



## **PUBLIC INTEREST LITIGATION FOR SOCIAL JUSTICE AND ACCESS TO JUSTICE**

**Dr. Girish.R**

Assistant Professor of Law, Gujarat National Law University, Gandhinagar.

### **ABSTRACT**

*Public interest Litigation is a means by which justice percolates down to the masses and made more accessible and available to the poor and victims of injustice. It is a tool for the court not for the purpose of enforcing right of one individual against another but it is intended to vindicate public interest which demand that large number of people who are poor and ignorant, socially and economically in disadvantageous position are protected against violation of constitutional or legal rights.*

### **Introduction**

Prior to the advent of the judicial mechanism of granting relief and ensuring justice to the aggrieved persons through Public Interest Litigation, persons with legitimate claims were excluded from seeking redressal of their grievances in the courts due to many reasons. Firstly there was lack of awareness of their rights and entitlements. Secondly, there was general lack of trust in law due to sharp increase in unlawful activities. Gradually people were losing trust especially in lawyers, due to their common parasitic impression and delaying tactics. Thirdly there was fear of institutional and police repression and oppression. Fourthly, services of the

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lawyers were proving to out to be too expensive for them to bear. Fifthly, if the issues were politically controversial or unpopular, no lawyers were willing to take up the matter. And lastly due to traditional conceptions as lack of standing to sue or exhaustion of alternative remedies they could not have access to the courts. Accordingly, the only proper forum where in they could assert their rights was in accessible to them for one or other reasons.

The Public Interest Litigation (PIL) is a device of Indian judiciary to help the poorest of the people to get freedom and liberties enshrined as fundamental rights under the Constitution of India. It was achieved as liberalizing the principle of *Locus- Standi* in such category of cases. The honorable Chief Justice of Supreme Court of India, Justice Bhagavathi viewed it as preferential treatment of Indian Judiciary, for the poor and the disadvantaged, which is essential in the socio- economic scenario. In *Judges Transfer case*, it was observed by Bhagavathi, J, “It is a new jurisprudence which demands judicial statesmanship and high creative ability. The frontiers of public are expanding far and wide and new concepts and doctrines which will change the complexion of the law and which were so far embedded in the womb of the future are beginning to be born”<sup>1</sup>

### **Origin and Development of Public Interest Litigation**

Public interest Litigation is the strategic arm of the legal aid movement and aims at bringing justice within the reach of the poor people vulnerable masses and helpless victims of injustice, advocated by Justice Bhagavathi of the Supreme Court of India.<sup>2</sup> It brings justice to the door steps of the weak, the unorganized and exploited sections of the society who have no access to the courts because of the prohibitive cost of litigation. Public interest Litigation is a means by which justice percolates down to the masses and made more accessible and available to the poor and victims of injustice. It is brought before the court not for the purpose of enforcing right of one individual against another but it is intended to promote and vindicate public interest which demand that violation of constitutional or legal rights of large number of people who are poor and ignorant, socially and economically in disadvantageous position. Such people’s rights should not go un-noticed or un-redressed. Public Interest Litigation which means “litigation in the interest of the public” entered the judicial process in 1970. This type of litigation was innovated

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<sup>1</sup> S.P Gupta and Ors v Union of India, AIR 1982 SC 149

<sup>2</sup> Peoples Union of Democratic Rights v Union of India, AIR 1982 SC 1473

by judges to provide “equal access” to the judicial process to those who could not come to Court for the vindication of their rights due to socio-economic handicaps. PIL is basically concerned with the issues relating to infringement of legal and Fundamental Rights of poor masses by the agencies of the state and offers available strategy improving lives of the disadvantaged persons of the society through judicial process.

Supreme Court after the trauma of emergency realized the need to establish rule of law were court was no longer willing to content itself with the problems of rich and elite. The Court appeared to evince greater concern for the problems of the ordinary people and became more concerned with real practical justice than abstract legal justice. It was ready to be involved in the problems of pavement dwellers, retrenched employees, and unemployed unfortunates, victims of poison, pollution floods and devastation, destitute women, bonded labour and prisoners, besides problems of education, sanitation, environment and public Interest.<sup>3</sup> Therefore PIL is not a litigation of adversary character it is a challenge and an opportunity to the Government and its officers to make basic Human Rights meaningful.

