Public Interest Litigation: A Boon or a Bane

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Abstract:

Public Interest Litigation (PIL) was a radical innovation whose main aim to take up comprehensive issue and its effective implementation of social and economic release programmes, framed for the benefit of the general public at large. The concept is to give a fair hearing to those poor and handicapped who have insufficient means to represent themselves in the court of law and enforce their basic rights. It is still in its rudimentary form till 1970s and has its own pitfalls and drawbacks. As Martin Luther King Jr. says,

"*Injustice anywhere is a threat to justice everywhere*."

PIL was originated in United States of America when Ford Foundation started taking up cases for the interest of the public. However, the scenario of public interest litigation changed in the early 1980s and carried an important context of the Indian legal system and Constitution of India. The Supreme Court of India gave a broad public interest perspective and allowed the individuals to form consumer groups or social active groups for easier access in the country. The Supreme Court also tackled the problem of access to justice. Honourable Mr. Justice V.P. Krishna Iyer and later Honourable Mr. Justice P.N. Bhagawati, pioneering judges of India initiated the procedure of public interest litigation and protect the basic constitutional rights of the people. Numerous times it so happens that because of some demonstration or movement by a private individual or an open substance, the fundamental rights to the citizens having a place with a specific strata of the public are risked. Those individuals are poor, unaware of their rights and distressed, and have no way to advance their grievance; they are left with almost no decision however to stay in their issues. At such circumstances, public spirited individuals who will assume the liability of initiating an appeal before the court of law, approach and record the required case in proper courts, henceforth, growing and widening the locus standi of the litigation procedure.

It is a direct result of Public Interest Litigations that the Supreme Court has possessed the capacity to authorize the privileges of millions of people who were oppressed of exercises abusing their rights. The landmark judgments have been pronounced which have prompted turning points in legal activism in different fields of law and equity, all due to the viability of

PILs. Generally, it has been watched that this idea and procedure of PILs have been abused up to a great extent. Individuals who have mala fide expectations and personal stakes in topics, have founded PILs and have caused the courts in a log stick as enormous number of trivial petitions still involve and take away a considerable measure of the court's valuable time. Government officials and their comrades, manufacturers and businessman who have personal stakes in say, for instance, projects, these individuals just to slow down the future aspects of the specific venture organization false and trivial PILs in courts and accordingly abuse this mechanism which has been developed for greater benefit. Therefore, the rationale of this article is to study the growth of the Public interest litigation in India with its advantages and disadvantages.

GROWTH OF THE PUBLIC INTEREST LITIGATION IN INDIA

Public Interest Litigation means some litigation conducted for the benefit of public or for removal of some public grievance. In Indian law, it means litigation for the protection of public interest. In a developing country such as ours where around 50% of the people are living below the poverty line, around 70% are illiterate and a large number are living a life of unhappiness and suffering, the subject of social justice and public interest litigation assumes importance. With such an environment after independence, India attempted to frame a constitution for herself. Constitution making is the finale of the aspirations of an unbound people and a grand finale to the freedom struggle of an imprisoned nation.

The constitution of a country will be in the nature of law originating directly from the intrinsic authority of the people themselves, binding all organs of the government and the people together.[1] Add up to duty was given by the constitution of India to guarantee liberty, equality, fraternity and social justice to the general population of India. The constituent get together, accordingly being a faithful believer to constitutionalism and embracing skilfully constitutional intends to achieve the truly necessary social change, the constituent get together chose to realize social change and compose into the constitution JUSTICE in capital letters, incorporated into the Preamble.

Though it is not enforceable in court of law by itself[2], the preamble to any written constitution while stating the objects which the constitution seeks to establish and promote, aids the legal

[1] Rao, Mamta, 9(Eastern Book Company 2nd Edn Lucknow,2004).
[2] Gopalan v. State of Madras, AIR 1950 SC 27.

interpretation of the constitution where the language found to be ambiguous.[3] Hence, seeking to establish JUSTICE- social, economic and political is clearly laid down in the Preamble as the guiding principle of the Constitution. Social Justice being the main platform on which our Constitutional structure is built.

Justice V.R Krishna Iyer, the harbinger of the Public Interest Litigation in India, puts the violation of Social Justice in India in the following words[4]:

"The blunt truth is the hard human condition. Social Justice is enshrined in the constitution. 'We the people of India' stand out in the Preamble. Periodic pooja is offered to them in election manifestos, occasional legislation and judicial pronouncements do verbal homage to them but the bitter truth is that we, the elite are indifferent to them. The worst sin towards our fellow creatures is not to hate them, but be indifferent to them."

