PUBLIC INTEREST LITIGATION AS AN EFFECTIVE INSTRUMENT TO PROVIDE BETTER LIFE AND GREATER LIBERTY: A STUDY WITH SPECIAL REFERENCE TO JUDICIAL REVIEW IN INDIA

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The Indian court's inspired by the success of Public Interest Litigation in United States, adopted it to decide cases involving public interest. Protection of rights is duty of state but if they violate in publicly the remedy has to be given by constitution of India throw the public Interest Litigation. it has now become settled law that where any constitutional or Human rights of a person has been violated and that person himself unable to move that court for relief due to poverty, backwardness or any other disability another person on his behalf can file PIL petition for enforcement or vindication of aggrieved person's right. Generally, PIL writ directed to protect the interest of those who are unable to move the court for protection of their right due to poverty, illiteracy or ignorance etc. the concept of public interest litigation has evolved thought which legal remedies can be sought without investment of heavy court fees as required in private civil litigation. Hon'ble Justice Krishna Iyer were instrumental of this juristic revolution of eighties to convert the apex court of India into a Supreme Court for all Indian, and as a result any citizen of India or any consumer groups of social action groups can approach the apex court of country.

Key Words: Aggrieved, Court, Fundamental rights, Interest, Public, Right, Writs etc

1. Introduction:

"Locus Standi" is basic principle of law, generally only aggrieved person has right to stand before court. But under certain circumstances when the aggrieved person is not capable to approach to the court due this any inability, then the person other than that aggrieved person can file a petition before Supreme Court (under article 32) or before High Court(under article 226) Court treat them as writ petition, writ petitions litigation. Locus standi is the right to be heard in an appropriate court.

The seed of concept of PIL was introduced in India by Krishnan Iyer Justice in 1976 in case Mumbai Kamgarsubha v. Abdulbhai, after that seed of PIL converted into seal of judicial system. Protection of rights is duty of state but if they violate in publicly the remedy has to be given by constitution of India throw the public Interest Litigation. Ambedkar said that "If any person asked me that which Article in our constitution you like then I prefer Art.32 and Art. 226 the reason behind it is these two Articles are the heart of our constitution because these two Articles are protected the rights of the citizen of India by Articles 32 Supreme Court has get the power of constitutional remedy and Article 226 has gave power to High Court constitutional remedy. Part III of our constitution gave right and freedom to citizen if these rights are violated by government or any individual then the person protect or get remedy by these two Articles so without these two Articles the rights provided in the so these are very important in our constitution.

"Public Interest law" is the name that has recently been given to efforts to provide legal representation to previously unrepresented groups and interest such efforts have been undertaken in recognition that the ordinary market place for legal services fails to provide such services to significant interests.ⁱⁱ

2. Objects of P.I.L.:

From the very outset, the rationale behind legal aid is supposition that in every society there are individuals who are unable to participate in legal system. Therefore, it is of prime importance for the system of Justice and for society as a whole to provide such individuals voluntary services of advocates.ⁱⁱⁱ In the beginning, legal service was not provided on

humanitarian grounds as grant of legal services from advocates the poor client. It was a social service under the third-party subsidy of an independent organization legal aids was a diffused movement till 1919when Herbart Smith an advocate with the Boston legal aid society published work justice and poor which gave way to some outstanding new ideas.

The important idea was that there was a collective social responsibility on the bar to provide opportunities for the unrepresentative masses to secure access to the justice system and it was indeed a crucial development in public interest law The American civil liberties union was first public Interest legal organization which look up many constitution rights cases in the period. Up to the mid-sixties unlike legal aid movement however, those local program grow out of purely local concern the local activities of the A.C.L.U to focused on important policy matters and issues A.C.L.U central structure and its approach to found rising. Viz. obtaining small contribution from a wide section of the public, to formed a model for such later organizations.

Therefore, it has now become settled law that where any constitutional or Human rights of a person has been violated and that person himself unable to move that court for relief due to poverty, backwardness or any other disability another person on his behalf can file PIL petition for enforcement or justification of aggrieved person's right. Even in Joseph Bursty Vs Wilsen U.S Supreme Court adopted liberal interpretation of Freedom of Speech Act 1971 and held that it includes protection to expression through cinema films because the object of constitutional law is to meet.

