

Introduction

A Public Interest Litigation also known as PIL is a form of litigation that is filed to safeguard or enforce public interest. Public Interest is the interest belonging to a particular class of the community affects their legal rights or liabilities. It may include pecuniary interest. PIL has not been defined in any Indian statute. However, Courts have interpreted and defined PIL.

History of Public Interest Litigation (PIL) in India

In 1979, Kapila Hingorani filed a petition and secured the release of almost 40000 undertrials from Patna's jails in the famous 'Hussainara Khatoon' case. Hingorani was a lawyer. This case was filed in the SC before a Bench led by Justice P. N. Bhagwati. Hingorani is called the 'Mother of PILs' as a result of this successful case. The court permitted Hingorani to pursue a case in which she had no personal locus standi making PIL's a permanent fixture in Indian jurisprudence.

Justice Bhagwati did a lot to ensure that the concept of PILs was clearly enunciated. He did not insist on the observance of procedural technicalities and even treated ordinary letters from public-minded individuals as writ petitions. Justice Bhagwati and Justice V. R. Krishna Iyer were among the first judges in the country to admit PILs.

Objectives of Public Interest Litigation (PIL):

- ❑ PILs were created with the aim of making justice more available to the disadvantaged and oppressed.
- ❑ It is a critical tool for bringing human rights to those who have been denied them.
- ❑ It improves everyone's access to justice. Any person or organisation that is capable of doing so can file petitions on behalf of those who are unable or lack the resources to do so.
- ❑ It aids in the judicial oversight of state facilities such as jails, asylums, and protective homes, among others.
- ❑ It's a crucial method for judicial review.

- ❑ PIL is a critical tool for social reform, preserving the rule of law, and accelerating the balance of law and justice.
- ❑ The introduction of PILs ensures increased public interest in judicial review of administrative action.

Who can file a PIL?

- ❑ Any individual or organisation can file a PIL either in his/her/their own standing i.e., to protect or enforce a right owed to him/her/them by the government or on behalf of a section of society who is disadvantaged or oppressed and is not able to enforce their own rights.
- ❑ The concept of "Locus Standi" has been relaxed in the case of PILs so as to enable the Hon'ble Court to look into grievances that are filed on behalf of those who are poor, illiterate, deprived or disabled and are unable to approach the courts themselves.
- ❑ However, only a person acting in good faith and who has sufficient interest in the proceeding will have the locus standi to file a PIL. A person who approaches the Hon'ble Court for personal gain, private profit, political or any oblique consideration will not be entertained.
- ❑ Suo moto cognizance may also be taken by the Court.

Ambit of the PILs in India

The PILs in India, as discussed, are mainly concerned with the public interest at large. In many years of its history, it has seen litigations on road safety, prisoner's rights, road safety, environment, etc. Broadly, the following are the cases in which PILs are filed:

- ❑ Violation of the basic human rights of the poor (litigations for protection of fundamental rights, mainly Article 21)
- ❑ Content and conduct of the government and its policymaking
- ❑ Labour exploitation issues

- ❑ Women rights
- ❑ Caste and religious issues
- ❑ Governance issues and the working of public bodies: Local, state and the union
- ❑ Environmental issues
- ❑ The issues of culture and heritage
- ❑ Other matters of public importance
- ❑ Neglected Children
- ❑ Non-payment of minimum wages to the workers.
- ❑ Atrocities on women, in particular, rape, murder, kidnapping and harassment of bride.
- ❑ Food adulteration
- ❑ Petitions from jail regarding inhuman treatment, death in jail, speedy trial.
- ❑ Petitions from Riot-Victims.
- ❑ Harassment of villagers by co-villagers or police.

Exceptions- The cases that do not fall under the category that will be entertained as PIL are:

- ❑ Service matter pertaining to pension and gratuity.
- ❑ Admission to medical or other educational institution.
- ❑ Complaints against Central and State Government and Local Bodies.
- ❑ Petitions for early hearing of the cases that are pending in the High Courts or Subordinate Courts.
- ❑ Landlord-tenant matter.

Procedure to file PIL in India

Any Indian citizen or organisation can move the court for a public interest/cause by filing a petition:

- ❑ In the Supreme Court under Article 32
- ❑ In the High Courts under Article 226

The court can treat a letter as a writ petition and take action on it. The court has to be satisfied that the writ petition complies with the following: the letter is addressed by the aggrieved person or a public-spirited individual or 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. The court can also take action on the basis of newspaper reports if it is satisfied with the case.

Principles of PIL

The Supreme Court laid down the following principles

in regard to PIL. These are:

- ❑ The Constitution of India under Articles 32 and 226, allows the Court to entertain a petition filed by any public interested person in the welfare of the people who are in a disadvantaged position and thus cannot access the court. The Courts are bound to protect the fundamental rights of these people.
- ❑ Whenever injustice is meted out to a large number of people, the court will not hesitate to invoke article 14 and 21 of the Indian Constitution as well as the International Convention on Human Rights which provide for a fair trial.
- ❑ When the Court is prima facie satisfied that there has been a violation of any constitutional right to a group of people belonging to the backward category, it may not allow the state to question the maintainability of the petition.
- ❑ Even though procedural laws are applied on PIL cases, the question as to whether the principles of res judicata or principles analogous thereto would apply depends on the nature, facts and circumstances of the petition.
- ❑ Dispute between two groups purely in the realm of private law would not be allowed to be agitated as PIL.
- ❑ In cases, where the petitioner has moved the court for his private interest and the redressal of personal grievances, the Court in furtherance of public interest, may treat it as a PIL.
- ❑ The Court shall not transgress into a policy. It shall take utmost care to not transgress its jurisdiction while protecting the rights of the people.