The concept of social justice which prevails in our society has now been partly defined. According to this concept, a society is without justice insofar as it is without directions in both its formal and informal aspects, must treat similar cases similarly and different cases not similarly.

Thirty-one years ago, a lady legal counselor unquestionably climbed the 17 stages of the Supreme Court and strolled into a chilly, thick-walled court without an idea for the grimaces prepared at her from the esteemed clerics of Indian legal and her male partners. Senior Advocate Pushpa Kapila Hingorani had a mission that day in December, one that the Supreme Court had never known about and one which would in the end commence a transformation called the Public Interest Litigation (PIL) the nation over. It was that year she had made plans to surrender her law practice and remain home.

The two pages she conveyed to the court contained the situation of undertrial detainees grieving in prisons in Bihar: men, ladies, kids, outcasts and mental patients cast away into prisons and overlooked by the state. She needed the court to intercede instantly and offer requests to discharge them on safeguard. The notable case, later known to each law understudy in India as *Hussainara Khatoon v. Home Secretary, Bihar*, drew its name from one of the jail prisoners. It was the primary PIL in India. A stunned Supreme Court Bench drove by Justice P.N.

[3] Berubari Union, re, AIR 1960 SC 845.
[4] Justice V.R Krishna Iyer; Some Half-hidden Aspects of Social Justice.

Bhagwati went ahead to discharge more than 40,000 undertrial detainees from different jails across the nation.

"The achievement of the *Khatoon case* was widespread to the point that the Supreme Court in the 1980s opened another segment in the registry gave to PILs. Officers used to filter through the constant barrage of letters or petitions from natives ordinary and pick the ones which ought to be conveyed to the court's consideration."[5]

In defining the rule of locus standi in PIL no 'rigid litmus test' can be applied since the broad outlines of PIL are still developing rapidly with divergent views on several aspects of the concept of this newly developed law and discovered jurisdiction leading to a rapid change of judicial activism with a far-reaching change both in the nature and form of the judicial process. The dominant object of PIL is to ensure observance of the provisions of the Constitution or the law which can be best achieved to advance the cause of community or disadvantaged groups and individuals or public interest by permitting any person. The Supreme Court has widened the scope of PIL by relaxing and opening the rule of standing by giving letters or petitions sent by any person or association complaining violation of any fundamental rights and also entertaining writ petitions filed under Article 32 by public-spirited and policy-oriented activist persons or journalists or of any organization refusing serious challenges made with regard to the maintainability of such petitions and rendered many landmark judgments and issued various directions to the Central and the State Governments, all local and other authorities within the territory of India or under the control of the Government of India for the betterment of the public at large in many fields in conformity with constitutional provisions of what constitutes the good life in a socially just democracy.[6]

Justice Bhagwati in one pronouncement said[7];

"Procedure is but a handmaiden of justice and the cause of justice can never be allowed to be thwarted by any procedural technicalities".

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[5] Full Court Reference held on 13 February 2014 at the Supreme Court of India. For detailed discussion on the evolution and development of PIL, see C D Cunnigham *The world 's most powerful Court: Finding the roots of India 's Public Interest Litigation revolution in the Hussainara Khatoon Prisoner 's case in Liberty, Equality and Justice: Struggles for a new social order*, S.P. Sathe & Sathya Narayan (EBC Publishing (P) Ltd., Lucknow 2003); A Hingorani, "Indian Public Interest litigation: Locating Justice in State Law" XVII *Delhi Law Review* at 159 (1995); C D Cunningham, "Public Interest Litigation in Indian Supreme Court: A Study in Light of the American Experience" 20 JILI 494(1987); Upendra Baxi *"The Supreme Court under Trial: Undertrials and the Supreme Court"* 1 SCC 35 (1980); "Personal Liberty" XVASIL 418 (1979).

[6] (http://aldeilis.net/english/principles-of-public-interest-litigation-and-locus-standi/) accessed on 11.07.2018.

[7] S.P Gupta v. Union of India (AIR 1982 SC 189).