The concept of Public Interest litigation was laid down by the genius of Justice Krishna Iyer in the well known case of *Municipal Council, Ratlam v Vardichand*.<sup>4</sup> In this case the residents of Ratlam Municipality affected by miserable stench and stink caused by open drains and the use of public roads as public lavatories by the people living in streets and others who were not facilitated with public toilets by Municipality. The miseries of the people were further increased by the discharge of aromatic fluids into the public streets from the alcohol plant. The claim made by citizens of Ratlam Municipality to invoke Section 133 of Code of Criminal Procedure, 1973 to make Municipality liable for nuisance got its approval through the establishment of Public interest Litigation by Court. The Court held “The Magistrate’s liability under section 133 Cr. P.C is to order removal of such nuisance within a reasonable time to be affixed in the order. This is a public duty implicit in the public power to be exercised on behalf of the public and pursuant to a public proceeding”. The new Social Justice orientation imparted to them by the Constitution of India makes it a remedial weapon of versatile use. Social Justice is due to the people and, therefore, the people must be able to trigger off the jurisdiction vested for their benefit in any

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<sup>3</sup> Chinnappa Reddy O, *The Court and the Constitution of India Summits and Shallows*, (Oxford, 2008) p. 261

<sup>4</sup> AIR 1980 SC 1622

public functionary like a Magistrate under Section 133 of Cr.P.C. In the exercise of such power judiciary must be informed by the broader principle of access to justice necessitated by the conditions of developing countries and obligated by Article 38 of the Constitution. Court held that public duties are owned not by any individual but by the public, therefore, for the enforcement of any public duty any public-spirited person will be granted standing. Supreme Court issued directions to the municipal council in PIL petition to construct public conveniences and drains etc. and to keep the streets clean.

The strategy of PIL has been evolved by the courts with a view to bring justice within the easy reach of the poor and disadvantaged section of the society. The major purpose of PIL is to ensure that there is observance to the provisions of the Constitution. People must be sensitized and there must be realization about social justice. This new change can be achieved if the judicial system is an effective instrument of social justice. The change is gradually taking place and PIL is playing a large part in bringing problems of the poor.

### **Constitutional foundation of PIL**

It may be pointed out that in PIL the court is not exercising any extra-constitutional jurisdiction as this strategy is firmly rooted in Articles 14 and 21 of the Constitution. Article 14 provides protection against all arbitrariness and lawlessness in administrative actions and Article 21 provides for the protection of life which embodies everything that goes for a dignified living including rightful concerns of others. It also encompasses violations of various directive principles of state policy in the Constitution which are for the benefit especially of the weaker sections of society.

The Constitution equips High Courts under Article 226 and the Supreme Court under Article 32 with power to issue writs of the nature of habeas corpus, mandamus, prohibition, certiorari and quo warranto. The power of Supreme Court under article 32 is to be used for the enforcement of fundamental rights which are guaranteed by the constitution. High Courts have the power to issue such writs not only for the enforcement of the fundamental rights but for other purposes.<sup>5</sup>

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<sup>5</sup> Sathe S.P, *Administrative Law*, 7<sup>th</sup> edn., 2004

The rights to be enforced through such writs must be against the state, except in cases of the writ of habeas corpus, which may be issued even against a private person who might detain another person illegally. Article 226 empowers the High Courts to issue writs in the nature of habeas corpus, mandamus, prohibition, certiorari and quo warranto, or any of them, for enforcement of any fundamental rights or any other purpose. It has been held that words ‘for any other purpose’ mean for enforcement of any statutory or common law rights.<sup>6</sup> Public Interest Litigation provides for an exception where a stranger to the case is allowed to approach court. Public Interest Litigation is litigation by a public spirited person who is espousing some social cause, or a case in which a section of the society, especially some disabled, weak, or illiterate section of the society, may be interested but who cannot, because of their ignorance or poverty, take action themselves.

