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Chief Editor

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**(Chhattisgarh)**  
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Dr. Piyush Kumar Trivedi<sup>1</sup> & Gyanendra Pratap Singh<sup>2</sup>

#### Abstract

*Environment preservation is a major concern in India. The Supreme Court is acutely aware of environmental damage. Living in a healthy atmosphere is a basic human right for everyone. The Indian Constitution protects it under Article 21 and also serves as the foundation of human rights' is the government's responsibility to protect the environment from degradation and to create a healthy environment for its citizens. Various environmental protection laws are used to achieve this goal. Civic Interest exists in India, and it is reflected in the development of its environmental laws. The Public Interest Litigation (PIL) has evolved into a powerful weapon for enforcing environmental laws, with the Apex Court issuing directives and guidelines for environmental protection. The primary goal of this research article is to highlight the significance of Public Interest Litigation (PIL) in the formulation and implementation of environmental legislation.*

**Key words:** Public Interest Litigation, Environmental Laws, Right to Live, Fundamental Right

#### Introduction

The two sides of a coin are the living being and the environment. Everyone has the right to a harmless and vigorous environment in which to live. At the same time, the state has a responsibility to ensure a healthy environment for its citizens. Man is a part of the environment, yet he is also responsible for polluting it. The progress of a country is determined by the progress of its citizens. A man's progress can be achieved if he lives in a healthy atmosphere. The 42nd Amendment Act of 1976 introduced Article 48A in Part IV of the Indian Constitution, which imposes a direct obligation on the government by requiring it to "seek to maintain and promote the environment, as well as to safeguard the country's forest and wildlife." This Amendment Act also added Article 51A, which imposes ten responsibilities on Indian citizens. Article 51A, clause (g), lays an obligation on residents to conserve the environment. This clause states that every Indian citizen has a responsibility to maintain and improve the natural environment. Articles 39(b), 47, 48, and 49 of the Directive Principles individually and collectively imposed a duty on the State to create conditions to improve the general health level in the country and to protect and improve the natural environment even before the 42nd Amendment Act of the Constitution of India.<sup>3</sup> The Supreme Court concluded in *Municipal Council vs Vardichand* that the State will recognize that Article 47 makes it a vital tenet of governance that efforts be made to improve public health as one of its primary responsibilities.<sup>4</sup> A distinct environment department was established in 1980, and many Acts have been made in India to fulfil the promise to protect and conserve the environment. There are around 200 environmental laws at the federal and state levels. Under Article 249 of the Constitution, Parliament passes the most essential environmental legislation. Water (Prevention and Control of Pollution) Act of 1974 and Air (Prevention and Control of Pollution) Act of 1974 were both passed in 1974. The Forest (Conservation) Act was passed in 1980 with the goal of preserving forests and preventing further deforestation. The Central Government's power under Article 253 was used to pass the Air (Prevention and Control of Pollution) Act of 1981. The Air Act is a follow-up to the conclusions reached during the Stockholm Conference. In the year 2000, a notification relating to the Noise Pollution (Regulation & Control) Rules was issued with the goal of preserving Ambient Air Quality Standards .

The Environment (Protection) Act, 1986 was adopted by the Indian government in the aftermath of the Bhopal gas tragedy. Aside from that, a number of notifications and rules have been issued, including the Hazardous Wastes (Management and Handling) Rules in 1989, the Biomedical Wastes (Management and Handling) Rules in 1998, the Recycled Plastics

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<sup>3</sup> An appraisal of environmental law: Birth of the right to environment in India, Available at <<http://www.legalserviceindia.com/articles/evn.htm>>, (Last visited on December 20, 2021).

<sup>4</sup> (1980) 4 SCC 162

(Manufacture and Usage) Rules in 1999, the Environment (Siltation for Industrial Projects) Rules in 1999, and the Municipal Solid Wastes (Management and Handling) Rules in 2000.

The Supreme Court is also concerned about environmental protection. It has been critical in the development and implementation of environmental laws. It pioneered the PIL concept in India. Public interest litigation is a powerful tool for enforcing public duties when the action or misdeed has resulted in public injury. Any Indian citizen can approach the Supreme Court and High Courts for legal redress in any case where the general public or a section of the public's interests are at stake. Justice K.G. Balakrishnan, Chief Justice of India, stated that over the last three decades or so, the tool of Public Interest Litigation (PIL) has come to be recognized as a distinguishing feature of India's higher judiciary. The Supreme Court's decisions in Public Interest Litigation (PIL) cases have gradually shaped a distinct jurisprudence that gives due weightage to the interests of society's underprivileged and backward segments. In the case of a PIL, the Supreme Court of India has relaxed the traditional requirement of locus standi. The Court has also expanded the scope of Article 21 of the Indian Constitution. The traditional or doctrinal method is used to complete this research paper.

