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Public Interest Litigation in India: Pros and Cons

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Abstract

Public Interest Litigation is litigation for the protection of the public interest. The Indian Constitution which is said to be the supreme law of the land contains a tool under Article 32 which directly joins the public with judiciary. A PIL may be initiated in a court of law by the court itself, rather than the aggrieved party or another third party. In order to invoke the court's jurisdiction, it is not necessary that the person who is the victim of the violation of his or her right should personally approach the. The court can itself take cognizance of the matter and proceed suo motu or cases can commence on the petition of any public-spirited individual. The member of the public may be a non-governmental organization (NGO), an institution or an individual. The person filing the petition must, however, prove to the satisfaction of the court that the petition is being filed for a public interest and not just as a frivolous litigation by a busy body. This paper attempts to examine the advantages and disadvantages of PIL in the present day scenario. It also touches upon the various facets of the phenomenon of PIL. The judicial trend in this context has also been analysed.

Keywords: *Public Interest Litigation, Indian Constitution, frivolous litigation, public-spirited individual*

Introduction: Public Interest Litigation (PIL) as it has developed in recent years marks a significant departure from traditional judicial proceedings. PIL was not a sudden phenomenon. It was an idea that was in the making for some time before its vigorous growth in the early eighties. It now dominates the public perception of the Supreme Court. The Court is now seen as an institution not only reaching out to provide relief to citizens but even venturing into formulating policy which the State must follow. The public interest litigation is for making basic human rights meaningful to the deprived and vulnerable sections of the community and to assure them social, economic and political justice¹. Public interest litigation is part of the process of participative justice and 'standing' in civil litigation of that pattern must have liberal reception at the judicial doorsteps². As remarked by the Apex Court of our country in *Bandhu Mukti Morcha v. Union of India*³ the bulk of citizens was unaware of their legal rights, and much less in a position to assert them. The guarantees of fundamental rights and the assurances of Directive Principles, described as the 'Conscience of the Constitution',⁴ would have remained empty promises for the majority of illiterate and indigent citizens under adversarial proceedings. PIL has been a conscious attempt to transform the promise

¹ *Ramsharan Autyanuprasi v. Union of India*, AIR 1989 SC 549

² *Fertilizer Corporation Kamagar Union v. Union of India*, AIR 1981 SC 844

³ (1984) 3 SCC 161

⁴ Granville Austin, *The Indian Constitution: The Cornerstone of a Nation*, Oxford University Press, New Delhi, 1999. p.50.

into reality. The Court further has made it clear that our current processual jurisprudence is not of individualistic Anglo-Indian mould. It is broad-based and people-oriented, and envisions access to justice through `class actions', `public interest litigation', and `representative proceedings'. Indeed, little Indians in large numbers seeking remedies in courts through collective proceedings, instead of being driven to an expensive plurality of litigations, is an affirmation of participative justice in our democracy. We have no hesitation in holding that the narrow concepts of `cause of action', `person aggrieved' and individual litigation are becoming obsolescent in some jurisdictions⁵.

Concept & Meaning of PIL

The word "litigation" means legal action initiated in a Court of law with the purpose of enforcing right or seeking remedy. Therefore, the term "public interest litigation" means a legal action initiated in a Court of law for the enforcement of public interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liberties are affected. The term 'Public Interest Litigation' (PIL) means the litigation which is beneficial to general public. It means action necessarily taken for public purpose. The Supreme Court of India in *Janata Dal v. H.S. Chowdhary*⁶, observed that lexically the expression public interest litigation means a legal action initiated in a Court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected.

Further the Supreme Court in *People's Union for Democratic Rights v. Union of India*⁷ held: "Public Interest Litigation, is essentially a cooperative or collaborative effort on the part of the

petitioner, the State or public authority and the Court to secure observance of the constitutional or legal rights, benefits and privileges conferred upon the vulnerable sections of the community and to reach social justice to them."

Public interest litigation is not in the nature of adversary litigation but it is a challenge to the government and its officers to make basic human rights meaningful to the deprived and vulnerable sections of the community and to assure them social and economic justice which is the signature tune of our Constitution. The Government and its officers must welcome public interest litigation because it would provide them an occasion to examine whether the poor and the down-trodden are getting their social and economic entitlements or whether they are continuing to remain victims of deception and exploitation at the hands of strong and powerful sections of the community.

