

A term paper on
Public Interest Litigation

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« Injustice Anywhere Is Threat To Justice. » – Martin Luther King Jr.

Principally, the Rule of law is an integral piece of any democratic social structure wherein the privileges of the resident are taken into consideration by an autonomous, free and fair judicial forums. In this manner, within any majoritarian society, access of citizens to justice and equity is the insurance against any infringement of the true pith and substance of any democratic system. As of late, the adjudicatory framework has fallen prey to a tardy and extensive procedure which has taken an overwhelming toll on the underprivileged section and marginalized communities of the society, explicitly when it comes to access of justice. After the 'coming of age' of the Indian economy and the subsequent institution of the goals of "Liberalization, Privatization and Globalization" by the legislature, there has been a graphical increase in the administrative power and obligation as the possibility of the welfare state is

ending up to be conspicuous. This involves a large interference of the Executive in different facets of human life and leaves no side of individual life truly free. Consequently, because of this phenomenal and overwhelming change in the political and socio-economic purview of the Indian governing structures, the judicial bodies have also taken up new roles and responsibilities.

One of the main aims of 'law' is to attain equity and justice in the society and Public Interest Litigation is one such tool developed by the judiciary in India to achieve this objective. For example, a litigation which focuses not on the vindicating private rights but on the matters of general public interest extends the reach of the judicial system to the disadvantageous section of the society. The term "Public Interest" signifies a larger interest of the masses and prosperity of the citizen's alongwith the word 'litigation' which denotes a formal court procedure to seek remedial measures and pursuance of rights. Until the emergence of the PIL, justice was a remote

reality for the underprivileged section of the society. This was largely due to three major problems; first being, lack of awareness among the people; secondly, lack of assertiveness due to their socio-economic status and thirdly, lack of an effective machinery to give them legal aid. Further, the reinterpretation of the concept of locus standi by the Apex court has removed the major obstacles faced by the poor and paved the way for easy access to justice. If one looks at the traditional interpretation of the locus

, Mr A.S. Anand that “Care has to be taken to see that PIL essentially remains Public Interest Litigation and does not become either Political Interest Litigation or Personal Interest Litigation or Publicity Interest Litigation or used for persecution.”¹

In PIL application the court has to analyse the ground reality besides the petitioner’s statement.²

PIL is not taken as a binary conflict by the court³.

What is not PIL?

PIL is not Publicity Interest Litigation.

PIL is not Purse Interest Litigation.

PIL is not Prestige Interest Litigation

PIL is not Private Interest Litigation.

Landmark decision of Supreme Court in PIL Cases:

Radhesyam Adhikari Vs. OPMCM:

This case is related to the appointment of ambassador. King Birendra appoint the ambassador without the consultation of council of minister and a PIL was filed in this issue. This case established the criteria for locus standi of PIL cases. It stated that the person filing PIL cases should have Substantive Interest and Meaningful Relation with such case.

Surya Prasad Dhungel Vs Godawari Marble:

This PIL case has helped in protection of environment. Later continuous mandamus has been issued on the very issue.

Yogi Narahari Nath Vs PM Girija Prasad Koirala:

This PIL case is important as the cultural heritage of Devghat and the nearby forest were protected through the issuance of directive order and mandamus.

Achyut Prasad Kharel Vs OPMCM: ⁴

¹ Faqir Hussain, PUBLIC INTEREST LITIGATION (1993). accessed February 4, 2018;

² [Anananda Mohan Bhattarai’s Opinion *10547 at para.4 at page 1480.]²

³ [Anananda Mohan Bhattarai’s Opinion *10547 at para 6, pg:1481]

⁴ This case is related to the protection of Yak. D.NO. 9982

In this case SC held that Substantive Interest and Meaningful Relation in not sufficient criteria for locus standi of PIL Cases. The court seeks the deep study and analysis and also expects that litigator should continuously help the court to reach the decision in PIL Case. Filing the PIL case doesn't mean that the litigator has fulfilled his duty and all the task is on the head of the court.

Conclusion:

Every century has its challenges but the twenty first century has been facing a new challenge known as environmental degradation. Environment has come to occupy the important position in the agenda of governments worldwide. During the latter half of the 20th century, it has been realized by the world that a deep and profound relation exists between the environment on earth and the activities of human beings. The present study deals with the concept of environment protection as enshrined in international environmental law and national laws with reference to their compliance in Indian legal set-up. India being the largest democratic nation of the world and having adopted the welfare policy for its citizens, it is an obligation of the state to protect the natural environment.

Mere initiation of any social and economic salvage programmes by the executive and legislature would not be enough and it is only through strategies including Public Interest Litigation that these social and economic rescue programmes could be made effective. Public Interest Litigation is essentially a co-operative or collaborative effort on the part of the petitioner, the state or public authority and the court to claim the fundamental rights enshrined in the constitution or legal rights as to benefits and privileges conferred upon the vulnerable sections of the community and to reach social justice to them. Public Interest Litigation would in fact, provide an opportunity to pollution free environment or to redress an injustice done to the poor and weaker sections of the community

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