### ***Locus Standi* in public Interest Litigation Cases**

The traditional view of *locus standi* speaks that only an aggrieved person could approach court for redressal of his grievances under Article 32 or 226.<sup>7</sup> The view of *locus standi* provides that only a person whose legal rights are directly as well as substantially injured can approach the court. In *Madan Gopal Rungta*,<sup>8</sup> the Supreme Court held ‘the existence of the right is the foundation of the exercise of jurisdiction of court under the article’ and in *Calcutta Gas Co. Ltd.*,<sup>9</sup> held that the right could be enforced under Article 226 must be the individual right of the petitioner. Concept of *locus standi* in PIL has been developed by the court by lowering the threshold level of *locus standi*. The traditional view of *locus standi* was that only an ‘aggrieved person’ who has personally suffered a legal injury by reason of violation of his right or legally protected interest can file a suit for the redress of his grievance.<sup>10</sup> This was the highly restrictive and individualistic view of Anglo- Indian mould which did not suit to the needs of the present day society and therefore, the phrase has liberally been interpreted in the field of PIL to allow standing to any *pro bono publico*.<sup>11</sup> Thus, interpreted the rule of *locus standi* and has been made broad-based and people-oriented to allow access to justice through ‘class actions’;

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<sup>6</sup> *Calcutta Gas Co. Ltd. v State of West Bengal*, AIR 1962 SC 1044

<sup>7</sup> Constitution of India

<sup>8</sup> *State of Orissa v Madan Gopal Rungta*, AIR 1952 SC 12

<sup>9</sup> *Calcutta Gas Co. Ltd. v State of West Bengal*, AIR 1962 SC 1044

<sup>10</sup> *S.P.Gupta v Union of India*, (1981) Supp SCC 87

<sup>11</sup> *Ibid*

‘representative actions’ and ‘public or social action litigation’ so that justice may become easily available to the lowly and lost.<sup>12</sup> Courts now have travelled long distance from ‘personal injury’ standing to ‘public concern’ standing in order to allow access to public-spirited individuals, groups and organisations on behalf of those who because of their poverty, illiteracy and ignorance cannot come out before the court and thus continue to suffer in injustice and deprivation.

The doctrine of *locus standi* was meant to maintain a minimum level of court cases and to prevent a plethora of suits. Since litigation is a time and resources consuming process, one might assume that no one would approach court unless they are genuine about the cause. It was also felt that many administrative lapses will go without a remedy if no one has *locus standi* to challenge the same. Hence, Supreme Court developed the concept of Public Interest Litigation, to liberalize the traditional concept of *locus standi*.<sup>13</sup>

The Supreme Court provided following justification for diluting the rigors of *locus standi* rule: if an administrative action causes no specific legal injury to a person, or to a group of persons or class, but does so only to public interest, then the question is as to who can maintain an action for vindicating the rule of law, and setting aside the unlawful action or enforcing the performance of public duty.<sup>14</sup>

The strategy of PIL was devised for increasing citizen’s participation in the judicial process for making access to the judicial delivery system to one who could not otherwise reach court for various reasons. Thus, any member of the public having sufficient interest can maintain an action for public injury. This is absolutely necessary for maintaining rule of law, furthering the cause for justice and accelerating the pace of realisation of the constitutional objectives. However, it is equally necessary that any busy body or meddlesome interloper who masquerades as crusader of justice should not be allowed to abuse the process of the court for improper motives. Thus, court will not allow that its process be obstructed or polluted by unscrupulous litigants for oblique reasons under the garb of public interest litigation.<sup>15</sup> *Locus standi* in Public Interest Litigation

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<sup>12</sup> People’s Union for Democratic Rights v Union of India, (1982) 3 SCC 235

<sup>13</sup> Jain M.P & and Jain S.N, *Principles of Administrative Law*

<sup>14</sup> Ibid.

<sup>15</sup> Janata Dal v H.S.Chowdhry, (1992) 4 SCC 305; S.P.Gupta v Union of India, (1981) Supp SCC 87

thus will not be lightly allowed to anyone to litigate in the name of public interest to cause damage to others.

### **Ramification of Public Interest litigation**

Public Interest Litigation provides for an exception where a stranger to the case is allowed to approach court. Public Interest Litigation is litigation by a public spirited person who is espousing some social cause, or a case in which a section of the society, especially some disabled, weak, or illiterate section of the society, may be interested but who cannot, because of their ignorance or poverty, take action themselves.<sup>16</sup> In *Malik Brothers v Narendra Dadhich*,<sup>17</sup> the Apex Court clarified beyond doubt that standing in PIL is to be judged keeping in view the purpose of the petition. Purpose of the petition should be the betterment of the society and not individual benefit, so that, this strategy is not allowed to degenerate into personal, publicity or political action litigation. According to the Court, the real purposes of PIL are vindication of Rule of Law, facilitating effective access to justice to socio-economic weaker sections of society, meaningful realisation of fundamental rights. In other words the PIL petition can be entertained for redressing public injury, enforcing public duty, protecting socio-economic rights of weaker sections and vindicating public interest.