### **PIL in India Judicial System**

PIL stands for Public Interest Litigation. It refers to legal action taken in the public's interest to protect their legal rights. The term "public interest" refers to something in which the public at large has a monetary interest or an interest that affects their legal rights or liabilities. The term "litigation" refers to a lawful action, which includes all legal proceedings initiated in a court of law with the goal of enforcing a right or seeking redress. PIL is also known as Social Action Litigation (SAL). In general, an aggrieved person can seek redress in court, but in a PIL, the court broadens the scope of the aggrieved person. The Supreme Court ruled in *S.P. Gupta vs. President of India*, that where a legal wrong or a legal injury is caused to a person or a determinate class of persons as a result of or in violation of any constitutional or legal right, or where any burden is imposed in contravention of any constitutional or legal provision or without authority of law, or where any such legal wrong, legal injury, or illegal burden is threatened, and such person or determinate class of persons is poor, helpless, or disabled, or is socially or economically disadvantaged any member of the public can maintain an application for an appropriate remedy in the High Court under Article 226 and in case of breach of any fundamental right in the Supreme Court under Article 32 seeking judicial redress for the legal wrong or injury.<sup>5</sup> Public Interest Litigation can be brought by an NGO, an institution, or an individual, or it can be brought by a court *Suo moto*. It is not necessary to have a direct interest in the matter of public interest litigation. A petition under Article 32 for pollution prevention may be filed at the request of affected individuals or by a group of social workers or journalists. However, recourse to Article 32 of the Constitution should be taken by a person who is genuinely interested in the protection of society on behalf of the community. It is a low-cost legal remedy for the country's environmental protection. The Supreme Court's decisions in the 1970s relaxed the strict locus standi requirements in order to improve judicial access by allowing public-spirited individuals, institutions, or bodies to file petitions on behalf of marginalized and deprived sections of society. The court recognized a group of citizens' locus standi in *Municipal Council, Ratlam vs Vardichand*. The court held that a few processual jurisprudence issues of great strategic importance to our legal system confront us, and we must focus on them because they involve problems of access to justice for the people beyond the blinkered rules of "standing" of British Indian vintage. In public interest litigation, a person acting in good faith and with a sufficient interest in the PIL proceeding will have a locus standi and can approach the court to challenge a genuine violation of statutory provisions, but not for personal gain, private profit, political motive, or any other oblique consideration. The Supreme Court, under Article 32 of the Constitution, and the High Court, under Article 26 of the Constitution, are the two courts where public interest litigation can be lodged.

There is no definition of the word "public interest litigation" in any statute or act. Judges have interpreted it to mean that the intent of the general public is taken into account. In *Bandhua Mukti Morcha vs Union of India*, the Supreme Court held that

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<sup>5</sup> AIR 1981



public interest litigation is a task and an opportunity for the government and its officers to make basic human rights meaningful to the deprived and vulnerable sections of the community and to ensure them social and economic justice, which is our Constitution's signature tune.<sup>6</sup>

According to Advanced Law Lexicon, "Public Interest Litigation" is "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>7</sup>

In its Report of Public Interest Law, USA, 1976, the Ford Foundation's Council for Public Interest Law defined "public interest litigation" as follows: "Public Interest Law is the name that has recently been given to efforts to provide legal representation to previously unrepresented groups and interests." Such efforts have been undertaken in recognition of the fact that the traditional legal services market fails to provide such services to significant segments of the population and interests.<sup>8</sup>

When discussing the Scope of Article 21 of the Indian Constitution, Article 21 of the Indian Constitution provides that no person shall be deprived of his life or personal liberty except in accordance with the procedure established by law. It denotes that a person has the right to life. However, the question of what is included in the term "right to life" arises.<sup>9</sup>

The Supreme Court held in *M.C. Mehta vs UOI* that Article 32 does not merely confer power on this Court to issue direction, order, or writ for enforcement of fundamental rights, but it also imposes a constitutional obligation on this Court to protect the fundamental rights of the people, and for that purpose this Court has all incidental and ancillary powers, including the power to forge new remedies and fashion new strategies designed to enforce the fundamental rights.<sup>10</sup>

