

Public Interest Litigation: Misuse of Civil Weapon of Justice

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ABSTRACT – Public Interest Litigation is the powerful weapon of civil justice for the weaker and deprived section of the society. The objective of the study is to critically examine the literature on the misuse of PILs in India. So, the paper is a review-based study including some recent and famous case laws on misuse of public interest litigation. The main purpose of the PILs is to establish good structure of governance where interest of very section is protected. In the recent times the spirit behind the PILs have been distorted and it has been used as a tool of harassment, publicity, personal gains, business interest, professional PIL shops, corporate gain etc. The study includes the recommendations to curb the practice of misusing this transformational weapon of justice such as only bona fide PILs should be accepted, uncertain and doubtful PILs should be rejected at initial stage, and role of media in highlighting misuse of PILs etc. The PIL still remains the important part of judicial activism.

Keywords: PIL, Misuse, Court, Judiciary, Social, Weaker

I. Introduction

The judiciary system of the nation is discovering new ways of bringing justice to the aggrieved and underprivileged society one such method or strategy is the introduction of Public Interest Litigation. The concept of Public Interest Litigation has emerged because many disadvantaged people were behind the bars for no reason. The final decision of the judiciary takes lots of time till that time under privileged people suffers. The revolution step taken by Justice P.N Bhagwati and Justice V.R Krishna Iyer by filing a PIL in the Supreme Court for the benefit of undertrial prisoners. The prisoners were bound to spend many years in jail without being punished. We have constitutional provisions related to PIL covered under Article 32 and Article 226 of the Indian constitution. It is meant to safeguard the socially disadvantaged groups and communities. It has even relaxed the “principle of locus standi”, PIL can be filed by the individuals who have no personal interest in the matter and use PIL for the purpose of bringing social justice to the aggrieved people. It empowers the individuals to fight against the wrong and helps in bring timely justice to the needy person. There is dark side of the PIL as well, even if PIL is introduced for the benefit of society at large it is being misused by the greedy and nuisance creators in the society. It is a lifesaving weapon one hand but on the other hand it is misused and led to wastage of precious time of the courts and moreover used by the mischievous people to gain popularity and fulfil political gains. The justice is difficult to be imparted to everyone so if anyone who is deprived of justice or remain unheard, unrepresented can use the concept of PIL to attain the

justice in the court of law. The cost of filing PIL is very nominal that’s why it is used by the people for the purpose of harassment. Private litigation is expensive to undertake so people shifted to PIL as it is cheaper method of reaching the doors of justice. Court many times reminded people that no personal interest should be agenda behind the PIL but still people hope to fulfil their business and private interest by using PILs.

In India where ample of cases are filed every year and the seats of judges remain vacant so its difficult to get timely justice. The concept of PIL when misused by the people increases the time to get justice and turn out to be harmful for the society. The government officials waste their lots of time in the responding to the PILs filed in large numbers. There seems to be professional PIL shops which waste lots of the time of the judiciary.

II. Literature Review

Dema (2009) stated that PIL have a pivotal role to play in the civil system of justice. The aim of PIL is to provide welfare to the needy and disadvantaged group of individuals. It helps in contributing towards good governance and making government of India more responsible. It needs to be ensured that PIL are used for only legitimate purpose only, the frivolous use of PILs harm the public interest and waste the precious time of judiciary. The use of PIL for personal gains, political interest, easy publicity should be discarded and people doing same should be penalised.

Gloppen (2008) stated that in a developing nation like India, PIL helps in raising the voice of marginalised people who are deprived of their social rights. It emphasised on the facts that success of a case is based on the how the case fares in the court but also depends on whether terms of case complied with. The agenda behind PILs to benefit not litigants but also similar individuals in same situations. The petitioner is fighting for the justice for sake of humanity and on social grounds.

Pawaiya & Jain (2018) emphasized that PIL is transformational step in the system of justice and focused on giving equal opportunity to all the marginal and disguised groups of society. It has made justice for flexible for the deprived individuals. In recent times plenty of cases witnessed the abuse and misuse of the PILs. Due to less cost in comparison to private litigation these PILs are used for meeting personal and private goals. Indian PILs are just the advanced version of PIL in USA, it entirely depends on the discretion of the judge to analyse the facts of the case.

Singh & Singh (2017) stated that PIL is highly effected weapon in the court of justice. Anybody suffered because of denial of constitutional remedies, legal rights and social oppression can get justice with the help of PIL. It also highlighted the ways in which PILs are misused such as publicity, corporate gain, and personal interest etc. The author emphasized the role of media in signifying the misuse of PIL by wrong and frivolous individuals.

Aggarwal (2021) stated that the apex court i.e., The Supreme Court of India have control over the domain of PILs. Traditionally who have suffered in person was only able to file the case but with the introduction of PILs the deprived people who cannot afford the legal fees would be able to keep their case before the court of justice. It has provided the basic human and fundamental rights to the weaker section of the society.

