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EPISTOLARY JURISDICTION & ITS ORIGIN, CONCEPT, ISSUES IN INDIAN SCENARIO

EPISTOLARY:

The term epistolary was derived from the noun epistle, which refers to a composition written in the form of a letter addressed to a specific individual or group. The term "epistle" first appeared in English in the 13th century, via Anglo-French and Latin, from the Greek word *epistol*, which means "message" or "letter." *Epistol* was derived from the verb *epistellein*, which means "to send to" or "to send from." Epistolary first emerged in English four centuries after epistle and can be used to represent something linked to or contained in a letter (as in "epistolary greetings") or made of letters (as in "epistolary greetings").

EPISTOLARY JURISDICTION:

Era of epistolary jurisdiction is emerging. Epistolary jurisdiction allows access to justice to the poor and the weaker section of the society. The court entertains a letter as writ petition ignoring all procedural norms and technicalities. The epistolary jurisdiction is a new strategy adopted by the judiciary for protection of the human rights of the vulnerable sections of the society.

The procedure of writing a letter to the court to achieve justice is known as 'Epistolary Jurisdiction' in Indian human rights jurisprudence. The epistolary jurisdiction has allowed Indian Constitutional Courts to regard a letter written by a person or on behalf of an aggrieved party, telegraph, or newspaper article as a writ petition. Epistolary Jurisdiction is a unique feature of Public Interest Litigation. It gives the impoverished and vulnerable members of society access to justice. One of the fundamental rights is the right to access to justice, and the right to an effective remedy is a critical component of human rights protection, serving as a procedural way to guarantee that persons may assert their rights and seek restitution. The epistolary/letter jurisdiction is significant because it represents a symbolic reaching out to the poor, and the Court accepts a letter as a writ petition while disregarding all procedural rules

and formalities. It is a new technique adopted by the Indian judiciary to preserve the human rights of the society's most vulnerable members.

Case Laws:

In **Olga Tellis vs. Bombay Municipal Corporation**, on Journalist of Bombay claimed relief against demolition of hutments of pavement dwellers by the municipal corporation of Bombay. His letter to the Supreme Court was treated a writ petition and the court granted interim relief to pavement dwellers.

In **V. Annaraja vs. The Secretary to The Union of India**, the Court held that the constitutional courts could entertain letter petitions and deal with them as writ petitions. However, it will depend on the nature of the problem being pushed. The exercise of epistolary authority cannot be unregulated or unguided.

In **Bandhua Mukti Morcha vs. UOI**, an organization dedicated to the cause of release of bonded labourers informed the Supreme Court through a letter that there were many labourers working in the stone-quarries situated in Faridabad District under inhuman and intolerable conditions and many of them were bonded labourers. The court treated the letter as a writ petition. The court after inquiry ordered release and rehabilitation of bonded labourers.

ORIGIN:

Letter Petition/epistolary jurisdiction entails loosening the conventional practise of locus standi to allow disadvantaged parts of society to approach courts via postcards/letters and requiring others to represent them in court. In *Gideon v. Wainwright*, the United States Supreme Court received a postcard from a prisoner and regarded it as a writ, and the Court used novel techniques to give justice by liberalising the locus standi rule and treating the letter as a petition. This innovation symbolises the reality that the court's rules of procedure are intended to help in the administration of justice, to promote the cause of justice rather than to undermine it.

The beginnings of epistolary jurisdiction may be traced back to the 1970s and the idea of public interest litigation (PIL). PIL aims to give marginalised groups of society with access to justice and to solve social concerns. It enabled individuals, concerned citizens, and non-governmental organisations to petition the courts on behalf of persons who were unable to claim their own rights. Epistolary jurisdiction rose to prominence in India because of prominent cases that drew public attention to the necessity for court involvement. *Bandhua Mukti Morcha v. Union of India* (1984), for example, was a landmark decision in which the Supreme Court regarded a

letter exposing bonded labour as a writ petition. This case set the precedent for epistolary jurisdiction, allowing courts to act based on letters or communications received.

