



# Misappropriation of Public Interest Litigations *vis-à-vis* Environmental Law: A critical study in the light of modern day Judicial Confrontations

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*Abstract: There is no denying the fact that Public Interest Litigations have completely revolutionized the traditional notion of locus standi in the recent decades and has set the tone right for the general masses to approach the judicial forum in order to enforce collective rights; thereby effectuating the righteous civic sense and empowering the society towards informed decision making. Time and again Public Interest Litigations have been rigorously utilized to address the needs of the hour as far as the Environmental Jurisprudence is concerned in the country. The Judiciary has also played a pivotal role in catering to the environmental protection and related interests of the masses inter alia through various decisions. The present paper makes an attempt to critically evaluate the vitiated and biased trends which have overpowered the effective tool of Public Interest Litigation in the recent times as far as the Environment Law matters are concerned. An attempt shall also be made to narrate the present day judicial outlook over such unaccountable change and possible recommendations shall be included towards the concluding segment of the paper to suggest plausible means which could help in gauging the problem to its core.*

*Keywords: Public Interest Litigation, Locus Standi, Collective Rights, Vitiating Interests, Environment Law.*

**I. Introduction and Conceptual Framework:** The concept of Public Interest Litigation in India traces its evolution and emergence in the late 1970s; a period in the aftermath of the National Emergency, prevailing judicial approach on the overtures of critically acclaimed decisions like *ADM Jabalpur*<sup>3</sup>, and prevalence of autocratic tendencies marking harassment of the general masses due to lack of education, governmental neglect and a serious lack of accessing justice owing to unawareness of legal rights and remedies on the part of the citizenry. As the time progressed, Hon. Supreme Court of India emerged as savior of the access to justice for the masses as it came up with notion of Public Interest Litigations, leaving the arena of accessing justice wide open for the underprivileged and downtrodden in order to raise their collective claims and lead a dignified and just life. The contribution of Justice PN Bhagwati and Justice VR Krishna Iyer has been instrumental in conceiving the idea of

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<sup>3</sup> AIR 1976 SC 1207.

Public Interest Litigation in India and cannot be forgotten at any cost in shaping of the conceptual notion for the welfare interests of masses.<sup>4</sup> Justice Bhagwati described the objective of Public Interest Litigation in India as, “counter to state repression, governmental lawlessness, administrative deviance, and exploitation of disadvantaged groups and denial to them of their rights and entitlements.”<sup>5</sup> The forthcoming sections of the paper shall discuss the aspect of locus standi vis-à-vis Public Interest Litigation, Utility of PILs qua Environmental Law, misuse of the concept of PILs etc. in the light of the judicial discourse on the subject matter.

**II. By passing the Traditional Notion of Locus Standi vis-à-vis Public Interest Litigations:** Public Interest Litigations have emerged as one of the most progressive tools in the Indian Legal System as far as approaching the Courts for remedying out violation of rights is concerned. The ordinary and traditional notion of locus standi i.e. Right to be heard suggest that only such individual whose rights gets tarnished or thrown away has a remedy to approach the Court of Law for enforcement of his or her concerned rights. The emergence of Public Interest Litigations bypassed this traditional notion, when Hon. Supreme Court relaxed the said requirement, thereby allowing public spirited individuals to approach the Court of Law on behalf of an individual whose rights have been curtailed or who is not in a position to approach the Court himself owing to some sort of impoverishment or disability for that matter.<sup>6</sup> With the passage of time, Hon. Supreme Court of India has been vigilant as well as innovative enough to entertain Public Interest Litigations by virtue of letters and postcards; and has gone to the extent of appointing *amicus curiae* and commissioners in order to assist the Court qua gathering necessary information concerning the petitioner’s antecedents or inter alia checking eligibility criteria of the petitioner. It could therefore be summarized here that the evolution of mechanism of Public Interest Litigations completely revolutionized the way how the principle of locus standi works. Furthermore, as put forth by American Jurist ‘Abram Chayes’, there exists a liberalized approach qua the ‘Joinder of parties’ in Public Interest Litigation, where such parties possessing or owning some sort of ‘interest’ in the *lis* can freely come in and join the surrounding controversy in the matter.<sup>7</sup> At this juncture, it also becomes pertinent to point out that the focus area of Public Interest Litigation has been the ‘interest of public’ on a general note, which is undoubtedly over and above the private concerns or disagreements; existing amongst the two opposite parties to a litigation.

