

## **Green Justice: The Rise of Public Interest Litigation in India's Environmental Governance**

**Tanay Paul**

Assistant Professor, Dispur Law College

Email: tanaypaul216.tp@gmail.com

### **Abstract**

*Environmental Public Interest Litigation is a pioneering legal instrument for addressing the environmental crisis. It not only addresses the catastrophe of the commons in environmental issues but also serve a vital means for protecting and safeguarding the rights of environmentally vulnerable group/groups and upholding environmental justice in the country. In a number of studies, it has been shown that as far as the environmental degradation is concerned, the courts in the form of Public Interest Litigation have played a pivotal role in reducing the environmental hazards and curbing the further deterioration of environment. Over the past decade, the development of India's Environmental Public Interest Litigation system has been promising. The rise of Environmental PIL was facilitated by the influence of judgment delivered by Justice Bhagwati and Justice Krishna Iyer. The Indian judiciary has proved itself to be a strategic partner in promoting environmental governance by upholding the rule of law and in ensuring a fair balance between protection of environment, social commitments and development. This study focuses on various facets of Public Interest Litigation in Environmental Law and aims to comprehend how effective are Environmental Public Interest Litigation in shaping environmental jurisprudence and promoting sustainable development.*

**Keywords-** *Environmental Public Interest Litigation, Environmental Issues, Judiciary, Effectiveness, Sustainable Development.*

### **I. Introduction**

The constitutional provisions contained in the Preamble, the Fundamental Rights, Fundamental Duties and Directive Principles of State Policy have been interpreted in distinguished manner to shape the legal system in India. The concept of Public Interest Litigation in India has emerged as a promising instrument to further the objectives laid down therein and has opened a new chapter in the Indian Judicial system.<sup>1</sup> This instrument helps in protection of the interest of the suppressed people whose voices have remained unheard in the court of law for long. Environmental Public Interest Litigation (PIL) in India has played a transformative role in

---

<sup>1</sup> Manoj Kumar, "Ensuring Right to Clean Environment through Public Interest Litigation in India: Some Reflections" 4 *Chanakya Law Review* 12 (2023).

environmental governance, often bridging the gap between constitutional promises and actual enforcement of environmental rights.<sup>2</sup> Originating in the early 1980s, the concept of PIL enabled citizens, NGOs, and activists to seek judicial intervention in matters affecting public health and ecology, even without being directly affected parties.<sup>3</sup> The proactive stance of the Indian judiciary has led to a significant expansion of environmental jurisprudence, but questions remain about the long-term effectiveness and sustainability of this approach.

Environmental PIL in India derives legitimacy from the broader framework of the Constitution of India. Article 21, which guarantees the **right to life**, has been expansively interpreted to include the **right to a clean and healthy environment**. This interpretation was first advanced in *Subhash Kumar v. State of Bihar*<sup>4</sup>, where the Supreme Court held that the right to life includes the right to enjoy pollution-free water and air. Further, **Article 48A** (Directive Principles of State Policy) and **Article 51A(g)** (Fundamental Duties) impose obligations on both the State and citizens respectively to protect the environment. This constitutional synergy has enabled courts to treat environmental protection as an essential component of fundamental rights, providing a solid foundation for PIL in environmental cases.<sup>5</sup>

Thus in the light of this important concept of environmental public interest litigation, the present study seeks to explore and describe as to how the judiciary in India has utilized this concept to evolve and enforce the effectiveness of the environmental right in India as one of the Fundamental Rights of citizens.

## II. Meaning and Evolution of Environmental Public Interest Litigation Jurisprudence in India

PIL is a legal tool that empowers any individual or group (even if they are not directly affected by a particular issue) to approach the courts for relief in matters of public interest.<sup>6</sup> In the context of the environment, PILs are used to bring attention to violations of environmental laws, degradation of natural resources, pollution, deforestation, and other issues that affect public health and the ecosystem.

The key features of environmental PIL are as follows-

- a. **Access to justice:** PIL allows citizens to approach courts without needing to demonstrate direct injury or personal harm. This is especially important in environmental cases, where harm may be widespread but not immediately visible to any one individual.<sup>7</sup>
- b. **Judicial intervention:** It empowers the judiciary to intervene in environmental matters where the executive or legislative branches may not act or may be ineffective. This factor plays a crucial role in the upliftment of environmental justice.

<sup>2</sup> D.S. Sengar, *Environmental Law* 129 (Prentice Hall India Learning Pvt. Ltd., Delhi, 2009).

<sup>3</sup> *Ibid.*

<sup>4</sup> AIR 1991 SC 420.

