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Significance of Public Interest Litigations in the Execution of Health and Educational Rights

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ABSTRACT

Each state has to perform some basic responsibilities to maintain socio-economic environment in the society. The government has many tools and techniques to fulfill all these responsibilities to establish a harmonious state. Public Interest Litigation (PIL) is one of such tools. This judicial practice provides remedy to those people whose rights have been violated. It not only secures the fundamental rights, but also provides justice for the health and education rights. Historically, apex body of Indian judiciary has given many landmark decisions under PIL. There is no doubt that decisions through PIL have made superb contribution to strengthen various aspects of our vulnerable society. Unfortunately, some people make malpractice of PIL for their personal interest. It deprives the needy section of the society from justice. Resultant, this all affects the work functioning of judiciary and capabilities to decision making on time.

The purpose of the study is to explore the various dimensions of PIL and support to provide the right to fundamental needs

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i.e. health and education. This paper argues a comprehensive and coordinated approach to make better understanding about judiciary and it's functioning to the implementation of PIL decisions and castigation to mal-practitioners. The methodology of the study is qualitative and source of data collection is secondary which is collected from official websites, annual reports etc. The findings and conclusion of this study are based on various dimensions of PIL.

Keywords: Public Interest Litigation, Health, Education, Justice, Law, Rights, Article.

Introduction

Public Interest Litigation (PIL, for short) is a judicial mechanism that encourages individuals or organizations to commence a lawful proceeding in a court of law on behalf of the public interest or in the interest of a vulnerable section of the society. It also means to litigate in the law court for the protection of “public interest, for instance Health, Education, Pollution, Road safety, Human rights and etcetera. This is the tool against the violation of fundamental rights and other legal rights of an individual or group of people. In this matter, Indian Constitution gives safeguard to protect their rights. Besides this, apex body of judiciary in the nation has given many historical decisions in favor of securing fundamental rights of individual. According to the Supreme Court (in Janata Dal v. H.S. Chaudhary, 1993) “Public Interest Litigation (PIL) means a legal action started in a court of law for the enforcement of public/general interest where the public or a particular class of the public have some interest (including pecuniary interest) that affects their legal rights or liabilities”¹ PIL is also known by other names as Social Action Litigation (SAL), Social Interest Litigation (SIL) and Class Action Litigation (CAL).

History of Public Interest Litigation in India

In India, PIL considers many of the same features of its relative enterprise in the United States of America, including a flexible considerate of the party joinder and a preference for equitable relief such as an injunction, as a remedy². The concept of PIL originated in United States of America, where it was designed to offer legal representation to vulnerable section of the society³. To know how PIL came in exist in India, it is important to know the previous conditions under which it arose. In 1970s, a majority of Indians were suffering

from a severe lack of access to justice. Judiciary's legal fee was very expensive to the extent that only the financially wealthy could afford representation⁴. Although, every citizens had Right to move the Supreme Court by appropriate proceedings for the enforcement of the rights⁵. Supreme Court of India is called custodian of the fundamental rights. In its previous many judgments apex body has defined the need and importance of Public Interest Litigation. These decisions are follow:

- **Mumbai Kamagar Sabha vs. Abdul Thai (1976):** In this case, Justice Krishna Iyer argued that PIL had an important role to play in ensuring that the legal system served the interests of the poor and the oppressed. He emphasized that PIL was not a substitute for traditional litigation but rather to complement it⁶.
- **Hussainara Khatoon vs. State of Bihar (1979):** It was the first reported instance of PIL, which brought attention to the inhuman conditions of prisoners and under-trial prisoners. This case established the right to speedy justice as a basic fundamental right⁷.
- **S.P. Gupta vs. Union of India (1981):** It was presided over by Justice P.N. Bhagawati, which led to a new era for PIL. The decision held that any individual member of the public or a social action group can invoke the jurisdiction of the High Courts (Article 226) or the Supreme Court (Article 32) and seek remedies for violations of legal or constitutional rights for those who are unable to do so due to social, economic, or other disabilities⁸.

