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ROLE OF AMICUS CURIAE IN INDIAN COURTS

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INTRODUCTION -

The Indian Judicial system is known for its depth and complexities, and thus often gets engaged with cases that have wide ranges of interpretation and a multi-dimensional implication on society, law and governance. On such events, role of Amicus Curiae comes into picture. Amicus Curiae is a Latin term which means friend of the court¹. It is an individual or organization who is not a party to a legal case, but offers information, expertise, or insight to assist the court. The purpose of an Amicus Curiae is to provide impartial and objective information to the court, which may be relevant to the case and help the court to make an informed decision.

The concept of Amicus Curiae has seen considerable evolution within the Judiciary of India. Earlier, Indian courts has seen the expertise of Amicus Curiae in several landmark judgements, particularly those which involved complex constitutional questions, issues involving human rights and matters of significant public interest.

ROLE OF AMICUS CURIAE IN INDIA –

1. Acting as a counsel/ an advocate – In *Md. Sukur Ali v. State of Assam*², the counsel of the accused did not appear in front of the court and thus an important question came up that whether Amicus Curiae can be appointed to defend the accused.

¹ Law Colloquy, <https://lawcolloquy.com/publications/blog/amicus-curiae-the-indian-perspective/67> (last visited May 28, 2024)

² *Md. Sukur Ali v. State of Assam*, 2011 (4) SCC 729

In the case of *Powell v. Alabama*, relying on the Article 21³ and 22(1)⁴ of Constitution of India, Mr. Nariman held that the accused should not suffer merely because of the fault of counsel and rather he should be provided with Amicus Curiae to defend him in the case as, if the judgement is pronounced without a counsel to defend him that would be gross negligence of the rights which are provided by the Indian Constitution. Hence an Amicus Curiae was appointed by the court who was a lawyer practicing on criminal side.

2. Providing assistance in deciding a case – *Ali Ibrahim v. State of Kerala* was a case of grave nature and thus it was sent to CBI for further investigation, and at the same time an Amicus Curiae was appointed and gave various important aspects of the case and how to carry the investigation forward with respect to the resources and expertise to use in the investigation of the matter, also it suggested that the case should not be given to the National Agency as is provided under the National Investigation Agency Act, 2008 that only the cases which have national ramifications such as terrorism shall be investigated by the NIA. All of which was accepted by the court.

In *Vishaka v. State of Rajasthan*⁵, the Supreme Court of India sought the expertise and input of Amicus Curiae to help address the complex issues surrounding Workplace Sexual Harassment. Fali S. Nariman along with Ms. Naina Kapur and Ms. Meenakshi provided pivotal assistance to the Honourable court. Thus, they came up with Vishaka Guidelines which laid down detailed procedures for preventing and redressing sexual harassment at workplace. These guidelines included identification of sexual harassment in workplace, preventive measures and redressal mechanism.⁶

³ INDIA CONST. art. 21

⁴ INDIA CONST. art. 22, cl. 1

⁵ *Vishaka v. State of Rajasthan*, 1997 AIR SCW 3043

⁶ Ncwapps.nic.in,

[https://ncwapps.nic.in/pdfreports/Sexual%20Harassment%20at%20Workplace%20\(English\).pdf](https://ncwapps.nic.in/pdfreports/Sexual%20Harassment%20at%20Workplace%20(English).pdf) (last visited May 28, 2024)

3. Case of great public importance – In the case of *Manoj Narula v. Union of India and ors.*⁷ point of great public interest was brought up before the honourable court and the court appointed Amicus Curiae to assist the court.

Similarly in the case of *Public Union for Civil Liberties v. State of Tamil Nadu and ors.*⁸ wherein Kapil Sabil was appointed as the Amicus Curiae, the case related to the gravity of the problem of Bonded Labor and steps to be taken to implement the Bonded Labor System (Abolition) Act 1976. All the states were required to organize a survey and the affidavit of the same should be submitted to the Amicus Curiae. The Amicus Curiae was required to submit brief written statements and all the states were required to comply with the written statements.⁹

CONCLUSION –

The institution of Amicus Curiae is a testament to the judiciary's openness to external insights and its commitment to delivering justice. The role of Amicus Curiae in India is indispensable in ensuring that justice is not only done but seen to be done. By bringing in diverse perspectives, specialized knowledge and unbiased opinions, Amicus Curiae enrich the judicial process, helping courts deliver more informed and just decisions. Their contributions underscore the judiciary's commitment to upholding the rule of law, protecting human rights and fostering legal development. Thus, Amicus Curiae serves as a bridge between the judiciary and the broader society, enhancing the credibility and effectiveness of judicial system in India. As India continues to face complex legal challenges, the role of Amicus Curiae will remain crucial in shaping a just and equitable legal landscape.

⁷ *Manoj Narula v. Union of India and ors.*, 2005 (7) SCC 52

⁸ *Public Union for Civil Liberties v. State of Tamil Nadu and ors.*, (2004) 12 SCC 381

⁹ Legal Service India, <https://www.legalserviceindia.com/legal/article-796-amicus-curiae.html> (last visited May 29, 2024)