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Public Interest Litigation VIS-À-VIS Protection of Environment

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ABSTRACT

"Public Interest Litigation" an effective tool of rendering justice to the poor public or a determinate class of people, The social action litigation has become an instrument of protecting the basic right of the poor and indigent persons, putting obligation on the State as well as citizens to protect and improve it. Judicial activism has laded the development of "environmental human rights jurisprudence" in India. The public interest litigation's province has wider as in Article, 32, the Supreme Court widen the horizons and intervened into injustice caused or being caused by State, anyone approach the matters relenting to environmental, problems are brought before the courts by public spirited persons and voluntary social agencies. Courts have their own limitation. They most issue directions to the executives or order removal of the cause of pollution which is damaging the environment. Public willingness to co-operate in this endeavor is the need of hour to protect the environment.

KEYWORDS: Access to justice for all, Protection of environment, Role of Judiciary. Remedies to society.

Law is a great discipline for the mind. It teaches you how to think clearly, precisely and accurately, every word has its definite meaning and must find it proper place in its own context. In order to have a free, peaceful and stable society, it is utmost necessary that justice be made to percolate to the men, women and children who, because of their complete poverty/ignorance unable to knock the doors of justice. In India, all are equal in the eyes of law and our democratic edifice is based on the equality principle, so beautifully mentioned in the Article-14 of the Indian Constitution. Law applies to every one but justice does not equal in form but not equal in fact. The judicial pyramid is untouchable and unapproachable for common mortal wounds, asking for legal justice is like asking for moon. In fact access to justice is one of the fundamental and essential characteristics of any legal system. The framers of the Indian constitution had visualized such a situation. Hence, they have invented an instrument to quick redress the problem of the society, which is better known as P.I.L. "Public Interest Litigation" an effective tool of rendering justice to the poor public or a determinate class of people, who by reason of poverty and ignorance, are unable to access justice. The social action litigation has become an instrument of protecting the basic right of the poor and indigent persons, on whose behalf some other person or institution can approach the court for vindication of their rights.

The public interest litigation's province has become very wide. By virtue of Article, 32, the Supreme Court widen the horizons and intervened whenever injustice is caused or being caused by State action or by lack of it and has tried to help the poor, hopeless and helpless people who have no means to approach the Supreme Court or who don't know whom to approach, may write a letter in the name of Chief justice, which can be treated as an PIL, (Sunil Batra Versus. Delhi Administration). As the Supreme Court itself has acknowledged, the newly invented proposition of law laid down by many learned judges of the Supreme Court in the arena of Public Interest Litigation irrefutably and manifestly establish that the court's dynamic activism in the field of Public Interest Litigation is by no means less than those of other activist judicial systems in other parts of the world.

Public Interest Litigation has to-day become a byword judicial involvement in social political and economic affair of the Indian society and State. The province of public interest litigation has widened so much that every injury, every grievances is sought to be brought under it, relief in aid of oppression, all kind of miseries, corruption in public life, custodial violence. Child abuse and environmental pollution and horde of other issues are attracting remedial attention of the courts. In additional to this, everyday we are witnessing that anything and everything can be a subject matter of PIL. Thus the right to work, shelter, low cost housing, pure drinking water, minimum income, food, pollution free environment and other basic human needs are claimed as guaranteed legal rights.

Justice, Krishna Iyer expressed "the urgent need is to focus on the ordinary man one might say the little man…… the paramount concern is increasingly with 'social justice" i.e. with finding procedures which are conducive to the pursuit and protection of the rights of the ordinary people. The Supreme Court has not hesitated in taking appropriate action. Here we would take two illustrative cases.

PROTECTION OF ENVIRONMENT:

With an advent of time and increased industrialization the whole world is getting worried about pollution problem day by day. There has been substantive decline in environmental quality due to increasing pollution, loss of vegetable cover and bio-diversity, concentrations of harmful chemicals in the ambient environment and in food chains. These happenings are causing growing risks of environment accidents and threat to life support system.

In Rural Litigation and Entitlement Kendra, Dehradun v. State of Uttar Pradesh, the Supreme Court Division Bench of three Judges speaking through P.N. Bhagawati, J took cognizance of the imbalance to ecology and hazard to healthy environment, due to working of lime stone quarries in the Mussorie-Dehradun ranges of U.P., and ordered the closure of the mining operations. Further the court awarded Rs. 5,000/-as additional remunerations to the advocate on behalf of the lasses.

