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PUBLIC INTEREST LITIGATION: **TOOL OF ABUSE OR JUSTICE**

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Abstract

This research paper is regarding the PUBLIC INTEREST LITIGATION: TOOL OF ABUSE OR JUSTICE. Following the socialist model, and later, is aimed at speeding up and improving social and economic transformation that continued in the late 80's, the Supreme Court of India was established the role of activist since the inception of PIL, made the process more complex and easier completely changed the status of India's legal system. Trial of public interest, arising from the dire need to preserve and the rights of people who are lagging behind of the public, you have seen ongoing violations from the tool of use to the harassment bulletin. Looking at its genesis, the authors read of its birth in the case of Hussainara Khatoon. Research paper, therefore, with a complete understanding of The Public Interest Trial Act in India, which is consistent with its operation as well increasing, seeks to reflect and analyze its position and position in the modern time, in essence of the last initiation and its revealed features and normal. They conclude the writes with hope, hope and trust in the title, the flag bearer justice and the masses, while designing methods and recommendations for defense and law enforcement Court of Public Interest.

Introduction:-

“We would, therefore, hold that any member of the public having sufficient interest can Maintain an action for judicial redress for public injury arising from breach of public duty or from violation of some provision of the Constitution or the law and seek enforcement of such public duty and observance of such constitutional or legal provision. This is absolutely essential for maintaining the rule of law, furthering the cause of justice and accelerating the pace of realization of the constitutional objective.”

- Justice P.N. Bhagwati¹

Public Interest Litigation means a legal action initiated in a court for enforcement of public interest. Public Interest Litigation is designed to provide legal representation to those unrepresented groups or any person whose rights are infringed and due to lack of awareness or economically disadvantages are they unable to approach the court for remedies. Pursuant to Article 32 of the Constitution of India, the right to appeal to the Supreme Court by appropriate procedures for enforcing the rights granted by this section is confident. Generally, only the victim has the right to seek redress under Article 32.

How Was Public Interest Litigation Enforced In India And

Causes:-

The Public Interest Litigation is a product of the judicial activism role of the Supreme Court. It was introduced in the early 1980s. In 1981 Justice P. N. Bhagwati, **S. P. Gupta v. The Union of India²**, expressed the concept of PIL as follows, When a legal offense or legal injury is caused to an individual or a specified class of persons as a result of a violation of any constitutional or legal right. Imposed for violation of any constitutional or legal provision or without legal authority or any other lawlessness or legal injury or liability is threatened and the person or group of persons determined by poverty, incapacity or disability or social or economic disability. can go to court for relief, any member of the public may file a petition for appropriate guidance, order or writing in the Supreme Court under Section 226 and in the event of a violation of the fundamental rights of such persons or class of persons, in the case. a court

¹ S. P. Gupta v. Union of India, AIR 1982 SC 149.

under Section 32 seeking legal redress for a legal error or legal damages caused to that person or a specified class of persons.

The law of locus stand is relaxed and a person who is honest and has a keen interest in conducting a Public Interest Court will be alone and may go to court to eliminate violations of fundamental rights and real violations of legal provisions, but not for personal gain or personal gain or political motives and any improper consideration.

Public Interest litigation serves as an important tool for social change. It works for the well-being of all sections of society. It is the sword of every man used for justice. The introduction of this official tool proved to be beneficial in a developing country like India. PIL has been used as a strategy to combat the atrocities that exist in society. It is an institutional program that focuses on the well-being of people in need in the community. In case of **Bandhua Mukti Morcha vs. Union of India & others**³, Supreme Court issued an order for the release of the imprisoned workers. In the case of **Murli S. Dogra v. Union of India**⁴, Supreme Court banned smoking in public places. In the landmark decision of Delhi Domestic Working **Women's Forum v. Union of India**⁵, Supreme Court issued guidelines for rehabilitation and compensation for rape of working women. In the case of **Vishaka and others v. State of Rajasthan**⁶, Supreme Court has set comprehensive guidelines for preventing sexual harassment of working women in the workplace.

