

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS



Megha Middha

Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



learning.

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

COMPARATIVE STUDY AND GROWTH OF PUBLIC INTEREST LEGISLATION IN INDIA AND OTHER COUNTRIES

AUTHORED BY - PAVANKUMAR GHANSHYAM TAPADIYA

LLM – 2nd Year, Roll No. 12

Modern Law College, Pune

PUBLIC INTEREST LITIGATION

➤ INTRODUCTION: -

As name suggest, Public Interest Litigation (PIL) is litigation to protect public interest. Before 1980's Indian courts can entertained litigations only from the parties affected directly or indirectly. What is *Locus standi* to file case was to be strictly examined. Traditional rule of *locus standi* that a petition under Article 32 of Indian Constitution can only be filed by a person whose fundamental right is infringed. Only aggrieved party entitled to knock door of the court. Any person who was not personally affected could not file petition under Article 32. In December 1979, **Kapila Hingorani** had filed a petition in regards to the inhuman conditions of the prisoners detained in the Bihar jail which is famously known as **Hussainara Khatoon Vs State of Bihar**¹. This is a first case of Public Interest Litigation in India. The Supreme Court bench headed by **J. Bhagawati** decided that prisoners should receive free legal aid and fast hearings. As a result, 40,000 prisoners were released from jail. Thereafter many cases touching public at large filed in supreme court. Therefore, this is an important concept in law and polity and is often seen in the news. Hence, it acquires importance in recent days. In this research article, I tried to comparatively study and cover all aspects PIL in India and overseas countries.

➤ **What is Public Interest Litigation?**

In **Black's law Dictionary (Sixth Edition)**, Public Interest is defined as follows:

Public Interest. – Something in which the public, the community at large has something pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interest of the particular localities,

¹ AIR 1979 SC 1360

which may be affected by the matters in question. Interest shared by the citizens generally in affair of local, State or national government.

Public interest Litigation (PIL) means litigation filed in a court of law, for the protection of “Public Interest”. Any matter where the interest of the public at large is affected can be redressed by filing a Public Interest Litigation in a court of law such as Pollution, Terrorism, Road safety, Constructional hazards, etc.

- The expression ‘Public Interest Litigation’ has been borrowed from American jurisprudence, where it was designed to provide legal representation to previously unrepresented groups like the poor, the racial minorities, unorganized consumers, citizens who were passionate about the environmental issues, etc.
- PIL is not defined in any statute or in any act. It has been interpreted by judges to consider the intent of the public at large. It is the power given to the public by courts through judicial activism. However, the person filing the petition must prove to the court’s satisfaction that the petition is being filed for public interest and not just as a frivolous litigation by a busy body.
- Public interest litigation is not defined in any statute or in any act. It has been interpreted by judges to consider the intent of public at large.

Some of the matters which are entertained under Public Interest Litigation are Neglected Children, Bonded Labour matters, Atrocities on Women, Non- payment of minimum wages to workers, exploitation of casual workers, food adulteration, Environmental pollution, and disturbance of ecological balance, Maintenance of heritage and culture, etc.

➤ **Who Can File a PIL and Against Whom?**

- Any citizen can file a public case by filing a petition:
- Under Art 32 of the Indian Constitution, in the Supreme Court.
- Under Art 226 of the Indian Constitution, in the High Court.
- Under sec. 133 of the Criminal Procedure Code, in the Court of Magistrate.

However, the court must be satisfied that the Writ petition fulfils some basic needs for PIL as the letter is addressed by the aggrieved person, public spirited individual and a social action group

for the enforcement of legal or Constitutional rights to any person who are not able to approach the court for redress.

- A Public Interest Litigation can be filed **against a State/ Central Govt., Municipal Authorities, and not any private party.** The definition of State is the same as given under Article 12 of the Constitution and this includes the Governmental and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

➤ Significance of PIL

- The aim of PIL is to give to the common people access to the courts to obtain legal redress.
- PIL is an important **instrument of social change** and for maintaining the Rule of law and accelerating the balance between law and justice.
- The original purpose of PILs have been **to make justice accessible to the poor and the marginalised.**
- It is an important tool to make human rights reach those who have been denied rights.
- It **democratises the access of justice** to all. Any citizen or organisation who is capable can file petitions on behalf of those who cannot or do not have the means to do so.
- It helps in judicial monitoring of state institutions like prisons, asylums, protective homes, etc.
- It is an important tool for implementing the concept of judicial review.
- Enhanced public participation in judicial review of administrative action is assured by the inception of PILs.

