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# PUBLIC INTEREST LITIGATION

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### I INTRODUCTION

COMPARED TO previous year, this year the number of cases reported on public interest litigation (PIL) was not many. As usual the high courts and the Supreme Court had to tackle several frivolous and vexatious petitions and the courts have reiterated their earlier view that PIL cases should have sufficient public interest rather than private or individual interests. In two cases, the Supreme Court entertained genuine PILs and appointed *amicus curiae* even while excluding the role of writ petitioner. All the important cases decided by the Supreme Court and the various high courts have been surveyed under different headings in this survey.

### II ANONYMOUS LETTER NOT TO BE TREATED AS PIL

In *Divine Retreat Center v. State of Kerala*<sup>1</sup> the issue before the apex court was whether an anonymous letter could be treated as a PIL. In this case the High Court of Kerala initiated a *suo motu* proceeding based on an anonymous letter received by it and directed that investigation should be handed over to a special investigating team. Against this order the appellants preferred a special leave petition. It was held that even though the court had entertained several letters<sup>2</sup> as PILs it had never entertained an anonymous letter as a PIL. In this regard the court observed:<sup>3</sup>

This court uniformly and consistently held that the individual who moves the court for judicial redress in cases of Public Interest Litigation must be acting *bona fide* with a view to vindicating the cause of justice and not for any personal gain or private profit or of the political motivation or other oblique consideration. The court should not allow itself to be activated at the instance of such person

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1 AIR 2008 SC 1614.

2 In *Sunil Batra v. Delhi Administration*, (1980) 3 SCC 488; *Dr. Upendra Baxi v. State of U.P.*, (1983) 2 SCC 308; *Miss. Veena Sethi v. State of Bihar*, (1982) 2 SCC 583 the court had entertained several letters as PILs.

3 *Supra* note 1 at para 24.



and must reject his application at the threshold, whether it be in the form of a letter addressed to the court or even in the form of a regular petition filed in the court.

The court also clarified the approach to be adopted by the courts while entertaining PILs in the following words:<sup>4</sup>

There is a heavy duty cast upon the constitutional courts to protect themselves from the onslaughts unleashed by unscrupulous litigants masquerading as Public Interest Litigants. The individual judges ought not to entertain communications and letters personally addressed to them and initiate action on the judicial side based on such communication so as to avoid embarrassment: that all communications and petitions invoking the jurisdiction of the court must be addressed to the entire court, that is to say, the Chief Justice and his companion judges. The individual letters if any addressed to a particular judge are required to be placed before the Chief Justice for consideration as to the proposed action on such petitions. Each judge cannot decide for himself as to what communication should be entertained for setting the law in motion be it in PIL or in any jurisdiction.

In this case, the court also made it clear that, even in cases where no action has been taken by the police on the information given to them, the remedy of the informant lies under sections 190 and 200 Cr PC and writ petitions in such cases need not be entertained.

### III MEANING, NATURE AND SCOPE OF PIL

*Holicow Pictures Pvt. Ltd.v. Prem Chandra Mishra*<sup>5</sup> is a classic example wherein the court has widened the scope of PIL. It held that in exceptional cases if at all the writ petitioner did not act *bona fide* PIL can be entertained by keeping him out of the picture and appointing an *amicus curiae* to settle the matter.

As per the facts of the case, the dispute was regarding the allotment of land by the state against which the petitioner brought a PIL before the high court which entertained the same. The Supreme Court, however, remitted the matter to the high court for fresh consideration as it had entertained the writ petition without clarifying doubts regarding some crucial aspects of the matter. Later on the high court appointed an *amicus curiae* to help it to tackle the matter.

4 *Id.* at para.26.