Hussainara Khatoon v. State of Bihar⁷

The first reported PIL was by Hussainara khatoon v. State of Bihar, which led to the release of more than 40,000 prisoners were converted and made a landmark decision the right to speedy trial. The judiciary, in the emerging stages of the PIL, is very focused prisons' rights, and conditions under which they live. This was facilitated by books, texts, postcards, applications from citizens with a community spirit including lawyers, journalists in between others, who wanted to bring to the courts the suffering of billions of trials living under harsh conditions in

³ Bandhua Mukti Morcha v. Union Of India & Others, 1984 AIR 802, 1984 SCR (2) 67

⁴ MURLI S. DEORA V. UNION OF INDIA AND OTHERS AIR 2002 SC 40

⁵ Delhi Domestic Working Women's Forum V. Union Of India And Others, 1995 SCC (1) 14, JT 1994 (7) 183

⁶ Vishaka and others v. State of Rajasthan, AIR 1997 SC 3011

⁷ Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar, 1979 AIR 1369, 1979 SCR (3) 532

the country's prisons. The Court will change facts collected from citizens in the form of cards, letters, media reports, applications, etc., in a petition under Section 32 until the trial of Hussinara khatoon in 1979, the Indian justice system was accessible only those with locus standi, i.e. people affected personally. For the first time, the court allowed the lawyer to pursue a case in which he had no interest, and since then PILs have become an integral part of Indian law. PILs have become a channel ensuring justice for the poor affected by the program. In the Hussainara khatoon, the Supreme Court focused on Bihar subordinate cases. Who has been arrested while awaiting trial longer than the maximum sentence by their charges. The Court made the right to a speedy trial a priority for the case, too passed an order for the release of nearly 40,000 detainees otherwise the maximum time for their cases. The right to a fair trial is now recognized as a fundamental right of every defendant. It's a feature of the administration of justice. It is the constitutional obligation of the state to ensure security Article 21, and the right to a fair trial immediately falls short of its purpose. The Court ruled that the State you will not deny the right to a speedy trial of the respondent on the grounds that the state does not have enough financial services, in particular Justice Bhagwati said:-

“The State cannot avoid its constitutional obligation to prosecute immediately accused to admitting financial or administrative incompetence. The State is under the Constitution the authority to ensure a speedy trial and anything required for this purpose must be done State. It is

Also the constitutional obligation of this Court as the custodian of the case, to enforce the defendant's fundamental right to a speedy trial by issuing necessary directives to the State which include. Take positive steps, such as adding and strengthening investigative equipment, establishing new Courts, building new Court houses, providing additional staff and operation resources in the courts, the appointment of additional judges and other measures taken to ensure expedition case.”

This section above shows the importance and role of Public Interest Litigation in Public and state action. Supported by the Justice Department, it aimed to provide basic access to justice for the oppressed and those affected by the system, as in the case. The Court, thereafter, recommended to the state and the Federal Government, a legal service a system that guarantee free legal services, a bank with a State obligation under Article 39A emphasizing the importance of free legal service as part of 'eligibility, correct and 'correct' procedure. This was the birth of the Public Interest Litigation concept, which has already played an important role as a facilitator, as a tool and platform for achieving and achieving justice for many different

communities.

In words by Pushpa kapila Hingorani, the lawyer who initiated the Public Interest Litigation revolution, “The success of the Khatoon case was so great that the Supreme Court ruled in the 1980’s opened a new section in the Registry provided for Public Interest Litigation. The police was used to sifting through endless objects bombing of letters or requests from citizens every day and choosing the right one brought to Court.” Courts have relaxed the flow of court proceedings. Public Interest Litigation become part of a charitable organization, and help bring justice to many poor people once and for all vulnerable citizens.

In the case of **Lalit Valecha v. Union of India**⁸

The Public Interest litigation was filed in the Delhi High Court to direct news and TV channels to adhere to the Code of Ethics and Law while reporting critical content on the deaths and suffering of many people. Pray to stop the spread of evil by preventing media outlets from broadcasting the news. The petition also provided the reason that the freedom of speech and expression under Article 19 is not absolute. The list of complaints was dismissed by the bench, which said that reporting the death toll was not bad news.

In the case of **Rajeev Suri v. Delhi Development Authority**⁹

The appeal was filed with the Delhi High Court, but the Supreme Court appealed the decision. The petition challenged the existence of a Central Vista project and how approval had been obtained in terms of environment, heritage, and land use issues. It also called the issue extremely important to the political process.