Origin & Development of PIL in India: The Public Interest Litigation (PIL) for the first time originated in USA in the 1960s. Lawyers and the people who were sensitive to the cause of the under-privileged groups in USA initiated this procedure. Public Interest Litigation is a new feature in India's judicial system. In our country it came into being during the late 1970s and the 1980s. The seed of the Public Interest Litigation was initially sown in India by Justice Krishna Iyer in 1976 in *Mumbai Kamgar Sabha v. Abdul Bhai*⁸. However, in that Judgement Justice Iyer did not use the terminology "Public Interest Litigation". But in the celebrated case of *Fertilizer Corporation Kamgar Union v. Union of India*⁹, the terminology "Public Interest Litigation" was used by Justice

⁵ *Akhil Bharatiya Soshit Karamchari Sangh (Railway) v. Union of India*, AIR 1981 SC 298 at page 317

⁶ AIR 1993 SC 892

⁷ AIR 1982 SC 1473

⁸ AIR 1976 SC 1455

⁹ AIR 1981 SC 344

Iyer. In this particular judgement he used the expression '*Epistolary Jurisdiction*'¹⁰. The Hon'ble Supreme Court held that the procedure had to be relaxed to meet the ends of justice.

The concept of Public Interest Litigation took its roots firmly in the Indian Legal System only after the period of post emergency. During the period of emergency in 1975 the rule of law suffered a partial eclipse and anyone who opposed the action of the government was susceptible to police action. This resulted in spate of petitioners in the Hon'ble High Courts and the Hon'ble Supreme Court under Articles 226 and 32 of the Constitution respectively in the form of *Habeas Corpus*. The Government of India argued that Article 21 of the Constitution guaranteeing right to life had been suspended for the duration of emergency. The Government of India wanted what is called a 'Committed Judiciary' and accordingly Justice A.N. Ray was appointed as the Chief Justice of India by superseding three senior colleagues Justice Shelat, Justice Hegde and Justice Grover. The Apex Court lost its credibility when in *A.D.M. Jabalpur v. Shrikant Shukla*¹¹, popularly known as *Habeas Corpus Case*, totally abandoned its responsibility towards the protection of individual liberty.

The post-emergency Court had to make a great effort to re-establish its institutional credibility. During the last three decades the Indian judiciary has been playing a very creative role in the administration of justice, which is the departure from the 'committed judiciary' of the past to the activist judiciary of today. This has been possible due to the creative role played by some of the judges like Justice Krishna Iyer, Justice P.N.Bhagwati, Justice A.M. Ahmadi, Justice Kuldeep Singh and Justice S.P. Bharusha under the principle of public interest litigation that was innovated by the Apex Court through judicial activism. The innovation of this type of litigation by the Court was a dire need in order to vindicate public interest where fundamental and other rights of the people who were poor, ignorant or in socially or economically disadvantageous position and was therefore unable to seek legal redress. The Courts have stressed the importance of non-adversarial jurisprudence, which would deal with cases relating to the 'have-nots'.

The purpose of the Public Interest Litigation is to promote the public interest which mandates that violation of legal or constitutional rights of poor, down trodden, socially and economically disadvantaged sections of the society should not go unredressed. In this context Justice P.N.Bhagwati observed¹².

"Public interest litigation is brought before the Court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of large number of people who are poor, ignorant or in a socially or economically backward position should not go unnoticed and unredressed"

Before the introduction of PIL in India, the courts were inaccessible to the illiterate and poor people of our country. With the introduction of the PIL, however, the courts have become accessible to the disadvantaged people also. Even if these people do not complain about the violation of their rights, a third party can take up their issues and file legal petition before the courts. The PIL can be filed by a third party if the constitutional rights of an individual or group of individuals are violated. In such case the individual or groups of individuals is not able to move court personally for justice because of poverty, helplessness, lack of awareness or socially and economically disadvantaged

¹⁰Epistolary Jurisdiction extended by the apex court is one of the most significant procedural innovations to secure justice for all. Encouraging letter petitions is based on the idea of easy and effective access to all without any procedural burden.

¹¹ AIR 1976 SC 1207

¹²Supra note 10

conditions. The petitioner of the PIL does not file it for personal gain or private profit. He or she does not file it for political or other oblique motivation. The PIL can also be filed by a petitioner by writing a letter to the court.

