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## Relaxation on the purview of Locus Standi and the Evolution of Public Interest Litigation

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*This article focuses on the concept of locus standi as was applied in cases traditionally, its history, philosophy, and essentials. And how it was gradually noted by the Supreme Court that it is necessary to relax the stringency in the rules for admission of cases and then emerged a concept from the American jurisprudence, the Public Interest Litigation. In this article, elaborate discussions are made on the essentials of public interest litigation and the circumstances in which public interest litigation is to be allowed for bearing. The article also lays down the entire timeline of cases and landmark judgments which showcases how public interest litigation slowly emerged and got its present form in India. Major cases falling within the purview of Public Interest Litigation have been analyzed with important quotations from the judgments. The flow and the pathway taken by public interest litigation in India to date have been explored in this article.*

**Keywords:** *locus standi, public interest litigation, article 226, article 32.*

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### INTRODUCTION

Locus standi, a Latin phrase, is derived from the term 'locus' which in English means 'place', and 'standi' which in English translates to 'right to bring an action. It is elucidated in **order 7**

**rule 11 of the Code of Civil Procedure, 1908<sup>1</sup>**. It means that there must be sufficient reason for a party to institute a Suit to be heard by the Court of competent jurisdiction.

Ingredients of locus standi are as follows:

- 1. Presence of injury:** as per the Oxford dictionary, the term 'injury' implies the violation of any of the legal rights of a person or some physical or monetary harm caused to him.
- 2. Causation:** it means the cause and effect relationship between the acts. That is the injury caused to one party must be due to the act of another party.

Traditionally the rule stated that only that person whose fundamental rights or legal rights have been infringed or violated by the act of another person or the State can file a writ petition in the High Court of competent jurisdiction under Article 226<sup>2</sup> (for both fundamental and legal rights) and in the Supreme Court under Article 32<sup>3</sup> (only for fundamental rights) of the Constitution of India. But there are many people who are unable to approach the Court for redressal of their violated fundamental or legal rights. Keeping this problem in mind the Supreme Court of India has relaxed the essentials of locus standi in cases of Public Interest Litigation.

## **PUBLIC INTEREST LITIGATION**

The concept 'Public Interest Litigation' has its origin in the American Jurisprudence where it was originally introduced to provide legal representation to unprivileged groups like the poor, minorities, etc. It is not defined in any Statute but has been given meaning from time to time by judges as a part of judicial activism to consider the interest of the public at large. In a Public Interest Litigation, a public-spirited individual may use the cause of an economically or socially backward person for the well-being of the public at large. In such cases, there is some kind of breach of fundamental rights of one person regarding an issue that affects the public at large. Thereafter, another individual or organization brings the case to the High Court (Article

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<sup>1</sup> Code of Civil Procedure, 1908, r 11, ord 7

<sup>2</sup> Constitution of India, 1950, art.226

<sup>3</sup> Constitution of India, 1950, art.32

226) or the Supreme Court (Article 32) of the Constitution of India for redressal so that such occurrences do not get repeated in the future and there are concrete steps taken for the betterment of the people whose rights haven't yet been infringed but are at equal risk to those who rights have been infringed. Citizens can file a PIL before the Supreme Court under Article 32 or before the High Court under Article 226. It is not mandatory for the person to personally approach the Court for a matter relating to PIL to be admissible and heard.

The essentials of a Public Interest Litigation are as follows:

- **Injury:** there has to be a violation of the fundamental or legal rights of an individual. Someone has to suffer the loss of any right for the case to be maintainable.
- **Causation:** the violation of fundamental or legal rights of one party has to be violated due to the act of another party or State. There has to be a direct relationship between the wrongdoing of one party and the injury of the other.
- The case should be filed genuinely **for the interest of the public:** There should be sufficient interest of the individual or the organization to bring the case for the public good.

The *timeline of the evolution of Public Interest Litigation* in India, with the help of certain landmark cases among many others, is as follows:

**1976 - *Mumbai Kamgar Sabha v M/s Abdulbhai Faizullabhai and others*.<sup>4</sup>** : In India, the first PIL was filed in this case. There was an association of employers and workmen in Mumbai. The workmen demanded their bonus of 4 months' wages. Court held they had locus standi as the association was filing the case as an individual whose bonus amount has not been cleared. The case was decided in favour of appellants as the greater picture ought to have been seen over procedural shortcomings. The bonus was customary only during the festivals but the Court held that the bonus ought to be paid in this case. Being social welfare legislation, the payment of wages act takes into account the benefit of the people, and this judgment, according to me,

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<sup>4</sup> *Mumbai Kamgar Sabha v M/s Abdulbhai Faizullabhai and others* (1976), AIR 1455

was absolutely in essence with the main purpose and reason for the enactment of this particular statute.

**1976 - *Bar Council of Maharashtra v M. V. Dabholkar & Others***:<sup>5</sup> 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 fulfills the rule of law if it is to run close to the rule of life." Breaking the obstacles and the rules of locus standi, this judgment held that it is necessary for justice to prevail over technical barriers. This judgment brought out the rule of law and justice, equity, and good conscience as far as admissibility and maintainability of cases is concerned.

