

# Environmental Protection: Role of Public Interest Litigation

## Abstract

Democracy and social justice along with fundamental rights are integrated parts of the Constitution. The courts are the protectors of the Constitution. The Supreme Court, from the early 1980s, started reforming its own procedural and jurisdictional rules. The purpose was that cases of the poor, who lacked both resources and awareness, could be brought to the courts for redressal. This concern gave birth to the system of Public Interest Litigation. In some case such as *S.P. Gupta Vs. Union of India*, *Municipal Council, Ratlam v. Vardhichand*, *M. C. Mehta v. Union of India* etc., Judiciary has given important directions regarding environmental protection to the Government. Judicial Activism has created a hope in the mind of the people that legal redress of their grievances would be possible.

**Keywords:** Parliamentary Democracy, Judicial Review, Judicial Activism, Public Interest Litigation, Lok Adalats, Legal Aid, Public Interest Litigation, Representative Standing, Environmental Protection, Co-ordination, Environmental Agencies, Environmental Policy.

## Hari Narayan Gupta

Lecturer,  
Deptt.of ABST,  
Govt.College,  
Dausa, Rajasthan

## Introduction

In a parliamentary democracy, generally, the parliament is supreme, but in India, the constitution is somewhat, ambiguous on this point. The judiciary can override the powers of the parliament through judicial review. Any act which violates fundamental rights can be declared unconstitutional. Slowly, the judiciary has also started expressing its concern in matters relating to social, developmental and environmental issues. This expression and concern is generally described as Judicial Activism.

Democracy and social justice along with fundamental rights are integrated parts of the Constitution. The courts are the protectors of the Constitution. It must also be the participants in the process of the implementation of the directive principles. Within the Supreme Court, some judges started questioning the limited understanding of spirit and philosophy of the Constitution. This realization gave rise not only to a new judicial activism in its positive sense but also processes of reforms in the judicial system. The significant outcomes of these developments were the system of Public Interest Litigation, Lok Adalats and Legal Aid.

## Public Interest Litigation

The Supreme Court, from the early 1980s, started reforming its own procedural and jurisdictional rules. The purpose was that cases of the poor, who lacked both resources and awareness, could be brought to the courts for redressal. This concern gave birth to the system of Public Interest Litigation.

The words 'Public Interest' mean the common wellbeing and also public welfare and the word 'Litigation' means "a legal action including all proceedings therein, initiated in a court of law with the purpose of enforcing a right or seeking a remedy"<sup>1</sup>. Thus, the expression 'Public Interest Litigation' means "some litigation conducted for the benefit of public or for removal of some public grievance." In other words, it can be said that public interest litigation means any public spirited citizen can approach the court for the public cause (or public interest or public welfare) by filing a petition in the Supreme Court under Article 32 of the Constitution or in the High Court under Article 226 of the Constitution or before the Court of Magistrate under Sec. 133 of the Code of Criminal Procedure, 1973.

Public Interest Litigation means that where the poor who, on account of their poverty, social disability or lack of awareness, cannot approach the courts in case of the denial of their right, any member of the public or a social action group can approach the court of law on behalf of

## Madhuri Gupta

Lecturer,  
Deptt.of Political Science,  
Govt.Arts College,  
Dausa, Rajasthan

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them. For this, a regular writ petition is not required to be filed through a lawyer. This concern gave birth to the system of Public Interest Litigation. In case of S.P. Gupta Vs. Union of India<sup>2</sup> in 1981, a seven Judge bench of the Supreme Court gave a definite opinion regarding the standing and enlarged the scope of what has been termed as "representative standing". The court held that it may therefore now be taken as a well established facts that where a legal wrong or legal injury is caused to a person or to determinate the class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority or any such legal wrong or legal injury or legal burden is threatened and such person or determinate class of persons is by reason of poverty, helplessness or disability of socially or economically disadvantaged position, unable to approach the court for relief, any member of the public can maintain an application for appropriate direction, order or writ in the High Court under Article 226 and in case of any fundamental right of such person or determinate class of persons, in the Supreme Court under Article 32 seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons.

"The Indian judiciary has also shown a willingness to alter the rules of the procedure where necessary. Action may be commenced not only by way of formal petition, but also by way of letters addressed to the court or judge who may choose to treat it as a petition. There are reports of actions begun by postcard and even of one judge converting a letter to the newspaper into a PIL writ"<sup>3</sup>

One of the earliest cases which came to the Supreme Court of India was Municipal Council, Ratlam vs Vardhichand<sup>4</sup>. In this case, the Sub-Divisional Magistrate directed the municipality to prepare a plan of six months to remove the nuisance. The order passed by the SDM was approved by the High Court. The Municipality came in appeal before the Supreme Court of India and contended that it did not have sufficient funds to carry out the work directed

### Opinion of Public Regarding PIL

#### Opinion Regarding Utility of PIL in Environmental Protection

District	Information	Total score	Score achieved	Score achieved in % age	Classification		
					Age wise		
					<25	26-60	>60
JAIPUR & ALWAR	To spread awareness among people	2400	1887	33.59	803	658	426
	To make administration more effective	2400	1395	24.84	556	456	383
	To make effective co-ordination among different environmental agencies	2400	1395	24.84	543	472	380
	To review environmental policy and laws	2400	940	16.73	388	300	252
	GRAND TOTAL		5617	100.00	2290	1886	1441

Opinion has been taken regarding the utility of PIL in environmental protection. 33.59% aggregate weightage as indicated in Table No. 5.3, has been assigned to the fact that it is helpful to spread awareness among people. It is also helpful to improve

by the SDM. The Supreme Court of India gave directions to the municipality to comply with the directions and said that paucity of funds shall not be a defense to carry out the basic duties by the local authorities.