In *Malik Brothers v Narendra Dadhich*, petitioner had purchased a land by auction but as he failed to deposit the amount as stipulated, his security deposit was forfeited. His prayer for referring the case to arbitration was accepted. Nevertheless, he came before the Court in PIL in his capacity as a tax payer for quashing the award. The Court also observed that PIL cannot be filed in the first instance unless all the alternative remedies have been exhausted so that the time of the Court is not wasted. Whether the person who is himself not a candidate for the post can challenge the appointment to certain posts under the government by way of PIL on the ground that appointments were secured on the basis of forged experience certificates? This question was left open by the Court.<sup>18</sup>

Any public spirited citizen can move or approach the court for the public cause in the interests of the public or public welfare by filing a petition in Supreme Court under Article 32 of the

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<sup>16</sup> Jain M.P, *Principles of Administrative Law*, ( 6th Ed., 2007, Wadhwa, Nagpur Vol. 1) p.2272

<sup>17</sup> (1999) 6 SCC 552

<sup>18</sup> *Pratap Singh v State of Haryana*, ( 2002) 7 SCC 484

Constitution or in High Court under Article 226 of the Constitution. At present, the court can treat a letter as a writ petition and take action upon it. But, it is not every letter which may be treated as a writ petition by the court. The court would be justified in treating the letter as a writ petition only in the following cases, it is only where the letter is addressed by an aggrieved person or a public spirited individual or a social action group for enforcement of the constitutional or the legal rights of a person in custody or of a class or group of persons who by reason of poverty, disability or socially or economically disadvantaged position find it difficult to approach the court for redress. The courts now make a distinction between a private grievance and public grievance where public power has been abused or used for private gain.

Over the years, PIL has appeared in the following forms. In *S.P. Gupta v Union of India*, popularly known as Judges' Transfer case, some lawyers moved to the Supreme Court against the arbitrary selection and transfer of High Court and Supreme Court judges first in *S.P. Gupta*<sup>19</sup> and *Supreme Court Advocates on Record Association*,<sup>20</sup> in these case the Supreme Court entertained petitions by lawyers challenging the constitutionality of Law Minister's circular regarding transfer of judges of High Courts and non-confirmation of sitting Additional Judges of High Courts. It was allowed on the ground that the independence of the judiciary is a matter of grave public concern and this Public interest Litigation highlights the independence of the judiciary.

In *People's Union for Democratic Rights v Union of India*,<sup>21</sup> popularly known as *Asiad case*, the Supreme Court entertained petition from a public-spirited organisation on behalf of labourers belonging to socially and economically weaker section and employed in the construction work of various projects connected with Asian Games 1982 complaining violation of various labour laws including non-payment of minimum wages and granted relief. The Supreme Court made a significant pronouncement on PIL in this case. The legal rights of the poor, ignorant, economically and socially disadvantaged persons are sought to be vindicated through a court action, the court would permit the concerned persons or voluntary organizations to agitate such matters before it. A non-political, non-profit, voluntary organization consisting of public spirited persons interested in exposing the cause of poor who cannot seek redress themselves.<sup>22</sup>

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<sup>19</sup> S. P. Gupta v Union of India, AIR 1982 SC 149

<sup>20</sup> Supreme Court Advocates on Record Association v Union of India, AIR 1994 SC 268

<sup>21</sup> People's Union for Democratic Rights v Union of India, AIR 1982 SC 1473

<sup>22</sup> Jain M.P, Principles of Administrative Law, ( 6th Ed., 2007, Wadhwa, Nagpur Vol. 1) p.2274

Supreme Court in *D.S. Nakara v Union of India*,<sup>23</sup> it was held that a registered co-operative society consisting of public-spirited citizens seeking to expose the cause of old and retired infirm pensioners unable to seek redress through tardy and expensive judicial process can approach the court through PIL petition.

In the case of *Bandhua Mukti Morcha v Union of India*, a public-spirited organization petitioned for the release of bonded labourers working in stone quarries. Petitions filed by social action groups such as *Bandhua Mukti Morcha*<sup>24</sup> and *Common cause*<sup>25</sup> or eminent, selfless individuals on behalf of victims of social injustice who, because of lack of resources such as knowledge and money could not approach the court, were entertained despite technical inadequacies. When the Court entertains public interest litigation, 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 realisation of the constitutional objectives.<sup>26</sup>

Supreme Court acted *suo moto* to the letters written by persons or organizations on behalf of the victims of injustice, the first case where the Supreme Court acted *suo moto* was *Hussainara Khatoon v State of Bihar*.<sup>27</sup>

In *Charan Lal Sahu v Union of India*,<sup>28</sup> in order to provide immediate relief to the Bhopal gas tragedy, on a PIL petition, the Court upheld the validity of the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 and the settlement arrived at between the Union of India and the Union Carbide Company.