5 AIR 2008 SC 913.



In *M.C. Mehta v. Union of India*<sup>6</sup> a PIL was entertained by the court in a writ application filed by the petitioner. In this case, the issue before the court was whether the Supreme Court should consider the correctness of an order passed by the Governor of Uttar Pradesh refusing to grant sanction for prosecution of Ms Mayavati, the Chief Minister of Uttar Pradesh. The *amicus curiae* wanted the court to issue a writ of *mandamus* calling for the materials placed before the governor for prosecuting the chief minister under section 197 Cr PC and also the reasons for the refusal of the governor in prosecuting her. Rejecting the said prayer the court held that the circumstances did not warrant such interference by the court and the PIL bench need not go further than what it had already directed in *Taj Corridor Scam*<sup>7</sup>. Regarding the issuance of writ of *mandamus* the court observed:<sup>8</sup>

The jurisdiction of the court to issue a writ of continuous mandamus is only to see that proper investigation is carried out. Once the court satisfies itself that a proper investigation has been carried out, it would not venture to take over the functions of the Magistrate or pass any order which would interfere with the Magistrate's judicial functions. The constitutional scheme of this country envisages a dispute resolution mechanism with an independent and impartial tribunal. No authority, save and except a superior court in the hierarchy of judiciary, can issue any direction which otherwise takes away the discretionary jurisdiction of any court of law. Once a final report has been filed in terms of section 173(1) Cr PC, it is the Magistrate and the Magistrate alone who can take an appropriate decision in the matter one-way or the other. If he errs while passing a judicial order, the same may be a subject matter of appeal or judicial review.

#### IV MAINTAINABILITY OF PIL

In *Anil Gupta v. State of Madhya Pradesh*<sup>9</sup> the question was related to the maintainability of PIL filed in the Madhya Pradesh High Court under article 226 of the Constitution. In this case, the Government of Madhya Pradesh allotted certain land to a sugar company for industrial use under the Madhya Pradesh Municipalities Act, 1961. The allottee company transferred the entire land to a private party for commercial and residential use without obtaining prior permission for sale of land from the central government. The court held that such a sale of land by the allottee company was illegal.

6 AIR 2008 SC 180.

7 *M.C. Mehta (Taj Corridor Scam) v. Union of India*, (2007) 1 SCC 110.

8 *Id.* at para. 408.

9 AIR 2008 MP 1384.



Regarding the maintainability of the PIL under article 226, the court observed that since a public interest was involved in this case, PIL against sale of such land was maintainable.

Again, in *Kanhaiyalal Patel v. Union of India*<sup>10</sup> the petitioner filed a PIL in the Madhya Pradesh High Court for determining the amount of compensation to be awarded by the competent authority. As per the facts of the case, under the National Highways Act, 1956 land was acquired by the central government. The question that arose was related to the competence of the authority to determine the amount of compensation. The court refused to entertain the PIL on the ground that the dispute in the case concerned the petitioner's entitlement to compensation and did not involve any element of public interest. The court further clarified that PILs can only be used to vindicate offences involving public interest, and it cannot be used to vindicate private/personal vengeance.

Similarly, in *Gayching Bhutia v. Union of India*<sup>11</sup> a PIL was filed before the Sikkim High Court for direction to conduct an enquiry into the mismanagement of public money by the implementing authorities in the course of implementation of two schemes<sup>12</sup> in north district of Sikkim for the year 2004-05. The court dismissed the PIL on the ground that the allegations relating to commission of irregularities were vague and were not supported by sufficient particulars regarding the individuals responsible for such illegalities or irregularities.

In *Atma Linga Reddy v. Union of India*<sup>13</sup> a petition was filed under article 32 of the Constitution by the petitioners contending that due to the hydro power project, sufficient water for drinking purpose and for irrigation facilities was not available to the residents and farmers of District Mehboobnagar of the State of Andhra Pradesh. The court held that the suit was not maintainable being *sub judice* since it was already pending before the tribunal.

Similarly, in *Mahesh Sharma v. Union of India*<sup>14</sup> the High Court of Rajasthan rejected a writ petition which was filed to investigate into the death and injuries inflicted on numerous persons who were involved in scrap dealings. The court dismissed the petition on the ground that it was not maintainable, as the petitioner had filed the petition based only on the report published in the newspaper, which was not sufficient without supporting material for entertaining the PIL.