The idea behind liberalization of locus standi was to make it easier for the lesser signified class to be able to get their violated rights adjudicated by means of a person who is in position to defend for their rights. In the case of violation of fundamental human rights and violation of the Right to Life and personal liberty where there were many people engaged in Bonded Labour, it was accepted that those labourers were incapable of coming forward to defend for their violated rights and also were not aware of their rights. It was a public spirited organization of people by the name of *"Bandhua Mukti Morcha"* which took up the case and filed a Public Interest Litigation in the Supreme Court of India[8] and the Supreme Court gave a landmark judgment which decided and adjudicated the violation of human rights of all those hundreds of bonded labourers who could not represent themselves in the court. It will be appropriate to recall the observation of the Supreme Court in *People's Union for Democratic Rights v. Union of India*[9]*:*

"But the traditional rule of standing which confines access to the judicial process only to those to whom legal injury is caused or legal wrong is done has now been jettisoned by this Court and the narrow confines within which the rule of standing was imprisoned for long years…new dimension has been given to the rule of locus standi which has revolutionized the whole concept of access to justice in a way not known before to the western system of jurisprudence…it is therefore necessary to evolve a new strategy by relaxing this traditional rule of standing in order that justice may become available to the lowly and the lost."

Justice Krishna Iyer in the *Fertilizer Corporation Kamgar Union v. Union of India*[10] enumerated the following reasons for liberalization of the rule of Locus Standi:-

1. Exercise of State power to eradicate corruption may result in unrelated interference with individuals' rights.

2. Social justice wan ants liberal judicial review administrative action.

3. Restrictive rules of standing are antithesis to a healthy system of administrative action.

4. Activism is essential for participative public justice.

Therefore, a public minded citizen must be given an opportunity to move the court in the interests of the public. Further, Bhagwati J., known as one of the pro-poor and activist judges

[8] Bandhua Mukti Morcha v. Union of India (AIR 1984 SC 802)
[9] AIR 1982 SC 1473
[10] AIR 1981 SC 344

of the Supreme Court in *S.P. Gupta*[11] popularly known as *"Judges Transfer Case"*, firmly established the validity of the public interest litigation.

Since the wide interpretation of the concept of Locus Standi was recognized by the Supreme Court, a number of Public Interest Litigations were filed by different means. The Supreme Court in *Sunil Batra (II) v. Delhi Administration*[12] had accepted a letter addressed to it by one Sunil Batra, an inmate of Tihar Jail, Delhi, complaining that the Jail Warden had subjected another prisoner serving life term in the same jail to inhumane torture. The Court treated this as a public spirited action and issued certain directions for taking suitable action against the erring official. Through the medium of a liberalized locus standi, the Supreme Court has exercised its duty of being the sentinel of the Constitution as it guarantees Social Justice to one and all in the territory of India.'

The first case in India, decided as a Public Interest Litigation was the *Fertilizer Corporation Kamgar Union (regd.) v. Union of India*[13]. It was after this case, which was decided by Mr. Justice V.P. Krishna Iyer that this concept of Public Interest Litigation was further propounded by Mr. Justice P.N Bhagwati and this process continues till today.

PUBLIC INTEREST LITIGATION: BOON TO THE JUSTICE SYSTEM

Each idea presented by the Supreme Court or by some other organ of the Government has a tendency to have a procedure started. Public Interest Litigation was one such idea which was advanced by the Apex Court and it gradually changed and adjusted itself into an extremely powerful device in the hands of people in general. Likewise, general society, as well as had any kind of effect to the adjudicating procedure and additionally various points of interest were found. The Supreme Court, through the technique for PILs achieved radical change in the equity conveyance arrangement of the nation, for example, certain Fundamental Rights were translated in a way which to a great extent influenced the lives of the considerable number of natives in a definitely positive way. Also certain guidelines and standards were set down after open intrigue case was recorded and it drew the consideration of the legal towards it. Before venturing into the developmental procedure of PIL, it is convenient to throw light on to the rules which were set around the Supreme Court in perceiving what is important are to be viewed as Public Interest. It was in *Pranatosh Roy v. State of Assam*[14], a decision by the Guwahati

[11] Supra note 10.
[12] AIR 1980 SC 1579.
[13] Supra; see 11.
[14] AIR 2000 Gau 33.

High Court which was subsequently confirmed by the Supreme Court. 'To keep a check on frisky letters/petitions, the following guidelines were laid down which helps in the study of whether the petitions or letters fall into the category of PIL or not.'