**III. Utility of Public Interest Litigations qua Environmental Law:** The conventional and customary model of implementing the Environmental Law had a certain flaws. It is evident from the aspect that many a time private enforcements of Environment Law violations resulted only in little amounts of awards, thereby persuading citizens towards refraining from raising such claims against the polluters. The Public Interest Litigations have come forth as a nightmare for the polluters due to the fact that probable litigants would bring in the element of ‘public safety’ and ‘public welfare’ which would simply magnify the issue, thereby attracting heavier and hefty penalties. It cannot be simply denied that in Public Interest Litigations, the litigant pool would simply be a large set of people, forcing the polluters to refrain from opportunistic behaviors for that matter.<sup>8</sup> As the concept of Public Interest Litigation matured over a span of few years, several environmental activists and public spirited citizens have played a pro active role in the protection of environment and allied concerns. One of the most renowned names in the said list includes the likes of M.C. Mehta, who has championed the cause of environment safety and protection through continuous public interest litigation such as *Oleum Gas Leak Case*,<sup>9</sup> *The Taz Trapezium Case*, *The Ganga River*

<sup>4</sup> Dr. (Mrs.) Saroj Bohra, “Public Interest Litigation: Access to Justice”, available at: <http://www.manupatra.com/roundup/379/Articles/Public%20Interest%20Litigation.pdf> (last visited on Apr. 28, 2022).

<sup>5</sup> Ashok H. Desai, S. Muralidhar, “Public Interest Litigation: Potential and Problems”, available at: <https://www.ielrc.org/content/a0003.pdf> (last visited on Apr. 29, 2022).

<sup>6</sup> Michael G. Faure, A.V. Raja, “Effectiveness of Environmental Public Interest Litigation in India: Determining the Key Variables”, available at: <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1668&context=elr> (last visited on Apr. 30, 2022).

<sup>7</sup> *Supra* note 4.

<sup>8</sup> *Supra* note 6.

<sup>9</sup> M.C. Mehta v. Union of India & Ors. 1987 AIR 965, 1986 SCR (1) 312.

Case,<sup>10</sup> *The Vehicular Pollution Case*,<sup>11</sup> *Beas Diversion Case*,<sup>12</sup> etc. amongst others. Therefore, it could be articulated that the tool of Public Interest Litigation has been instrumental in safeguarding the environmental concerns and allied matters over a span of few decades in the past.

**IV. The vitiated and biased trends around Public Interest Litigation:** The past trends in the litigation show that the Courts have been flooded with Public Interest Litigations without a complete and decisive understanding of the instrument of Public Interest Litigation in its complete sense. In the past few years, the instrument of Public Interest Litigation has been used to give color to vexatious and personal interests over public welfare and protection of a larger group interest. It has been observed many a times that the instrument of Public Interest Litigation is being used to camouflage political interests, private interests as well as publicity interests. In order to place a check and scanner upon the vitiated and biased trends *qua* Public Interest Litigations, A Bench of High Court of Himachal Pradesh issued several guidelines on the subject matter; which primarily included that the courts must prima facie verify the credentials of the petitioner, the courts must fully satisfy that substantial public interest is involved, the matters involving urgency and higher gravity must be given priority, litigations with ulterior, extraneous, vexatious and personal interests must be discouraged and dismissed with exemplary costs etc. amongst others.<sup>13</sup> At the same time, it cannot be negated that Public Interest Litigations necessarily follows an in depth surrounding notion of involvement or inclusion of public interest per se. Therefore, the utility of the tool must be restrained to the extent which served the public interest at large and does not go into the domain of justifying vendetta, fulfillment of private interests, seeking publicity and fame or a manifestation of politics or political interests for that matter.