3. Origin of PIL in India:

The civil procedure code 1908 already provides that in case of public nuisance or other wrongful act affecting or likely to affect the public two or more persons may apply to court for issue of an injunction, vi through no special damage has been caused to such persons by reason of such public nuisance or wrongful act section 133 of C.P.C provides settlement of disputes in relation to public right in the general interest of public at large.

The Indian court's inspired by the success of public interest litigation in united states, adopted it to decide cases involving public interest. And Indian Judges have trying to settle the disputes or handled the disputes like to PIL Mr. <u>Justice Krishna Iyer first time applied the doctrine in Mumbai Kamgar Sabha v.</u> Abdul Bhai though he did not specifically name it at as PIL It would not be out of place to state that real credit for popularizing public interest litigation in Indian goes not to public spirited persons or organizations but to Judicial Activism.

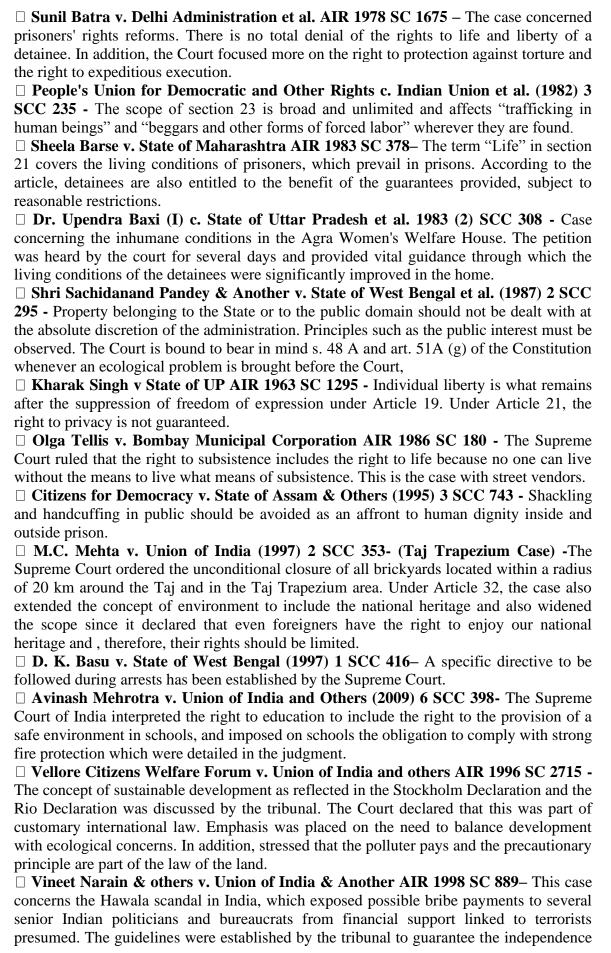
The tradition that was follows is that petition can be filed only by a person whose fundamental right is infringed that remedy which is asked must be connected to one of fundamental rights sought to be enforced the remedy must be sought through appropriate proceeding this tradition is called the rule of locus standi. In these circumstances one of the best things that have happened in the country in recent years is process of social reform interest litigation or social action litigation.

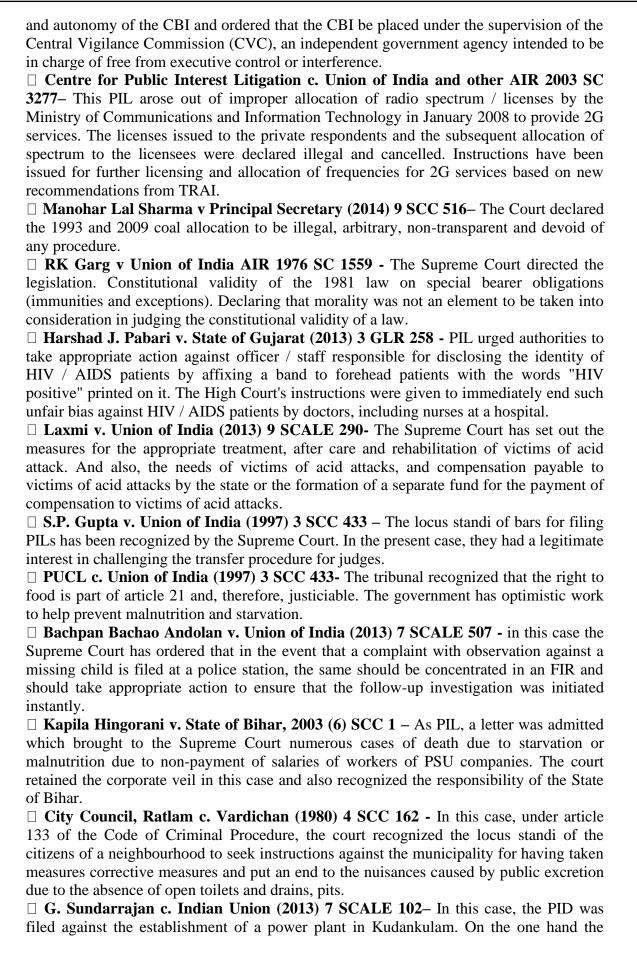
A complete change in the scenario in the 1980s with efforts taken by justice P. N. Bhagwati and justice V. R. Krishna lyer was marked by attempts to bring wider issues affecting the general public at large within the ambit. As a result, the concept of public interest litigation has evolved thought which legal remedies can be sought without investment of heavy court fees as required in private civil litigation.