In this regard Justice Bhagwati said in *People's Union for Democratic Rights v. Union of India*[15]

"*We wish to point out with all the emphasis at our command that Public Interest Litigation which is a strategic arm of the legal aid movement and which is intended to bring justice within the reach of the poor masses, who constitute the low visibility area of humanity, is a totally different kind of litigation from the ordinary traditional litigation which is essentially of an adversary character where there is a dispute between two litigating practices, one making claim or seeking relief against the other and that other opposing such claim or resisting such relief. Public Interest Litigation is brought before the Court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of large number of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and un-redressed.*"

From here, began the chain of advancement of Justiciability of essential privileges of the general population who couldn't speak for themselves in a court of law and whose rights were disregarded, that lacuna happened to influence the overall population on the loose. Under different heads, the legal demonstrated creativity and executed different privileges of the general population and advanced essential standards which have turned out to be convenient and now unavoidable for agreeable human existence.

THE RIGHT TO LIFE

The right to life as guaranteed under Article 21 is the basic fundamental right which is absolute and essential for every citizen of the country. The mechanism of Public Interest Litigation has many a ways tried to protect this right and the same has been emphasized by the Supreme Court. In *State of Himachal Pradesh v. Umed Ram Sharma*[16], R.S Pathak, V.D Tulzapurkar and Sabyasachi Mukherjee, JJ., held that the right to life in Article 21 of the Constitution embraced not only the physical existence but also the quality of life. Another landmark

[15] Supra; see 11.
[16] (1986)2 SCC 68.

judgment was given by the Supreme Court in *Olga Tellis v. Bombay Municipal Corporation*[17] commonly known as the Bombay Pavement Dwellers case constitutes the best example of symbolic activism in Public Interest Litigation cases. This case portrays the plight of nearly half the population of Bombay living amongst dirt and immorality. The court entertained petitions of journalists and social groups by liberalizing concept of *locus standi* in public interest and also a series of petitions filed by pavement dwellers of Bombay, facing the threat of forcible eviction and destruction of their dwellings by the Bombay Municipal Corporation. The Supreme Court through Y.V. Chandrachud, C.J. Fazal Ali, V.D. Tulzapurkar, O. Chinappa Reddy and H. Vardharajan, JJ., held that eviction of the petitioners would result in deprivation of their means of livelihood.

In *Harshad J. Pabari v. State of Gujarat*,[18] the PIL before the Gujarat High Court sought a direction to authorities to take appropriate action against the responsible officer/staff for disclosing the identity of patients suffering from H.I.V/ Aids by affixing a tape on forehead of patients with the words "H.I.V. seropositive" written on it. The high court held that unfair discrimination against H.I.V./AIDS patients by doctors including the nursing staff of a hospital must be eliminated completely from the practice of medicine. All persons infected or affected by H.I.V./AIDS were entitled to adequate prevention, support, treatment and care with compassion and respect for human dignity. The right to life included right to livelihood and therefore, if the eviction is not according to procedure established by law, it would not be just and fair.

RIGHTS OF WOMEN

In *Laxmi v.Union of India*,[19] the PIL highlighted the need for stringent regulations under the Poison Act, 1919 in respect of acid attacks on women. The Supreme Court directed the Home Secretary, Ministry of Home Affairs and the Secretary, Ministry of Chemical and Fertilizers to convene a meeting to discuss the enactment of appropriate provisions for effective regulation of sale of acid in the states/Union Territories; measures for the proper treatment, after care and rehabilitation of the victims of acid attack and needs of acid attack victims, and compensation payable to acid victims by state or the creation of a separate fund for payment of compensation to the acid attack victims.

[17] (1985)3 SCC 545.
[18] (2013) 3 GLR 258.
[19] (2013) 9 SCALE 290.

In *Budhadev Karmaskar v. State of West Bengal*,[20] the Supreme Court had constituted a panel for the rehabilitation of the sex workers in the PIL pertaining to dignity of sex workers. The Durbar Mahila Samanwaya Samiti had been actively advocating the revocation of the Immoral Traffic (Prevention) Act, 1956, and had also been advocating the recognition of sex trade being continued by sex workers. The Samiti was part of the panel. An application was filed in the PIL by the Union of India contending that the continuance of the said Samiti in the panel was giving a wrong impression to the public that the Union of India was also inclined to think on similar lines and hence the Samiti should be excluded from the panel. The Supreme Court further clarified that the reference being "conditions conducive for sex workers to live with dignity in accordance with the provisions of Article 21 of the Constitution" was not be construed as encouraging sex trade.