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<sup>23</sup> AIR 1983 SC 130

<sup>24</sup> *Bandhua Mukti Morcha v Union of India*, AIR 1984 SC 802

<sup>25</sup> *Common Cause v Union of India*, (1992) 1 SCC 707

<sup>26</sup> *Bandhua Mukti Morcha v Union of India*, (1984) 3 SCC 161

<sup>27</sup> AIR 1979 SC 1360

<sup>28</sup> (1989) 4 SCC 286

In *M.C. Mehta v Union of India*,<sup>29</sup> on a PIL petition by a lawyer of the Supreme Court, the Court granted relief to the victims of gas leak from the Shriram Fertiliser and Chemical Plant at Delhi and also liberated the Indian tort law from the bondage of *Ryland v Fletcher* by holding that no exception to strict liability laid down in this case will be applicable if any hazardous activity is undertaken.

Supreme Court in *Parmanand Katara v Union of India*,<sup>30</sup> on a PIL petition the Court directed the Government that every injured person brought for medical treatment should instantaneously be given medical aid without waiting for the completion of police procedural formalities in order to avoid negligent death of an accident victim.

The Constitution Bench of Supreme Court of India, while entertaining a petition under Article 32 of the Constitution on behalf of the petitioner therein, observed that it is the right of every citizen to insist that he should be governed by laws made in accordance with the Constitution and not laws made by the executive in violation of the constitutional provisions. It has also been stated therein that the rule of law constitutes the core of our Constitution and it is the essence of rule of law that the exercise of the power by the State whether it be the legislature or the executive or any other authority should be within the constitutional limitation and if any practice is adopted by the executive which is in flagrant violation of the constitutional limitations, a member of the public would have sufficient interest to challenge such practice and it would be the constitutional duty of the Court to entertain the writ petition.<sup>31</sup>

In *Banwasi Seva Ashram v State of U.P*<sup>32</sup> on a PIL petition the Supreme Court granted relief to Adivasis and other backward people using forest as their habitat and means of livelihood against their eviction from the forest land by the government.

In the case of *Sampat Singh v State of Haryana*<sup>33</sup> Writ petition as PIL was filed by MLAs and MPs seeking direction for a CBI inquiry on the basis of FIR alleging serious charge of corruption and misuse of power by person holding cabinet rank in Central Government and for setting aside

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<sup>29</sup> (1987) 1 SCC 395

<sup>30</sup> (1990) 1 SCC 613

<sup>31</sup> D. C. Wadwa v State of Bihar, (1987) 1 SCC 378

<sup>32</sup> (1993) 2 SCC 612

<sup>33</sup> (1993) 1 SCC 561

the order of the Magistrate discharging that person. Court held that since petitioners were not a party to earlier proceedings at any stage, hence they have no *locus standi* to file PIL petition.

In *Sudip Mazumdar v State of M.P.*<sup>34</sup> The court directed the government to remove inadequacies of safety precautions in Army's ammunition test firing range resulting in death and maiming of tribals who stray into the range for collection of scrap of ammunition. Supreme Court in *Vellore Citizens' Welfare Forum v Union of India*<sup>35</sup> Court issued suitable directions to give relief to people against pollution of tanneries and asked the Madras High Court to establish a Green Bench to monitor further progress. In the case of *Vishaka v State of Rajasthan*,<sup>36</sup> Supreme Court in the absence of legislation, the court filled in the gap by giving wide directives to protect working women from sexual harassment. In *K.L Sethia v Union of India*<sup>37</sup> where the relief claimed is not based on any fundamental right and court cannot grant relief, thus, the court refused to issue direction to the government to include Rajasthani language in the Constitution. In *Daljit Singh Dalal v Union of India*<sup>38</sup> court refused relief where in the petition no public interest was involve and court held that factual disputes cannot be raised and examined under Article 32 of the Constitution of India.