➤ Certain Weaknesses of PIL

- PIL actions may sometimes give rise to the **problem of competing rights.** For instance, when a court orders the closure of a polluting industry, the interests of the workmen and their families who are deprived of their livelihood may not be taken into account by the court.
- It could lead to overburdening of courts with **frivolous PILs by parties with vested interests.** PILs today has been appropriated for corporate, political and personal gains. Today the PIL is no more limited to problems of the poor and the oppressed.

- Cases of **Judicial Overreach** by the Judiciary in the process of solving socio-economic or environmental problems can take place through the PILs.
- PIL matters concerning the exploited and disadvantaged groups are pending for many years. **Inordinate delays in the disposal of PIL cases** may render many leading judgments merely of academic value.

➤ PIL in the USA

The United States is the founder of the modern PIL, and has passed “Sherman Antitrust Act” as early as 1890, which is the first official statute to rule the PIL system.

There are two means to file an environmental PIL in USA.

1. Lawsuit filed by the Attorney General, and
2. Lawsuit filed by a citizen.

The lawsuit filed by the Attorney General refers to PIL for environmental protection filed by the Attorney General on behalf of the US federal government or state governments against any citizen, legal person or other organizations that cause environmental pollution and damage. Under the US Statutory Law, the lawsuit filed by a citizen refers to PIL filed by a citizen against other citizens, legal persons, organisations or state authorities whose illegal activities have caused environmental pollution and damage. The permissible civil PIL in the United States mainly includes “qui tam action”, antitrust litigation and citizen suit in the field of environment law. The “qui tam” provisions initially specified in “False Claims Act” of 1863 in the United States allow a US citizen to file a civil action against any illegal activity defrauding the government in order to recover the losses the government has suffered, and the person filing an action can receive a portion of any penalty imposed under the relevant law if the suit was successful. Since the federal government, rather than the citizen filing a suit, is the main beneficiary from such suit, the suit has the nature of PIL. The provisions of citizen PIL system in the field of Antitrust Law are mainly included in the “Clayton Antitrust Act” of 1914 in the United States, and the Article 15 of the law empowers any citizen, firm, corporation and union to bring a lawsuit for injunctive relief in a court which has jurisdiction over the parties. Since the field has influenced the PIL in the United States most, the citizen suit in the field of environment is prescribed in the Clean Air Act 1970 at the earliest, and this law begins to include the provisions for citizen suit, empowers any citizen to receive assistance from the federal government and supervise the law enforcement,

and improves the relevant proceedings on citizen suit.

➤ **PIL in Germany**

Germany has a more comprehensive legislation in PIL system and the relevant provisions of PIL are included in Constitution of Germany, Administrative Procedure Law, Civil Procedure Act and the Anti-Unfair Competition Law. The following focuses on an analysis on the PIL system of Germany from the view of the subject filing PIL.

- 1) **PIL filed by citizens:-** The provisions of PIL filed by a citizen are mainly included in Constitution of Germany where it is also defined as the “public action”. The Constitution empowers all citizen of Germany to sue the German Constitutional Court in the request that the unconstitutional law shall be judged to be invalid by the German Constitutional Court as it deems certain provisions in the existing Germany law violate the constitutional rights and other rights regardless of whether infringement occurs or whether the infringement case concerns the direct or indirect interest of the citizens themselves.
- 2) **PIL filed by a group:-** The group PIL refers to a lawsuit brought by qualified corporate body or agency under the law in order to protect the interest of an unspecified majority of people when they have no intention or ability to bring a suit since each of them suffers small losses from the case from which the majority suffer losses.
- 3) **PIL filed by a Prosecutor:-** Germany allows a prosecutor to bring PIL or participate into PIL as the representative of public interest. As per the provisions of German Civil Procedure Act of 1877, the prosecutor can bring lawsuits for confirming the nullity of marriage, application of interdicted person and declaration of death of missing person and so on, or participate into lawsuits in trial.

➤ **PIL in the United Kingdom**

The legislation and provisions related to PIL are mainly included in “Crown Procedure Act”, “British Civil Law” and “Rules of Civil Procedure”, and there are two forms of action: the procurator action and representative action, class action.

