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PUBLIC INTEREST LITIGATION

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ABSTRACT

This paper aims at the topic '**PublicInterestLitigation**'. It is generally known as **PIL**. It is described as the legal system in which the courts of law can initiate and enforce action for securing any significant public or general interest which is being adversely affected or is likely to be so by the action of any agency, public or private. It is compulsory that a PIL should be in the **interestofawidepopulation**, personal agendas shouldn't be accepted in PIL's as the name itself suggests that it should be in public interest. PIL helps to solve the common problem of a group of people. The main advantage of PIL is that it can reach to a broader population in comparatively lesser time. The second advantage is that the individual person or a group of people can directly file interest litigation with the Supreme Court. Apart from the Supreme Court of India, the High Courts, as well as the Judicial Members, are capable of accepting litigation files. It is quite cheaper as compared to private litigations and it can be filed directly in higher courts. The concept of PIL was originated in **USA**. It was the first time in **1960** that a petition was filed in the public interest of several people and not for personal agendas. And after that in the year **1979** it was evolved in India. Now the question arises that who can file the PIL. In normal conditions, cases are filed by the aggrieved party who is the victim. But PIL can be filed by the court itself or any other private party or any individual on the behalf of a large group of people. The main objective of PIL is to protect the interest of a large group. There were many landmark cases of PIL witnessed till today. Some of them are included in this research paper. Every concept has some arguments in favor of it and some are against it, so this paper also comprises of the pros and cons of the PIL. We will try to convey some information about Public Interest Litigation through this paper.

INTRODUCTION

PIL is the litigation which is filed for the **protectionofpublicinterest** such as **pollution, terrorism, roadsafety, prisonreforms**, etc as the name itself suggests its meaning. It can be introduced in court of law, not by the victim but by the court itself or any private party or any social groups. The one who is filing PIL should **actbonafide** and**notinpersonalinterest**. PIL is the use of the law **toadvancehumanrights** and **equality**, or **raiseissuesofbroadpublicconcern**. It helps advance the cause of minority or disadvantaged groups or individuals. These cases arise from both public and private matters. Court treats the PIL as the **writpetition**. It can be filed in the Supreme Court under **Article32**¹, in the High Courts of different states under **Article226**² and under the court of magistrate. '**JusticePNBhagwati**' is regarded as the **fatherofPIL**. He imparted idealism and simplicity to the highest court in the country wherein even a petition filed on postcard was considered by him. The **firstcase** of **publicinterest** was also **handledbyhim** and he had delivered a just and fair judgment. And, **PushpaKapilaHingorani** is popularly known as the **motherofPIL**. She was an Indian lawyer who fought for the **improvementoftheconditionsoftheundertrialprisonersinBihar**. And, she was the first lawyer in India to file a petition in India for the public interest. We will discuss the evolution and also some of the landmark judgments of PIL in India further in detail.

HISTORICAL BACKGROUND OF THE ORIGIN OF PUBLIC INTEREST LITIGATION

¹Constitution of India, 1950

²Constitution of India, 1950

The concept of public interest litigation was originated in United States in the mid- 1960s. In USA, it is known as 'Public Interest Law'. The first legal aid office was established in **NewYork** in **1876**. Since the nineteenth century, various movements in that country had contributed to public interest law, which was part of the legal aid movement. In the 1960s the PIL movement began to receive financial support from the office of Economic Opportunity, This encouraged lawyers and public spirited persons to take up cases of the under-privileged individuals and groups. The groups started raising their voice for the betterment of the country (U.S) for example - against dangers to environment and public health and exploitation of consumers and the weaker sections, etc. After sometime this concept got popular in different countries.

The case which resulted in the origination of 'Public Interest Law' in USA was **Brown vs. Board of Education**³. The defendant was a public institution. In this case, US Supreme Court gave the judgment in the favor of Brown and declared that the state's segregation of the public school students on the basis of race is unconstitutional. It is also ordered to stop this illegal and unconstitutional practice as soon as possible. After this case, courts also started involving in a broad range of social issues, including voting, employment and housing discrimination, environmental regulation, and prison conditions.

EVOLUTION OF PUBLIC INTEREST LITIGATION IN INDIA

1. The first reported case in the interest of public was in **1979** in **India**. It focused on the inhuman, terrible and shocking conditions of the prisons and under trial prisoners. The PIL was filed by a **Senior Advocate Pushpa Kapila Hingorani** to improve the unpleasant conditions of thousands of prisoners in Bihar. She got to know this information and the exact number of prisoners suffering, from a news report published in the **Indian Express**. The case was named after one of the prison inmates as **Hussainarakhatoon vs. State of Bihar**⁴. This case led to the release of more than 40,000 undertrial prisoners on bail. The Supreme Court bench led by the **Justice P.N. Bhagwati** provided the judgment in this case. It was held that the undertrial prisoners will get the basic rights including the **right to speedy justice**.

³Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).