Constitutional Framework of PIL in India: The provision conferring on the Supreme Court and the High Courts the power to enforce the fundamental rights is in the widest possible terms. The Constitution of India confers the power on the Supreme Court under Article 32¹³. The High Courts under Article 226 have the similar powers and can enforce fundamental rights as well as other legal rights. The insertion of the provision of widest possible terms shows the anxiety of the Constitution makers not to allow any procedural technicalities to stand in the way of enforcement of fundamental rights. The Supreme Court, while elaborating upon this position, added that for effectively safeguarding the fundamental rights guaranteed by the Constitution, the court in appropriate cases in the interests of justice will certainly be competent to treat a proceeding, though not in the conformity with the procedure prescribed by the rules of the court, as appropriate proceedings under Article 32 and entertain the same. A mere technicality in the matter of form or procedure which may not in any way affect the substance of any proceeding should not stand in the way of the exercise of the very wide jurisdiction and powers conferred on the Supreme Court under Article 32 for enforcement of fundamental rights guaranteed under the Constitution. Procedural law which also forms a part of the law and has to be observed, is however, subservient to substantive law and the laws of procedure are prescribed for promoting and furthering the ends of justice. The above decision shows that it is not at all obligatory that an adversarial procedure must be followed in a proceeding under Article 32 for enforcement of a fundamental right

Facets of PIL

A. Access and Standing: In a developing country, the legal process tends to intimidate the litigant, who feels alienated from the system. A poor person, who enters the legal stream, whether as a claimant, a witness or a party, may well find the experience traumatic. The traditional rules of procedure in the adversarial system of law permit only a person whose rights are directly affected to approach the Court. Under the Common Law, a person claiming the writ of mandamus had to show that he was enforcing his own personal right. But now the two originally separate rationales for a representative standing and citizen standing have merged. The Supreme Court in the *Judges Transfer case*¹⁴ held:

“Where a legal wrong or a legal injury is caused to a person or to a determinate 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 of law or any such legal wrong or legal injury or legal burden is threatened and such person or determinate class of persons is by reasons of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the Court for any relief, any member of the public can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 and in case of breach of any fundamental right of such person or class of persons, in this Court under Article 32 seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons.”

¹³The Supreme Court is empowered to issue the directions or orders or writs including the writs on the nature of habeas corpus, mandamus, prohibition, *quo warranto* and certiorari, whichever may be appropriate, for enforcement of any of the Fundamental Rights

¹⁴*S.P. Gupta v. Union of India*, AIR 1982 SC 149

In such case the Court will allow any member of the public acting in a bona fide manner to espouse the cause of such person or class of persons. Although the Courts have permitted easier access in matters of PIL, they have been careful to note that PIL cannot be maintained by a meddling interloper or busybody, wayfarers or officious interveners having no public interest except for personal gain either for themselves or for the glare of publicity.

B. Relaxation of Procedural Requirements: In order to permit fuller access to Courts, PIL has been marked by a departure from procedural rules extending to the form and manner of filing a writ petition, appointment of commissions for carrying out investigation and giving a report to Court, and the appointment of lawyers as *amicus curiae* to assist the Court. The flexibility of PIL procedure can best be illustrated by what is termed as 'epistolary jurisdiction' discussed earlier. Taking a cue from the American Supreme Court's decision in *Gideon v Wainwright*¹⁵, where a postcard from a prisoner was treated as a petition, the Supreme Court said in the *Judges Transfer case*¹⁶ that a public-spirited person could move the Court even by writing a letter. The Court has accepted letters and telegrams as petitions. Many of the early PILs, including *Sunil Batra (II) v. Delhi Administration*¹⁷, *Dr Upendra Baxi v. State of UP*¹⁸, *Veena Sethi v. State of Bihar*¹⁹ and *People s Union for Democratic Rights v. Union of India*²⁰ commenced with the petitioners sending letters to the Supreme Court.

C. PIL Petitioners and Amicus Curiae: A PIL petitioner is provided by the Court as one who draws its attention to a grievance requiring remedial measures and having no personal stake in the matter. It expects her/ him to be conscious of her/ his obligation to the cause being espoused and conduct herself/ himself accordingly. Thus persons bringing PILs to the Court cannot of their free will seek to withdraw the petition. The Court may take over the conduct of the matter if it feels that in the interests of justice that issue should be decided irrespective of the wishes of the petitioner. This is what happened in a case concerning children in jails brought to the Supreme Court by a letter petition from Sheela Barse, a journalist. Frustrated with the slow progress of the case primarily due to the repeated adjournments sought and obtained by the state governments, she sought to withdraw the case. The Court, however, declined to give the permission to be abandoned at this stage. The Court was of the view that only a private litigant can abandon his claims.