The Supreme Court ruled in *Chhetriya Pardushan Mukti Sangharsh Samiti vs State of U.P. & Ors* that every citizen has a fundamental right to enjoy a high standard of living.<sup>11</sup> The court ruled in *M.C. Mehta vs UOI & Ors* that every citizen has a right to clean air and a pollution-free environment.<sup>12</sup> The Supreme Court ruled in *Indian Council for Enviro-Legal Action etc. vs UOI & Ors* that this writ is directed against the Central Government, the State Government, and the State Pollution Control Board to perform their statutory duties on the grounds that their failure to do so is seriously undermining the right to life.<sup>13</sup> The court ruled that if an industry is established without the compulsory permissions and clearances, and if the industry is continued to operate in flagrant violation of the law to the detriment of the lives and liberty of the citizens living nearby, this Court will issue an injunction. The Supreme Court reiterated in *M.C. Mehta vs Union of India & Ors* that the right to life is a fundamental right under Article 21 of the Constitution, and it includes the right to enjoy pollution-free water and air for full enjoyment of life.<sup>14</sup>

#### **PIL and Environmental Law**

Public Interest Litigation is a highly effective tool for developing and enforcing environmental laws. In the 1980s, the Supreme Court paid close attention to the issues of air pollution, water pollution, and environmental degradation. In a number of cases, the courts have issued important directives and issued orders that have resulted in positive changes in the country. In a number of cases, the Court's orders have greatly benefited marginalized sections of society. It has also aided in the protection and preservation of ecology, the environment, forests, marine life, and wildlife, among other things. In fact, the Supreme Court has a regular Forest Bench (Green Bench).

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<sup>6</sup> AIR 1984 SC.

<sup>7</sup> 15 <http://www.legalblog.in/2011/02/public-interest-litigation-definition.html>

<sup>8</sup> *M/s. Holi cow Pictures Pvt. Ltd. vs Prem Chandra Mishra and Ors.*, AIR 2008 SC 913.

<sup>9</sup> In case of *Re: Noise Pollution*, 2005 AIR 3136.

<sup>10</sup> AIR 1987 SC, 1086.

<sup>11</sup> AIR 1990 SC 2060.

<sup>12</sup> 1992(3) SCC 256.

<sup>13</sup> AIR 1996 SC 1446.

<sup>14</sup> 2004(12) SCC.

The Supreme Court issued a number of directives and orders to the Central Government, State Governments, and statutory authorities to ensure environmental conservation. According to the Supreme Court, hundreds of thousands of factories operate without pollution control devices every day. In this scenario, the Supreme Court intervened in a large number of cases and issued numerous directives.

The principle of sustainable development was recognised by the Supreme Court. The Supreme Court considers and applies the precautionary and polluter pays principles, which are features of sustainable development in environmental protection. The Supreme Court also established the principle of "Absolute Liability" in the event that anyone engages in hazardous activity.<sup>15</sup>

In *Rural Litigation and Entitlement Kendra Dehradun & Ors vs State of UP & Ors*, the lime stone quarries that have been or may be ordered to be permanently closed down must be reclaimed, and afforestation and soil conservation programs must be implemented in relation to such limestone quarries.<sup>16</sup> Hon'ble Mr. Justice A.N. Sen observed in this case that industrial development is required for the country's economic growth.

In *M.C. Mehta vs UOI*, the Supreme Court directed the Delhi Legal Aid and Advice Board to take up the cases of all those who claim to have suffered as a result of oleum gas and to file actions in the appropriate Court on their behalf to seek compensation, and the Delhi Administration to provide the Board with the necessary funds for this purpose.<sup>17</sup>

The Supreme Court issued interim directions in *M.C. Mehta vs UOI*, observing that despite the comprehensive provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Environment (Protection) Act, 1986, no effective steps appear to have been taken by the State Board and the Central Government to prevent the discharge of effluents from the Jajmau near Kanpur to the Ganga and to end the grave public nuisance caused by the tanneries.<sup>18</sup> Closure of tanneries may result in job losses and revenue losses, but it also affects life, health, and the environment.