<sup>5</sup> *Id.* at 130.

<sup>6</sup> Parmanand Singh, "Promises and Perils of Public Interest Litigation in Protecting the Rights of the Poor and the Oppressed", 27 *Delhi Law Review* 8 (2005).

<sup>7</sup> *Ibid.*

- c. **Citizen empowerment:** PIL provides an accessible legal platform for individuals, NGOs, and communities to raise environmental concerns.<sup>8</sup> It empowers the stakeholders to get more engaged in the environmental cases.

The concept of PIL in India was mainly evolved and developed by the activist judges of our Apex Court, Justice Krishna Iyer and Justice P.N.Bhagawati were notable among them. The judges realized that there were many loopholes in our legal system and it is becoming a hurdle in providing justice to the needy people. In view of this hurdle, they started the concept of PIL abrogating the strict procedural rules relating to “standing before the court”<sup>9</sup> and liberalized the rule of *locus standi* to provide justice to the needy and marginalized people of the society. In India, the first reported PIL case was *Hussainara Khatoon v. State of Bihar*<sup>10</sup> and *S.P. Gupta v UOI*<sup>11</sup> was a landmark case that significantly expanded the scope of PIL and is marked as the case in India to provide justice to the poor and disadvantaged person and opened a new gate for new horizons of justice.

The journey of environmental PILs began with *Rural Litigation and Entitlement Kendra v. State of U.P.*<sup>12</sup>, dealing with limestone quarrying in the Doon Valley. However, it was **M.C. Mehta**, a pioneering environmental lawyer, whose series of PILs helped shape modern environmental jurisprudence in India.

In *M.C. Mehta v. Union of India (Oleum Gas Leak case)*<sup>13</sup>, the Supreme Court not only provided relief for the victims but also evolved the **principle of absolute liability**. This went beyond the English doctrine of strict liability by denying exceptions for hazardous industries operating in India.

In *Vellore Citizens Welfare Forum v. Union of India*<sup>14</sup>, the Court incorporated international principles like the **precautionary principle** and the **polluter pays principle**, making them part of Indian environmental law.

In *T.N. Godavarman Thirumulpad v. Union of India*<sup>15</sup>, the Supreme Court’s orders led to the formation of a Forest Conservation Committee and the introduction of stricter forest management policies. The case also highlighted the balance between developmental needs and environmental conservation.

**Narmada Bachao Andolan v. Union of India**<sup>16</sup> raised concerns regarding the environmental and social impacts of the construction of the Narmada Dam. The case sparked debates about the displacement of people, loss of biodiversity, and ecological consequences. Although the court ruled in favor of the dam's construction, the case highlighted the need for balancing large infrastructure projects with environmental and social justice.

<sup>8</sup> *Ibid.*

<sup>9</sup> P.M.Baxi, *Public Interest Litigation*, 3 (Ashoka Law House, New Delhi, 2<sup>nd</sup> edn., 2004).

<sup>10</sup> 1979 AIR 1369.

<sup>11</sup> 1981 (Supp) SCC 87.

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

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

<sup>14</sup> AIR 1996 SC 2715.

<sup>15</sup> AIR 1997 SC 1228.

<sup>16</sup> AIR 2000 SC 3751.

---

### III. Effectiveness of Environmental PILs

Environmental PIL has emerged as a powerful legal tool to address environmental degradation and enforce environmental rights, particularly in countries where regulatory enforcement is weak or under-resourced.<sup>17</sup> By allowing citizens, NGOs, and other concerned parties to approach the judiciary directly, environmental PIL provides a mechanism to ensure accountability, uphold constitutional rights, and foster sustainable development. One of the key strengths of environmental PIL lies in its accessibility. Traditional legal systems often require a direct *locus standi* “the legal standing to bring a case”<sup>18</sup> which can exclude many concerned parties from raising environmental issues. Environmental PIL relaxes this requirement, allowing any individual or organization acting in the public interest to file a case. This has significantly broadened access to environmental justice, particularly for marginalized communities who are disproportionately affected by environmental harm<sup>19</sup>.

Environmental PIL has led to landmark judgments that have had a lasting impact on environmental governance. In India, for example, the Supreme Court has played a pivotal role in expanding the scope of Article 21 of the Constitution (Right to Life) to include the right to a clean and healthy environment. Cases like *MC Mehta v. Union of India*<sup>20</sup> have not only resulted in specific directives (such as closing polluting industries or cleaning rivers) but also in the creation of institutional frameworks, such as environmental regulatory authorities. Moreover, environmental PIL often prompts judicial innovation and proactive intervention. Courts have frequently issued continuing mandamus orders, keeping cases open for monitoring compliance over time<sup>21</sup>. This allows for dynamic engagement with evolving environmental issues and ensures that orders are not just symbolic but implemented effectively.