III. Objectives of the Study

The objective of the study is to review the literature on misuse of Public Interest Litigation and also suggest ways to avert the exploitation of the notion of PIL.

IV. Public Interest Litigation: A Misused Weapon of Civil Justice

In the recent times PILs are being used for gaining publicity in the society. The main objective behind PILs still remain in

papers, actual public welfare and security is nowhere to be felt. In the period of COVID 19 pandemic the number of PIL petitions have gone up. The students, advocates and other stakeholders are reaching the house of justice to seek mercy for online exams in the time of pandemic. The concept of PIL has become a joke because of its misapplication by the society. The welfare of humanity is not taken care of by the frivolous petitioners. The judges often get frustrated because PILs are filed on fake basis of facts and evidence. The needy and aggrieved people are getting nothing out of the concept of PILs. The judiciary system of the nation has warned against the wilful conduct of the frivolous petitioners.

A. The famous case laws enlightening the theme PIL: A Misused Weapon to Gain Justice are as follows:

1. SPV Paul Raj v. The Chief of Electoral Officer and Anr.

In this case, the petitioner prayed to the High Court that all the candidates contesting the election need to get themselves tested for COVID 19 and asking High Court to use its power u/s 226 and issue writ of Mandamus for conducting compulsory medical test of candidates who were contesting in the Tamil Nadu Legislative Assembly Elections. The petition said that it is for the benefit of the voters and they should not get infected with the virus because of the negligence of the election commission.

The court considered this petition baseless and called it as complexly frivolous. The court banned the petitioner from filing the petitions for a period of one year.

2. Pratyush Prasanna and Anr. V. State of NCT of Delhi

In this case the petition relied on a tweet and filed a PIL in the Delhi High Court seeking an enquiry into the funds allocate for COVID 19 relief. He claimed that Delhi government is misusing the funds for different purposes. The court said that petitioner have not used the Right to Information Act, 2005 for gaining such information and directly come to the court for wasting the precious time of the judiciary.

The petitioner has not done his homework before filing petition and court fined him of Rs 50,000 for misusing PIL.

3. Rajeev Suri v. The Delhi Development Authority

The petitioner dared the possibility of the Central Vista Project and the method of getting the clean chit for heritage, environment and land use matters. It was considered as a matter which required high political scrutiny. The honourable

Supreme Court of India dismissed the petition and stated that PILs are meant for those people who are facing insecurity over their rights and facing injustice.

Court on baseless facts and evidence, just to waste the time of judiciary.

4. *Lalit Valecha v. Union of India*

The petitioner filed a PIL stating the news channels should not show the number of deaths due to pandemic as it was sense of panic among the people. The Delhi High Court dismissed the petition stating that the Article 19 of the Indian constitution regarding freedom of speech and expression is not absolute. The court also stated that showing the real number of deaths during pandemic is not a negative news.

V. Recommendations to avert the exploitation of the notion of PIL

- The uncertain and doubtful PILs should not be taken for further processing rather they should be dropped at the initial phase of screening. There should be high cost on frivolous petitions and so that it turns as restrictive in the future.
- The petitions against the socio-economic regulations should be rejected provided they are filed after a long time and the reason of rejection should be in line with general rules of the litigation.
- The advocates and practitioners who are specially working in the area of PILs should give assurance to the court in the form of affidavit and affirm the judiciary to recover the cost or damages in case of rejection by house of justice.
- The advocated should abide by their professional ethics and they should not take the PILs which are baseless and just meant for wasting the time of judiciary. There is need of discipline and morality in the profession of advocates they should emphasise the true spirit behind the law.
- The basis of filing PILs should be bona fide. There should be no private interest in the filing the petitions and reason behind every PIL should be social welfare.
- The media have the power to famous anything, the concept of PILs have been sparkled by media now there is a need that media highlights the misuse of PILs in the public interest. In COVID 19 pandemic time period various PILs have been filed in Supreme

VI. Conclusions

Public Interest Litigation is the important part of judicial activism. It strengthens the system of justice to the needy and deprived people. It is meant for the social gain at large and any sort of personal and private interest should be discouraged. The study focuses on the recent judgements on the misuse of PILs and suggest the ways in which exploitation of this powerful tool can be distorted. The study includes the recommendations to curb the practice of misusing this transformational weapon of justice such as only bona fide PILs should be accepted, uncertain and doubtful PILs should be rejected at initial stage, and role of media in highlighting misuse if PILs etc. The judgements should act as deterrent for the frivolous petitioners in future. Justice should be fairly served to every section of society and within the time frame. The apex court of justice have also formulated some guidelines for dealing with PIL, these need to be followed by good spirit and focused towards healthy and fair system of judiciary.

VII. References

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