- 1) **PIL filed by a British Prosecutor :-** As per the provisions of “Crown Procedure Act” and the third edition of “Code for Crown Prosecutors” revised in 1994, the prosecutor is

entitled to bring suits on behalf of the royal family when the interest of British royal family has been violated. In the United Kingdom, the civil procedures allowing prosecutor to be involved in are as follows: (a) The civil lawsuits concerning the interest of royal family. The Attorney General, acting as the representative of the royal family, is empowered to bring a suit against the tort-feasor in the name of the king or the royal family when the interest of the royal family has been violated. (b) Lawsuits denounced by citizens. The Attorney General is allowed to participate into a lawsuit upon application by the citizen and on behalf of the citizen who revealed the lawsuit concerning the violation of public interest in order to stop the activities disturbing public order and causing harm on public property or to enforce the public duty. The Attorney General can file a lawsuit independently if the activities above were found to be harmful to the public interest. (c) Lawsuits to confirm illegitimate and legitimate children. As per the provisions of “Civil Procedure Act”, when the party applies to the court for confirming illegitimate and legitimate children, the application form must be submitted to the Attorney General who has jurisdiction over it, and the Attorney General will be involved in the hearing and trial as the defendant.

- 2) **The representative action, class action of British action:-** The British mass claim includes representative action and class action. The representative action is where a group has a common claim in the case of mass claim, and therefore, one or more than one of them are allowed to participate into the lawsuit as representative (s) of the group. The decision of the court has binding effect on other persons in the class. The class action is a suit involving a large number of people in the case of mass claim, and these persons form a group to bring a suit on behalf of the group or members in absence due to their common claim. The “Rules of Civil Procedure” of the United Kingdom allows the parties or the court itself to bring a class action. The decision and verdict the court made have a binding effect on all members involved. Any member refusing to accept the ruling can appeal against the decision and verdict after approval by the court which made the decision and verdict.

➤ **PIL in China**

The “Civil Procedure Act” newly revised in 2012 introduced the PIL system within the scope of civil procedure for the first time, which is a major breakthrough of PIL in China. The Article 55 stipulates that the eligible institutions and related organizations under the law can bring an action

against the activities in violation of the social public benefit including the pollution of environment, the infringement on legitimate rights and interests of a majority of consumers. But the provisions are too simple, and the lack of relevant supporting measures, in practice it is difficult to implement. At present, in China's current legislative system concerning the public interest litigation, although the direct provisions of the public interest litigation system, but these provisions are too scattered and simple, no relevant judicial interpretations complement, also no real sense of the public interest litigation procedures, and has not formed the unified public interest litigation system, it is difficult to operate in the judicial practice, also it is difficult to reflect its value. Compared with the USA, Britain, Germany, India and other countries are relatively perfect and mature system of public interest litigation, a considerable gap. Therefore, to put forward the following suggestions for China's public interest litigation system to improve.

➤ **PIL in Germany**

It has more comprehensive legislation in the PIL system. The relevant provisions of PIL are included in the Constitution of Germany, the Administrative Procedure Law, Civil Procedure Act, and the Anti-Unfair Competition Law. The following focuses on an analysis of the PIL system of Germany from the view of the subject filing PIL. In Germany, PIL is confined to alleged violations of the federal natural protection act and associated provisions. Only associations officially recognized by the environmental authorities are eligible to initiate a PIL

➤ **COMPARATIVE STUDY OF PIL IN INDIA AND OTHER COUNTRIES: -**

As stated earlier, USA is a first country who officially introduced PIL in the legislation. In India, the concept of PIL has been taken from American jurisprudence and introduced by Justice P.N. Bhagawati. However, model evolved in America is not suitable in India as our country is developing. Therefore, PIL in India can seen improvement of the American model of PIL. Indian PIL system is more oriented towards giving equal and fair access to unrepresented and poor section of society. Whereas, American PIL system is more oriented towards providing funds so the people can participate.

GROWTH OF PIL IN INDIA

➤ **SOME LANDMARK JUDGMENTS OF PIL WHICH BROUGHT REARKABLE CHANGE IN INDIA: -**

The seeds of the concept of Public Interest Litigation were initially sown in India by **Justice Krishna Iyer**, in 1976 in **Mumbai Kamagar Sabha vs. Abdul Thai**.

The first reported case of PIL was **Hussainara Khatoon vs. State of Bihar** (1979) that focused on the inhuman conditions of prisons and under trial prisoners.

A new era of the PIL movement was heralded by **Justice P.N. Bhagwati in the case of S.P. Gupta vs. Union of India² (Judges transfer case)**.