The Supreme Court appealed and called this reckless use of the concept of Public Interest Litigation. It also emphasized the intention of the Public Interest Litigation by saying that the Public Interest Litigation was not intended to give the judiciary supreme authority over the day-to-day administration but to open the doors of the constitutional courts to those people who faced injustice and to protect their fundamental right.

⁸ Lalit Valecha vs Union Of India & Ors 2021 Caselaw 1352

⁹ Rajeev Suri v. Delhi Development Authority (civil) no. 230 of 2020

Laws Related To Public Interest Litigation Abuse:-

Claims of Public Interest may be lodged in the High Court and in the High Courts in the exercise of their jurisdiction under Article 32 and Article 226.

- Article 32 deals with the right of citizens to approach the Supreme Court against infringement of the rights conferred on Part III of the constitution, which may issue mandates, habeas corpus, certiorari, and quo-warranto as applicable in the case.
- Section 226 empowers the high courts to issue subordinate documents in cases of human rights violations mentioned in Part III of the Constitution.

Unexpected increase in high court activity: Public Interest litigation disrupt the normal functioning of the court leading to an increase in the number of pending cases in both the Supreme Court and the High Courts, resulting in overcrowding the legal system.

Process misuse: Public Interest Litigation is most misused when they have turned to litigation for private interests. It has led to the filing of irrational and violent complaints, which have been filed in court. Conflicts and conflicts with other spheres of government: A strong criticism of Public Interest Litigation is that through this forum it enters the realm of the Legislature and the Legislatures. Over the years, the aspect of PIL's social action has been refined and obscured by some form of "public court action" in the courts. In this type of case, court intervention is not required to enforce the rights of disadvantaged or poor people in the community, but to correct the actions or omissions of the executive or government officials or government departments or civil society.

Possible Reasons Why People Misuse Or Abuse The Concept Of Public Interest Litigation:-

A MODE OF ABUSE: - Many people have begun to use the Public Interest Litigation as a tool to register false abuse cases. This has become easier as it is cheaper to file a Public Interest Litigation, compared to a private trial. The ease of having a locus standi has led people to place their private interests as public interests. People have begun to abuse Public Interest Litigation in order to solve personal problems and pursue political or business interests. The court warned that Public Interest Litigation should be considered a "public interest case" and not a "private interest case".

THE PROFESSIONAL PUBLIC INTEREST LITIGATION STORES: - The attorney general, Tushar Mehta, called the PILs, "professional PILs stores" and demanded that they be demolished. He said in order to get answers to the illegal Public Interest Litigation, government officials end up wasting their valuable time and this could be dangerous for the country. One day, he also referred to himself as "applications that generate employment" in which the court should not waste time.

IN SOME CASES MISUSE OF PUBLIC INTEREST LITIGATION: - Public interest litigation is a powerful tool for law enforcement and accountability and transparency within the governing body. An important part of Public Interest Litigation real complaint is that the person dismissing the court has no personal interest in the outcome of the trial, other than appearing in court.

“Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged.”

- Justice Dalveer Bhandari¹⁰

¹⁰ State of Uttaranchal v. Balwant Singh Chaufal, (2010) 3 SCC 402.

**In Some Case Letters Or Complaints That Fall Under The
Following Categories Alone Shall Be Deemed To Be The Tribunal:-**

- Imprisoned Personnel Issues
- Neglected Children
- Non-payment of minimum wage to employees and exploitation of temporary employees and grievance redundancies.
- Claims for prisons complaining of abuse and seeking release after 14 years in prison, death in prison, transfer, release on personal bond, immediate trial FN.
- Complaints involving the police for refusal to register a case, police harassment and death in police custody.
- Applications that include violence against women, especially bride abuse, bribery, rape, murder, kidnapping and more.
- Complaints involving complaints of harassment or harassment of citizens through citizens or by police from members of the Seduced Caste and Organized Nations and classes of economically disadvantaged persons.
- Applications including pollution, environmental disturbances, drugs, food resistance, heritage conservation, archeology, forestry, wildlife and other public affairs.
- Demand requests – victims
- Family pension

All letters or applications found in the Public Interest Litigation Cell will be considered in advance and only those appeals as set out in the aforementioned categories shall be made before the Judge regarding the appointment of the Honorable Chief Justice of India to direct thereafter. a case to be filed before the appropriate bench.