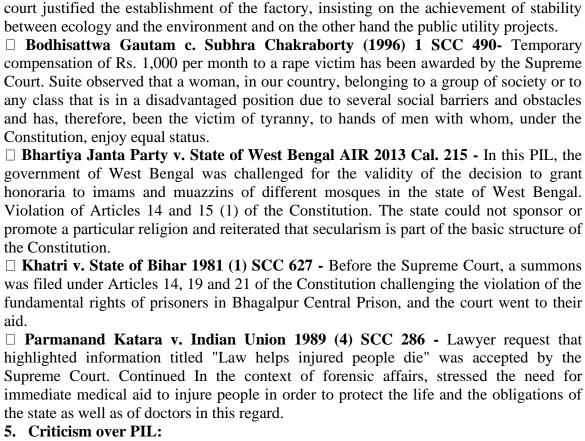
4. Some Important PIL within India:vii

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complex. in Delhi. The Court established the concept of absolute liability.													







In Dattaraj Nattuji Thaware v. State of Maharashtra^{viii} - the Supreme Court of India stated that Public Interest Litigation has now come to occupy an important field in the administration of law and stated that PIL should not become 'publicity' or 'private' interest litigation. The court stressed the necessity of imposing 'exemplary' costs on people for bringing frivolous petitions.

At present, the concept has started losing its meaning and heading to downfall as it is founded that people are misusing this concept. PIL being misused may be because of of its easy working system. Lower cost of the filing and accessible. PIL is ruining because of frivolous cases has been filed in the name of PIL as it is an easy access. It could lead to overburdening of courts with frivolous PILs by parties with vested interests. PILs today has been appropriated for corporate, political and private gains. Today the PIL is not any more limited to problems of the poor and therefore the oppressed., The people with resources as using it for their personal interests. PIL is failing in Judicial Overreach by the Judiciary in the process of solving socio-economic or environmental problems can take place through the PILs.

PIL actions may give rise to the problem of competing with the rights. For instance, when a court orders the closure of a polluting industry, the interests of the workmen and their families who are deprived of their livelihood may not be considered by the court.

6. Conclusion:

The main aim of PIL is to ensuring justice to all citizens in welfare state. Generally public rights when violated then PIL can be filed. The aim of PIL is to protect the interest of public at large, it is not necessary that any right of the person filing a PIL petition should have been violated, he can file PIL on behalf of others.

Generally, PIL writ directed to protect the interest of those who are unable to move the court for protection of their right due to poverty, illiteracy or ignorance etc. Any person or social service institution can file a PIL writ for redressed of the grievance of public in

general though he may not have any personal interest in the case or any of his rights has not been adversely affected.

ⁱConstitutional law of India (Dr.pandey J.N.) edition 2005 Page No- 248

ii A Report by the council for public interest law, USA 1976

iii Article 39 A of the Constitution of India

iv Article 21 of the Constitution of India, Right to Justice flows from right to Life

^vJoseph Buesty v/s wilsen (1951) 347 U.S 495

vithe section 19 (1)b of civilprocedure code 1908

vii Subodh Asthana, Leading Indian Cases, (2019) blog.ipleaders.in

viii2005 (1) SCC 590