- In this case it was held that “any member of the public or social action group acting bonafide” can invoke the Writ Jurisdiction of the High Courts (under article 226) or the Supreme Court (under Article 32) seeking redressal against violation of legal or constitutional rights of persons who due to social or economic or any other disability cannot approach the Court.
- By this judgment PIL became a potent weapon for the enforcement of “public duties” where executive action or misdeed resulted in public injury. And as a result, any citizen of India or any consumer groups or social action groups can now approach the apex court of the country seeking legal remedies in all cases where the interests of general public or a section of the public are at stake.
- Justice Bhagwati did a lot to ensure that the concept of PILs was clearly enunciated. He did not insist on the observance of procedural technicalities and even treated ordinary letters from public-minded individuals as writ petitions.
- **Bihar Legal Support Society Vs. Chief Justice of India³**, the Supreme Court made it clear that the strategy of public interest legislation has been evolved by this court in a view to bringing justice within the easy reach of poor and the disadvantaged sections of the community.
- **Indian Banks’ Association, Bombay & Ors. vs. M/s Devkala Consultancy Service**

² AIR 1982 SC 149

³ (1986) 4 SCC 767

and Ors held :- “In an appropriate case, where the petitioner might have moved a court in her private interest and for redressal of the personal grievance, the court in furtherance of Public Interest may treat it a necessity to enquire into the state of affairs of the subject of litigation in the interest of justice.” Thus, a private interest case can also be treated as public interest case.

- **M.C Mehta vs. Union of India**⁴: In a Public Interest Litigation brought against Ganga water pollution so as to prevent any further pollution of Ganga water. Supreme Court held that petitioner although not a riparian owner is entitled to move the court for the enforcement of statutory provisions, as he is the person interested in protecting the lives of the people who make use of Ganga water.
- **Vishaka v. State of Rajasthan**⁵: The judgement of the case recognized sexual harassment as a violation of the fundamental constitutional rights of Article 14, Article 15 and Article 21.
- **Hussainara Khatoon v. State of Bihar**⁶ This PIL was filed to draw the attention of the court towards the situation in Bihar where the persons had been in detention due to pending trials for more than the maximum punishment which is fixed by law for a particular offense. The court ordered to make speedy trials and also ordered to release 40,000 under trial persons who were under detention for more than the maximum period of punishment fixed by law for any offense.
- **Rural Litigation and Entitlement Kendra Vs. State of Uttar Pradesh**⁷ (lime stone case) This PIL was filed in the year 1983. This was the first of its kind PIL which was filed for the protection of the environment. In this case, the petitioner appealed the court for the closure of the lime-stone quarries which was on a lease as it was polluting the environment, causing an ecological imbalance and was hazardous for humans as well as animate and inanimate things whereas the respondents in this case which were the state and units of lime-stone quarries argued that this close down will lead to impact the owners who have invested a large amount of money as they would be thrown out from their respective businesses. This close down would also impact the livelihood of the workers who are working in the quarries as this would lead to their unemployment. The court in this case ordered the closure of lime-stone quarries falling under certain categories.

⁴ AIR 1987 SC 1087

⁵ (1997) 6 SCC 241

⁶ AIR 1979 SC 1360

⁷ AIR 1985 SC 652

- **Bandhua Mukti Morcha Vs. Union of India**⁸ An organisation that was committed to the release of bonded labour brought a case involving the release of bonded labour before the Supreme Court. Public interest litigation, according to the Court, "is not in the nature of adversary litigation but is a challenge and an opportunity to the Government and its officers to make basic human rights meaningful to the deprived and vulnerable sections of the community and to assure them social and economic justice which is the signature tune of our Constitution," The Court emphasised that any member of the of the public acting in good faith may approach the court for relief under Article 32 in cases where a person or a class of people's Fundamental Rights have been violated, resulting in any legal injury, and such a person is unable to approach the court due to poverty or being in a socially or economically disadvantaged position. Therefore, courts amply demonstrated through these judgements that fundamental rights apply to all people, not just the wealthy and well- off who can access the courts, as well as the larger ordinary masses who are poor, illiterate, underprivileged, and marginalised and are unable to access the court due to a lack of awareness and resources. But throughout the years, the purpose of public interest litigation has expanded and is now not just limited to resolving the complaints of the poor and disadvantaged people. Instead of being utilised to address a specific person's complaints, it is being utilised to address a specific person's complaints, it is being used to address the problems that affect the general public and society as a whole. Such public grievances could not be brought before the Court by anyone under the more archaic and traditional locus standi norm.
- **Peoples Union for Democratic Rights Vs. Union of India**.⁹ The court now permits Public Interest Litigation or Social Interest Litigation at the instance of "Public Spirited Citizens" for the enforcement of constitutional & legal rights of any person or group of persons who because of their socially or economically disadvantaged position are unable to approach court for relief. Public interest litigation is a part of the process of participate justice and standing in civil litigation of that pattern must have liberal reception at the judicial door steps.
- **Centre for Enquiry into Health & Allied Themes (CEHAT) vs. Union of India**¹⁰ A PIL was filed by a social action organized for a direction for the effective implementation of the law banning sex selection and sex determination. The Court has expressed its deep