**1978 - *Sunil Batra v Delhi Administration & Others***:<sup>6</sup> The Supreme Court, in this case, took a different path from the traditional standard rule which was to stand by the authorizing community litigation. The Court made an exception and entertained a writ petition from a prisoner who was a disinterested party in the Suit, objecting to the torture of another fellow prisoner. The apex court, after reasoning that "these 'martyr' litigations possess a beneficent potency beyond the individual litigant and their consideration on the wider representative basis strengthens the rule of law"<sup>7</sup>, entertained the writ petition. Many times there are inhuman treatments that the prisoners in correctional homes go through. It may so happen that they are somehow not able to approach the Court for justice. By admitting this case and expanding the spectrum of locus standi, it is now open for public-spirited individuals to come forward and bring the plight of the prisoners to the judicial notice.

**1979 - *Hussainara Khatoon v the State of Bihar***:<sup>8</sup>This was the first reported case of PIL in the legal history of India. The case dealt with inhuman conditions of prisoners and under-trial prisoners

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<sup>5</sup> *Bar Council of Maharashtra v M.V. Dabholkar & Others* (1976), AIR 242

<sup>6</sup> *Sunil Batra v Delhi Administration & Others* (1978) 4 SCC 409

<sup>7</sup> *State of Uttaranchal v Balwant Singh Chauhal and Ors.* AIR 2010, SC 2550

<sup>8</sup> *Hussainara Khatoon v The State of Bihar* AIR 1979, SC 1369

that led to the release of 40,000 under-trial prisoners. It was after this landmark case that the right to speedy justice emerged as a fundamental right of every person. It is because of this case that every person today has the right to a speedy trial.

**1980 - *Municipal Council, Ratlam v Vardhichand & Others*:**<sup>9</sup> In this case Krishna Iyer, J. relaxed the rule of locus standi:

"The truth is that a few profound issues of processual jurisprudence of great strategic significance to our legal system face us and we must zero in on them as they involve problems of access to justice for the people beyond the blinkered rules of 'standing' of British Indian vintage. If the centre of gravity of justice is to shift, as the Preamble to the Constitution mandates, from the traditional individualism of locus standi to the community orientation of public interest litigation, these issues must be considered.....".

In this case, the residents of the Ratlam municipality were living in very unhygienic conditions, with clogged drains and unclean surroundings. They filed a case before the Magistrate against the municipality to enforce them to clean the surroundings and to maintain proper sanitation under section 113<sup>10</sup> of the Code of Criminal Procedure under public nuisance. The Magistrate passed an order to clean the surroundings and install pipes for proper drainage. The order was appealed in the High Court which upheld the Magistrate's order and even to the Supreme Court which held that Magistrate had the power to enforce a statutory body to perform its duties. Supreme Court also upheld the order of the Magistrate.

**1981 - *S.P. Gupta v Union of India*:**<sup>11</sup> In this case, a group of lawyers filed a writ petition under Article 226 of the Constitution regarding the appointment of judges and indirectly in the disposal of cases of the public. The case questioned the interference of the executive in the appointment of judges and also the concept of independence of the judiciary. The judgment was passed by a seven judges bench. In this case, Justice P.N. Bhagwati, the father of PIL in India, remarked that:

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<sup>9</sup> *Municipal Council, Ratlam v Vardhichand & Others* (1980) AIR 1622

<sup>10</sup> Code of Criminal Procedure, 1973, s 113

<sup>11</sup> *S.P. Gupta v Union of India* (1982) 2 SCR 365

"It is true that there are rules made by this Court prescribing the procedure for moving this Court for relief under Article 32 and they require various formalities to be gone through by a person seeking to approach this Court. But it must not be forgotten that procedure is but a handmaiden of justice and the cause of justice can never be allowed to be thwarted by any procedural technicalities. The court would therefore unhesitatingly and without the slightest qualms of conscience cast aside the technical rules of procedure in the exercise of its dispensing power and treat the letter of the public-minded individual as a writ petition and act upon it."<sup>12</sup>

This case is popularly known as the 'Judges Transfer case'. One of the most important issues, in this case, was the validity of the orders of the Central Government in the non-appointment of two Judges. The petitioner sought for disclosure of material facts and communications between the Law Minister, Chief Justice of Delhi, and Chief Justice of India. The respondents claimed the privacy of these documents under Article 74(2)<sup>13</sup> of the Indian Constitution. But the Supreme Court held that it is necessary to disclose the documents as it involves an issue of social justice.

**1984 - *Bandhu Mukti Morcha v Union of India and ors.***<sup>14</sup> The petitioner prayed to protect the right under Article 21<sup>15</sup> against inhumane working conditions. In this PIL the importance of protecting children's rights to education, health, and development to ensure progress was upheld. The Supreme Court directed abolishing child labor. These orders gave rise to an enactment called the child labor Prohibition and Regulation Act 1986 that focused on eradicating child labor and bonded labor.