**V. The judicial outlook towards the subject matter:** Hon. Supreme Court of India and respective High Courts have been very vigilant on the issue of utilizing Public Interest Litigation to justify private or vexatious interests. Time and again, respective Courts have expressed serious concern on the said trend and have issued advisories and guidelines to bring the matter under scanner. In *Shri Sachidanand Pandey and another v. The State of West Bengal*,<sup>14</sup> Hon. Supreme Court observed that, “Today public spirited litigants rush to Courts to file cases in profusion under this attractive name. They must inspire confidence in Courts and among the public. They must be above suspicion”. In the said case, Justice Khalid in his separate judgment had observed that, “If courts do not restrict the free flow of such cases in the name of public interest litigations, the traditional litigation will suffer and the courts of law, instead of dispensing justice, will have to take upon themselves administrative and executive functions.”<sup>15</sup> In *Ashok Kumar Pandey v. State of W.B.*,<sup>16</sup> Hon. Supreme Court observed that, “When there is material to show that a petition styled as public interest litigation is nothing but a camouflage to foster personal disputes, said petition is to be thrown out.” In *State of Himachal Pradesh v. A Parent of a student of Medical College, Simla*,<sup>17</sup> High Court of HP had observed that, “public interest litigation is a weapon which has to be used with great care and circumspection.” Further, Hon. Supreme Court in *State of Uttaranchal v. Balwant Singh Chauhal*,<sup>18</sup> observed and directed that, “We must abundantly make it clear that we are not discouraging the Public Interest Litigation in any manner, what we are trying to curb is its misuse and abuse. According to us, this is a very important branch and, in a large number of PIL petitions, significant directions have been given by the Courts for improving ecology and environment, and the directions helped in preservation of forests, wildlife, marine life etc. etc. It is the bounden duty and obligation of the Courts to encourage genuine bona fide PIL petitions and pass directions and orders in the public interest which are in consonance with the Constitution and the laws.”

<sup>10</sup> M.C. Mehta v. Union of India & Ors 1988 AIR 1115.

<sup>11</sup> M.C. Mehta v. Union of India & Ors 1991 SCC (2) 353.

<sup>12</sup> M.C. Mehta v. Kamal Nath & Ors (1997) 1 SCC 388.

<sup>13</sup> Prashant Mehta v. State of H.P. & Ors., 2021

<sup>14</sup> AIR 1987 SC 1109.

<sup>15</sup> 1987 (2) SCC 295.

<sup>16</sup> (2004) 3 SCC 349.

<sup>17</sup> 1985 AIR 910, 1985 SCR (3) 676.

<sup>18</sup> (2010) 3 SCC 402.

**VI. Conclusion and Suggestion:** Public Interest Litigations have emerged as a progressive means in order to pave path for a just social order. In fact, Public Interest Litigations are the true reflection of the notion of judicial activism and have contributed significantly to ensure that the best interests of the masses are secured. The Judicial outlook upon the subject matter of Public Interest Litigations have also been a liberal one, whereby respective Courts at various times have given extended meaning and scope to the arena of excusing the traditional notion of locus standi through utilization of the said mechanism. It cannot be ignored that the Judicial Organ of the Government has played a pro active and vigilant role in order to cater to the needs of the society by entertaining various Public Interest Litigations on various subject matters; in particular the environmental law and allied concerns. It is worthwhile to mention that the mechanism of Public Interest Litigation has come under scanner by virtue of misusing the said tool for publicity, personal gains, political pomp and show etc. amongst others. The Courts have been flooded with litigation under the name and banner of Public Interest Litigations; whereby 'public interest' has little or no presence in real sense. Hon. Supreme Court of India and various High Courts of the country have been continuously warning the litigants to understand the true essence and scope of the said instrument and resort to adopting the mechanism in matters involving public interest prima facie. It is in this light that stricter implementation of said directions and regulations must be adhered to, in order to up keep and maintain the significance of the Public Interest Litigations, which have contributed greatly in developing the judicial activism and judicious temper in the masses in a generic sense.

