

# Defending Nature Through Law: The Role of Public Interest Litigation in Environmental Protection

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## ABSTRACT

A new field called environmental jurisprudence is developing a coherent legal, economic, and ecological framework for protecting natural resources for future generations. Public interest in environmental concerns is a prerequisite for the legitimacy and efficacy of environmental governance. Environmental movements and public interest litigation are greatly aided by the public interest. A legal action brought before a court of law with the intention of upholding the public interest is known as public interest litigation. Based on landmark rulings from the Supreme Court and High Courts, this article examines environmental jurisprudence and public interest litigations. Public interest litigation has demonstrated that judicial intervention is possible in cases when the public is harmed due to the government's failure to fulfil its constitutional or statutory obligations. The only situation in which courts will step in is when the State is obviously failing to fulfil its constitutional or legislative obligations. Public interest litigation is a tool that must be handled very carefully and cautiously.

**Keywords:** Environment, Public Interest Litigation, judicial intervention

## INTRODUCTION

India, with its rich biodiversity and immense natural resources, is facing significant environmental issues. Rapid urbanization, industrial expansion, deforestation, and pollution have damaged ecosystems, threatened species, and jeopardized public health. Air and water pollution, waste mismanagement, and climate change are not merely environmental concerns; they also threaten the fundamental right to life guaranteed by Article 21 of the Indian Constitution. Pollution poses a multidimensional hazard. The significant changes to the natural environment have affected and disrupted the natural balance. The complex strategies that men use to make their lives more comfortable define nature's equilibrium. Man has been extremely cruel to nature in trying to reap immediate benefits. In order to achieve rapid growth, we have ruthlessly harmed our environment and natural resources, leaving us with irreparable effects. Mahatma Gandhi rightly remarked "**Nature provides adequate bounty to a needy man, but not for a greedy man**".

In response to these evolving difficulties, the judiciary has emerged as a significant role in environmental governance. Public interest litigation (PIL), which began as a means of addressing social inequities, has evolved into a strong instrument for environmental protection. PIL has cleared the path for landmark rulings and policy reforms by enabling citizens and organizations to approach courts on

behalf of harmed communities or natural ecosystems. PIL has opened the path for significant decisions and policy reforms.

Public interest litigation in India has enabled a dynamic and proactive approach to environmental justice. It has given the courts the authority to interpret and enforce the Right to Life in a way that encompasses the right to a safe and sustainable environment. This judicial enlargement has not only strengthened environmental legal protections, but has also sparked important legislative changes and raised public awareness of environmental issues. The identification and preservation of environmental rights has become increasingly important in the face of global environmental degradation and climate change. The judiciary has been essential in promoting environmental rights in India, frequently situating them within the larger framework of fundamental rights, especially the Right to Life guaranteed by Article 21 of the Constitution. In this judicial activity, Public Interest Litigation (PIL) has become a potent instrument that enables citizens, non-governmental organizations, and other interested parties to contest government policies, business operations, and other environmentally detrimental behaviours.<sup>1</sup>

### MEANING OF PUBLIC INTEREST LITIGATION

A Public Interest Litigation (PIL) is a case or petition that is filed before a court to protect, safeguard, or enforce the public interest, which is defined as the interest or right of the public, a particular class of the community, or a group of people. PILs are filed to address issues that affect the legal rights of the public or a community at large. They are brought before the courts to protect the interests of the collective, not the individual, and they can only be received by the Supreme Court of India or the State High Courts. PILs have grown to be a powerful tool for upholding the legal duties of the legislative and executive branches. A Public Interest Litigation (PIL) is defined by no law, statute, or act. According to the Indian Constitution, PILs are brought before the courts to protect the rights of the people and further the common good. The idea of a PIL was inspired by the power of judicial review in India.