PIL AND THE ENVIRONMENT

The court underlined on striking a harmony between the ecology and environment on one hand and the undertakings of open utility on the other. Financial advantage had to be seen on a bigger canvas which increased financial development as well as eased destitution and produced greater work.

The court found that the specialists had fulfilled the natural rule like sustainable development, CSR, precautionary principle, inter-intra generational equity to execute the National Policy to create, control and utilization of nuclear energy for the welfare of the general population and for monetary development of the nation. The court held that bigger open enthusiasm of the network should offer approach to individual apprehension of infringement of human rights and right to life ensured under article 21 of the Constitution. In *Rural Litigation and Entitlement Kendra v. State of U.P*[21], it was brought to the notice of the court that mining operations in certain limestone quarries were causing environmental and ecological imbalance to the detriment of the welfare of the people of Mussoorie Hill ranges. The Supreme Court while rendering judgment through Justice P.N Bhagwati, observed:

"This is the first case of its kind in the country involving issues relating to environmental and ecological balance. The questions arising out of these problems for consideration are of grave nature and significance not only to the people residing in Mussoorie Hill range forming part of the Himalayas but also in their implications to the welfare of the generality of people living

[20] (2013) 1 SCC 294.
[21] AIR 1985 SC 652.

in the country. It brings into sharp focus the conflict between development and conservation and serves top emphasize the need for reconciling the two in the larger interest of country and its development."

The '**Polluter's Pay Principle**' was incorporated in Indian Environment Laws after the case of *Enviro-Legal Action v. Union of India*,[22] The Court observed, "We are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country" . In this case the number of private companies operated as chemical companies were creating hazardous wastes in the soil, henceforth, polluting the village area situated nearby, and they were also running without licenses, so an environmental NGO, filed writ petition under article 32 of the COI, which sought from the court to compel SPCB[23] and CPCB[24] to recover costs of the remedial measures from the companies.

It would thus not be wrong to state that environmental jurisprudence in India, is a result of Judicial Creativity by the means of public interest litigations. Various doctrines and principles which are now a fixed part of environment legislation were introduced only after the Court's attention was drawn towards it by the means of public spirited individuals.

RIGHTS OF ACCUSED AND PRISONERS

The Supreme Court has always been very subtle to the rights of the accused and prisoners and has held that they are entitled to all fundamental rights unless constitutionally curtailed.[25] In *Jolly Verghese v. Bank of Cochin*[26], Krishna Iyer, J. said:

"The high value of human dignity and worth of the human person enshrined in Article 21 read with 14 and 19 obligates the State not to incarcerate except under the law which is fair, just and reasonable in its procedural essence."

In *Hussainara Khatoon(I) v. Home Secretary., State of Bihar*[27], it was held that a procedure which keeps such large number of people behind the bar without trial so long cannot possibly be regarded as just, fair and reasonable so as to be in conformity with the requirements of Article 21.

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[22] J.T. (1996) 2 196.
[23] State Pollution Control Board.
[24] Central Pollution Control Board.
[25] *State of Maharashtra v. P.P. Sazgiri,* AIR 1966 SC 424.
[26] AIR 1980 SC 470.
[27] (1980)1 SCC 81.

In *Hussainara Khatoon (II) case*[28] the court again emphasized the expeditious review for withdrawal of cases against under trials for more than two years. In *Hussainara Khatoon (III) case*[29] the court reiterated that the investigation must be completed within time bound program in respect of undertraials and gave specific orders to be followed for quick disposal of cases of under trials.

The crux of Hussainara Khatoon cases is the recognition of the right to speedy trial and the right to legal aid services under Article 21. It was pointed out that the present legal and judicial system denied justice to the poor and the needy because the system of bail with its misdirected emphasis in furnishing financial security operated adversely against the accused.[30]

In the case of *A.R Antulay v. R.S Nayak*[31], the court clarified that right to speedy trial included all stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

It may be relevant here to refer to the decision in the case of Supreme Court Legal Aid Committee representing *Under trial Prisoners v. Union of India*[32] wherein the apex court while considering the provisions restricting the grant of bail under Narcotics Drugs and Psychotropic Substances Act, 1985 and the delay in the trial of the accused persons laid down:

"...We have felt that deprivation of the personal liberty without ensuring speedy trial would also not be in consonance with the right guaranteed by Article 21. Of course, some amount of deprivation of personal liberty cannot be avoided in such cases; but if the period of deprivation pending trial becomes unduly long, the fairness assured by Article 21 would receive a jolt. Because of this, we have felt that after the accused persons have suffered imprisonment which is half of the maximum punishment for the offence, any further deprivation of personal liberty would be violative of fundamental right visualized by Article 21."