The Supreme Court declared in *Charan Lal Sahu etc. vs UOI & Ors* that every sovereign state has plenary and inherent power to do all things that promote the health, peace, moral, education, and good order of the people while also tending to raise the state's wealth and prosperity.<sup>19</sup>

In *M.C. Mehta vs UOI*, the Supreme Court was of the view that the petitioner was entitled to move the Court in order to enforce the statutory provisions which imposed duties on the Municipal Authorities and the Boards under the Water Act, on account of failure of which to obey the statutory duties for several years, the water in the River Ganga at Kanpur had become so much polluted that it could no longer be used by the people for drinking or bathing.<sup>20</sup> The Court directed that the Mahapalika should submit its proposals for sewage treatment works to the State Board within six months.

The Supreme Court gave the following instructions in *M.C. Mehta vs. UOI*:<sup>21</sup>

- i) The Central Government, State Governments, and Union Territories should make it a condition of all cinema halls', travelling Cinemas', and video parlors' licenses that they must show two free slides/messages on the environment in each performance they perform.
- ii) The national network, state Door-Darshan Centers, All India Radio, and Television should take appropriate initiatives to screen films and programs on environmental issues.
- iii) At every level of education, the environment and its pollution concerns should be taught as a required subject. The University Grants Commission should establish a graded environmental course as a required subject in college education.

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<sup>15</sup> <http://www.elaw.org/node/1360>

<sup>16</sup> 1985 AIR 652.

<sup>17</sup> AIR 1987 SC 1086.

<sup>18</sup> AIR 1988 SC 1037.

<sup>19</sup> 1990 AIR 1480.

<sup>20</sup> AIR 1988 SC 1115.

<sup>21</sup> AIR 1992 AIR 382.



The supreme court held in *M.C. Mehta and others vs UOI and others* that while environmental changes are an unavoidable result of our country's industrial development, the quality of the environment cannot be harmed by polluting the air, water, and land to the point where it becomes a health hazard for the residents of the area. The authorities in charge in the Union Territories of Delhi have been completely negligent in their statutory obligations, failing to safeguard the environment and regulate air pollution in the Union Territory of Delhi. According to a survey, indiscriminate disrespect for the environment has landed Delhi in the terrible position of being the world's third filthiest, most polluted, and dirtiest city.<sup>22</sup>

The Supreme Court ruled in *Vellore Citizens Welfare Forum vs Union of India & Ors* that if there is a risk of substantial and irreparable damage, a lack of scientific confidence should not be used as a justification for delaying environmental protection measures.<sup>23</sup> Under Section 3(3) of the Environment (Protection) Act, 1986, the Central Government shall establish an authority and delegate to it all of the powers necessary to address the situation produced by tanneries and other polluting enterprises in Tamil Nadu.

The Supreme Court held in *M.C. Mehta vs UOI & Ors* that, in light of the categorical findings of the National Environmental Engineering Research Institute (NEERI) and several reports by the West Bengal State Pollution Control Board, there is no possibility of setting up common effluent treatment plants at the existing locations of the Calcutta tanneries, and that the tanneries must be relocated.<sup>24</sup> Before they are allowed to discharge trade effluent into a stream or on land, the Calcutta tanneries must first acquire permission from the Board. The requisite consent had not been secured by a substantial number of Calcutta tanneries.

The Supreme Court ruled in *M.C. Mehta versus UOI & Ors* that the ancient notion that development and ecological cannot coexist is no longer valid. The solution is "Sustainable Development." Industry development is critical for the country's economy, but the ecology and ecosystem must be maintained at the same time. The pollution produced as a result of industrialization must be proportional to our ecosystems' carrying capacity. The emissions produced by coke/coal-consuming companies pollute the air and harm the Taj and the people who live in the Taj Trapezium Zone (TTZ).<sup>25</sup>

In *S. Jagannath vs. Union of India & Ors*, the petitioner demanded that the Coastal Zone Regulation Notification of 19.2.1991 be implemented and that intensive and semiintensive prawn farming be prohibited in ecologically sensitive coastal areas. The Court issued important directives, instructing the Central Government to establish an authority with all the powers necessary to protect ecologically sensitive coastal areas, seashores, waterfronts, and other coastal areas, as well as to deal with the situation created by the shrimp culture industry in coastal states.

The Supreme Court declared in *M.C. Mehta versus Kamal Nath & Ors* that the Public Trust Doctrine is a part of the law of the land, and that certain resources such as air, sea, water, and forests are gifts from nature. The State has a legal obligation to protect these natural resources as a trustee. These resources, which are intended for public use, cannot be turned into private property. In this case, a wide tract along the banks of the Beas River, which is part of a protected forest, was leased to the Motels only for commercial purposes. The land, which is biologically sensitive and full of scenic beauty, should not have been allowed to be converted into private ownership and profit.<sup>26</sup> By leasing the ecologically sensitive area to the Motel management, the State Government committed a clear breach of public trust.