In M. C. Mehta v. Union of India<sup>5</sup>, there was leakage of oleum gas from the units of Sriram Mills in New Delhi in December, 1985. This leakage affected several persons and caused the death of an advocate practising in the Tis Hazari Court. A writ petition was filed by way of Public Interest Litigation by M. C. Mehta under Article 32 in the Supreme Court, inter alia, for determining liability of larger enterprises engaged in manufacturing of hazardous products and the basis of fixing damage. The court expanded the scope of Article 32 and said that the enterprises shall be strictly liable for causing the harm as a part of social cost to compensate all those who are affected by the accident.

The important characteristics of PIL include

1. Liberalization of rules of standing
2. Procedural flexibility
3. Creative and activist interpretation of legal and fundamental rights
4. The court fee may not be required to be paid.
5. PIL can be filed by any member of the public or any organization even though he himself is not a victim or sufferer in the case.
6. When the victim is poor or deprived on account of social, economical or educational inability, a petition can be filed by any person or group even if the victim himself does not ask for that.
7. PIL can be filed by any person and organization even if the victim or sufferer is the society or the major part of the society as a whole.
8. After 1990s, the courts themselves here started taking note of certain issue on the basis of newspaper reports as their own information. This means that even when no one has filed petition or approached the court, the court itself initiates a cases, pronounces a decision and directs the appropriate to act authorities to act accordingly.

people's participation in environment area. 24.84% aggregate weightage has been assigned to make administration more effective. The Court can give direction to the administration regarding their mismanagement and inefficiency. Misinterpretation of

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laws and rules can be challenged by any person through PIL. Similarly, 24.84% aggregate weightage has been assigned to make effective co-ordination among different environmental agencies. The Court can give directions to different agencies regarding their objectives and areas. Decisions of PIL are helpful to review the environmental policy and laws. General observation of data of Jaipur and Alwar districts indicates similar opinion. To test the significance of similarity of opinion, analysis of variance is applied as under –

### Null Hypothesis (H<sub>0</sub>)

Opinion of Jaipur and Alwar districts regarding the utility of PIL in environment protection is similar. There are no significant differences between opinions of both districts.

### Alternative hypothesis (H<sub>1</sub>)

Opinion of Jaipur and Alwar districts regarding the utility of PIL in environment protection is not similar. There are significant differences between opinions of both districts.

X<sub>1</sub> – Opinion of Jaipur district

X<sub>2</sub> – Opinion of Alwar district

ANOVA Table

Source	Sum of Squares	df	Variance	F ratio
Between Samples	2346.125	1	2346.125	$\frac{2346.125}{37459.46} = 0.06 < 1$
Within Samples	225296.74	6	37549.46	
TOTAL	225433.74	7		

Calculated value of F ratio is less than 1; hence, null hypothesis is accepted and alternative hypothesis is rejected. Opinion of both districts regarding the utility of public interest litigation in environment protection is similar. Hence, it can be concluded that public interest litigations have given a positive role in environment protection. They are helpful in updating environmental policy and laws. They also give directions to the administration to implement policy and laws as per requirement of society. They are also helpful to co-ordinate different environmental agencies. Public interest litigation is helpful to improve awareness among people which encourages effective participation in environmental programmes.

### Aim of the Study

Democracy and social justice along with fundamental rights are integrated parts of the Constitution. The courts are the protectors of the Constitution. It must also be the participants in the process of the implementation of the directive principles. Public Interest Litigation means that where the poor who, on account of their poverty, social disability or lack of awareness, cannot approach the courts in case of the denial of their right, any member of the public or a social action group can approach the court of law on behalf of them. Public Interest Litigations have important role in environmental protection. PIL have important role to spread awareness among people, to make administration more effective, to make effective co-ordination among different environmental agencies and to review environmental policy and laws. They are also helpful

to co-ordinate different environmental agencies. Public interest litigation is helpful to improve awareness among people which encourages effective participation in environmental programmes.

### Conclusion

Public Interest Litigations have important role in environmental protection. PIL have important role to spread awareness among people, to make administration more effective, to make effective co-ordination among different environmental agencies and to review environmental policy and laws.

The emergence of the principle of Public Interest Litigation is justified on the basis of illiteracy, poverty, social and economic backwardness and lack of awareness of a large section of our population. Functions of the courts are not merely to read the Constitution. It is required to implement the ideals contained in it. After emergence of Public Interest Litigation, a large number of poor people are now looking up to the courts for the protection of their interests. In most of the Public Interest Litigation cases, the courts have directed the Government to carry out effectively, what the Parliament had earlier enacted. Thus, Judicial Activism has created a hope in the mind of the people that legal redress of their grievances would be possible.

### References

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