

Legal News & Views Magazine, 01 Dec 2007

Public Interest Litigation

Q, What is the meaning of "Public Interest Litigation" (PIL)?

A. it means "a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected," (From the S.C. judgement in Janata Dal vs. H.S. Chowdhury, 1982).

PIL is a "strategic arm" of the legal aid movement and is intended to bring justice within the reach of poor masses. It is a device to provide justice to those who individually are not in a position to have access to the courts. It was initiated for the benefit of a class of people, who had been denied their constitutional and legal rights because they were unable to have access to the court on account of their socio-economic disabilities.

"Millions of persons belonging to the deprived and vulnerable sections of humanity are looking to the courts for improving their life conditions and making human life meaningful for them. The time has now come when the courts must become the courts for the poor and struggling masses of this country. Fortunately, this change is gradually taking place and Public Interest Litigation is playing a large part in bringing this change." [AIR 1982 SC 1473]

Origin of PIL

Q. From which country did the term "Public Interest Litigation" originate?

A. The term "PIL" originated in the United States in the mid-1980s.

Q, How did it develop in that country?

A. Since the nineteenth century, various movements in that country had contributed to public interest law, which was part of the legal aid movement. The first legal aid

office was established in New York in 1876. In the 1960s the PIL movement began to receive financial support from the office of Economic Opportunity, This encouraged lawyers and public spirited persons to take up cases of the under-privileged and fight against dangers to environment and public health and exploitation of consumers and the weaker sections.

History of PIL in India

Q. When did PIL movement begin in India?

A, PIL had begun in India towards the end of 1970s and came into full bloom in the 80s.

Q. Who had initiated it?

A. Justice V.R. Krishna Iyer and Justice P.M. Bhagwati, honourable Judges of the Supreme Court of India. They delivered some landmark judgements which opened up new vistas in PIL.

Objectives of PIL

Q. What is the objective of PIL?

A. According to Justice V.R. Krishna Iyer, PIL is a process, of obtaining justice for the people, of voicing people's grievances through the legal process. The aim of PIL is to give to the common people of this country access to the courts to obtain legal redress.

Nature of PIL

A. According to Justice Bhagwati "PIL is not in the nature of adversary litigation but it 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 significant tune of our Constitution. The government and its officers must welcome PIL because it would provide them an accession to examine whether the poor and the downtrodden are getting their

social and entitlements or whether they are continuing to remain victims of deception and exploitation at the hands of strong and powerful sections of the community... when the court entertains PIL, it does not do so in a caviling spirit or in a confrontational mood or with a view to tilting at executive authority or seeking to usurp it, but its attempt is only to ensure observance of social and economic rescue programmes, legislative as well as executive, framed for the benefit of the have-nots and the handicapped and to protect them against violation of their basic human rights, which is also the constitutional obligation of the executive. The court is thus merely assisting in the realization of the constitutional objective," (AIR 1984 SC 802)

Constitutional Backing

- Q. What gave the present movement of PIL a radical social dimension?
- A. The new and liberal interpretation of the fundamental rights found in Part III and the Directive Principles of State Policy in Part IV of the Constitution of India. They are drawn from the revolutionary documents like the American Bill of Rights and the Universal Declaration of Human Rights.
- Q. Which are the Articles of the Constitution that give power to any citizen to move the Supreme Court or High Courts wherever there is an infringement of a fundamental right?
- A. Articles 32 and 228 of the Constitution.

Issues Related to PIL

- Q. What sort of issues can be taken for PIL?
- A. Matters related to -
1. Basic amenities such as roads, water, medicines, electricity, primary school, primary health centre, bus service, etc,
 2. Rehabilitation of displaced persons.
 3. Identification and rehabilitation of bonded and child labourers.
 4. Illegal detention of arrested persons.
 5. Torture of persons in police custody.

6. Custodial deaths.
7. Protection of prisoner's rights.
8. Jail reform.
9. Speedy trials of undertrials.
10. Ragging in colleges.
11. Atrocities by police.
12. Atrocities against SCs/STs.
13. Neglect of inmates of government welfare homes,
14. Children in custody.
15. Adoption of children.
18. Corruption charges against public servants.
17. Maintenance of law and order,
18. Payment of minimum wages.
10. Legal aid to the poor.
20. Starvation deaths.
21. Indecent television programmes.
22. Prohibition.
23. Environmental pollution.
24. Unauthorised eviction,
25. Protection of pavement and slum dwellers.
28. Dowry deaths.
27. Implementation of welfare laws.
28. Reform of illegal social customs such as sati, child marriage, devdasi system, etc.
29. Violation of fundamental rights of the weaker sections.

Different Ways of Filing PIL

- Q. What are the different ways PIL can be filed in the Supreme Court and High Courts?
- A. *
- * Sending letter petitions with relevant facts and documents to the Chief Justice of the concerned court. The matter must be sent by registered post.
 - * By directly filing the PIL in the court through the Free Legal Service Committee of the court.
 - * Directly filing the case with the help of any PIL lawyer,
 - * Filing the case through NGOs or PIL firms.

Points to be Followed when Filing PIL

1. Discuss the legal issue with the affected people thoroughly.

2. Find out whether the matter infringes on the fundamental rights of the people or not. It is also important to specify which fundamental rights have been violated.
3. Help the people to decide whether legal action must be taken in the court to enforce their rights or to prevent the violation of their rights.
4. Write out a petition with all the facts and details, dates, etc,
5. Specify in the petition the type of relief wanted by the people.
8. Get the signatures of all the affected people, if possible.
- 7, Collect all the available documents, paper clippings, photographs, investigation reports, certificates and affidavits related to the issue and attach them to the main petition as annexures.
8. If possible, consult a socially conscious lawyer or the members of the local legal aid society before sending the petition.
- 9, Send the registered petition to the Chairman of the High Court Legal Services Committee of the respective High Court or to the Chairman of the Supreme Court Legal Services Committee, New Delhi-110 001.