⁸ AIR 1984 SC 802

⁹ AIR 1982 SC 1473

¹⁰ 2003 (7) SCALE 345.

concern over the non- action of the executive in preventing pre-natal sex determination leading to female foeticide. In this PIL the Supreme Court issued several directions to the government to create public awareness about the new law through advertisements throughout the country through both electronic and print media. The Court had referred to all its earlier directions to the Central and State Governments and found it very fortunate that they have not been implemented.

- **Paramanand Katara Vs. Union of India¹¹ (Professional ethics and medical scam case)** This was also called the medical and healthcare case. It was held in the PIL that the right to life is paramount and hence overriding medical-legal formalities in case of emergencies was permissible as once life was lost it could not be restored. Saving one's life should be a paramount priority for doctors. Every medical doctor has a professional obligation to extend their services with due expertise for protecting life. It was also held that a doctor in the medical profession should not be dragged unnecessarily in for interrogation or completing formality by the police or lawyers.
- **Citizen for Democracy Vs. State of Assam** All humans whether a prisoner or not have basic fundamental rights that should not be infringed. Citizen for democracy v State of Assam took into consideration the rights of prisoners and the fact of whether handcuffing was justifiable or not. It laid down directions and procedures to be followed while handcuffing inmates like no police authority can handcuff any of the jail inmates during his transit from one jail to another or the court and back etc. If these guidelines laid down were violated, then the officers or police would be subject to punishment.
- **Sheela Barse Vs. Union of India¹²** Supreme Court awards Rs. 10,000/- cost of public interest litigation to the petitioner who was not in legal profession but brought an important matter before court for its consideration.
- **Ban of smoking in public places¹³** The Supreme Court has directed all state and union territories to immediately issue order banning smoking in public places and public transportations including railways. The order banning smoking at public places includes hospital, health institutions, public offices, court building, educational institutions, libraries and auditoriums.
- **Delhi Domestic Working Women's forum Vs. Union of India¹⁴** (Rape on working

¹¹

¹² (1986)3 SCC 596

¹³ Murli S. Deora Vs Union of India (2001)

¹⁴ (1995) 1 SCC 14

women -guidelines for rehabilitation and compensation) PIL filed to expose the pathetic plight of four domestic servants who were subjected to indecent sexual assault by seven army personnel. The supreme court laid down several guidelines.

- **Electronic reform – Union of India Vs. Association for Democratic Reforms¹⁵** The Supreme Court directed election commission to issue a notification making it compulsory for those contesting elections to make antecedents at the time of nomination for the benefits of voters. But the parliament amended electoral law. Association for Democratic Reforms filed PIL challenging validity of law. The supreme court held that parliament has no legislative competence to direct the state authorities to disobey the order of the court. Justice Shah said, *the judgment was arrived at cleaning the democracy of unwarranted elements and give the country a competent legislature.*

➤ Conclusion

- Public Interest Litigation has produced astonishing results which were unthinkable three decades ago. Degraded bonded labourers, tortured under trials and women prisoners, humiliated inmates of protective women's home, blinded prisoners, exploited children, beggars, and many others have been given relief through judicial intervention.
- A trend of permitting PIL and considered wide scope of Article 32 of Indian Constitution is welcomed. It creates sense of responsibility in public authorities.
- The greatest contribution of PIL has been to enhance the accountability of the governments towards the human rights of the poor.
- The PIL develops a new jurisprudence of the accountability of the state for constitutional and legal violations adversely affecting the interests of the weaker elements in the community.
- However, the Judiciary should be cautious enough in the application of PILs to avoid Judicial Overreach that are violative of the principle of Separation of Power.
- Besides, the frivolous PILs with vested interests must be discouraged to keep its workload manageable.

¹⁵ AIR 2002 SC 2112