PIL petitioners (who often appear in person) may be inarticulate in the presentation of the case or may so identify with the cause that they may not be able to maintain the necessary detachment. The Court may be better assisted by a lawyer who understands the legal dimensions of the issue and is objective in her/ his approach to the cause. The Courts have in PIL cases, sought the assistance of lawyers as *amicus curiae*. In order to ensure that the process of the Court is not misused, the court may require that the information supplied to it by the petitioner or the state be verified by the *amicus curiae*. Senior advocates of the Supreme Court have assisted it as *amicus curiae* in several cases, including those relating to bonded labour, police excesses, forests, and public accountability.

D. Non-adversarial : In the traditional adversarial system, the lawyers of each party are expected to present contending points of view to enable the judge to decide the issue for or against a party. In PIL there are no winners or losers and the mindset of both lawyers and judges can be different from

¹⁵ (1963) 372 U.S. 335

¹⁶ Supra note 18

¹⁷ AIR 1980 SC 1579

¹⁸ (1983) 2 SCC 308

¹⁹ AIR 1983 SC 339

²⁰ Supra note 10

that in ordinary litigation. The Court, the parties and their lawyers are expected to participate in resolution of a given public problem. This was explained by the Court in *Dr Upendra Baxi v State of U.P.*²¹ in the following words;

“It must be remembered that this is not a litigation of an adversary character undertaking for the purpose of holding the State Government or its officers responsible for making reparation but it is a public interest litigation which involves a collaborative and cooperative effort on the part of the State Government and its officers, the lawyers appearing in the case and the Bench for the purpose of making human rights meaningful for the weaker sections of the community”.

Advantages of PIL: The first and foremost advantage of PIL is access to a National Forum of decision making and power by those who were until now voiceless and invisible. The relaxation of procedural formalities has gone a long way in ensuring that the poor have access to justice. The relaxation of the rule of *locus standi* has resulted in representative action where a person or a group, with a sufficient interest in a particular cause, litigates on behalf of a large number of others who cannot afford the cost of litigation. PIL has also given the court an opportunity to address important issues in areas like environmental protection, consumer protection etc., which affect a large number of people. The acceptance of even letters and telegrams by the courts, as PILs, reduces the cost of such litigation and also encourages public spirited individuals and groups to bring to the notice of the court any situation which requires the Courts interference. The appointing of commissions by the courts as fact finding bodies to check into the allegation made in the petition has established a new mode of proof. These commission reports have formed the basis of direction of the court in cases complaining of violation of rights. The monitoring by the Court of the implementation of the directions at periodic intervals to ensure compliance, enable the vindication of rights in practice. The monitoring function has also often been vested in vigilance bodies with participation of Social Action Groups.

Disadvantages or Abuse of PIL: However, the development of PIL has also uncovered its pitfalls and drawbacks. As a result, the Apex Court itself has been compelled to lay down certain guidelines to govern the management and disposal of PILs. And the abuse of PIL is also increasing along with its extended and multifaceted use.

Of late, many of the PIL activists in the country have found the PIL as a handy tool of harassment since frivolous cases could be filed without investment of heavy court fees as required in private civil litigation and deals could then be negotiated with the victims of stay orders obtained in the so-called PILs. Just as a weapon meant for defence can be used equally effectively for offence, the lowering of the *locus standi* requirement has permitted privately motivated interests to pose as public interests. The abuse of PIL has become more rampant than its use and genuine causes either receded to the background or began to be viewed with the suspicion generated by spurious causes mooted by privately motivated interests in the disguise of the so-called public interests.

An illustrative case is *T.N. Godavarman Thirumulpad v. Union of India*²². The Supreme Court strongly depreciated filing of entirely misconceived and mala fide application in grab of public interest by litigant. While this Court 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 busybody or a meddling interloper or wayfarer or officious

²¹ Supra note 18

²²Writ Petition (civil) 202 of 1995,decided on10.04.2006

intervener without any interest or concern except for personal gain or private profit or other oblique' consideration.

Similarly, in *Ashok Kumar Pandey v. State of West Bengal*²³ the Hon'ble Court made it clear that when there is material to show that a petition styled as public interest litigation is nothing but a camouflage to foster personal disputes, said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public Interest Litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". If not properly regulated and abuse averted it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant or pokes ones into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity.