IN Rural Litigation and Entitlement Kendra v. State of U.P the Supreme Court in continuation of its directions in an earlier decision dealt with, admittedly the first case of its kind in the country invoking the issues relating to environment and ecological balance. A division bench of the Supreme Court consisting of Justice Bhagawati and Justice Ranganath Mishra, speaking through the latter held—" It is for the Government and the Nation and not for the court, to decide whether the deposits should be exploited as the cost of ecology and environmental considerations or the Industrial requirements should be otherwise satisfied. The Supreme Court awarded Rs.10, 000/- to the petitioner, payable by the Government towards costs. The court issued more directions regarding pollution prevention in that Hill ranges of Uttar Pradesh. However, the court made directions, that it is led to the closure of a certain lime stone quarries on the ground that these quarries were a great hazard and were affecting the ecology of the area adversely.

In M.C Mehta v, Union of India, which is known as Ganga Water pollution case, the Supreme Court considered the problem of pollution of Ganga water by the affluent discharge from the tanneries. The Supreme Court directed the owners of the tanneries to establish the primary treatment plants so as to prevent the pollution of the Ganga Water being used by large number of people of the country. The polluted water affects the health and life of the people. The court observed that the financial capacity of the tanneries should be considered as irrelevant while requiring them to establish the treatment plants. At last it is resulted in the closure of tanneries, which were polluting holy river Ganga.

In Mukti Sangarsha Movement v. State of Maharashtra., sought to prevent reckless exploitation of river running through some parts of Maharashtra which, was adversely affecting its bed due to reckless quarrying of its sand, while F.K Hussain V. Union of India, sought to prevent lowering of underground water level on account of its reckless withdrawal

by electric pumps. This case was also referred by Kerala High Court in this point to be noted that the right to sweet water and right to free air are attributes of the right to life, for, those are basic elements which sustain life itself.

In L.K. Koolwal V. State, the Rajasthan High Court observed; Maintenance of health, preservation of sanitation and environment falls within the purview of Art.-21of the constitution as it adversely affects the life of the citizen and it amounts to slow poisoning and reducing the life of the citizens because of the hazards created, if not checked.

Right to live in healthy Environment: The Indian Constitution is the rare constitutions of the world. In India the concern for environment protection has not only been raised to the status of fundamental law of the land, but it is also wedded with the human rights of every individual to live in pollution free environment with full human dignity. The Constitution of India obligates the "State" as well as "citizens" to "protect" and "Improve" the environment.

In T.N Godavarman Thirumalpad v. Union of India, The Supreme Court imposed a fine of Rs.1 crore on the Government of Himachal Pradesh for neglecting the ecology by allowing the companies to paint advertisements on eco-fragile rock faces on both sides of Rohtag-Manali road. The court said that the amount would be a part of Rs. 5 crores corpus to be created from the money to be levied on the delinquent companies. The court directed to use the money for restoring the ecology distributed by the painting of advertisements on the rock faces done by MBD Books, Coca Cola, Pepsi and Birla whites.

There is no-doubt that living in a polluted atmosphere or environment is like dying every moment. The problem of environment pollution has posed the highest threat to the very existence of human beings. It establishes life and environment.

The right to life and personal liberty includes the right to live with decency and dignity. the Supreme Court observed and impliedly treated the right to live in a healthy environment as a part of article-21 and has to be read with article-48-A and 51.A(g) thereby putting obligation on the State as well as citizens to protect and improve it. It is evident from the aforesaid observations that judicial activism has led to the development of a new "environmental human rights jurisprudence" in India. Justice Holmes has rightly remarked that "life of the law has not been logic, it has been experience" and the judges of the court are men and their heart also bleeds, when calamities like the Bhopal gas leak incident occur.

The Supreme Court rightly pointed out that law is a regulator of human conduct, but no law can indeed effectively work unless there is an element of acceptance by the people in society. For this, the dissemination of information, which is the foundation of a democratic system, is necessary. It is therefore, necessary to keep the citizens informed about their duty as also about the obligations of the State.

Conclusion

It would be seen that continuous efforts are being made by the legislature, executive and judiciary to control and prevent water, air and noise pollution in order to preserve environmental and ecological balance, but these efforts can bear fruits if they get the necessary public co-operation and support. After all the sources of environmental depletion no doubt, the matters relenting to environmental problems are brought before the courts by public spirited persons and voluntary social agencies. But the courts have their own limitation. Necessary directions to the executives or order removal of the cause of pollution which is damaging the environment, but the empowerment thereof has to be ensured by the executive authority and much of it is depending upon the public willingness to co-operate in this endeavor.

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