⁴HussainaraKhatoon vs. State of Bihar AIR 1979 SC 1377

It was the **landmark judgment** in the Indian history which is later known to every law student in India. It is a mandatory case which we can't afford to forget while discussing about PIL. This was now set as a **fundamental pattern** and was further adopted in subsequent cases.

2. Thereafter, in the case of **S.P. Gupta vs. Union of India**⁵, it was the first time Supreme Court defined the term PIL in Indian context. It was held that any member of the public or social action group acting bonafide can invoke the Writ jurisdiction of the High Courts or the Supreme Court seeking redressal against violation of a 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 whose infringement had led to the public injury. And as a result PIL can be filed by any citizen of India, any consumer groups, social action groups or by any legal practitioner. Now, it is not compulsory for the victim to file a petition, in place of him anyone else can file it. The only condition which is mandatory to file a PIL is that it should not be in the personal interest but in the interest of public at large.

3. After that PIL's came into existence, a new petition came in front of the court in the year **1981**. The case of **Anil Yadav vs. State of Bihar**⁶, exposed the inhuman activities of the police in Bihar. Newspaper report revealed that about 33 suspected criminals were blinded by the police in the state of Bihar by putting the acid in their eyes.
The Supreme Court directed the Bihar government to bring the attacked prisoners to Delhi for best medical treatments. The case was filed against the guilty policemen and other speedy actions were taken against them. One more right was added to the list of fundamental rights of accused and that was **the right to free legal aid**. **Anil Yadav** signaled the growth of social activism and investigative litigation.

SOME LANDMARK CASES ON PUBLIC INTEREST LITIGATION (PIL)

⁵ S.P. Gupta vs. Union of India

⁶ Anil Yadav & Ors vs. State of Bihar & Anr AIR 1982 SC 1008, 1982 SCR (3) 533

1. MC Mehta vs. Union of India⁷

MCMehta filed a PIL for escape of poisonous gases by a plant in **Bhopal**. It is the world's worst disaster till date and we all should learn and improve our mistakes from this disaster so that this can never repeat in future. This case is also known as **Bhopal Gas Tragedy**.

The **UnionCarbideCorporation** was a plant established in Bhopal which used to produce a pesticide named as Carbaryl. Methyl Isocyanate (MIC) was an essential component in the production of this particular pesticide. MIC is very harmful gas and it can ruin the lives of several people. Due to the negligence of UCC, MIC gas leaked from the pipes into the atmosphere. The gas flooded into the city of Bhopal, causing great panic as people woke up with a burning sensation in their lungs. Thousands of people died immediately due to the drastic effects of the gas. Some suffered from the long term effects like visual impairment, blindness, respiratory difficulties, immune and neurological disorders, lung injury, female reproductive difficulties and birth defects among children born to affected women.

In **February, 1985** the legal battle started between the **UCC⁸** and the **UnionofIndia**. The case was initially filed in the **UScourt** but then it was transferred in **India** only. It travelled a long distance from Bhopal district court to the Supreme Court. A major twist to these legal proceedings came through the settlement order which was stroked out between the Indian Government and the Union Carbide in an out of court settlement in **1989**. The settlement would limit all the civil and criminal liabilities of the past, present and the future as well. That's why it was a bad move. This settlement deed faced a lot of criticism by people because it even covers the future liabilities and secondly the amount settled as fine was very less. It was only **\$470** which was hardly 15% of the original claim. It was not even sufficient to compensate all the victims of the incident.

Apart from all the civil proceedings, some criminal proceedings were also initiated. The judgment was delivered after 26 years of the disaster on June7, 2010. The

⁷ M.C. Mehta vs. Union of India AIR 1987 SC 965

⁸ Union Carbide Corporation

judgment was in the favour of Union of India. All the accused were found guilty and were subjected to imprisonment and were also liable to fine. But these orders could not be enforced as some of the accused did not appear in the court.

2. Rural Litigation and Entitlement Kendra &Ors. (RLEK) vs. State of Uttar Pradesh &Ors.⁹

This case is also known as '**DehradunValleyLitigation**'. It is a landmark PIL as it was the first environmental PIL in India. In **Mussoorie**, activity of **mining** was being carried out in the range of Himalayas. Limestone was extracted by blasting out the hills with dynamite. They were very negligent during the process of extraction and it led to a number of landslides. It resulted in a great human and property loss including the death of villagers, their homes and property were destroyed and cattles died. After witnessing those damages, mining was strictly prohibited by the state minister in the year 1961. However, the mining operations reopened with the permission of Chief Minister after sometime with the mining lease of 20 years. In 1982, 18 leases were rejected by the Court in order to protect the environment. But Allahabad High Court permitted the continuation of the practice of mining giving the reason that economic benefits outweighed ecological factors.