10 AIR 2008 MP 2133.

11 AIR 2008 Sikkim 1.

12 In this case, two schemes, namely, SGRY and NFFWP were formulated as a government policy to create employment opportunities with food security with a view to alleviate poverty, reduce inequalities, improve nutritional levels and sustain a reasonably high pace of economic growth.

13 2008 (9) SCALE 745.

14 RLW 2008 (3) Raj 1884.



It is settled law that no public interest litigation is maintainable with regard to service matters. In *S.M.Syed Iqbal v. The Registrar, University of Madras*<sup>15</sup> a PIL was filed by the petitioners for a declaration that the entire selection process followed by the University of Madras, for selection of teaching faculty in its various departments without complying with the Tamil Nadu Backward Class Christians and Backward Class Muslims (Reservation of Seats in Educational Institutions including Private Educational Institutions and Appointments or Posts in the Service under the State) Act, 2007, was null and void and illegal. The court dismissed the petition as not maintainable since the case was not filed in public interest, but with a view to get some publicity, and also it related to appointment in a university.

In *Indian Bank v. Godhara Nagrik Cooperative Society Ltd*<sup>16</sup> considering the element of public interest involved, the court entertained the PIL filed under article 226 of the Constitution. As per the facts of this case, cooperative societies and their members who were denied refund of their deposits by a public sector bank on the allegation that amounts of their deposits had already been paid by way of loans, approached the high court by way of a writ petition. The court invoked section 35-A of the Banking Regulation Act, 1949 and appointed a committee in order to examine the matter in detail. It ordered the bank to refund the deposits. This decision shows the willingness of the court to entertain the PIL if it involves a 'large public interest'.

#### V PIL –EXPANSION OF *LOCUS STANDI*

In *Aushutosh Srivastava v. State of Andhra Pradesh*<sup>17</sup> the Allahabad High Court grappled with the question of *locus standi* principle in entertaining PILs. In this a PIL was filed by the petitioner, a resident of Noida, raising certain important questions with respect to 'Taj Express Way Project' in Delhi. The petitioner argued that in awarding the Taj Express Way Project contract to the respondent company there had been some procedural infirmity shown which was against the principle of rule of law as laid down in article 14 of the Constitution. The court rejected this contention and held that, both the commission of enquiry and the officers of the state government had examined the conditions for granting approval for the project and there was no procedural infirmity found in the grant of approval for the project. Hence the court declined to interfere in the award of contract.

Regarding the maintainability of the petition under article 226, the court observed that, considering the fact that the petitioner had requested for transparency in government administration it would be the duty of the court to examine the matter. It also added that, since the petitioners had raised

15 (2008) 4 MLJ 518.

16 AIR 2008 SC 2585.

17 AIR 2008 All 2516.



certain important questions with respect to the project, which were in public interest, his *locus standi* could not be denied.

In *R.S. Keluskar v. Union of India*<sup>18</sup> the Bombay High Court dismissed a PIL filed by the petitioner asking for compensation for victims of a railway accident. The court, considering the fact that the petitioner had earlier filed a suit for the same relief, which was dismissed by it held that, the petition was hit by the principle of constructive *res judicata* and was liable to be dismissed. The petitioner filed the PIL in his personal capacity without the consent/authority of the injured. The court dismissed the matter on the ground that, these cumulative facts reflect the 'individual interest' of the petitioner rather than a 'public interest' about the matter.