In *Prem Shankar Shukla v. Delhi Administration*[33] , the court considered the matter of handcuffing of prisoners, under trials as well as convicts, and Justice Krishna Iyer speaking on his and J. Chinappa's behalf stated that hand cuffing is *prima facie* inhumane and therefore unreasonable, over harsh and at the first flush arbitrary. It was additionally seen by the Supreme Court that it is vital to ensure that the detainee does not escape from detainment and securing

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[28] (1980)1 SCC 91.
[29] (1980)1 SCC 93.
[30] V.N. Shukla: p.179 *Constitution of India,* 10th Edn., (Eastern Book Co., Lucknow, 2001)
[31] (1992)1 SCC 225
[32] (1994)6 SCC 731
[33] AIR 1980 SC 1535

his individual is of significance yet in the meantime, to tie a man hand-and-foot, chain his appendages with loops of steel, rearrange him along the roads and stand him for a considerable length of time in the court is to torture and defile his dignity.

BONDED LABOUR

There were several essential judgments of the Supreme Court regarding the matter and one that intently tailed it was the *Asiad Labor Case* where the law court acknowledged the view that social specialists and intentional associations intrigued by open organization are qualified for document request of for the benefit of aggrieved people. In *Bandhua Mukti Morcha v. Union of India*[34] the Supreme Court of India engaged an issue concerning arrival of reinforced works of quarry specialists raised by an association devoted to the arrival of fortified works and tested the administrative inaction in not actualizing the arrangements of the 'Fortified Labor System (Abolition) Act, 1976 in Haryana. The Court anyway for this situation went ahead to highlight that open intrigue case isn't in the idea of challenge however resembles a test and a chance to the administration and its officers to make fundamental human rights important to the denied and the defenseless segments and to guarantee social and economic justice.[35] In the expressions of Mr. Justice P.N Bhagwati: [36]

"any individual from the general population acting genuine can move the court for alleviation under Article 32 and a fortiori likewise under Article 226 with the goal that the crucial rights may wind up important to not just the rich and well to do, who have intends to approach the court yet additionally for the substantial masses of individuals who are by reason of absence of mindfulness, confidence and assets unfit to look for legal review".

The judgment of the Court in *Laborers Working on Salal Hydro-Electric Project v. State of Jammu and Kashmir*,[37] conveyed this same note forward. J. Bhagwati watched this is one of those situations where positive outcomes have been accomplished for the advantage of the laborers utilized in the Salal Hydro-electric Project because of legal intercession. The suit was begun based on a letter tended to by the PUDR[38] to Justice D.A Desai encasing a duplicate of

[34] AIR 1984 SC 802
[35] Rao, Mamta, 9(Eastern Book Company 2nd Edn Lucknow, 2004).
[36] *Ibid.*
[37] AIR 1984 SC 177.
[38] Public Union for Democratic Rights.

the news thing which showed up in an issue of Indian Express dated 26th August 1982, calling attention to that an expansive number of laborers chipping away at the Hydroelectric Project in the province of Jammu and Kashmir were precluded the advantages from securing different work laws and were subjected to misuse by the contractual workers to whom work was endowed by the Central Government.

ABUSE AND MISUSE OF PIL: A BANE TO THE JUSTICE SYSTEM

In any case, the advancement of PIL has additionally revealed its entanglements and disadvantages. Accordingly, the apex court itself has been constrained to set out specific rules to represent the administration and transfer of PILs. Of late, the activists of PIL is likewise expanding along with its broadened and multifaceted utilize.

Former Chief Justice A.S. Anand cautioned the over use of PIL and emphasized *"Care has to be taken to see that PIL essentially remains public interest litigation and is not allowed to degenerate into becoming political interest litigation or private inquisitiveness litigation"*. It has been held in a number of cases that the court must not allow its process to be abused by politicians and others to delay legitimate political objectives. Words of Krishna Iyer J reveal the change of public interest litigation after following its history for over two decades:

"Abuse of PIL, misuse of this strategy, hijacking of this versatile process by enemies of the poor and even trivialization of public interest litigation bringing it into contempt are now on the cards, gambling with the court's mood and using this factotum facility as intimidatory tool. These trends justify a critical study of PIL as a panacea or placebo, as a magic drug or a free formal curial ploy."