Characteristics of Public Interest Litigation

- **Access to Justice:** PIL has provided access to justice for marginalized or underrepresented communities who might otherwise not have had a voice.
- **Social and Political Change:** PIL became a critical tool in bringing about social and political change in India and has been instrumental in exposing and addressing various issues that affect the public at large⁹.
- **Judicial Activism :** The citizens of the country look up to the judiciary for the protection of their rights and freedoms. This leads to tremendous pressure on judiciary to step in aid for the suffering masses¹⁰.

- **Enforcement of Fundamental Rights:** The apex court in exercise of power under Article 32 and 226 of the Constitution can entertain a petition filed by any interested person in the welfare of the people who are in a disadvantage position. The court is constitutionally bound to protect the fundamental Rights of such disadvantaged people and direct the State to fulfill its constitutional promises¹¹.
- **Flexible Procedures:** unlike traditional hearings of cases court often adopt flexibility in PIL cases. These cases are generally quicker in hearing and judgments. Although, it is depend on court to decide the importance of PIL according to the issue raised in it.
- **Social Justice and Welfare:** welfare and justice is the central theme of PIL. An individual or organization applies for PIL from a corner of the nation, but its decision positively effects nationwide.

Material and Method

Since PIL began in the late 1970s, thousands of suits have been instituted before the courts by name of “public interest.” Although, many Indians are still unable to use, or are denied access to, the court. Bounded labor, social restrictions and illiteracy all real bars to legal rights.¹² Therefore, the courts have allowed for third party standing. Justice Bhagwati, in holding that social and economic conditions necessitate this model of standing, stated—

“When a person or class of persons to whom legal injury is caused by violation of a fundamental right is unable to approach the Court for judicial redress on account of poverty or disability or socially or economically disadvantaged position, any member of the public acting bona fide can move the Court for relief under Article 32.....so that the fundamental rights may become meaningful not only for the rich and the well-to-do who have the means to approach the Court but also for the large masses of people who are living a life of want and destitution and who are by reasons of lack of awareness and resources unable to seek judicial redress”.¹³

The number of Public Interest Litigation (PIL) cases filed before the Supreme Court between 1985 and 2021. It also presents a quantitative comparison of the nature of PILs filed before the Court. A total of 10,80,542 PILs were filed at the Supreme Court between 1985

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**Letters/Petitions and Writ Petitions (Civil and Criminal)
Received/Filed under PIL in the Supreme Court of India**

Year	Letter-Petitions Received in English, Hindi, and Other Regional Languages	Writ Petition (Civil)	Writ Petition (Criminal)
1985	24716	105	2
1986	25419	286	10
1987	18411	119	19
1988	16271	71	25
1989	17769	76	22
1990	17971	92	26
1991	17474	61	28
1992	16961	62	16
1993	15749	96	38
1994	16466	83	20
1995	15094	109	44
1996	19180	185	36
1997	15503	180	35
1998	13087	160	17
1999	15339	137	21
2000	17764	161	22
2001	17198	159	23
2002	15518	186	13
2003	14293	156	21
2004	15653	171	22
2005	14261	215	12
2006	19840	226	17
2007	18200	232	26(3)*
2008	24666	193(1)*	33(1)*
2009	21180	153(1)*	12
2010	24611	115	14
2011	35026	135	20(1)*
2012	41314	126	23
2013	45588	214(3)*	45(2)*
2014	30404	332	48(2)*
2015	51203	264(2)*	39(1)*
2016	53282	282	35
2017	59561	79(2)*	5(1)*
2018	61061	350(1)*	49
2019	70403	374(4)*	59(4)*
2020	69124	300(8)*	26(2)*
2021 (Till 30.09.2021)	88141	225(4)*	15(2)*

*Figure in brackets shows the number of Writ Petitions registered suo-motu.

(Source: Indian Judiciary Annual Report 2020-21)¹⁴

and 2021. This means that on an average, the Court receives 29,209 PILs every year.

The highest number of letter petitions filed is 88,141 in 2021. The highest number of civil writ petitions was also filed in 2019 (374). Whereas 59 is the highest number of criminal writ petitions filed, also in 2019.