In *Prof. G. Shainesh v. State of Karnataka rep. by its Secretary, Excise Department*<sup>19</sup> the main question was relating to the *locus standi* of the petitioners in filing a PIL. In this case, a PIL sought for the shifting of a liquor shop, which was situated within 50 meters range from a prominent hospital and the Indian Institute of Management, Bangalore (IIM-B), creating a nuisance in the locality, especially to the students staying in its hostel. The PIL was filed by the professors, staff and students of IIM-B seeking to protect and promote the welfare of residents, citizens and particularly the student community in Bangalore. The court held that, from the material produced by the petitioners, the court was satisfied that the writ petition was not filed with an object of vindicating any personal or private grievances nor the petitioners have any personal interest. The court observed:<sup>20</sup>

If there is violation of rule of law, every citizen has a right to file writ petition, that too, when consuming intoxicating drink is not only injurious to health but it is a social evil and it is not only today, even in mythology and in the history, it is always treated as social evil and if the petitioners are agitating in public interest for public health, the court does not find any *mala fide* intention in this writ petition.

## VI ABUSE OF PIL

In *Common Cause (A Registered Society) v. Union of India*<sup>21</sup> the petitioner sought relief for directing the legislature to formulate a suitable Road Traffic Safety Act to meet effectively the various requirements for minimization of road accidents. By dismissing the petition and considering the nature of the matter in this particular case, the court applied the concept of 'judicial restraint'<sup>22</sup> and held that Motor Vehicles Act, 1988 is a

18 AIR 2008 Bom 593.

19 ILR 2008 Kar 4265.

20 *Id.* at para.50.

21 AIR 2008 SC 2116.

22 See also, *The Divisional Manager, Aravali Golf Club v. Chander Hass*, JT 2008(3) SCC 221.



comprehensive enactment and it is the duty of the legislature to fill the lacunae or defects found therein. The court also commented that PILs have largely become ‘publicity interest litigation’, ‘private interest litigation’, or ‘paaise income litigation’. Considering the huge backlog of cases and the abuse of the PIL, the court added a note of caution:<sup>23</sup>

The Public Interest Litigation which was initially created as a useful judicial tool to help the poor and weaker sections of the society who could not afford to come to courts, has, in course of time, largely developed in to an uncontrollable Frankenstein and a nuisance, which is threatening to choke out the dockets of the superior courts obstructing the hearing of the genuine and regular cases which have been waiting to be taken up for years together.

In *Om Shanti Samiti Sheonaraya v. State of Chattisgarh*<sup>24</sup> the petitioner filed a PIL under article 226 of the Constitution seeking relief from mis-management and mis-use of properties of the public temple. The court rejected the PIL and held that it should not be ‘Publicity Interest Litigation’ or ‘Politics Interest Litigation’ and it should not be resorted to vindicate personal gains. The petitioners also failed to explain the delay caused in filing the petition and also failed to substantiate the mis-management and mis-use of the public property of the temple. The court remarked that “PILs should not be allowed to become a tool in unscrupulous hands to misuse vendetta and wreak vengeance as well”.

In *Amruthes N.P. S/o Late N.C. Puttaswamy v. Principal Secretary to Chancellor, University of Mysore*<sup>25</sup> the petitioner challenged the nomination of a member to the search committee constituted to recommend persons who could be appointed as vice-chancellor of the University of Mysore. The petitioner contended that, the member being a former director of the Indian Institute of Science had close connection with the University of Mysore and hence the nomination of such a member would be against section 14(3)<sup>26</sup> of the Karnataka State University Act, 2000. The court found no legal basis for the contention of the petitioner and dismissed the writ petition by imposing heavy penalty for abusing the process of the court. The court also clarified that the petition was only frivolous and lacked any public interest.

Similarly, in *Gayching Bhutia v. Union of India*<sup>27</sup> a PIL was filed to conduct an enquiry into the alleged gross mismanagement of public money

23 *Id.* at para 70.

24 AIR 2008 Chh 1490.

25 ILR 2008 Kar 3129.

26 According to s. 14(2) of the Karnataka State Universities Act, 2000 no person connected with the affairs of the State Government, the University or any College or institution affiliated to the University shall be nominated as the member of the Search Committee.

