



Ayana Legal

THE BUZZ

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Supreme Court Guidelines on PILs

The Supreme Court of India has provided certain guidelines on PILs. As per the guidelines only certain subject matters will be entertained as PILs. These include:

- Bonded Labour matters
- Neglected Children
- Non-payment of minimum wages to workers, exploitation and complaints of violation of Labour Laws (except in individual cases).
- Petitions against police for refusing to register a case, harassment by police and death in police custody.
- Petitions against atrocities on women, in particular harassment of bride, bride-burning, rape, murder, kidnapping etc.
- Petitions from riot -victims.
- Family Pension

PUBLIC INTEREST LITIGATION

Public Interest Litigation (PIL) 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 have pecuniary interest or some interest by which their legal rights or liabilities are affected” as defined by the Supreme Court in the case of *Janata Dal v. H.S. Chaudhary*, (AIR 1993 SC 892). Individual or personal matters are not entertained as PILs.

PILs can be filed under the writ jurisdiction of Article 32 and Article 226 provided for in the Constitution of India to either the Supreme Court or High Court respectively. The unique nature of PILs has been best described in the case of *Mumbai Kamgar Sabha v. Abdulbhai Faizullahai*, (1976) 3 SCC 832 where the Supreme Court described how the procedural requirement of locus standi (the standing of a person to bring a case before court) has been widened - “Public interest is promoted by a spacious construction of locus standi in our socio-economic circumstances and conceptual latitudinarianism permits taking liberties with individualisation of the right to invoke the higher courts where the remedy is shared by a considerable number, particularly when they are weaker. Less litigation, consistent with fair process, is the aim of adjectival law.”

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- Petitions complaining of harassment or torture of villagers by co-villagers or by police from persons belonging to Scheduled Caste and Scheduled Tribes and economically backward classes.
- Petitions from jails complaining of harassment, for pre-mature release and seeking release after having completed 14 years in jail, death in jail, transfer, release on personal bond, speedy trial as a fundamental right.
- Petitions pertaining to environmental and ecological issues, food adulteration, maintenance of heritage and culture, antiques.

Thank You

We at Ayana Legal thank you for your continued support and patronage to our newsletter and capsules. We look forward to being back with our next edition soon.

Disclaimer

This newsletter is solely for the purpose of providing information and the content provided is not and should not be construed as legal advice.

Landmark Judgements

A few landmark judgements of the Supreme Court
 Hussainara Khatoon v. Home Secy., State of Bihar, (1980) 1 SCC 93 is considered the first PIL in India, where the plight of under-trial prisoners was highlighted and the right to speedy trial was recognized as a fundamental right under Article 21 of the Constitution.

Lakshmi Kant Pandey v. Union of India, [1984] 2 SCR 795, wherein the Court laid down comprehensive frameworks regulating inter-country adoptions.

Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161, came down heavily on the issue of bonded laborers stating that the right to live with dignity and free from exploitation is a fundamental right and ordered for their rehabilitation.

M.C. Mehta v. Union of India, AIR 1987 SC 965, where the rule of absolute liability, holding an individuals liable without any exceptions, was laid down as a result of the oleum gas leak in Delhi which happened soon after the Bhopal Gas Tragedy.

Parmanand Katara v. Union of India, (1995) 3 SCC 248, a landmark judgement where the Hon'ble Court laid down duties of medical professionals stating that preservation of life is utmost priority.

Vishaka v. State of Rajasthan, (1997) 6 SCC 241, prior to the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013, the Hon'ble Supreme Court had identified the existing legislative lacunae and laid down guidelines.

K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1, wherein the right to privacy was recognized as a fundamental right and an intrinsic part of human dignity. It was further stated that the right to privacy is subjected to reasonable restrictions based upon the test of proportionality.