The 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 has pecuniary interest or some interest by which their legal rights or Liabilities are affected.<sup>2</sup> Contrary to previous practices (strictly based on the locus standi principle), in which only the aggrieved person could approach the courts, today a person acting in good faith and with a sufficient interest can approach the courts to redress public injury, enforce public duty, or protect social and collective rights and interests. This is referred to as the diluting of the locus standi principle. The capacity to seek the jurisdiction of the Supreme Court and the High Courts under Articles 32 and 226 of the Indian Constitution is a significant step forward in environmental protection. Courts have expanded the dimensions of the substantive rights to health and a clean, unpolluted environment.<sup>3</sup>

PILs have addressed a wide range of topics. It includes compassion for animals and the rights of tribal people and fishers, as well as the Himalayan and forest eco-systems, eco-tourism, land use patterns, and the challenges that a village faces as a result of environmental devastation. A diverse range of persons in society have filed PILs in court to address environmental issues. Lawyers, bar associations, environmentalists, groups and centres dedicated to environmental protection and forest conservation,

<sup>1</sup> Mahesh Dashrath Sugdhare, Lambe Ahmed Parvez, Anupam Jaiswa , Keni Mitesh Chandrakant, “The Role of Public Interest Litigation in Advancing Environmental Rights as Fundamental Rights”, International Journal of Emerging Technologies and Innovative Research (IJETIR) Volume 3, Issue 1 (February 2023)

<sup>2</sup> D.K. Parihar v. Union of India, AIR 2005,Raj 171

<sup>3</sup> <https://www.defactolaw.in/post/pil-and-environmental-protection-in-india-constitutional-manifestation>

welfare forums, and consumer research centres have successfully advocated for environmental problems in the courts.

Public Interest Litigation (PIL) has evolved as an important tool in India for furthering environmental justice and holding both government and private companies accountable for environmental damage. Individuals and organizations can use PILs to approach the courts on behalf of communities affected by environmental issues, even if they are not directly affected themselves.<sup>4</sup>

## Constitutional And Legal Framework relating to Environmental Protection in India

### 1. Constitutional Provisions

One of the biggest issues that humans and other living things are currently dealing with is environmental degradation. Environmental pollution, as defined by Environment (Protection) Act, 1986, is the presence of any environmental pollutant in the environment.<sup>5</sup>

"Environmental pollution" is simply described as "the contamination of the physical and biological components of the earth/atmosphere system to such an extent that normal environmental processes are adversely affected." The main goals of the legislation pertaining to environmental conservation are to preserve humankind and promote a happy, healthy living. There are provisions pertaining to environmental protection in the Indian Constitution, and the Indian Parliament has occasionally passed legislation to protect the environment as needed.<sup>6</sup>

Initially, the Constitution of India had no direct provision for environmental protection. Global consciousness for the protection of environment in the seventies, Stockholm Conference and increasing awareness of the environmental crisis prompted the Indian Government to enact 42nd Amendment to the Constitution in 1976. The Constitution was amended to introduce direct provisions for protection of environment.<sup>7</sup> The provisions which have been included in the Constitution to protect the environment are as follows:

- **Article 48A:** "The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country."
- **Article 51A (g)** which deals with Fundamental Duties of the citizens states: "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures."
- **Article 253:** Article 253 states that 'Parliament has power to make any law for the whole or any part of the country for implementing any treaty, agreement or convention with any other country. In simple words this Article suggests that in the wake of Stockholm Conference of 1972, Parliament has the power to legislate on all matters linked to the preservation of natural environment. Parliament's use of Article 253 to enact Air Act and Environment Act confirms this view. These Acts were enacted to implement the decisions reached at Stockholm Conference.
- **Article 21:** No person shall be deprived of his life or personal liberty except according to procedure established by law.

<sup>4</sup> <https://taxguru.in/corporate-law/public-interest-litigation-pil-advancing-environmental-justice-india.html>

<sup>5</sup> Section 2(c) of the Act

<sup>6</sup> Ashish Verma, "PROTECTION OF ENVIRONMENT THROUGH PIL IN INDIA: A SOCIO-LEGAL ANALYSIS" Research Inspiration: An International Multidisciplinary e-Journal, Vol. 6, Issue-III (June 2021)

<sup>7</sup> <https://www.indianbarassociation.org/wp-content/uploads/2013/02/environmental-law-article.pdf>

The judiciary through its interpretation expanded the scope of the Article 21. Under this article the aspect of right to life has been expanded including the right to healthy environment and this aspect has started through the interpretations done by the high court and further on the apex court also decided the aspect of considering the right to healthy environment also the intrinsic part of the right to life and personal liberty. The right to life would be meaningless if there was no healthy environment. The judicial interpretation has made Right to live in a healthy environment as the sanctum sanctorum of Human Rights.<sup>8</sup>