The scope and use of epistolary jurisdiction have grown throughout time. It enabled the courts to handle a wide range of concerns, from environmental contamination and unlawful structures to incarceration torture and human rights violations. Recognising the significance of public engagement in justice delivery, the judges encouraged letters as a method of bringing grievances and concerns to their notice. The rise of epistolary jurisdiction also saw the creation of standards and safeguards to ensure the process's legitimacy. Courts set criteria for accepting letters as writ petitions, such as the significance of the matter stated, the veracity of the material, and the public interest at stake. This aided in maintaining the balance between allowing access to justice and preventing system misuse.

Epistolary jurisdiction continues to be an important part of the Indian legal system. It indicates the judiciary's response to society challenges and dedication to basic rights protection. Because of this awareness, the courts have been able to bridge the gap between the legal system and the demands of the people, allowing them to intervene quickly and effectively in problems of public concern. In India, the history of epistolary jurisdiction is founded on the ideas of justice, equity, and public interest. Through court declarations, it has grown as a dynamic system that has played an important role in promoting access to justice and preserving the rights of people and society.

ISSUES:

- One major issue is the possibility of misuse or fraud in instances that rely primarily on textual interactions. Impersonation or unauthorised representation through letters or powers of attorney is a problem in instances when parties are not physically present in court. To address this issue, Indian courts have enacted measures such as mandating document and signature authentication and verification.
- Economic restrictions make it difficult for the poor to get legal assistance, forcing them to traverse complicated legal processes on their own. Epistolary jurisdiction frequently necessitates self-representation or dependence on restricted legal aid facilities, which might be inadequate for dealing with complex legal issues.
- Another issue is one of effective adjudication and due process. The absence of physical presence might make it difficult for the court to determine the demeanour of witnesses and appropriately assess the credibility of the parties concerned. It may also impede the

timely exchange of evidence and arguments, so compromising the quality of justice provided. Indian courts have responded to this worry by emphasising the need of openness and a comprehensive evaluation of evidence submitted via written correspondence.

- Furthermore, the issue of enforcing court orders and judgements made under epistolary jurisdiction might be difficult. When parties are not physically present within the court's jurisdiction, ensuring compliance with court rulings can be difficult. To overcome these problems, legal systems, and procedures for implementing judgements must be strong.
- Additionally, the digital era has added significant difficulties to Indian epistolary jurisdiction. The rising use of electronic communication and digital signatures has raised concerns about the legitimacy and admissibility of electronic documents. The Information Technology Act of India has rules for the recognition of electronic documents and signatures; however, the actual implementation and validation of such papers might still be difficult.

CONCLUSION:

In India, the participatory justice theory has opened the court's doors to the disadvantaged and defenceless, who are frequently unable to handle the fees of litigation or are uninformed of their rights. Epistolary jurisdiction, a distinct aspect of letter petitions, is critical in maintaining and ensuring the human rights of persons from socially and economically disadvantaged groups. This strategy aims to remove procedural, legal, institutional, and structural impediments to access to the courts. It distinguishes itself by not needing court costs, unique drafting skills, or specific registry locations for petition submission. Epistolary jurisdiction gives marginalised people equitable access to justice and the ability to assert their human rights. True access to justice, on the other hand, necessitates a holistic approach that goes beyond legislative and judicial changes. It must consider wider structural, social, and economic aspects. As a result, it is the role of the state to ensure that the poorest parts of society have actual and concrete access to justice.

The Indian Constitution's framers did not anticipate the need for express provisions to provide access to constitutional higher courts in extraordinary circumstances, leading to a historical lack of access for the poor. The Indian judiciary, on the other hand, has played an important role in widening access to justice, notably through the right to life discourse and epistolary jurisdiction. This evolution, especially under Articles 32 and 226, has reduced the restrictions

of the adversarial system, introduced concepts of Social Action Litigation, and allowed millions of underprivileged citizens with more cheap and quick access to justice.

Eventually, it is suggested that empowering District Courts within their local jurisdiction to hear letter and writ petitions related to human rights violations would significantly improve access to justice for those in need while reducing the burden on higher courts. Giving District Judges writ powers will bring justice closer to the people, making it more inexpensive and efficient. Rapid and cheap justice is a vital demand, since without it, basic rights and remedies remain unattainable.