

Public Interest Litigation in India

[UPSC Notes]

What is Public Interest Litigation?

The concept of Public Interest Litigation first originated in the United States of America in the 1960s.

- In the USA, it was designed to provide privilege to underrepresented groups and provide them with legal representation.
- In India, Public Interest Litigation was introduced by Justice VR Krishnan Iyer and Justice PN Bhagwati in the 1980s.
- PIL is also called SAL (Social Action Litigation), SIL (Social Interest Litigation), and CAL (Class Action Litigation).

Features of Public Interest Litigation

The following are the features of Public Interest Litigation:

- Public Interest Litigation is a government tool that helps to bring justice to that mass of society that is in the low visibility area of humanity.
- Public Interest Litigation is an entirely different concept from the ordinary litigation process where two parties fight against each other by filing complaints opposing and resisting each other for relief.
- The process of filing Public Interest Litigation does not work for any individual person, but it promotes and vindicates the public interest.
- The demand of Public Interest Litigation is that whichever section of society is left behind that is in an economically disadvantaged position or ignored at the last level should not go unaddressed or unnoticed.
- In Public Interest Litigation, the role played by the courts is more assertive than in any other traditional legal action.
- There is no determination on the adjudication of single person rights in Public Interest Litigation, as there is in the traditional dispute resolution mechanism.

Scope of Public Interest Litigation

The Supreme Court of India formed a certain set of guidelines in 2003 that words to be considered as the petitions or letters that follow under the categories mentioned below will be entertained as Public Interest Litigation. -

- Bonded labor matters
- Neglected children
- Non-payment of minimum wages to workers
- The exploitation of casual workers and complaints of violations of labor laws
- Petitions against the police for refusing to register a case
- Harassment by the police or death in police custody
- Petitions complaining of harassment of villagers by other co-villagers or by the police
- Petitions from riot victims
- family pension

There are also certain lists of cases that cannot be considered for filing Public Interest Litigation. These are:

- Landlords and tenants' matters
- Complaints against the central or state government departments and local bodies
- Regarding student admission to medical or other educational institutions
- Petitions for early hearing of cases pending in the High Courts and sub-courts

Guidelines for Admitting Public Interest Litigation

With the advent of Public Interest Litigation in the knowledge of the common people, it has become an increasingly important field in the administration of law. Public Interest Litigation is a very sensitive matter, and it should not be spoofed with private or political interest litigation.

Therefore, to avoid such things, the Supreme Court of India has observed that *"Public Interest Litigation" is not a pill for all the wrongs. It was essentially meant to protect the basic human rights of the weak and disadvantaged and was a procedure that was innovated where a public-spirited person files a petition in effect on behalf of such persons who, on account of poverty, helplessness, or economic and social disabilities, could not approach the court for relief. Therefore, there is a need to re-emphasize the parameters within which PIL can be resorted to by a petitioner and entertained by the court.*

The Supreme Court of India has laid down certain guidelines to be followed for filing and avoiding the misuse of PIL.

1. The code should encourage bonafide PIL and discourage the PIL fields for extraneous considerations.

2. Instead of each judge developing his or her own procedure for dealing with PILs, it would be ideal for each High Court to develop some rules to encourage genuine PIL filing and to remove PILs filed with oblique motives.
3. The concerned code should, first of all, verify the credentials of the petitioner before proceeding with the filed Public Interest Litigation.
4. Before entertaining and proceeding with the hearing for PIL, the court should be satisfied with the correctness of the petition's content.
5. Also, the code should be completely satisfied that the public interest is involved in the field petition of PIL.

Who Can File the PIL?

- The PIL can be filed by anyone in the Supreme Court of India under Act 32 of the Indian Constitution, the High Courts of India under Act 226 of the Indian Constitution, and the District Court under Act 133 of the Indian Constitution.
- Before filing the writ, it should be taken into consideration that it fulfills the basic requirements of a letter by the aggrieved person. The aggrieved person should be a public-spirited individual or a person who on the behalf of a community is not able to approach the court for addressing.
- Public interest litigation can be easily found against the municipal authorities and any of the governments ruling the state or center. However, it cannot be filed against any private party.

Strength and Weaknesses of PIL

PIL is an important instrument that helps to upgrade the marginalized section of society by providing them legal assistance. There are certain strengths and weaknesses of PIL.

Strengths of the PILs-

- The public interest litigation allows the common people access to the higher and supreme courts in India.
- PIL helps to maintain the rule of law and fosters the balance between the law and Justice.
- The prime and important function of public interest litigation is to provide access to justice to every marginalized section of society.
- PIL maintains the monitoring of important institutions like protective homes, mental asylums, and prisons.
- With the introduction of PIL, the public have greater access to the Judicial review of administrative actions.

Weakness of the PILs-

- There are chances of arousal of the competing rights issues due to PIL actions. For instance, in the case of a court ordering the closure of the poultry industry the interest of the workers and families might not be considered.
- This could lead to frivolous PIL being filed by the parties having vested interest in overburdened courts. This is because in today's world the PILs are mostly used for political and personal benefits.
- Through the PIL overheating by the Judiciary can be brought to light in relation to the social-economic or environmental issues.
- For many years PIL has been pending in regard to exploited and backward groups. Because of this, it is also possible that many pending judgments may be only of academic importance due to the excessive delays in the disposal of public interest litigation cases.

Public Interest Litigation- Way Forward

- PIL is an important tool in the judicial system as it is the road to providing justice for the marginalized society as well as those who have not been allowed to access their rights themselves.
- In order for the Judiciary to find a balance, it is important to allow the real PIL while discouraging the frivolous once that can be accomplished by restricting the PILs to the situation where access to justice has been hampered.
- Additionally, it may be worthwhile to consider offering financial incentives for legitimate pillow suits such as Pro bono litigation, support for PIL civil society, legal assistance, and amicus curiae briefs.