## 2. Legislative Provisions

- **The Indian Forests Act, 1927:** One of the important Pre-Constitution legislations has been the Indian Forests Act, 1927. This Act, which is still in operation, was enacted to preserve, safeguard and conserve the forests generally in India.
- **The Water (Prevention and Control of Pollution) Act, 1974:** The Act establishes penalties for violating its provisions and forbids the discharge of contaminants into water bodies in excess of a certain threshold. In order to prevent and regulate water pollution, it established the Central Pollution regulate Board (CPCB). The CPCB is in charge of the State Pollution Control Board (SPCB), which operates at the state level.
- **The Forest (Conservation) Act, 1980:** In accordance with Article 51A(g) of the Indian Constitution, which mandates that the country's forests and wildlife be protected, the Indian Parliament passed the Forest (Conservation) Act, 1980, to ensure that forest lands are not indiscriminately diverted for non-forest uses. Growing concern over deforestation causing ecological imbalance and environmental deterioration led to the Act.
- **The Air (Prevention and Control of Pollution) Act, 1981:** In accordance with Article 253, the Parliament passed the Air Act to carry out the Stockholm Conference's resolution. It primarily regulates and mitigates air pollution. And sets requirements for air quality as well. Emission standards are independently notified by the Central and State Boards established under sections 16 and 17.
- **The Environment (Protection) Act, 1986:** This Act gives the central government the authority to prevent or restrict the establishment and/or operation of any industrial facility for environmental reasons, control and decrease pollution from all sources, and safeguard and improve environmental quality.
- **The Hazardous Wastes (Management and Handling) Rules, 1989:** Under these rule the hazardous waste, "hazardous waste" means any waste which by reason of any of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics causes danger or is likely to cause danger to health or environment.<sup>9</sup> The primary goals of waste management are to safeguard the environment by using efficient waste management practices, to safeguard the environment, health, and well-being, in order to stop pollution.
- **The Noise pollution (Regulation And Control) Rules, 2000:** there are a number of causes contributing to the rising ambient noise levels in public areas, including construction, industry, fire crackers, sound-producing devices, loud speakers, public address systems, music systems, car horns, and other mechanical devices.

<sup>8</sup> <https://www.linkedin.com/pulse/protection-environment-under-indian-constitution-legasispvtltd>

<sup>9</sup> Section 3(14) of the Act

health and psychological well-being of people are negatively impacted by these devices; therefore, it is thought to be necessary to regulate and control sources of noise in order to maintain ambient air quality standards regarding noise.

- **The Municipal Solid Wastes (Management and Handling) Rules 2000:** All municipal authorities in charge of collecting, sorting, storing, transporting, processing, and disposing of municipal solid wastes are subject to these rules.
- **The National Green Tribunal Act, 2010:** The NGT is a vital component of India's environmental conservation efforts. It is a specialized entity created in 2010 under the National Green Tribunal Act with the responsibility of resolving environmental disputes, including the enforcement of environmental legal rights and the provision of relief and damages compensation.

### Significant PIL Cases in Environmental Protection

A significant portion of India's current environmental law is created by the Supreme Court and High Courts using thorough judicial reasoning. The Supreme Court and the High Courts, in the exercise of their authority under Articles 32 and 226 of the Indian Constitution, respectively, have been crucial in interpreting Article 21 to address environmental complaints. As part of India's environmental jurisprudence, the courts have effectively developed indigenous legal methods by combining a liberal perspective on guaranteeing social justice and the protection of human rights with a variety of international environmental doctrines for the purpose of interpreting the Constitution and the Statutes.<sup>10</sup>

The Supreme Court first introduced the idea of a Public Interest Litigation (PIL) in the case of **Ratlam Municipal Council v. Vardhichand**<sup>11</sup>, in which the city of Ratlam's municipal body had neglected to ensure the establishment of a proper drainage system due to a lack of funds. The court noted that a responsible Municipal Council, which was established specifically to preserve public health, could not avoid its primary duty by claiming financial inability.