The following are matters that fall under these categories will not be considered as a Public Interest Court and may not be referred back to the plaintiffs or placed in Public Interest Litigation custody, as the case may be:

- Landlord news
- Service issues and those related to Pensions and Withdrawal Fees
- Complaints against Central / Regional Government Departments and local authorities other than those related to the above

- Access to the clinic and to others
- Early appeals to the High Courts and the Low Courts

Remark Of Hon'ble Judges And Supreme Court On Public Interest Litigation:-

CHIEF JUSTICE NV RAMANA:-

“He expressed concern frivolous litigations in court and said the concept of Public Interest Litigation has now turned into Personal Interest Litigation and is at times being misused to stall projects or put pressure on public authorities.”

- Supreme Court has warned that the court will have the power to set exemplary compensation for parties abusing Public Interest Litigation. In addition, the party bringing Public Interest Litigation to court must establish a case before the court, before the court can take the case to proceed.
- The court also started establishing Audit Committees comprising of community-based lawyers, social workers etc. to consider the Public Interest Litigation filed and to submit a report to the court stating the suitability of the case if there is anything that saves valuable court time. In this case, the court has been assisting Amicus Curiae (a friend of the court). The Supreme Court also warned the high courts to be cautious while taking the PIL that it should not interfere in management policy matters. The High Court has made guidelines outlining the process and matters, which may be accepted as a Public Interest Litigation.

Many times, lawyers, and more recently, law students have tried to use Public Interest Litigation for publicity. The court on various occasions has called these "public issues". The court emphasized how such requests instead of fulfilling the purpose of the Public Interest Litigation harm the community. Not to be outdone by quoting Cunningham, India's Public Interest Litigation could be Phoenix: a new art from the ashes of the old system.

The Public Interest Litigation represents the first attempt by a growing legitimate country to rebel against official imperialism that has been going on for centuries. It contradicts the view

that the more western law, the better off economic and social development the law produced in developing countries, including India, the development of underdeveloped men.

The transition from legal jurisdiction to legal jurisdiction resulted in frustration with the legal system. In India, however instead of seeking to change the way justice was distributed it removed the official system itself through the Public Interest Litigation. The change as we have seen, is great and orderly. It has greatly changed the role of the law so that the court can bring justice by reaching out to the common man.

Conclusion:-

“This question is of immense importance in a country like India where access to justice being restricted by social and economic constraints, it is necessary to democratise judicial remedies, remove technical barriers against easy accessibility to justice and promote Public Interest Litigation so that the large masses of people belonging to the deprived and exploited sections of humanity may be able to realise and enjoy the socio-economic rights granted to them and these rights may become meaningful for them instead of remaining mere empty hopes.”

