

## **304: Public Interest Lawyering**

### **Objectives of the course:**

The entire paper is designed taking into consideration the development, growth, popularity and importance of Public Interest Litigation in the country. It is expected from the law students to thoroughly digest necessary principles, rules, cases and relevant Constitutional provisions before initiating Public Interest Litigation. The object of the PIL is to secure and protect the fundamental rights of people at large, more particularly the rights of poor, illiterate and ignorant people. The study of relevant constitutional provisions is also must. In this course students will also study the concept of PIL by observing the trend of Judicial Activism of the Courts as well as landmark decisions of the courts in important areas like Human Rights, Environment Protection, Protection of Rights of Women, prevention of Misuse of Powers by Public Officials etc. Students are expected to study and prepare themselves by studying Hypothetical problems also. The new entrant to the Bar must know that the Public Interest Litigation is not for gaining cheap popularity or taking revenge or for obtaining personal benefit. The course is designed for imparting theoretical as well as practical knowledge of Public Interest Litigation.

### **Syllabus:**

#### **1. Public Interest Lawyering**

- 1.1 Historical Background of PIL, Concept and Meaning,
- 1.2 Origin of PIL in other countries and in India
- 1.3 Development & Scope of PIL in India
- 1.4 When PILs can be filed and when cannot be filed?
- 1.5 PIL – As a silent Revolution
- 1.6 PIL – Relaxation of the Principle of *Locus Standi*

#### **2. Powers of the Courts to entertain Public Interest Litigation:**

- 2.1 Jurisdiction of the Courts to hear PILs:
  - 2.1.1 Relevant Constitutional Provisions: PIL – part of Writ Jurisdiction
  - 2.1.2 Powers of High Courts under Article 226 of the Constitution
  - 2.1.3 Supreme Court Powers under Article 32 and Article 142 of the Constitution
- 2.2 The High Court of Gujarat [Practice and Procedure for Public Interest Litigation] Rules, 2010 and proforma for filing PIL before the High Court of Gujarat
- 2.3 Powers of Courts to award compensation in PILs
- 2.4 Precautions necessary for a lawyer before filing PILs

#### **3. Advantages, Disadvantages and Limitations of PILs:**

- 3.1 Advantages of PIL:
  - 3.1.1 PIL: Blessings for poor and illiterate persons
  - 3.1.2 PIL: protecting Human Rights of Prisoners (Including Article 21), persons in police custody
  - 3.1.3 PIL: An effective tool for protection of Environment
  - 3.1.4 PIL: Necessary to prevent politicians / Executives from exercising arbitrary powers

- 3.1.5 PIL: Necessary to issue guidelines in the event of lacuna of law in any situation (Article 142)
- 3.1.6 PIL: Necessary for Protecting Women's Rights and safety
- 3.1.7 PIL: Necessary for maintaining independence and impartiality of Judiciary
- 3.1.8 Other advantages of PIL
- 3.2 Disadvantages of PILs:
  - 3.2.1 PIL: Breach of doctrine of Separation of Powers
  - 3.2.2 PIL: Responsible for Judicial over-activism
  - 3.2.3 Often difficult for the Executives to obey orders due to financial constraints, shortage of time or for other reasons
- 3.3 Limitations of PILs:
  - 3.3.1 Every wrong cannot be rectified through PIL
  - 3.3.2 Impossible to curtail the misuse of PIL by the Courts
  - 3.3.3 Consumption of time during litigation
  - 3.3.4 Problems of implementation of orders through administrative agencies and practical difficulties to implement the orders

#### **4. Judicial Pronouncements and Hypothetical Problems related to PILs:**

- 4.1 Important Judicial Pronouncements of the Supreme Court in various areas like Human Rights, Environment, Protection of FRs of people at large, Compensation to victims etc. (Latest important cases may be taken into consideration)
- 4.2 For laying down important Principles like: Polluter Pays Principle, Public Trust Doctrine, Precautionary Principle, Principle of Absolute Liability, Principle of Sustainable Development etc.
- 4.3 Problems of PILs based on Hypothetical Facts

#### **Suggested Readings:**

1. Kailas Rai: Public Interest Lawyering
2. Dr. B. L. Wadehra, Public Interest Litigation, Universal Law Book Publication
3. V. N. Shukla, Constitutional Law of India, Eastern Book Company
4. M. P. Jain, Constitutional Law of India, Eastern Book Co.
5. Pandey J. N., Constitution of India,
6. M. P. Jain, Constitutional History of India
7. Dr. N. V. Paranjape, Public Interest Litigation, Legal Aid & Services, Lok Adalats & Para-Legal Services, Central Law Agency
8. Dr. S. S. Sharma, Legal Services, Public Interest Litigation and Para-legal Services, Central Law Agency
9. S. Bava, Public Interest Litigation, Allahabad Law Agency
10. O. P. Tewari, Public Interest Litigations, Allahabad Law Agency
11. Mamta Rao, Public Interest Litigation (Legal Aid and Lok Adalats), Eastern Book Company
12. Dr. S. R. Myneni, Public Interest Lawyering, Legal Aid and Para Legal Services, Asia Law House
13. G. B. Reddy, Judicial Activism in India: Gogiya Law Agency, Hyderabad
14. Public Interest Litigation : P. S. Narayana : Asia Law House
15. Reputed Law Journals and Legal Software for perusal of Latest Cases on PIL
16. [www.gujarathighcourt.nic.in](http://www.gujarathighcourt.nic.in) (for Gujarat High Court PIL Rules, 2010)