However, the effectiveness of environmental PIL is not without limitations. One concern is judicial overreach. Critics argue that courts, in stepping into administrative and policy domains, may lack the technical expertise or resources to manage complex environmental issues<sup>22</sup>. This can sometimes result in impractical or poorly enforced judgments. Moreover, overuse or frivolous use of PIL can clog the judicial system and dilute its impact. Another challenge is the gap between legal orders and ground-level implementation. Despite progressive judgments, actual enforcement often remains weak due to bureaucratic inertia, political resistance, or lack of institutional capacity<sup>23</sup>. Without strong follow-up mechanisms, the transformative potential of environmental PIL may not be fully realized<sup>24</sup>.

Despite these challenges, environmental PIL continues to be a vital instrument for environmental protection. It raises public awareness, creates legal precedents, and pressures governments and corporations to act responsibly. When combined with robust civil society engagement and media advocacy, PIL can catalyze significant environmental reforms<sup>25</sup>. Hence, Environmental PIL has proven to be an effective legal strategy for environmental protection, particularly in countries with active judiciaries and participatory legal cultures.

---

<sup>17</sup> P. Leelakrishnan, *Environmental Law in India* 114 (Lexis Nexis, New Delhi, 2000).

<sup>18</sup> P.N. Bhagwati, “Judicial Activism and Public Interest Litigation” 23 *Columbia Journal of Transborder Law* 566 (1985).

<sup>19</sup> *Ibid.*

<sup>20</sup> 1987 AIR 1086.

<sup>21</sup> *Supra* note 16 at 116.

<sup>22</sup> P.M. Baxi, *Public Interest Litigation 3* (Ashoka Law House, New Delhi, 2<sup>nd</sup> edn., 2004).

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> D. Banerjea, A. Subramanyam, *et. al.*, *Judicial Activism: Dimensions and Directions* 259 (Vikas Publishing House, Noida, 2002).

While not a panacea, it plays a crucial role in bridging the gap between environmental law and justice, ensuring that environmental rights are not just aspirational but enforceable.

#### **IV. Sustainability of Environmental Public Interest Litigation**

Environmental PIL has emerged as a crucial legal mechanism for protecting the environment and promoting sustainable development, especially in developing countries where governance and regulatory oversight may be weak. While its immediate impacts are often visible through landmark court decisions, the long-term *sustainability* of environmental PIL that is, its capacity to generate enduring environmental benefits requires critical examination.<sup>26</sup>

At its core, environmental PIL seeks to enforce environmental laws, protect natural resources, and uphold the rights of communities to a clean and healthy environment. Over the years, courts in countries like India, Bangladesh, Nepal, and South Africa have delivered progressive judgments that have expanded the scope of environmental rights.<sup>27</sup> For example, Indian courts have interpreted Article 21 (Right to Life) to include the right to a pollution-free environment. Such interventions have led to the closure of polluting industries, protection of forests, and even the cleaning of rivers.

However, the sustainability of these outcomes depends on multiple factors beyond the courtroom and some of them are highlighted as follows-

##### **(i) Implementation and Enforcement**

One of the biggest challenges to the sustainability of environmental PIL is the gap between judicial pronouncements and on-ground implementation. Courts may issue bold and progressive rulings, but without strong institutional mechanisms to enforce them, their impact often remains symbolic. Bureaucratic inefficiency, corruption, political interference, and lack of technical expertise hinder the execution of court orders.<sup>28</sup> Sustainable outcomes require long-term monitoring and cooperation between the judiciary, executive, and civil society.

##### **(ii) Judicial Overreach vs. Judicial Activism**

While proactive judiciary is a hallmark of successful environmental PIL, its sustainability may be compromised if courts consistently take on executive functions. For instance, micro-managing policy implementation or infrastructure projects without appropriate expertise can lead to unintended consequences<sup>29</sup>. To ensure long-term sustainability, the judiciary must strike a balance between guiding policy and respecting institutional boundaries.

##### **(iii) Public Participation and Awareness**

Sustainable environmental justice through PIL requires active participation from civil society. PIL should not be seen as a substitute for civic activism or democratic engagement<sup>30</sup>, but as a complementary tool. When communities, NGOs, and the media are involved, they help ensure

<sup>26</sup> *Supra* note 9 at 5.

<sup>27</sup> *Id.* at 34.

<sup>28</sup> *Id.* at 35.