Since that time, the Indian judiciary has been developing new ideas and revising old ones to suit the demands of the modern world.

Since 1986, India's environmental laws and policy-making have been greatly impacted by the ruling in **Rural Litigation and Entitlement Kendra vs. The State of U.P**<sup>12</sup>. This lawsuit is regarded as India's first environmental PIL. In Vellore, Tamil Nadu, it addressed the pollution brought on by tanneries along the Palar River. The ruling highlighted the necessity of conducting thorough environmental impact assessments (EIAs) prior to starting mining operations. As a result, the Environment (Protection) Act of 1986 and other environmental regulations made EIA a legal necessity.

**M. C. Mehta v. UOI**<sup>13</sup>, in which an oleum gas leak at an industrial facility in the capital city of Delhi in 1985 caused a fatality and caused major health problems for the general public. The Supreme Court reduced the likelihood that the offending party would raise any defence to avoid responsibility in this case by imposing the doctrine of "Absolute Liability" on the user of dangerous material. This regulation developed from the well-established "strict liability" idea.

<sup>10</sup> <https://www.ajne.org/sites/default/files/event/7/session-materials/h.-kohli.-session-7-public-interest-litigation-justice-hima-kohli.pdf>

<sup>11</sup> AIR 1980 SC 1622

<sup>12</sup> AIR 1985 SC 652

<sup>13</sup> AIR 1987 SC 1086

**MC Mehta v. Union of India, (Ganga Pollution Case)**<sup>14</sup>, Another case that MC Mehta brought, this one for Ganges River pollution. Environmental improvements were substantial as a result of the Supreme Court's order to close companies that were dumping untreated garbage into the river. This case demonstrated how crucial it is to preserve India's holy rivers and how PIL may help achieve that objective.

In the case of **Vellore Citizens Welfare Forum v. Union of India**<sup>15</sup>, pollution from Tamil Nadu's tanneries and other businesses was a significant issue. The Palar River's contamination and its effects on the area's water supply were the petition's main points. The Supreme Court ordered the federal government to create an agency under the Environment Protection Act that would implement the polluter pays and precautionary principles. In addition to requiring shared treatment facilities and fining tanneries, it also ordered the closure of noncompliant units.

**MC Mehta v. Union of India**<sup>16</sup> (**The Vehicular Pollution Case**): In this case, the Supreme Court addressed Delhi's air pollution from vehicle emissions. Compressed Natural Gas (CNG) was introduced for public transportation as a result of the court's decision, along with other pollution-reduction initiatives. This case exemplified how the judiciary influences environmental policy and protects public health.

The Taj Mahal is a historic monument in India. However, it is under peril due to environmental degradation. In **M.C. Mehta v. Union of India and others**<sup>17</sup> (**Taj trapezium Pollution**), the Supreme Court ruled that no vehicles, including VIP cars, were permitted within 500 meters of the Taj Mahal. And also directed that all licensed brick kilns within 20 kilometers of the Taj Mahal and other key monuments in Taj trapezium and Bharatpur birds sanctuary be shuttered.

**In K.M. Chinnappa v. Union of India**<sup>18</sup>, the Supreme Court ruled that "sustainable development is basically a policy and strategy for continued economic and social development without detriment to the environment and natural resources on which additional development and continued activity depend." Therefore, the needs of the present as well as the future's capacity to meet its own wants and requirements must be considered while considering developmental measures. The future must not be overlooked when considering the present. Future wants and requirements must be taken into consideration since we owe it to them. The future must not be overlooked when considering the present. The Supreme Court emphasized the significance of the Doctrine of Sustainable Development in the **Indian Council for Environment -Legal Action v. Union of India**<sup>19</sup> case, also known as the Coastal Zone Protection case. The court stated that while economic development should not be permitted at the expense of ecology or by causing widespread environmental destruction and violations, the need to preserve the environment and ecology should not impede other developments, including economic ones. The environment and development must coexist; in other words, development cannot occur without adequate consideration and environmental protection.

