litigation has been one of the most essential keys in protecting human rights in the country. There have been several instances that with the help of this measure constitutional and legal right of the public at large scale has been protected. This term was borrowed from the American legal system. This tool has not been granted in any particular statute or act, it is actually the creation of our judiciary to benefit the society. We can find its origin by Justice V.R.Krishna Iyer in the case *Mumbai Kamgar Sabha V. Abdulbhai*¹. But, this measure got popularity or can say recognition through *S.P.Gupta V. Union of India*,² where Supreme Court held that “where a person or class of persons to whom legal injury is caused or legal wrong is done, by reason of poverty, disability or socially or economically disadvantageous position, is not able to approach the court for judicial redress, any member of the public, acting bonafide and not out of any extraneous motivation, may move the court for judicial redress of the legal injury or wrong suffered by such person or a class of persons. Such a broad recognition of a right enabled public-spirited individuals and institutions to go to the court on behalf of the affected individual.” With the help of forty second amendment³ directive principles were included which lead to creation of statute like bonded labour (system) abolition act, 1976 was created. The most amazing feature which makes PIL an amazing measure is its party structure which is not restricted to a single individual and here, judges play an active role instead of just deciding whether what is right and wrong they actually, help in shaping the law resolving issues for the whole society.

¹ (1976) 3SCC832: AIR 1976 SC 1455

² AIR 1982 SC149 and pl89.

³ 1976

The Supreme Court has passed various judgements where bonded labourers have been protected from exploitation and their human rights have been protected by applicability of labour laws. Various statutes were created in order to protect their rights also, president promulgated the ordinance⁴ regarding this issue known as, Bonded Labour System (Abolition) Ordinance.

Here, we will also discuss several cases where the issue of bonded labourers were resolved with the help of this public interest measure.

Legal Provisions concerning Bonded Labour

There are several provisions in different statutes which concern the same. The passed ordinance was later reframed as the Bonded Labour (Abolition) Act, 1976 with the objective to protect their rights, so that they can be protected from exploitation. This act was also created to give effect to Article 23 of Indian Constitution, so that this curse alive in the society in the form of a bonded labour system can be removed. This act serves to declare that these bonded labours are not under any obligation to work as free labour and they also have certain labour laws which need to be respected for them as well. Section 4 and 5 of this act, restricts all the practice in the form of bonded labor system and also provides for punishment of imprisonment which may extend upto 3 years and or without penalty of upto 2,000Rs⁵. Also, it states that with the commencement of this act, all obligation of bonded labourers to pay a certain sum gets removed and their property is given back to them⁶. Certain acts such as, The Mines Act, 1972, the minimum wages act 1958, equal remuneration act 1976 etc were made applicable on them providing them certain protection under umbrella of labour laws so, that there is no exploitation done with them.

Indian Constitution also provides for the rights of these bonded labourers. Under directive principles there are a number of articles which provide for these bonded labourers. As per article 39(a) which discusses equal justice and free legal aid hence, this won't be called that effective if such right is not given to these labourers. Also, certain articles such as, 41 (which discusses right to work, education, public assistance) and article 47 (which discusses level of nutrition and standard of living while, here these labourers are given just mere food, level of nutrition and

⁴24 October 1975

⁵Section 16 of Bonded Labour (Abolition) Act, 1976

⁶Section 7 of Bonded Labour (Abolition) Act, 1976

standard of living is entirely a different story. Specifically, article 42 mentions about just and humane conditions of work and maternity relief should be given to all the individuals while, here maternity relief is totally an unimaginable condition also. Also, article 39(e) and (f) that is regarding health and standard of workers and children should not be violated. While, all such articles are violated in case of bonded labourers.

Contribution of PIL

The Supreme Court in several cases has made it possible for these labourers to live their life with all their rights and dignity. The Constitution prohibits this bonded labour system but PIL gave a light on these insects of society and made it possible to overcome those factors who were the reason for failure of such provisions. Here, we will discuss several cases filed through Public Interest Litigation under the concept of bonded labourers.

1. People's Union for Democratic Rights V. Union of India⁷

In this case, PIL was filed which was regarding workers doing construction work for Asian Games. In this petition various questions were raised specifically regarding working below minimum wages violating Minimum Wages Act, 1948. Also, it was raised that other labour laws are also violated. In this case, Justice P. N. Bhagwati stated that PIL is intended to deliver justice to the public at large and specially one's who are poor as justice for all not for only the rich people. In this case article 23 was discussed as it mentions prohibition of traffic in human beings and forced labour. Here, scope of article 23 was expanded stating that it is not only against but also, private individuals. Also, this was discussed that word begar in words of article doesn't only concern its literal meaning but also includes all forms of forced labour. Here, more emphasis was on the word "forced" that any kind of labour which is forced on the person is violation of article 23.

It was PIL through which the harsh reality of these workers came out in light and the justice was delivered to them.