After a long fight between ecological factors and environmental factors, finally the Court gave its final judgment. The judgment was given on **12March, 1985**. Before the judgment Central Government also got concerned about the ecology of the country, so they also took some steps to protect it. In 1983, Government of India appointed a working group to inspect the limestone quarries in the Dehradun-Mussoorie area. The working group also prepared the report for the court on the few mining operations which were allowed to continue. Parliament also enacted a separate law for the environment that is **EnvironmentProtectionAct,1986**. Valley was designated as ecologically fragile area under this act.

⁹RLEK vs. State of U.P 1985 AIR 625, SCR (3) 169

The SC held that mining in reserved forests is illegal as per **Forest Conservation Act¹⁰**. SC was also concerned about the mine operators and other laborers who were left unemployed after the closure of several mining activities in Dehradun. So, in order to pay for the damages, SC issued some directions and these are as follows:

- Orders that mine lessees whose operations were terminated by the court would be given the priority for leases in new areas.
- Orders that the Eco-Task Force of the central department of Environment reclaim and reforest the area damaged by mining and that workers displaced by mine closure be given priority for jobs with the Eco-Task Force operations in the region.

PROCEDURE TO FILE A PIL IN DIFFERENT COURTS

PIL can be **directly filed** in **Supreme Court** of India and **High Courts** of different states.

- In **SC**, it is filed under **Article 32** of the **Indian Constitution**.
- In **HC**, it is filed under **Article 226** of the **Indian Constitution**.
- In the Court of **Magistrate**, it is filed under **Section 133 Criminal Procedure Code**.

At present, court treats a letter as a **writ petition**. In such cases, the court has to be satisfied that the writ petition compiles the following:

- Where the letter is addressed by the aggrieved person.
- A public spirited individual.

¹⁰Forest Conservation Act, 1980

- 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.

ARGUMENTS IN FAVOUR OF PIL

- Because of PIL, now courts and judiciary can also involve in **socialaswellasecologicalissues**. Social issues like human rights and consumer welfare are also raised through PIL time to time. They can take fruitful steps in order to form the world and our nation a better place to live. Before the evolution of PIL, there was no direct way for judiciary to handle the issues which are related for the betterment of a larger population.
- PIL is so **cheap** and **easilybearable** by a common person. Vigilant citizens of the country can find an inexpensive legal remedy. If a person really wants a social change, then they need not to worry about the expenses.
- PIL can be **directlyfiled** in the Supreme Court of India as well as High Courts of different states. So, it is easily approachable and any individual can file a PIL to raise the issue which affects a wider population.
- PIL made it easier for the judiciary to **hauluptheexecutive** when it is failed to perform its duties properly.
- Court can also **appoint** various **commissions** to take over the case and investigate it properly. So, that court can get proper evidence related to it and can deliver judgment accordingly.

ARGUMENTS AGAINST PIL

- In today's time, PIL is not filed for the betterment of society or in the public interest but it is filed for **personalbenefits** and in order **togetpublicity**.

- Secondly, the judiciary has a duty to provide justice to the people but due to the origination of the concept of PIL its scope is widened. This leads to the **criticism** which judiciary has to go through a number of times.
- Many people are **misusing** this concept and handling it as a **tool for harassment** because PIL can be filed in nominal court fees only as compared to other private litigations.

CONCLUSION

PIL is a fabulous step towards solving the public issues. There are thousands of petitions filed everyday in the personal interest and these are pending due to the burden of cases in the Courts. But PIL can provide relief to all the victims who are suffering from a common problem as the same judgment is applicable on all the similar kind of cases. For instance, a number of rape and murder cases are registered everyday by the victims but these cases are still pending. PIL can provide easy and fast relief to such victims. Secondly, the PIL's has saved our ecology to some extent. A number of PIL's are a result of protection of environment in different states. It has also widened the scope of judiciary so that it can check on the executive.

The concept of PIL was initially introduced in USA in the mid 1980's. In the next case of **S.P. Gupta vs. Union of India** which was filed by the famous Advocate S.P. Gupta, the PIL was defined in Indian context for the first time. Nowadays, PIL are increasing in number as there are a number of incidents which curtails or hurts the feeling of people as well as their rights as the citizens of the country. Also, the machinery governing PIL is undergoing a serious reconstruction for possible developments in this field although it has developed a lot from the day of its evolution. The **main aim** of PIL is to **provide fast justice** as well as to **handle all the social and ecological issues** in public interest.

Also insert the significance of the case of State of Uttaranchal v Balwant Singh Chauhan
In order to preserve the purity and sanctity of the PIL, the Supreme Court has laid down guidelines to be followed by courts: (1) The courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations; (2)

Instead of every individual judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the Rules prepared by the High Court is sent to the Secretary General of this court immediately thereafter; (3) The courts should prima facie verify the credentials of the petitioner before entertaining a P.I.L.; (4) The court should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL; (5) The court should be fully satisfied that substantial public interest is involved before entertaining the petition; (6) The court should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions; (7) The courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation; (8) The court should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.