Guidelines for Admitting PIL

PIL has become as important part in the administration of law. With the advent of PIL, they have been misused for personal gains which has led to frivolous litigation on unnecessary issues. Hence, the Supreme Court has laid down the guidelines for checking the misuse of PIL.

- ❑ The Court should encourage bona fide PIL and effectively discourage the PIL filed for extraneous considerations.
- ❑ Every High Court should formulate a set of rules for encouraging the genuine PIL that are filed and

discourage PIL filed for reasons relating to personal gains.

- ❑ Each Court should prima facie verify the credentials of every petitioner before acknowledging the PIL.
- ❑ The Court should be prima facie satisfied with the contents of the PIL before acknowledging it.
- ❑ The Court should be satisfied with the fact that the PIL involves a substantial public interest.
- ❑ The PIL should involve a large public interest, the gravity and urgency of which must be given priority.
- ❑ The Court must ensure that the PIL aims to redress public injury and that no personal gain is involved in it.

Some landmark judgements in the history of PIL in India:

- ❑ Kamagar Sabha vs. Abdul Thai, Justice Krishna Iyer sowed the seeds of public interest litigation for the first time in India in 1976.
- ❑ Hussainara Khatoon vs. State of Bihar (1979), the first recorded case of PIL, focused on the inhumane conditions of prisons and under trial prisoners, and resulted in the release of over 40,000 under trial prisoners.
- ❑ M.C. Mehta v/s. Union of India: In a Public Interest Litigation brought against Ganga water contamination in order to avoid further pollution of the Ganga. The Supreme Court ruled that petitioner, despite not being a riparian owner, is entitled to petition the court for the compliance of statutory provisions because he is concerned about the lives of those who use Ganga water.
- ❑ Sexual assault was accepted as a violation of the basic constitutional rights of Article 14, Article 15, and Article 21 in Vishakha v/s State of Rajasthan, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013 was also addressed in the guidelines.

Misuse of PIL

There is significant issue related to the misuse of Public Interest Litigation while people abusing it. In India, there are several cases of misuse of PIL. People filed PIL for their private interest not for public interest which came into publicity. There are several cases which set the guidelines for the filing of PIL.

❑ ***Chhetriya Pardushan Mukti Case.***

- The Court held that there have to be real intention to safeguard the right of the public for filing the PIL.
- In this case, there was a lack of public interest, it was mentioned by the court that the PIL filed by NGO was a conflict between the mill and organization and there is no real intention.

❑ ***S.P. Gupta Case***

- In this case, P.N. Bhagwati sets some procedures to defend the misuse of PIL. Justice Bhagwati first defines the concept of PIL in Indian background. It was held that case related to socio-economic crime no PIL would be filed and also no PIL will be filed in the case related to women offence.

❑ ***Sanganmal Panday Case***

- In the case, construction was going on from Kanshiram to Jail Road, the Court stops the activity of construction due to PIL was filed for affecting of green belt by the construction.
- The Court rejected the appeal and allows filing the same in High Court under Article 226 of the Indian Constitution.

Problems of PIL

These are the following problems of PIL: -

❑ ***Publicity under the veil of PIL***

- There are various cases in which it has been noticed that the people filed the PIL for publicity not for public or people. People used it as an instrument for gaining publicity. It is one of the major problems, rather used it in a beneficial way, use it as a means to get popular or to come into attention.

❑ ***Judicial Adventurism***

- Judicial overreach is when the judiciary starts interference in the functioning of the legislature and executive organs of the government. It is considered undesirable in the democracy. It also said that judicial overreach means judiciary crosses its own function and enter the executive or legislature function.

❑ ***Symbolic Justice***

- Sometimes the direction and guidelines issued

in the PIL is not implementing or followed. PIL reflects the “Symbolic Justice”. This is not enactment of direction damage the creditability of the Judiciary.

- The Apex Court provided direction related to issues like offence against women, sexual harassment, processes of Court etc. but often it is unable to check its consent.

❑ ***Obscure Motives of the Litigants***

- This is the general principle of law that “One should come with clean heads to the Courts” but sometimes the personal critics or political motive hidden behind the PIL. This type of PIL was rejected by the Court and should begin to further move with them. There are many judgments through which the guidelines of PIL were laid down. There is no proper definition of

PIL in law.

❑ ***Tremendous increase in litigation***

- Due to simple and flexible process of filing a PIL, the filing of unsystematic petition creates lots of pressure on Judiciary and sometime delays the process of disposal of bona fide petition.

❑ ***Institutional limitation***

- There is an urgent need for structural change in the operation of the PIL institutions.

Public Interest Litigation has had astonishing results since its introduction. PIL has developed a new jurisprudence of the accountability of the state for legal violations affecting the interests of the backward category. However, the Judiciary must be cautious in the application of PILs to avoid overreach which violates the principle of separation of power.