Supreme Court of India has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that Courts should not allow its process to be abused by a mere busy body or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration.<sup>39</sup>

## Conclusion

The concept of public interest litigation is a phenomenon which is evolved to bring justice to the reach of people who are handicapped by ignorance, indigence, illiteracy and other downtrodden people. Through the public interest litigation, the cause of several people who are not able to

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<sup>34</sup>(1996) 5 SCC 368

<sup>35</sup>(1996) 5 SCC 647

<sup>36</sup>(1997) 6 SCC 241

<sup>37</sup>(1997) 6 SCC 573

<sup>38</sup>(1997) 4 SCC 62

<sup>39</sup>Janata Dal v H.S. Chowdhary, AIR 1993 SC 892

approach the court is espoused. In the guise of public interest litigation, we are coming across several cases where it is exploited for the benefit of certain individuals.<sup>40</sup>

The public interest litigation was initially evolved as a tool to take care of the fundamental rights under Article 21 of the Constitution of the marginalized sections of the society who because of their poverty and illiteracy could not approach the court. In quintessence it was initially evolved to benefit the have-nots and the handicapped for protection of their basic human rights and to see that the authorities carry out their constitutional obligations towards the marginalised sections of people who cannot stand up on their own and come to court to put forth their grievances.<sup>41</sup>

Courts have expanded the scope of their extraordinary jurisdiction under Article 32 and 226 of the Constitution to compel the government to do what it is legally bound to do. Governments' duty has been inferred from the liberal interpretation of Article 21. The courts give directions upon the legislation to fill in the gaps left by the legislatures like seen in the sexual harassment at work place case.<sup>42</sup>

Although the intent behind PIL is noble the courts face constraints as they have liberal in conceding the *locus standi* to the public spirited citizen to file petitions involving public interest it must be constrained by considerations of feasibility and propriety. The Supreme Court in *Sachidanand Pandey*<sup>43</sup> held that if the courts do not restrict the free flow of cases in the name of PIL, the traditional litigation will suffer and the court of law, instead of dispensing justice, will have to take upon them administrative and executive functions. Here the court shows the sanctity of the Doctrine of Separation of Powers is to be maintained. PIL has always been the stronghold of the common man to enforce his rights and make the government perform its duties. The Supreme Court has encouraged people from all walks of life to be a part of the judicial process by giving them a chance to make their voice heard to establish and enforce their rights. The Supreme Court has tried its best to make sure that the petitions and the petitioners are dealt with in the most liberal ways, considering the fact that the petitions deal with persons who are socially and economically backward.

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<sup>40</sup> Ashok Kumar Pandey v State of West Bengal, (2004 ) 3 SCC 349

<sup>41</sup> State of Uttaranchal v Balwant Singh Chauhan, (2010) 3 SCC 402

<sup>42</sup> Vishaka v State of Rajasthan, (1997) 6 SCC 241

<sup>43</sup> Sachidanand Pandey v State of West Bengal, (1987) 2 SCC 295

The sword of PIL is a two edged sword. It has the strength to get people their rights, and it also has the power to destroy hope in the whole judicial system by frivolous petitions. More the number of frivolous petitions, the faith of the judiciary in the people's judgment of their rights and the people in turn lose their hope in their enforcement of rights. Hence, the weapon of PIL should be used cautiously, yes meticulously. The Court has clearly earmarked what ought to be brought to the notice of the Court and where the Court can actually make a difference by changing the decision of the Governments. And these decisions are the rolling stones for the new cases which might appear before the Supreme Court. The decisions of the Supreme Court have reiterated the theory of Separation of Powers in the country. The Court has, in various decisions decided that it cannot interfere with the order of the executive unless there has been a contravention of the law. This makes it clear that the Court does not want to tread into all the areas of the Governmental function. Supreme Court in series of case established the rule that PIL should not be entertained in cases, if it is with malafide, individual dispute converted into public interest, service matters, stand taken by petitioner contrary to affected person, animosity legislative action and administrative decisions to economic policy.

There are many factors responsible for the emergence of Public Interest Litigation, the awareness of their rights in common man owing to the era of information and technology, presence of human rights movements, increasing democratic consciousness and desire to get justice across the barriers of technical procedural niceties. These factors further supported by a public spirited court which forced to innovate new methods and devise new strategies for the purpose of providing access to justice. Participation of people in the electoral process resulted in establishing democratic governance; similarly people's participation in judicial process is invited and assured through the strategy of Public Interest Litigation. It is an important facet of participative justice.