

LISTING PUBLIC INTEREST LITIGATION: GENERIC-CAUSE-BASED TITLES VS FASTEST-FILERS- FIRST

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ABSTRACT

Public Interest Litigations (PILs) have been integral to the Indian legal system since the late 1970s, offering a mechanism for vulnerable groups to seek judicial redress. PILs, filed under Article 32 before the Supreme Court and Article 226 before the High Courts, relax the concept of 'locus standi,' allowing any individual acting in good faith to file. The courts face challenges in managing PILs to avoid frivolous or profit-motivated cases, termed "Publicity Interest Litigations." This article discusses two approaches to listing PILs: generic-cause-based titles and fastest-filers-first. Generic-cause-based titles focus on the societal issue at hand, ensuring that PILs address public interest rather than individual gain, thereby safeguarding the right to a fair trial and promoting the larger public interest. However, this method risks potential bias and subjectivity. The fastest-filers-first approach, grounded in judicial impartiality and efficiency, ensures urgent matters are promptly addressed and maintains the principle of equality before the law. Given the merits of both methods, a hybrid model is proposed. This prioritizes cases based on filing speed, which categorizes petitions by their underlying causes. Such a balanced strategy would manage the caseload effectively, reduce frivolous petitions, and ensure significant issues receive due attention, thereby strengthening public trust in the judiciary.

Keywords: Public Interest Litigations (Pils), Locus Standi, Generic-Cause-Based Titles, Fastest-Filers-First, Judicial Impartiality

INTRODUCTION

Public Interest Litigations (PIL) have become the primary tool in the Indian legal system, providing a voice to vulnerable groups in society and ensuring access to justice in the overall public domain. Public Interest Litigations were introduced in the late 1970s and have evolved to become a cornerstone of Indian jurisprudence, giving opportunities to ordinary citizens,

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social activists, and even non-government organizations) to seek judicial redress on behalf of those who lack the resources or ability to knock at the door of justice. The advent of PILs has democratized justice, reinforcing the judiciary's pivotal role as a guardian of constitutional rights and social justice. The process of listing and hearing of PILs by the courts plays crucial importance in the administration of justice. The criteria for admission, priority of cases, and scheduling of hearings often have a significant impact on judicial intervention. The Hon'ble Supreme Court and the High Courts around the states have developed distinct mechanisms to handle PILs, balancing the urgency of public issues with the procedural rigours of the trigonal system. This article explores the procedure followed by the courts in listing and hearing PILs to admit priority priorities. Hence, by unveiling the judicial listing process of PILs, the author aims to shed light on the critical role of PILs in shaping a more equitable and just society in India.

WHAT ARE PUBLIC INTEREST LITIGATIONS?

The terms 'PIL' or 'Public Interest Litigation' are not defined under any particular statute or law. During the administration of justice, the courts defined and interpreted the term 'PIL' or 'Public Interest Litigation'. It was held by the Hon'ble Apex Court that a 'PIL' means a legal action initiated in a court of law with the general welfare/ public interest of the public in mind when the legal or fundamental rights of vulnerable groups are violated¹. In general, PILs are an extension of the writ jurisdiction of the courts and hence filed under Article 32 of the Indian Constitution before the Hon'ble Supreme Court and under Article 226 of the Indian Constitution before the Hon'ble High Court. The concept of 'locus standi' is also relaxed by the courts in cases of PILs so as to enable the Hon'ble courts to address the grievances of marginalized people who are unable to access justice on their own². Any person who is filing a PIL must do it with the public interest in mind and in good faith, or such a person would not be given locus standi. In an instance where a PIL is initiated for publicity, private profit or any oblique consideration would not be entertained by the Hon'ble Courts of law. These types of profit-motivated PILs are often termed "Publicity Interest Litigations". To curb the outburst of such Publicity Interest Litigations and to protect the overburdened judiciary from the increase of workloads and case logs, the courts adopt procedures termed as fasters-filers-first and generic-cause-based titles.

¹ Janata Dal v. H.S. Chaudhary, [(AIR 1993 SC 892)

² Bar Council of Maharashtra v. M.V. Dabholkar & Ors., 1976 SCR 306

LISTING UNDER GENERIC-CAUSE-BASED TITLES

The concept of PILs was introduced to cater for the needs and protect the welfare of the vulnerable sections or groups of society³. The generic-based listing ensures that PILs continue to serve the larger public interest and not individual interests or profits⁴. These privately motivated claims often underscore the importance of PILs addressing societal problems through the judicial bodies. The adoption of a generic-based method will allow the courts to deal with the substantive legal issue at hand rather than dealing with the personal and sensational aspects involved in a case⁵. This focuses on the primary object of the existing legal issue and discourages the litigants from initiating PILs for media attention and publicity. For instance, when there was a PIL filed against the marriage of Aishwarya Rai with a tree, it was totally absurd and degraded the valuable time of the courts⁶. The abuse of PILs by litigants might often occur if there is no regulation on politically motivated cases. The litigants will be motivated to file cases for their personal profit in the name of PILs⁷.