Judicial Trend

Phase-I - Relaxation in the Rule of 'Locus Standi'

The rule of *locus standi* was relaxed in *Bar Council of Maharashtra v. M. V. Dabholkar*²⁴. The court observed as under:

“Traditionally used to the adversary system, we search for individual persons aggrieved. But a new class of litigation public interest litigation- where a section or whole of the community is involved (such as consumers' organisations or NAACP-National Association for Advancement of Coloured People-in America), emerges in a developing country like ours, this pattern of public oriented litigation better fulfils the rule of law if it is to run close to the rule of life. The possible apprehension that widening legal standing with a public connotation may unloose a flood of litigation which may overwhelm the judges is misplaced because public resort to court to suppress public mischief is a tribute to the justice system.”

In *Mumbai Kamgar Sabha v. Abdul Bhai*²⁵, this Court made conscious efforts to improve the judicial access for the masses by relaxing the traditional rule of *locus standi*. In *Sunil Batra v. Delhi Administration*²⁶, the Court departed from the traditional rule of standing by authorizing community litigation. In *Hussainara Khatoon v. Home Secretary, State of Bihar*²⁷, P. N. Bhagwati, J. has observed that today, unfortunately, in our country the poor are priced out of the judicial system with the result that they are losing faith in the capacity of our legal system. The poor in their contact with the legal system have always been on the wrong side of the line. They have always come across 'law for the poor; rather than law of the poor'. In *Prem Shankar Shukla v. Delhi Administration*²⁸, a prisoner sent a telegram to a judge complaining of forced handcuff on him and demanded implicit protection against humiliation and torture. The court gave necessary directions by relaxing the strict rule of *locus standi*.

²³Writ Petition (crl.) 199 of 2003,decided on 18.11.2003

²⁴ 1976 SCR 306

²⁵ Supra note 11

²⁶ AIR 1978 SC 1675

²⁷ AIR 1979 SC 1369

²⁸ AIR 1980 SC 1535

Even in *Labourers Working on Salal Hydro Project v. State of Jammu & Kashmir*²⁹, on the basis of a news item in the Indian Express regarding condition of the construction workers, the Supreme Court took notice and observed that the construction work is a hazardous employment and no child below the age of 14 years can therefore be allowed to be employed in construction work by reason of the prohibition enacted in Article 24 and this constitutional prohibition must be enforced by the Central Government.

All the above mentioned cases demonstrate that the courts, in order to protect and preserve the fundamental rights of citizens, while relaxing the rule of *locus standi*, passed a number of directions to the concerned authorities.

Phase-II - Directions to Preserve and Protect Ecology and Environment: The second phase of public interest litigation started sometime in the 1980's and it related to the courts' innovation and creativity, where directions were given to protect ecology and environment.

One of the earliest cases brought before the Supreme Court related to oleum gas leakage in Delhi. In order to prevent the damage being done to environment and the life and the health of the people, the court passed number of orders. This is well-known as *M.C. Mehta v. Union of India*³⁰. The court in this case has clearly laid down that an enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding area owes an absolute and non-delegable duty to the community to ensure that no such harm results to anyone on account of hazardous or inherently dangerous nature of the activity which it has undertaken.

Environmental PIL has emerged because of the court's interpretation of Article 21 of the Constitution. The court in *Chhetriya Pardushan Mukti Sangharsh Samiti v. State of U.P.*³¹ observed that every citizen has fundamental right to have the enjoyment of quality of life and living as contemplated by Article 21 of the Constitution of India. Anything which endangers or impairs by conduct of anybody either in violation or in derogation of laws, that quality of life and living by the people is entitled to take recourse to Article 32 of the Constitution. The case of *M.C. Mehta v. Union of India*³², relates to pollution caused by the trade effluents discharged by tanneries into Ganga river in Kanpur. The court called for the report of the Committee of experts and gave directions to save the environment and ecology. In *Vellore Citizens Welfare Forum v. Union of India*³³, this court ruled that precautionary principle and the polluter pays principle are part of the environmental law of the country. This court declared Articles 47, 48A and 51A (g) to be part of the constitutional mandate to protect and improve the environment.

In *S. Jagannath v. Union of India*³⁴, the Supreme Court dealt with a public interest petition filed by the Gram Swaraj Movement, a voluntary organization working for the upliftment of the weaker section of society, wherein the petitioner sought the enforcement of Coastal Zone Regulation Notification dated 19.2.1991 and stoppage of intensive and semi-intensive type of prawn farming in the ecologically fragile coastal areas. The Court gave significant directions in the instant case.