27 *Supra* note 11.



by the implementing authorities in the implementation of two schemes, namely, Sampoorna Grameen Rozgar Yojna (SGRY) and National Food For Work Programme (NFFWP) in North District of Sikkim. Since the petitioners at a later stage disclosed their connection with a political party the court was reluctant to entertain the petition and cautioned that while approaching the court in a PIL the petitioners should come with clean hands. In this context the court observed:<sup>28</sup>

The hesitation or the reluctance with which the petitioners have admitted their affiliation to a political party at a later stage that too on being pointed out in the counter-affidavit as can be noticed from above makes it doubtful that they have come before the court with clean heart, clean mind and clean objectives.

In *Seema Dhamdhare v. State of Maharashtra*<sup>29</sup> the apex court while reiterating its earlier decision, observed that it would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs so that the message goes in the right direction that petitions filed with oblique motives do not have the approval of the court.

#### VII PIL — NEED FOR A CONSCIOUS APPROACH

In *NDMC v. Tanvi Trading and Credit (P) Ltd.*<sup>30</sup> the apex court cautioned the high court to adopt a better approach while entertaining PILs. In this case, the High Court of Delhi disposed of a PIL filed under article 226 of the Constitution and directed the Delhi Development Authority to sanction the building plans of the respondents. By setting aside the decision of the high court the Supreme Court held that the high court had not considered the legislative intent, public/ policy guidelines, directions, statutory mandates incorporated under various related legislation.

Similarly, in *United India Insurance Co. Ltd. v. Manubhai Dharmasinhbhai Gajera*<sup>31</sup> the Supreme Court advised the high court that, while determining a *lis* having public law domain, the courts would be entitled to take a broader view. In this case, the writ petitions were filed by private individuals to redress private wrongs. The contention raised by the petitioners/appellants was that the issues involved in this case had wider ramifications which, not only affected the writ petitioners but also other similarly situated persons.

The Supreme Court directed the high court that, even if the matter was brought before the court by private individuals, the court has to construe it

28 *Id.* at para 34.

29 (2008) 1 MLJ 489 (SC).

30 (2008) 8 SCC 765.

31 (2008) 10 SCC 404.





widely to understand 'group interest' behind such litigations and should amply expand the *locus standi* to suit the litigations.

#### VIII PIL AND EDUCATION

The petitioner in *Dr. G. Krishnamurthy v. The Vice Chancellor, Dr. Ambedkar Law University*<sup>32</sup> filed a PIL in the High Court of Madras complaining of poor maintenance of standards in the ML post graduate degree course in Tamil Nadu Dr. Ambedkar Law University. In this case, certain complaints were raised against the director of the university regarding the standard of education imparted in the university and the educational qualification of the lecturers etc. The court came to the conclusion that no standard was maintained in the ML degree course in the university and directed the director of legal studies to look into the matter so as to ensure that proper standards of teaching and holding of classes are maintained and properly qualified teachers are made available to teach students of the ML course.

In *Madan Kumar and Raj Kumar Sahu v. State of Jharkhand through Secretary, H.R.D., Govt. of Jharkhand, Vice Chancellor, Ranchi University and Registrar, Ranchi University*<sup>33</sup> the petitioners filed a PIL seeking the issuance of *mandamus* directing the respondents to hold an inquiry with regard to the admission of the students in BEd course in different colleges of Ranchi University in violation and disregard of the established selection processes and rules for the academic session 2006-07. Petitioners contended that the respondents committed certain irregularities in the admission process for the BEd course in Ranchi University. The court dismissed the PIL and held that considering the fact that since students of BEd course had already appeared in the examination and their result had been published, any kind of intervention in the nature of *mandamus* would adversely affect the admission process, examination and the result of the *bona fide* students who were not in any manner at fault and their career would be gravely affected.

The Madras High Court in *Dr. V. Balaji v. Union of India*<sup>34</sup> quashed the notification issued by the State of Madras, which sought to introduce a certificate course in diabetology on the ground that it contravened the laws made by Parliament. In this case, through a PIL the petitioners challenged the notification of the state for starting a new course in diabetology as it violated certain provisions<sup>35</sup> of the Medical Council Act, 1956. The court held that

32 (2008) 2 MLJ 319.