It is undisputed that the courts have relaxed the concept of '*locus standi*' in the cases of PILs, but the very same cannot be grounds for the exploitation of judicial time for fame. The Courts have understood the same and have pointed out the need to limit the standing of individuals who are acting *bona fide*⁸. To avoid such circumstances, the Hon'ble Supreme Court has previously excluded two groups of persons from having *locus standi* to prevent the filing of frivolous and vexatious petitions under the guise of PIL⁹. Therefore, in the interest of preventing the so-called 'publicity interest litigation', the courts can use generic-based names to curb frivolous litigation.

Effective Prioritization of Genuine PILs

The courts strive foremost to encourage genuine and *bona fide* petitions (i.e. the PILs) and curb and effectively discourage litigants from pursuing the PILs filed for expeditious profits¹⁰. Generic titles underscore the importance of legal principles and constitutional values rather

³ Hussainara Khatoun & Ors. v. Home Secretary, State of Bihar, AIR 1979 SC 1369

⁴ MP JAIN & SN JAIN, PRINCIPLES OF ADMINISTRATIVE LAW 412-422 (9th ed. 2021)

⁵ Dattaraj Nathuji Thaware v. State of Maharashtra & Ors., (2005) 1 SCC 590

⁶ *PIL against Aishwarya*, TIMES OF INDIA (Jan. 31, 2007), <https://timesofindia.indiatimes.com/city/patna/pil-against-aishwarya/articleshow/1541437.cms>.

⁷ K.R. Srinivas v. R.M. Premchand, 1994 (6) SCC 620

⁸ S.P. Gupta v. Union of India & Anr., 1981 (Supp) SCC 87

⁹ H.S. Bedi v. NHAI, RFA 784/2010

¹⁰ State of Uttranchal v. Balwant Singh Chaufal, Civil Appeal No. 1134-1135 of 2002

than individual personalities. This reinforces the idea that PILs are about upholding the rule of law and protecting fundamental rights. The courts always adopted caution and precaution to ensure that PILs were not misused, as they would defeat the ultimate reason for arriving to rescue the poor and the downtrodden people¹¹. A simple letter addressed to the Chief Justice of India can be taken as a complaint of PIL, and court proceedings can be initiated for the very same. The courts have, for instance, entertained letters such as PIL as well¹². Hence, given the great importance of PILs, it is essential to avoid diverting judicial resources toward frivolous cases that may undermine the urgency of the pressing needs of the public. Further, generic cause-based naming allows for the prevention of distractions caused by the 'Publicity Interest Litigations'. Therefore, generic-cause-based listing allows for effective prioritization of enzyme PILs.

It Safeguards The Right To Fair Trial

Generic-cause-based titles align with the larger public interest in the roots of the society. They highlight the major issue that affects the public as a whole, making it apparent that the litigation's primary goal is to promote the overall welfare of society. With the usage of generic titles, the courts will ultimately encourage larger participation from the public and non-proorganizational organizationIL. Individuals and social groups with a genuine interest in the cause are more likely to engage when they see that the focus is on addressing a societal issue rather than individual interests, which was further referred to in various cases¹³. Moreover, allowing generic titles as a matter of rule would ensure that all PILs, regardless of who brings them, receive equal treatment and consideration by the courts of law¹⁴. This procedure ensures a sense of fairness and equity in the legal administration of courts.

Further, Articles 14 & 21 of the Constitution and of several international conventions of human rights provide for the fundamental right to a fair trial. The scope of PIL, for the expression 'litigation', means a legal action including each and every proceeding initiated before a judicial body to enforce a right or claim a remedy. Therefore, generally, the expression PIL means a legal action initiated by an individual before any judicial body for the enforcement of public

¹¹ Kushum Lata v. Union of India, (2006) 6 SCC 180

¹² Bandhua Mukti Morcha v. Union of India & Ors., (1984) 3 SCC 161

¹³ Bandhua Mukti Morcha v. Union of India & Ors., (1984) 3 SCC 161

¹⁴ Avinash Mehrotra v. Union of India & Ors., (2009) 6 SCC 398

interest or general interest in which the people in a society have pecuniary interest or some interest by which their legal rights or obligations are affected, as stated above¹⁵.

It Ensures A Larger Public Interest

The people for whom the PILs were provided are individuals who cannot identify the legal wrong or injury caused to them for any violation of a fundamental right or a legal right. Article 21, in relation to Article 14 and the other fundamental rights, is extended to include the vulnerable population. Moreover, Article 21 encompasses the right to privacy as a fundamental right. In cases like that of custodial violence where the privacy of an individual is the true essence, or the ones involving the rights of children, education or social issues, a generic-cause-based ensures the interest of the victims and supplies their right to life and liberty. In addition, the purpose of PIL is to drift away from the traditional approach to give meaning to the fundamental rights of the marginalized. The courts have, from time to time, allowed the intervention in PIL policy to cater to the most vulnerable sections in the interest of their fundamental rights.