Phase-III - Transparency and Probity in Governance: In the 1990's, the Supreme Court expanded the ambit and scope of public interest litigation further. The High Courts also under

²⁹ AIR 1984 SC 177

³⁰ AIR 1987 SC 1086

³¹ AIR 1990 SC 2060

³² (1988) 1 SCC 471

³³ AIR 1996 SC 2715

³⁴ (1997) 2 SCC 87

Article 226 followed the Supreme Court and passed a number of judgments, orders or directions to unearth corruption and maintain probity and morality in the governance of the State. The probity in governance is a *sine qua non* for an efficient system of administration and for the development of the country and an important requirement for ensuring probity in governance is the absence of corruption. This may broadly be called as the third phase of the Public Interest Litigation. The Supreme Court and High Courts have passed significant orders.

The case of *Vineet Narain v. Union of India*³⁵ is an example of its kind. In that case, the petitioner, who was a journalist, filed public interest litigation. According to him, the prime investigating agencies like the Central Bureau of Investigation and the Revenue Authorities failed to perform their legal obligation and take appropriate action when they found, during investigation with a terrorist, detailed accounts of vast payments, called 'Jain diaries', made to influential politicians and bureaucrats and direction was also sought in case of a similar nature that may occur hereafter. A number of directions were issued by the Supreme Court.

Another significant case is *Rajiv Ranjan Singh (Lalan) v. Union of India*³⁶. This public interest litigation relates to the large scale defalcation of public funds and falsification of accounts involving hundreds of crores of rupees in the Department of Animal Husbandry in the State of Bihar. It was said that the respondents had interfered with the appointment of the public prosecutor. This court gave significant directions in this case.

In yet another case of *M. C. Mehta v. Union of India*³⁷, a project known as Taj Heritage Corridor Project was initiated by the Government of Uttar Pradesh. One of the main purpose for which the same was undertaken was to divert the River Yamuna and to reclaim 75 acres of land between Agra Fort and the Taj Mahal and use the reclaimed land for constructing food plazas, shops and amusement activities. The Court directed for a detailed enquiry which was carried out by the Central Bureau of Investigation (CBI). On the basis of the CBI report, the Court directed registration of FIR and made further investigation in the matter. The court questioned the role played by the concerned Minister for Environment, Government of Uttar Pradesh and the Chief Minister, Government of Uttar Pradesh. By the intervention of this Court, the said project was stalled.

In *Centre for Public Interest Litigation v. Union of India*³⁸, two writ petitions were filed in public interest by the petitioner calling in the question of decision of the government to sell majority of shares in Hindustan Petroleum Corporation Limited and Bharat Petroleum Corporation Limited to private parties without Parliamentary approval or sanction as being contrary to and violative of the provisions of the ESSO (Acquisition of Undertaking in India) Act, 1974, the Burma Shell (Acquisition of Undertaking in India) Act, 1976 and Caltex (Acquisition of Shares of Caltex Oil Refining India Limited and all the undertakings in India for Caltex India Limited) Act, 1977. The court upheld the petitions until the statutes are amended appropriately.

Conclusion

It is revealed that the public interest litigation is the outcome of judicial activism. The need for innovation of public interest litigation in India arose due to failure of discharging the constitutional obligations as well as the voluntary abdication of powers by the executive and the legislature. In

³⁵ AIR 1998 SC 889

³⁶ (2006) 6 SCC 613

³⁷ (2007) 1 SCC 110

³⁸ AIR 2003 SC 3277

such a situation judicial pronouncements have brought a sense of relief to people even at times when the executive and the legislature appeared to have approached a dead end. Activism in the Court has taken on new dimensions through public interest litigation. Judges have begun to enter realms of decision making previously reserved for the legislative or executive wings of the government. This assumption of powers by the judiciary was not for vain glory. Self-abdication of powers and the rampant corruption among the executive and the legislature forced the people to bring the issues before the Court. The Court had no option but to interfere in the day to day affairs of the executive and the legislature through the principle of public interest litigation. PIL has also helped in the development of legal principles such as the 'polluter pays' principle, the 'precautionary' principle and the principle of award of compensation for constitutional wrongs.

But strictly speaking the need of the hour is cooperation, and not confrontation among the three organs of the state – the legislature, the executive and the judiciary. In India it is the Constitution which is supreme. The above three organs are supposed to act within the bounds of the Constitution. They should act harmoniously. Though the Indian judiciary has a place of primacy in the constitutional scheme, it can be rendered ineffective by the Parliament or even by the executive. The Supreme Court only passes orders but it has got no agency of its own to enforce these. It has to depend upon the executive for this purpose. The legislature also can give retaliatory answer to the judiciary by means of amending the Constitution under Article 368.