**1987 - *M.C.Mehta v Union of India.***<sup>16</sup> This PIL was brought against Ganga water pollution. The Court held that although the person bringing the litigation might not himself be using the

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<sup>12</sup> *S.P. Gupta v Union of India* (1982) 2 SCR 365

<sup>13</sup> Constitution of India, 1950, art.74(2)

<sup>14</sup> *Bandhu Mukti Morcha v Union of India and ors.* AIR 1984, SC 802

<sup>15</sup> Constitution of India, 1950, art.21

<sup>16</sup> *M.C. Mehta v Union of India* (1987) SCR(1) 819

water of the Ganga he can nonetheless bring the case for enforcement of statutory provisions for the people who use the water of the Ganga.

**1989** - *Parmanand Katara v Union of India & Ors*:<sup>17</sup> The background of this case was such that there was a bike accident and the person injured was not given immediate attention and treatment at the nearby hospital. To add to that the patient was recommended to go to another hospital for treatment which was nearly 20 kilometers away since that hospital could deal with such cases where the police are involved. There was a huge time delay due to the treatment of the injured person. Such types of road accidents are often seen on busy roads and keeping the interest of the public at large in mind this case was brought. The Court held that it is obligatory for a doctor or a hospital, both public and private, to provide immediate emergency medical aid to a victim of a road accident.

**1997** - *Vishakha v State of Rajasthan*:<sup>18</sup> Bhanwari, who was protesting against illegal practices like child marriage, was gang-raped and the pieces of evidence of her rape case were suppressed. An organization named Vishakha filed the PIL for enforcement of the fundamental rights of women in the workplace comprising Articles 14, 15, 19, and 21<sup>19</sup> of the Indian Constitution. It was after this case that the Protection of Women from Sexual Harassment at Workplace Act was enacted.

**2000** - *Indian Banks Association Bombay and Ors v M/s Devkala Consultancy Services and Ors*:<sup>20</sup> It was held by the Hon'ble Court that in appropriate cases where a party moves the Court for redressal of some private grievance, the Court may inquire into the state of affairs of the subject of litigation for the greater interest of the public. Or, in some cases where it is seen necessary by the Court, a private interest case may be treated as public interest litigation.

**2003** - *Javed v State of Haryana*:<sup>21</sup> the issue of population growth and the ill effects of the same was dealt with in this case. It was held in this landmark case that people having more than two

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<sup>17</sup> *Parmanand Katara v Union of India & Ors* AIR 1989, SC 2039

<sup>18</sup> *Vishakha v State of Rajasthan* AIR 1997, SC 3011

<sup>19</sup> Constitution of India, 1950, art.14, art.15, art.19, and art.21

<sup>20</sup> *Indian Banks Association Bombay and Ors v M/s Devkala Consultancy Services and ors.* (2004 ) 4 SC 587

<sup>21</sup> *Javed v State of Haryana* AIR 2003, SC 3057

children will be disqualified from holding any offices in Panchayats. The purpose was to promote the importance of family planning.

**2011** - *Narmada Bachao Andolan v State of M.P. & Anr*:<sup>22</sup> the construction of a Dam on the Narmada River led to thousands of families getting submerged in its water. The apex court allowed water to be filled up to a certain degree but not beyond and directed the High Court to issue further guidelines. The HC held that if the government promises to give land to those affected and later doesn't offer them the Promised Land then it will be the duty of the Court to enforce the right. Along with offering land the Court also directed the State of Madhya Pradesh to pay a sum of Rs. 10,000/- to the petitioner as cost.

**2013** - *Mohd. Haroon v Union of India*:<sup>23</sup> Muzaffarnagar communal violence was dealt with in this PIL. Emphasis was laid on the inhuman conditions in which the victims were left due to the riots. The State of U.P. was directed by the Hon'ble Apex Court to immediately take action and save the people bereft of food and water, taking aid of the Central Government.

**2013** - *Laxmi v Union of India*:<sup>24</sup> This PIL focused on the urgency for stringent regulations under the Poison Act, 1919 in respect of acts of acid attacks on women. The Supreme Court gave directions and measures for the proper attention and immediate treatment and rehabilitation of the acid attack victims and also to look into and cater to the various needs that the victims might require. The Court in addition to the above directed for compensation to be paid to acid attack victims by the State or for the creation of a separate fund for payment of compensation to the acid attack victims.

## CONCLUSION

In conclusion, it can be said that a Public Interest Litigation is another side of writ petitions. Although there are creases that are yet to be ironed out this relaxation in locus standi has brought radical changes in the lives of underprivileged and backward classes of the society

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<sup>22</sup> *Narmada Bachao Andolan v State of M.P. & Anr* AIR 2011, SC 1989

<sup>23</sup> *Mohd. Haroon v Union of India* (2014) 2 SCC CRI 680

<sup>24</sup> *Laxmi v Union of India* (2014) 4 SCC 427



and is now an indispensable tool in the administration of the Rule of Law as enshrined under Article 14<sup>25</sup> of the Constitution of India.

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<sup>25</sup> Constitution of India, 1950, art.14