- Justice P.N. Bhagwati¹¹

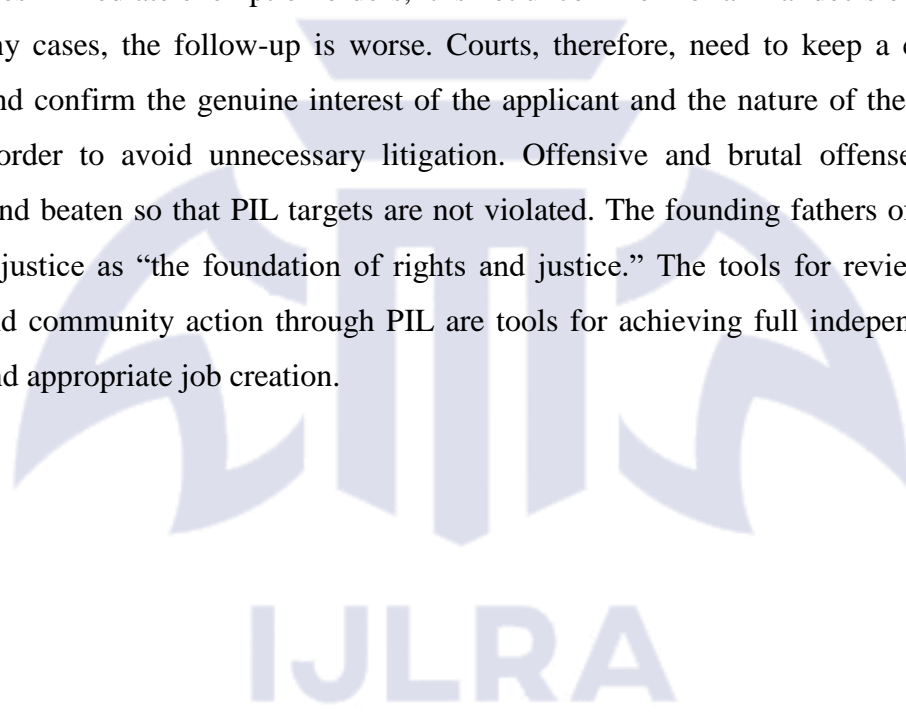
It is humbly submitted that Public Interest Litigation is in the testing phase. Many shortcomings in handling case types may emerge. But these shortcomings can be eliminated by establishing better strategies. In fact, the Public Interest Litigation is developing a new state account for constitutional and legal violations that adversely affect the interests of vulnerable sections of society. We can conclude with the hope once expressed by Justice Krishna Iyer, the Justice Department receives its highest bonus when its orders wipe away the tears from other eyes.

Public Interest Litigation additionally empower civil society to play good role in spreading awareness concerning human rights , in raising voice to the marginalized sections of the society, and in granting their support in the deciding process.

Public Interest Litigation is therefore a way to help the poor get justice. The introduction of this official tool proved to be beneficial in a developing country like India. Public Interest

¹¹ S. P. Gupta v. Union of India AIR 1982 SC 149

Litigation has been used as a strategy to combat the atrocities that exist in society. It is not fair to conclude by quoting Cunningham, "Indian Public Interest Litigation may be Phoenix: a new art from the ashes of the old system." The great power of the judiciary must be used to benefit the community and at all times to have the public interest in serving the people. To prevent absurd cases with proper entry testing and immediate dismissal is the key solution. The justice system cannot lack integrity beyond the view that its order can be undermined without punishment. This court should refrain from passing orders that could not be enforced, no matter what the fundamental right and good reason was. It is useless to issue high profile mandamus or an announcement that can only remain on paper. Although the Supreme Court usually issues immediate exemption orders, it is not uncommon for a final decision to be made, and in many cases, the follow-up is worse. Courts, therefore, need to keep a check on the litigation and confirm the genuine interest of the applicant and the nature of the cause of the action, in order to avoid unnecessary litigation. Offensive and brutal offenses should be identified and beaten so that PIL targets are not violated. The founding fathers of our country thought of justice as "the foundation of rights and justice." The tools for reviewing justice, activism and community action through PIL are tools for achieving full independence of the judiciary and appropriate job creation.



BIBLIOGRAPHY

1. <https://blog.ipleaders.in/abuse-of-the-concept-of-pil-in-recent-years-with-examples-of-case-laws/#:~:text=People%20have%20started%20misusing%20the,a%20%E2%80%9Cprivate%20interest%20litigation%E2%80%9D.>
2. <https://www.legalserviceindia.com/article/1469-Public-Interest-Litigation.html>
3. <https://blog.ipleaders.in/use-abuse-public-interest-litigation/>
4. <https://www.legalserviceindia.com/article/1469-Public-Interest-Litigation.html>
5. http://www.legalservicesindia.com/articles/pil_ind.htm
6. <https://www.ijlmh.com/wp-content/uploads/Public-Interest-Litigation-An-Abused-Jurisprudence.pdf>
7. <https://www.estartindia.com/knowledge-hub/blog/misuse-of-public-interest-litigation>
8. <https://www.barandbench.com/columns/litigation-columns/central-vista-supreme-court-misuse-pil-transferring-case-delhi-high-court-public-interest>
9. <https://indianlawportal.co.in/misuse-of-public-interest-litigation/>
10. <https://www.edexlive.com/news/2022/may/14/whatthefaq-has-the-public-been-misusing-the-pil-system-28842.html>
11. http://www.legalservicesindia.com/articles/pil_ind.htmL.

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