33 (2008) 4 JCR173 (Jhr).

34 AIR 2008 Mad 23.

35 In this case, the petitioners alleged that the notification issued by the State of Madras violates ss.10A & 10A(1)(b) of the Medical Council Act, 1956 as it stipulates previous permission of the central government for the establishment of a new course.



without the permission of the central government and MCI, no course in medical education, even if it is a certificate course in diabetology could be started. It also made it clear that, the executive power of the state is subject to constitutional limitations.

Similarly, in *Tulsi Baksi v. State of West Bengal*<sup>36</sup> the Calcutta High Court held that certain educational institutions established without obtaining affiliation from NCTE authority have no right to admit the students in those institutions. The court upheld the *locus standi* of the petitioner to approach the court since admitting the students without affiliation will adversely affect the future of the students.

#### IX PIL VIS-À-VIS LEGISLATIVE COMPETENCY

In *Pareena Swarup v. Union of India*<sup>37</sup> the petitioner, a member of Bar Council, filed a PIL seeking to declare various sections of the Prevention of Money Laundering Act, 2002, more particularly those relating to constitution of the adjudicating authority and the tribunal, as *ultra vires* articles 14, 19(1) (g), 21, 50 and 323B of the Constitution and also breached the constitutional scheme and power of judiciary.

The petitioner sought quashing of the said provisions contending that as they were violative of basic constitutional guarantee of free and independent judiciary it was beyond the legislative competence of Parliament. The court held that the amended / proposed provisions are in tune with the scheme of Constitution as well as with the principles laid down by the Supreme Court. The court also directed the Union of India to implement these provisions within six months from the date of the judgment.

#### X PIL AND CONSTITUTION

In *Kamal Kant Prasad Sinha, Md. Mikail Firdos and Dr. Deobrat Gupta v. Union of India*<sup>38</sup> the petitioners challenged various constitutional amendments under article 226 of the Constitution on the ground that by extending reservations to the members of the scheduled caste/scheduled tribes beyond a period of 60 years in various municipal and local bodies, they violated their voting rights as well as their right to contest elections and also violated the 'Basic Structure' of the Constitution of India. Rejecting the argument the court held that the amendments extending reservation in Parliament and in the State Legislatures for the SC/STs are *intra vires*, constitutional and valid. Dismissing the PIL the court observed:<sup>39</sup>

36 2008 444 CHN 789.

37 2008 (13) SCALE84.

38 2008 (2) JCR 603 (Jhr).

39 *Id.* at para 26.



These amendments nowhere infringe any essential features of the basic structure of the Constitution and on the other hand, retention of the safeguards and protection of special reservations to these weaker sections would strengthen the essential features of real democracy with equal opportunity and equal status, which is in consonance with the preamble of the Constitution.

#### XI MISCELLENOUS

In *Rajasthan Chapter of Indian Association of Lawyers v. Union of India*<sup>40</sup> the Rajasthan High Court dismissed the PIL filed by the petitioners, an association of lawyers in the State of Rajasthan. The petitioners contended that in some motion pictures courts were not properly projected and the manner of its exhibition lowered the image of the judiciary. The high court declined to interfere with the matter on the ground that the matters in question were governed by the Cinematograph Act, 1952 and there was no material to show that the censor board/advisory board had not discharged its duty properly.

In *Bharatiya Lions Parisangh v. Union of India*<sup>41</sup> the question was related to the applicability of income tax laws over certain local lions clubs. The petitioners contended that certain local lions clubs which are associated with Lions Club International Foundation were not complying with Indian laws such as Income Tax Act and FERA and thus resulted in loss of huge tax revenues to central government. The court held that there was no adequate material to show that these local lions clubs had violated the central laws and evaded taxes. Directions against individual clubs could not be issued. While deciding so the court also clarified that lions clubs and Lions Club International Foundation were not 'state' within the meaning of article 12 of the Constitution.