Generally, huge numbers of the PIL activists in the nation have discovered the PIL as a helpful instrument of provocation since paltry cases could be documented without speculation of overwhelming court expenses as required in private common case and arrangements could then be consulted with the casualties of stay orders got in the alleged PILs.

Similarly as a weapon implied for barrier can be utilized similarly successfully for offense, the bringing down of the locus standi necessity has allowed secretly persuaded interests to act like open interests. The activists of PIL has turned out to be more wild than its utilization and certifiable causes either subsided to the foundation or started to be seen with the doubt produced

by misleading causes mooted by secretly roused interests in the mask of the alleged open interests.

If the courts don't limit the free stream of cases in the fake of PILs, customary suit will endure a considerable measure, and that would be a danger to Indian democracy and to the whole legal system. From Media and legal counselors, appropriate help for hindering misuse is required. Media covers commended judgments different angles, open intrigue and its extended extension. Media assumes a critical part in the development of general assessment, so while featuring commended outputs and sting activities, brutality against youngsters and ladies, media ought not to neglect feature the instances of mishandle on PIL, impediment discipline given to the prosecutors by court. Media ought to break down the effect of activists of PIL on legal process. Through workshops, classes through visual media, it can offer attention to the general population. It can block the propensity to mishandle PILs through its programs. As judge Louis Brandeis said –

"Sunlight is said to be the best of disinfectant; electro light the most efficient police man".

The media is to provide the sunlight and focus the electric light in the area of public concern. In large of PILs petitioner through his counsel are trying to abuse the process of the court Lawyers should discourage the tendency to abuse the process of the court by vexatious, dishonest litigants by not defending their cause.

A case in point is the judgment of Chief Justice Sabharwal in *TN Godavarman Thirumaulpad v. Union of India*[39]. Following the decision in Janata Dal's case, and Justice Pasayat and Justice Kapadia's decision *in Dattaraj Nathiji Thauvare v. State of Maharashtra*[40], the learned judges observed that 'howsoever genuine a cause brought before a court by a public interest litigant may be, the court has to decline its examination at the behest of a person whose bona fides and credentials are in doubt. It was held that the applicant, who was a man of scarce means, had spent huge amounts in litigation and was obviously nothing but a name lender; costs of rupees one lac were imposed on him. Such petitions are increasingly being filed in relation to matter of projects of public importance by unsuccessful tenderers, but the use of public interest litigation in such cases needs to be deprecated. Yet, this is happening all the time; there are various ways in which judges can and should see through the bona fides of such litigants.'

[39] (2011) 7 SCC 338.
[40] (2005) 1 SCC 590.

Justice P B Savant once said that "a judge should develop a strong sense of smell. If something stinks, then he must be extra careful. It is the right judicial instinct and the skill of the judiciary which will stop the misuse of public interest litigations and restore it to its pristine and useful character."[41]

CONCLUSION

Public Interest Litigants, everywhere throughout the nation, have not taken compassionately to such court choices. They do expect that this will sound the passing sound of the general population as well as disposed idea of PIL. However, true blue disputants of India have nothing to fear. Just those PIL activists who like to document unimportant grievances should pay to then inverse gatherings. It is really an appreciated move in light of the fact that nobody in the nation can deny that even PIL activists ought to be dependable and responsible.

It is likewise remarkable here that even the Consumers Protection Act, 1986 has been revised to give pay to inverse gatherings in instances of negligible objections made by customers. In any capacity, PIL presently requires a total re-examine and rebuilding. Anyway, abuse and mishandle of PIL can just make it stale and insufficient.

Since it is a remarkable cure accessible at a less expensive cost to all residents of the nation, it should not to be utilized by all prosecutors as a substitute for standard ones or as a way to record silly grumblings. Access to Justice must be simplified in order to be available to the poorest of poor. Most importantly, as they say,

"*Justice must not only be done, but must be seem to be done*".

[41] http://indialawyers.wordpress.com/2009/01/29/misuse-of-pil/ by Soli Sorabjee (accessed on 11.07.18).