2. Bandhua Mukti Morcha V. Union of India⁸

⁷AIR 1982 SC 1473. (Popularly known as Asiad Workers Case)

Here, this organization who was specifically working for the improvement in condition of Bonded Labourers. In this PIL they pointed out the poor condition of bonded labourers working in two stone queries in Faridabad violating article 23 of Indian Constitution. Here, a letter was sent to the court pointing out that almost 90% of these workers are from different states so the point of jurisdiction was not the point. Here, the court considered the letter as petition and the judicial process was initiated. A committee was created who submitted their report confirming all the allegations of the letter. It was pointed out that they are kept forcefully and some of them are even ill and some have many injuries. Here, the stone queries were considered as mine under the Mines Act, so workers should get all the benefits pointed out in the act. The court noted that such workers are also entitled to the benefits contained in the workmen compensation Act, the payment of wages Act, employees provident fund act, the maternity benefit act, Bonded Labour System (Abolition) Act etc. Also, the court gave many directions in order to improve the condition of such workers. These directions not only helped the labourers in this case but also secured freedom from this bondage system throughout the country. It was this case where the right to human dignity also includes protection of health, maternity relief etc was pointed.

It was only possible through this measure taken by the judiciary to uplift the society and help those who are in need.

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3. Neeraj Choudhary V. State of Madhya Pradesh⁹

In this an activist through a letter to supreme court pointed out that 135 labourers who were released from the stone queries of Faridabad in 1982 and send back to their state Madhya Pradesh were not given livelihood or any other mean even after six months of their release due to which these people are dying because if hunger. Here, Justice Bhagwati stated that “It is the plainest requirement of the Art.21 and 23 of the Constitution that bonded labourers must be identified and released and on release, they must be suitably rehabilitated.”¹⁰ Here, the court discussed that even under act of Bonded

⁸AIR 1984 SC 802

⁹AIR 1984 SC 1099

¹⁰ At pg no.1169

Labour System Abolition Act, 1976 which was created to fulfill the directions of DPSP gave the right to live with dignity to all bonded labourers as well. The Bonded Labour System. Hence any violation of provision is clear infringement of article 21 as well as, right to have a dignified life comes under ambit of it. Here, the court gave order to the state government to take necessary steps for their rehabilitation, so that they can again start their life peacefully and happily. By this court's focus that only release of such labourers is not sufficient it becomes necessary to give them a new means to start their life again. Thus, by the virtue of PIL this activist Neeraj Choudhary rightfully pointed out that how the state government has not played their role.

4. Mukesh Advani V. State of Madhya Pradesh¹¹

Here, in this case Mukesh Advani an activist approached supreme court under article 32 with help of newspaper cutting¹². He put the focus on bonded workers of stone quarries of Raisen in Madhya Pradesh. It was pointed out that these workers are brought from Tamil Nadu for permanent bondage. There, they were surviving on poor conditions and no sanitation was maintained and also, during the rainy season they were not allowed to work so they didn't even get money for those days. There was infringement of almost all the labour laws. Here, the Supreme court directed the district judge to go and search whether it was true or not which was found valid. Later, the court ordered central and state government to take the required steps and the stress was made that these labourers should be prevented from exploitation and minimum wages were granted.

5. People's Union for Civil Liberties V. Union of India¹³

In this case a PIL was filed by the non government organization, against child labour. It was alleged that the children are being bought for Rs.500 to 1,500 from Tamil Nadu. All the children were below age 15 years and forced into bonded laborers. In this a small eight year boy was beaten to death and four were missing. In this case, the court ordered Maharashtra Government to pay 2 lakh for the dead boy while Rs. 75,000 for all the

¹¹AIR 1985 SC 1363.

¹² Indian Express dated 14 September 1982

¹³(1998) 8SCC485.

missing ones. In this case the widest explanation was given to article 23 making this possible for all these bonded workers to have a happy life.

This all was possible because of the judicial tool PIL created by the minds of judicial luminaries that have rescued the situation of bondage labourer's. The most noteworthy commitment of PIL has been to upgrade the responsibility of the governments towards the human rights of the destitute. The PIL creates a modern statute of the responsibility of the state for sacred and lawful infringement antagonistically influencing the interface of the weaker components within the community.

Conclusion

PIL has brought almost progressive change within the legal thinking, created unused forms and strategies, concocted unused cures and gave birth to a new progressive law. The most prominent advantage of the PIL is that it is the cheapest, speediest and the foremost successful means of giving help to the poor, illiterate, uninformed, debilitated and impeded individuals who are quietly suffering injustice, misuse and corruption in repudiation of the constitutional provisions. Under PIL, the traditional rule that whose rights are infringed can only approach court for justice is not followed. Hence, in order to uplift the society and serve justice to the large public the locus standi concept is not followed. Anybody, be it a citizen or any organization can approach court for the enforcement of any individual or group's right. There have been thousands of PIL related to several issues through which justice has been delivered to all. Be it in environment matters, prisoner's right, women's right etc a huge change has been brought with the help of these PIL. Also, this tool protects the most cardinal principle of any legal system i.e. rule of law as, in reality there is a huge disparity or can say there is no equal footing between rich and poor. And this difference can be reduced with the help of this tool which was the original intent of the creation of PIL. As stated by Mahatma Gandhi that the day where the last person standing in a queue gets justice from the system then only

democracy will be established. PIL which is a creation of our judiciary works on the same philosophy trying to bring equality and serving justice to all. This is a huge step in judicial activism but it should be kept in picture that this can also be a mean of Judicial overreach where, court exceeds their power and become litigators as well creating disbalance in separation of power.

But, overall this was a huge initiative taken by judges in order to serve justice to all and benefit society at large.



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