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IMPORTANCE OF P.I.L. IN INDIA

~ *Pushpank Mishra*

Public Interest Litigation, also called Social Action Litigation or Class Action Litigation, is a well-ripened fruit grown in the Judicial Activism tree to serve the state's purpose and its ends. Although it is not defined in any statute or acts, it can be understood in a broader sense as a litigation filed in the court of Law for the protection of Public Interest such as the protection of the environment and prohibition of injustice with the group of people who are socially and economically disable to access justice. Thus it helps in overcoming the technical and procedural barriers to accessing justice.

The origin of P.I.L. can be traced to American Jurisprudence in the late nineteenth century. The famous Gideon's case where Clarence Larl Gideon wrote a letter to the Supreme Court of the U.S.A. to appoint a defense attorney for his defense after it was denied in the Trial Court. As a result, the Supreme Court accepted his letter as a petition and in the aftermath of this hearing, a Legal Aid Office was established in New York in 1876. After this development, it has been an evolving concept helping the helpless to access justice. Over the years it has traveled across various jurisprudences and influenced various justice systems of the world.

In India, arguably it can be said that the first PIL was filed by G. Vasantha Pai in the Madras High Court against sitting Chief Justice S. Ramchandra Iyer when he was convinced that Justice Ramchandra had forged his date of birth to extend his retirement by the collected evidence including an invitation from his younger brother to celebrate his birthday and original date of birth documents. However, this PIL was dismissed because Justice Ramchandra resigned from his post after the request of Chief Justice of India P. Gajendragadkar.

Later when in December 1979 Kapila Hingorani (also known as the mother of PIL) filed a petition concerning the appalling condition of under-trial prisoners. The petition collective known as Hussainara Khatoon vs State of Bihar was accepted for hearing by loosening the principle of *locus standi* (Right to appear before the Court). The bench headed by Justice P.N.

Bhagwati ordered the release of 40,000 prisoners and directed to ensure legal aid and speedy trial to them.

It was the S.P. Gupta case where the apex court tried to define the PIL in the Indian context. After these developments, many cases were filed in the court of law which made the foundation more firm. M.C. Mehta's cases are among those cases that widened the scope of PILs. Mrs. Veena Sethi vs State of Bihar & Ors. added a new attribute to the concept of PIL, Now even a letter, email message, or fax can be treated as PIL by the court of Law, and any person acting in pro bono publico has the right to file PIL on behalf of aggrieved people. Even a Private Interest Litigation can also be treated as a Public Interest Litigation if it seems necessary to enquire into state affairs in the interest of justice as happened in the case of Indian Bank Association, Bombay & Ors. Vs M/S Devkala Consultancy Services and Ors. and Bandhua Mukti Morcha vs U.O.I.

There are cases when the court has taken suo moto cognizance to start hearing in the court of law to ensure justice. Gujrat Morbi Bridge Case is a recent example where a hearing was initiated in the court by a Judge of Gujrat High Court himself after he read about this tragedy in the newspaper.

Several factors are responsible for the genesis and growth of the concept of PIL in India. The character of the Indian Constitution is one of the most important factors among those. Part III and IV along with the Preamble of the constitution empower the citizens and Judiciary to protect the country from arbitrary action, omission, or negligence in discharging the duties by public authorities. Constitutional provisions such as Judicial Review (article 13) and the right to Constitutional remedies under Articles 32 & 226 protect from the encroachment in the basic structure of the Constitution and the Fundamental rights of citizens.

The significance of PIL can be understood by the necessity to secure fundamental rights for every citizen, as observed in the *Romesh Thappar* case (1950), where the constitution bench of the Supreme Court defined its role categorically, "This court is thus constituted the protector and guarantor of fundamental rights, and it cannot, consistently with the responsibility so laid upon it, refuse to entertain applications seeking protection against infringements of such rights..." PIL is also of great significance when we realize the objective observed in the *I.R. Coelho* case 2007, where the constitution bench of nine judges declared that it is the duty of this court to uphold constitutional values and enforce constitutional limitations as the ultimate interpreter of the constitution. It is also clear that to ensure the above goals Courts have to use

Judicial Activism and Judicial Overreach where there were gaps in the constitution or legislation.

PIL democratizes access to justice and helps in achieving the goals enshrined in the Preamble of the Constitution such as social and economic equality and justice for all.

PILs filed in the Apex Court have drawn the attention of the state toward existing inequalities and social evils from time to time. The observations of the Hussainara Khatoon case (1979) as a PIL forced the state to look into the appalling condition of prisoners without proper trial and the absence of adequate legal aid. Similarly, Vishakha Vs State of Rajasthan (1997) focused on the workplace condition for female workers and issued proper guidelines (Vishakha Guidelines) as an Obiter Dicta to fill the gaps left by the legislature and executive.

Environment protection has also been ensured by filing PILs. Environmentalists such as M.C. Mehta, in a series of PILs, fought battles in the court of law against industrial pollution around the Taj and Ganga Rivers along with Delhi air pollution. Thus PILs have played an important role in balancing economic growth & environmental sustainability.

Enhancing government accountability has also been served by PILs by taking cognizance of cases of corruption, maladministration, and failure of public authorities to discharge their duties. It was the Common Cause Vs U.O.I. (1999) when the court directed to ensure accountability and transparency in the distribution of public resources.

All that can be said about PIL is that it has served a lot of purposes from safeguarding the fundamental rights of citizens and making additions to them with the evolution the society to enhancing government accountability and environmental protection, but it can't be a pill for every ill as rightly noticed by eminent jurist Soli Sorab Ji, because it has faced the issues of Private Interest Litigation, Political Interest Litigation, and Publicity Interest Litigation presenting hindrances in serving the actual purpose of PIL.