LISTING UNDER FASTEST-FILERS FIRST

PILs should be listed under fastest-filers-first and not generic-cause-based titles because sequencing as per generic-cause titles might lead to potential bias and subjectivity. The principle of judicial impartiality is deeply rooted in the need for impartiality and objectivity in legal proceedings. In the interest of due process and fairness in the courts of law, it is pertinent that clarity regarding the nature of the issue at hand be held important. Listing cases based on generic causes may ultimately lead to potential bias because of the complex nature of the issues. This approach of listing PILs under the generic-cause-based title promotes a lack of certainty and clarity. This would further lead to potential risks about the primary focus of the PIL and make it challenging for both the court and the public to understand the underlying problem.

In the generic-cause-based listing method, generalized titles might not reflect the specific nature of the issues. This method acknowledges that different parties, such as judges, lawyers, and the public, may interpret these generic titles differently, introducing subjectivity¹⁶. This subjectivity can lead to different expectations and handling of Public Interest Litigations

¹⁵ Janata Dal v. H.S. Chowdhary, AIR 1993 SC 892

¹⁶ IP MASSEY, ADMINISTRATIVE LAW 350-370 (10th ed. 2022)

(PILs), causing potential bias to prioritize prioritizing¹⁷. The courts have interpreted 'person aggrieved' in a flexible manner when it comes to accessing the High Court or Supreme Court. While the fastest-filers approach is more objective, the generic-cause-based method lacks specificity, which could cause disputes and delays in addressing important matters. The aim of filing PILs and expanding their scope is to promote greater justice. Fully adopting generic-cause-based titles goes against this goal¹⁸. For sequencing PILs, listing them based on generic issues and modifying guidelines accordingly will introduce subjectivity in how cases are listed.

Existing Practice Follows Fasters-Filers-First

The doctrine of stare decisis stresses the importance of following precedent. This principle is upheld by Article 141 of the Constitution, which states that decisions of higher courts are binding on lower courts. However, this does not apply to the Supreme Court, which can overturn its previous rulings in extraordinary or special cases or for the greater public good. Traditionally, courts have used the fastest-filers approach to list Public Interest Litigations (PILs). Courts have noticed increasing misuse of PILs and have developed jurisprudence to ensure genuine PILs are admitted. In cases like *Balwant Singh Chauhal*¹⁹ and *Dattaraj Nathuji Thaware*²⁰, the courts have curbed frivolous petitions through both monetary and non-monetary means. First, the Supreme Court has restricted PIL standing to individuals acting in good faith. Second, it has approved imposing 'exemplary costs' to deter frivolous and vexatious petitions. Similar guidelines have been issued to lower courts for initiating prosecution under Section 209 of the IPC. In light of the doctrine of stare decisis and Article 141, courts should continue using the fastest-filers approach for listing petitions.

The principle of equality before the law is fundamental to justice. While Article 14 prohibits class legislation, it allows for reasonable classification, provided this classification is based on an intelligible difference and has a reasonable connection to the purpose. Switching to a generic-cause-based listing approach instead of the fastest-filer-first method creates a classification that discriminates against the fastest filer. Additionally, the scope of locus standi has been expanded to include larger sections of society, aligning with the right to life and access

¹⁷ *Janata Dal v. H.S. Chowdhary*, AIR 1993 SC 892

¹⁸ *Bar Council of Maharashtra v. M.V. Dabholkar & Ors.*, 1976 SCR 306

¹⁹ *State of Uttranchal v. Balwant Singh Chauhal*, Civil Appeal No. 1134-1135 of 2002

²⁰ *Dattaraj Nathuji Thaware v. State of Maharashtra & Ors.*, (2005) 1 SCC 590

to justice. If a generic-cause-based listing approach is adopted, it will limit locus standing by prioritizing petitioners over others without a reasonable classification.

CONCLUSION

In conclusion, the debate between adopting generic-cause-based titles and maintaining the fastest-filers-first approach for listing Public Interest Litigations (PILs) hinges on the principles of justice, efficiency, and accessibility. The fastest-filers-first method has a strong foundation in our legal system, ensuring that urgent matters are addressed promptly and reducing the risk of arbitrary prioritized prioritizations. The approach upholds the principle of equality before the law by providing a clear and objective criterion for listing PILs.

However, there is merit in considering a gradual integration of generic-cause-based titles. This method can provide an organized thematic approach to addressing systemic issues, ensuring that similar cases are grouped together for more coherent judicial scrutiny. To achieve a balanced and fair system, it is recommended that courts introduce a hybrid model. This model prioritizes based on filing speed while also allowing for categorizing competitions by their underlying causes, ensuring that all voices are heard and all significant issues are addressed. Such a dual approach would preserve the efficiency and clarity of the fastest-filers-first system while enhancing the judicial process's overall coherence and fairness. By adopting this method, the judiciary can better manage its caseload, reduce frivolous petitions, and ensure that the most pressing and substantial issues receive the attention they deserve. This balanced strategy would ultimately strengthen the public's trust in the legal system and promote a more just and equitable society.