In the case of **Him Privesh Environment Protection Society Vs. State of Himachal Pradesh through Secretary Industries and Ors.**<sup>20</sup>, in 2010, petitions were brought before the High Court of Himachal

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<sup>14</sup> AIR 1988, SC 1115

<sup>15</sup> (1996) 5 SCC 647

<sup>16</sup> 1991 SCC(2)353

<sup>17</sup> AIR 1997 SC 734

<sup>18</sup> AIR 2003 SC 724

<sup>19</sup> (1996)5 SCC 281

<sup>20</sup> H.P CWPIIL No.15 of 2009

Pradesh challenging the establishment of a cement factory by an industrial house in District Solan, Himachal Pradesh, stating that the cement plant was built in complete contravention of environmental rules, including EIA Notifications. The facility had razed a large portion of the forest and taken land from adjacent villages without holding a formal public hearing. Conscious of the fact that passing a closure or demolition order in respect of the cement plant would cause immense hardship and have a negative impact on the livelihood of thousands of innocent citizens, the High Court invoked the principle of "polluter pays" and imposed damages on the Cement Plant owner in the amount of Rs.100 crore, which is 25% of the total project cost. The Cement Plant owner disputed the aforementioned decision at the Supreme Court, but the appeal was dismissed in 2013.

### Challenges And Criticism

Environmental conservation in India has been greatly aided by Public Interest Litigation (PIL), however it is not without challenges and objections. These concerns relate to PIL's effects on governance, efficacy, and misuse potential.

Judicial overreach is one of the main arguments against PIL, especially in environmental matters. Critics contend that the judiciary occasionally intrudes on the authority of the legislative and executive departments through PIL. Confusion and a lack of accountability may result from this blurring of boundaries. By imposing rules and policies that are customarily the domain of government bodies, courts are frequently perceived as going beyond their authority.

The possible abuse of PIL is another major worry. PILs have a wide scope, which increases the possibility of frivolous litigation, in which people or organizations bring claims to harass others or benefit themselves. This abuse can strain the legal system and lessen the significance of real environmental cases.

Despite the fact that PIL has produced important environmental conservation results and historic rulings, carrying out court orders is still difficult. It is frequently necessary for several government entities to cooperate in order to comply with court orders, and these agencies may be unwilling or delayed to act. Public confidence in the legal system may be weakened and PIL effectiveness may be compromised by this lack of enforcement.

India's fast urbanization and industrialization create a special challenge: striking a balance between economic growth and environmental preservation. Some rulings, according to PIL critics, can impede economic development and progress even though they are environmentally sound. PIL's ability to influence environmental policy may be hampered by this clash between the demands of development and environmental preservation.<sup>21</sup>

### Conclusion

When it comes to environmental protection in India, Public Interest Litigation (PIL) has completely rewritten the rules. PIL has empowered common people and organizations to hold powerful individuals and organizations responsible for environmental violations, from pursuing large polluters to protecting natural ecosystems. PILs have established important concepts such as the "Polluter Pays", "Precautionary Principle", and "Public Trust Doctrine" via historic cases. They have also acknowledged the right to a healthy environment as a fundamental component of the constitutional right to life under

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<sup>21</sup> The Role of Public Interest Litigation (PIL) in Environment Conservation in India, available at: [https://legalonus.com/the-role-of-public-interest-litigation-pil-in-environment-conservation-in-india/#Challenges\\_and\\_Criticism](https://legalonus.com/the-role-of-public-interest-litigation-pil-in-environment-conservation-in-india/#Challenges_and_Criticism)

Article 21. The Indian judiciary has shown itself to be a valuable ally in advancing environmental governance, maintaining the rule of law, and guaranteeing a just balance between environmental preservation, social obligations, and national growth.

Of course, there are still certain obstacles to overcome. It is not always appropriate for the courts to intervene, and it might be difficult to put the decisions into practice. There's also a chance that pointless lawsuits may clog the system. India's continued development will make it extremely difficult for PIL to strike a balance between environmental preservation and economic expansion. But despite all of that, there are some interesting trends in environmental PIL at the moment, such as emphasizing climate change, urban environmental concerns, and increasing community involvement.

In the end, environmental PILs in India continue to be a significant instrument for safeguarding the environment and ensuring that everyone abides by the law. PIL can continue to have a significant impact on India's environmental policies and build a better future for all if we continue to do our best job and care about the environment.