<sup>29</sup> Manoj Kumar, "Ensuring Right to Clean Environment through Public Interest Litigation in India: Some Reflections" 4 *Chanakya Law Review* 12 (2023).

<sup>30</sup> *Ibid.*

accountability, spread awareness, and maintain pressure on authorities to follow through on court decisions so that better environment can be ensured.

#### **(iv) Preventing PIL Misuse**

The integrity of environmental PIL is threatened when it is misused for personal, political, or commercial interests. Frivolous or ill-motivated PILs can burden the judiciary, divert attention from genuine cases, and weaken public trust. Clear guidelines and preliminary scrutiny can help preserve the credibility and long-term utility of PIL as a tool for environmental justice<sup>31</sup>.

#### **(v) Capacity Building and Legal Reform**

For environmental PIL to remain sustainable, there is a need for continuous capacity building of the judiciary and legal professionals in environmental law and science<sup>32</sup>. Additionally, legal reforms to strengthen environmental tribunals, improve public access to justice, and integrate environmental considerations into broader policy frameworks can enhance the long-term impact of PIL.

### **V. Way Forward to Environmental PIL**

To strengthen the role and impact of Environmental PIL in India, the following strategic steps must be taken -

#### **(a) Strengthen Implementation Mechanism**

Effective enforcement remains the weakest link in the environmental justice chain. Courts must work in coordination with environmental regulatory bodies such as the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs), and local authorities to ensure compliance with their orders. Creating independent monitoring committees or involving third-party audits can help track implementation more transparently.

#### **(b) Enhance Judicial and Administrative Capacity**

Environmental cases often involve complex scientific and technical data. Therefore, continuous training of judges, lawyers, and environmental regulators in environmental science and law is essential. Strengthening institutions like the National Green Tribunal (NGT) with adequate resources and multidisciplinary expertise can further improve the quality and sustainability of judgments.<sup>33</sup>

#### **(c) Promote Responsible Use of PIL**

While liberal standing has democratized access to environmental justice, it has also opened the door to frivolous or politically motivated PILs. Courts should adopt stricter preliminary scrutiny to filter out non-genuine cases without discouraging legitimate grievances. A robust screening process will enhance the credibility and effectiveness of environmental PIL.

#### **(d) Encourage Community Participation**

Long-term sustainability of PIL outcomes depends heavily on community awareness and involvement. Empowering local communities through legal literacy campaigns,

<sup>31</sup> D.S.Sengar, *Environmental Law* 129 (Prentice Hall India Learning Pvt. Ltd., Delhi, 2009).

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

---

environmental education, and decentralized grievance mechanisms can foster stronger local stewardship of environmental resources.

**(e) Integrate PIL with Policy and Governance Reforms**

PIL should not function in isolation. It must complement broader policy efforts, such as climate action plans, pollution control programs, and sustainable development initiatives. Institutionalizing learnings from landmark cases into government regulations can make the impact of PIL more systemic and long-lasting.

**(f) Use Technology for Transparency and Monitoring**

Leveraging tools like GIS mapping, satellite imagery, and public data dashboards can improve transparency and enable citizens to track environmental compliance and court directives. This tech-enabled approach can enhance accountability and foster collaborative governance.

## **VI. Conclusion**

Environmental PIL has played a transformative role in environmental governance, particularly in regions where state institutions are weak or unresponsive. However, its sustainability depends not just on judicial will but also on effective enforcement, public engagement, institutional cooperation, and legal reform. To ensure that PIL continues to serve as a powerful and lasting force for environmental protection, it must evolve into a more systemic and collaborative approach to justice. Environmental PIL has undeniably played a transformative role in India's environmental governance, filling critical gaps left by weak enforcement, political apathy, and administrative inertia. From cleaning the Ganga to regulating vehicular emissions and protecting forests, the Indian judiciary has been at the forefront of environmental activism. Environmental Public Interest Litigation has emerged as a powerful mechanism for environmental justice in India. It has transformed constitutional rights into actionable claims, expanded environmental jurisprudence, and brought ecological issues to the forefront of public discourse. However, to remain effective and sustainable, PILs must be supported by robust institutional frameworks, effective implementation, and inclusive governance. The future of environmental PIL lies in harmonizing judicial activism with democratic accountability and participatory governance.

However, for this tool to remain effective and sustainable in the long run, it must evolve. The focus must shift from ad hoc interventions to systemic reforms; from judicial activism alone to institutional collaboration; and from reactive litigation to proactive governance. A mature, balanced, and well-supported PIL system can ensure that environmental protection in India is not merely a matter of legal debate, but a lived reality for all citizens today and for generations to come.