Process of Filing PIL

A person whose rights are violated, can process of filing a PIL in the High Court and Supreme Court in India under the Article 226 and Article 32 of Constitution of India involves the following steps—

STEP 1 : Preparation - Gather all relevant information and documents related to the issue you want to raise through the PIL.

STEP 2 : Drafting- Prepare a detailed and well-written petition that highlights the issue and the relief sought. The petition should be clear, concise, and easy to understand

STEP 3 : Filing the PIL- File the PIL in the High court, along with all relevant supporting documents and a nominal court fee.

STEP 4 : Service of Notice- Once the PIL is filed, the court will issue a notice to the respondents, directing them to file their reply within a specified time frame.

STEP 5 : Hearing- The court will hear the matter, and both parties will have the opportunity to present their case.

STEP 6 : Order- The court will then issue an order, either granting or dismissing the relief sought in the PIL.

Educational Rights & PIL Cases

Indian constitution provides many fundamental rights to all the citizens of the nation. Part three of Indian constitution is considered as the Magna Carta of India. Under this part, Article 12 to 35 deals with fundamental rights. These rights are inviolable in normal circumstances. There are following six types of fundamental rights –

1. Right to equality (Article 14 to 18)
2. Right to Freedom (Article 19 to 22)
3. Right against Exploitation (Article 23 & 24)
4. Right to Freedom of Religion (Article 25 to 28)
5. Cultural and Educational Rights (Article 29 & 30)
6. Right to Constitutional Remedies (Article 32)

Under the Article 21A of Indian constitution, it is clearly mentioned that “The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.”¹⁵ It means the state is responsible for the every student’s education till the age of fourteen year. Apart from this, educational right to minorities under the Article 30 of fundamental right ensure that All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice¹⁶. If rights are violated by government or any educational institution, one can appeal before the court under the Article 32. This article gives right to move the Supreme Court by appropriate proceedings for the enforcement of the rights¹⁷

PIL aware the people to ensure that article 21A is not violated. Every year, many social activist, NGOs and individuals file PIL against the violation of educational rights. There are some examples of PIL filed to get the right to education. Some highlighted PILs are follows:

- **Ashok Agarwal’s case PIL on Education in MCD Schools**—In this matter, Advocate and Social Jurist Ashok Agrawal filed a PIL under the violation of Article 226 of Indian constitution. Petitioner highlighted the Violation of Human and Fundamental Right to Education of thousands of students with disabilities studying in Delhi Government and Municipal Corporation Delhi run schools in Delhi as guaranteed to them under Articles 14, 15, 21, 21-A and 38 of the Constitution of India read with the provisions of Delhi School Education Act, 1973, UN Convention on the Rights of the Child (1989), Salamanca Statement (UNESCO, 1994), Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, National Charter for Children, 2003 and UN Convention on the Rights of Persons with Disabilities (2008)¹⁸.
- **PIL related to uniform education system across India**—A PIL was filed before the Supreme Court of India for seeking to explore feasibility of establishing ‘One Nation One Board’ by merging ICSE and CBSE to endure uniform education to all children aged between 6 to 14 years. Apex Judiciary body had refused the request against the PIL by saying “These are matters which fall within the domain of experts. Similarly, the relief which has been of introducing a ‘standard textbook with a chapter on the Constitution’ is a matter of policy. The school syllabus contains subjects bearing on the knowledge of rights, duties and governance under the Constitution¹⁹”.

- **PIL for changing Right to Education**—Petitioner Advocate Ashwini Kumar Upadhyay request to Delhi High Court to recommend a common syllabus and curriculum for children across the nation, challenging certain provision of the RTE Act, 2009. According to PIL, the Central Government inserted 1(4) and 1(5) of the RTE Act to deprive educational excellence of Madrasas, Vedic Pathshalas, and educational institutions, which impart religious instructions.
- **PIL to issue guidelines for Virtual Classes**—A petitioner has been filed PIL before the Supreme Court seeking a direction to the government of India to issue comprehensive guidelines with respect to online classes through video conferencing among the children as there could be a threat to them exposed to horrible material available on the internet.