In *M.C. Mehta vs. UOI & Ors*, the Supreme Court directed that, in order to address the problem of vehicle pollution in the National Capital Territory of Delhi, all commercial/transport vehicles older than 15 years be phased out and not authorised to

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<sup>22</sup> 1992(3) SCC 256.

<sup>23</sup> AIR 1996 SC 2715.

<sup>24</sup> 1997(2) SCC 411.

<sup>25</sup> 1997(2) SCC 353.

<sup>26</sup> 1997(1) SCC 388.

operate in the NCT of Delhi. This directive applies to any commercial/transport vehicles that are more than the stipulated age, whether registered in the National Capital Territory of Delhi or elsewhere (but ply in Delhi).<sup>27</sup>

The Supreme Court ruled in *A. P. Pollution Control Board vs Prof. M. V. Nayadu & Ors* that the Precautionary Principle and the Polluter Pays Principle are both part of the country's environmental law.<sup>28</sup>

The Supreme Court held in *M.C. Mehta vs UOI & Ors* that it would be reasonable to direct the stoppage of mining activity within a two-kilometer radius of two tourist resorts in Haryana, Badkal Lake and Surajkund, in order to preserve the environment and control air and noise pollution caused by stone crushers, pulverizers, and mining operations in the area. Directions were issued to maintain ecological balance and to develop and maintain green belts as advised by the NEERI, as well as to prohibit the renewal of mining leases within a 2 to 5 km radius.<sup>29</sup>

The Supreme Court ruled in *M.C. Mehta versus Union of India & Ors.* that natural resources including air, water, and soil cannot be used if doing so causes irreversible environmental damage. The lack of efficient enforcement of environmental regulations and non-compliance with statutory norms has resulted in increased environmental degradation. The Regulatory Authorities must exercise extreme caution in ensuring that the businesses adhere to the protective regulations and standards. They must act in the way that has been prescribed for them. If it is possible to carry on development activity using the principles of sustainable development without harming the environment or minimising bad impacts by implementing strong safeguards, then development must continue, but a balance must be established.<sup>30</sup>

In *re Noise Pollution*, the Supreme Court stated that individuals in our country are often unaware of the negative consequences of noise pollution. There is a pressing need to raise public awareness about the dangers of noise pollution. Textbooks that teach civic consciousness to children and youth at the primary/early levels of schooling may include appropriate chapters.<sup>31</sup>

The Supreme Court ruled in *Karnataka Industrial Areas Development Board vs Sri C. Kenchappa & Ors* that the notion of sustainable development, whose importance is to solve environmental concerns, is profound and unquestioned. While industry development is necessary for economic growth, the environment and ecosystem must also be protected. The key to ensuring a sustainable use of natural resources is to strike a balance between development and ecosystem health.

## CONCLUSION

The current investigation demonstrates that the right to a pollution-free environment is not clearly mentioned in the Indian Constitution's chapter on basic rights. Only the Apex Court's interpretation of Article 21 of the Indian Constitution brought this right into play. Shri M.C. Mehta, a prominent advocate and notable environmentalist, has played a significant role in environmental conservation. In terms of environmental challenges, India's higher judiciary has played a significant role. It was through a PIL that the Supreme Court of India first introduced the notion of absolute liability in India. It demonstrates the judiciary's commitment to environmental protection. It recognised the concept of sustainable development and implemented the precautionary and polluter pays principles, as well as levying hefty fines on polluters for environmental protection. Public Interest Litigation is a powerful and low-cost instrument that should not be used to settle a personal score. It should only be used for the sake of the public good. The study emphasises the importance of educating citizens about public interest litigation and environmental pollution prevention. They must understand their constitutional obligations under Article 51 A (g) and work with the government to achieve the goal of environmental conservation. All of the rules set by the Apex Court, as well as the environmental statutes, must be observed.

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<sup>27</sup> 1998(8) SCC 206.

<sup>28</sup> 1999(2) SCC 718.

<sup>29</sup> 2001(9) SCC 235

<sup>30</sup> 2004(12) SCC118.

<sup>31</sup> AIR 2005 SC 3136.