Right to Health & PIL Cases

The prosperity of a nation depends on the health of its citizens. If the citizens are aware and literate about their health, the nation would be prosperous accordingly. Under the Article 21 of the Constitution of India, “No person shall be deprived of his life or personal liberty except according to procedure established by law²⁰”. It means government of India is obliged to ensure protection of life and personal liberty of every citizen of the nation. The Constitution also recommends policy makers to keep citizen’s health and good well being in the mind during policy formation. Part four of Indian Constitution discusses about the Directive Principles of State Policy. It suggests policies should be formulated in the welfare of people of the India. Under the Article- 47 of DPSPs it is clearly mentioned that government should raise the level of nutrition and the standard of living and to improve public health. Another Article, Article 39(e) says that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Its mean, in view of public health State shall endeavor to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health²¹. India has formulated the National Health Policy to meet the target of Sustainable Development Goal 3. Target 3.4 of SDG is to reduce by one third premature mortality from non-communicable diseases through prevention the treatment and promote mental health and wellbeing²². Union government has taken many

initiatives to improve mother and child health under the umbrella project National Health Mission²³.

Health is a primary and emergency service. Its proper service and execution should be available on time. In the field of Health and family planning, there are many PILs filed time to time. Some of them are accepted and gave landmark decisions in the public health services. There are some PIL related to in favor of protection the right of good health and well-beings:

- **PIL to fix minimum health care standard and rates for hospitals**—In this PIL, petitioner appeal to the Supreme Court a direction to the Centre to implementation of minimum standard of health care and display rate chart for the treatment by all hospital as per Clinical Establishments Act, 2010²⁴.
- **PIL on ‘lack’ of health facilities in state**—This PIL was filed before High Court of Uttarakhand. In which a congress party worker Abhinav Thapar demanded to High Court to give directions to the state government for providing proper health facilities. Petitioner claimed that there is a huge different between hilly and plain area health care services. Due to lack of health facilities peoples have to suffer for minor treatments as well²⁵.
- **PIL for implement Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994**—Centre for health and allied theme (CEHAT) filed PIL in Supreme Court of India to Implement the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 in all States and Union Territories in 2000. After 20 hearings of this PIL apex court gave directions of the Supreme Court issued to Central Government, States/UTs for proper implementation of the Act²⁶.
- **PIL for enforcement of mental health care law**—This PIL was filed in the Delhi High Court, to direction to the Delhi government to enforce the provisions of the Mental Health Care Act, 2017. In which petitioner said that object of the Act is to provide mental health care and services for persons with mental illness and to protect, promote and fulfill the rights of such persons during delivery of the care and services. Petitioner Amit Sahni sought a direction to the state government to constitute a State Mental Health Authority and District Mental Health Review Board and to enforce the provisions of the Act²⁷.

Conclusion

PIL serves an essential role in social equality of India by redistributing justice and opens the steps to the judiciary. In the traditional practice of Judiciary, there are many complexities to approach the courts. Literacy rate and awareness about the law and rights is very low. Apart from this people are not aware about their fundamental rights. Providing good health and quality education to every citizen and child respectively is also covered under the fundamental rights. But very few are known about it. In this regard, any other person, social activist, judicial activist can file a PIL on behalf of the person whose fundamental rights are violated. This process is very easy and simple comparatively traditional appeal. Emergence of PIL in India became a vital tool in the history of judiciary. Annual reports of Supreme Court Indicates that people are getting aware about the importance and significance of PIL. In the tenure of COVID-19, there are much public interest litigation has been filed against the violation of health and educational rights. In case of PIL, the rule of Locus Standi applicable to private litigation in relaxed and a broad rule is evolved by the Court in Modern Times. The right of Locus Standi given to any member of the public acting bonafide and having sufficient interest in instituting an action for redressal of public wrong or public injury. The mechanism of PIL in India represents an era in the history of democracy in which the judiciary establishes “principles and norms to control both parliament and the executive” Such kind of practice made a historical change in the field of health and education. There is no doubt that the PIL is a very comprehensive tool for democracy but still some people are using it for their personal interest. Such malpractice not only wastes precious time of court but also deprives the right person or group of persons to justice at the right time.

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