In *Arjun v. State of Rajasthan*<sup>42</sup> through a PIL the petitioners challenged the administrative decision to allot certain land to some educational institutions on the ground that it was detrimental or contrary to the interest of villagers residing in the locality. But the court considering the fact that, even after the allotment villagers had sufficient land for grazing the cattle, declined to interfere in the matter.

In *Goan Real Estate & Construction Ltd v. People's Movement for Civic Aviation*<sup>43</sup> the applications of the appellants for hotel construction were rejected by the authorities on the ground that it may cause damage to the people residing in the locality. The PIL filed under article 226 was entertained by the high court, which ordered to stop the construction. On

40 AIR 2008 Raj 533.

41 AIR 2008 Raj 945.

42 AIR 2008 Raj 1871.

43 (2008) 8 SCC 645.



appeal, the apex court issued an interlocutory order permitting the appellants to complete the incomplete construction at the risk and cost of the building contractors keeping in view the interest of justice.

In *Y.N. Nagaraja v. State of Karnataka*<sup>44</sup> through a PIL the petitioner challenged the appointment of respondent as state information commissioner on the ground that earlier he was the chairman of the Karnataka Public Service Commission. The division bench of the Karnataka High Court dismissed the petition on the ground that under the Constitution, there is no restriction that a chairman of the Public Service Commission cannot be appointed as the state information commissioner.

In *Felix Tamba v. State of Jharkhand*<sup>45</sup> the High Court of Jharkhand quashed a circular issued by the government, which restricted the members of the scheduled caste and the scheduled tribes from availing educational loan from various banks. Quashing the circular as unreasonable the court remarked:<sup>46</sup>

The persons belonging to the members of scheduled caste or scheduled tribe are also entitled to such financial assistance for higher education. If any restriction is put like the impugned circular restraining the members of scheduled caste and scheduled tribe from availing education loan from the banks, that will amount to depriving them from their legal right to bring them and their children at the level of others who, by reason of higher education, have developed their standard of living. Such restriction, therefore, shall be wholly unreasonable and unjustified.

In *Shamim Modi v. Sudha Chowdhary*<sup>47</sup> a writ petition was filed by a social worker to protect the rights of the tribals based on an incident in which a tribal woman was raped by a policeman and her husband was brutally tortured. Subsequently, the petitioner's and her family was attacked by the same respondents for undertaking the cause of tribals. But the court instead of protecting the petitioner's rights ruled that, the protection for the petitioner could be sought only through the various provisions in Cr PC or by a separate writ petition under article 226 of the Constitution. It was further held that a PIL would not lie for the protection of the petitioner.

In *Narmada Bachao Andolan v. The State of Madhya Pradesh*<sup>48</sup> the petitioners, an organization working for the legal rights of oustee families affected by the large dams in the Narmada Valley, filed a PIL for appropriate directions for the rehabilitation and resettlement of the oustee families of the Omkareshwar Project in the State of Madhya Pradesh. The court held that

44 AIR 2008 Kar 354.

45 AIR 2009 Jhar 1.

46 *Id.* at para 42.

47 2008 (5) MPHT 13.

48 AIR 2008 MP 142.



the displaced families and encroachers were entitled to allotment of agricultural land and issued certain directions to the government to allot such land.

## XII CONCLUSION

The cases that were taken up by the courts this year reflected the judicial activism in PIL matters. This year the number of PIL cases decided by the high courts were more than those by the Supreme Court. The issue of abuse of PIL continued to engage the court's attention and the courts filtered frivolous and vexatious petitions filed for vindicating individual/ private grievances through PILs. In many cases, the Supreme Court performed the role of an adjudicator in resolving the disputes. These included *Common Cause Registered Society v. Union of India*, wherein the court applied the concept of judicial restraint and separation of powers and *M.C. Mehta v. Union of India* in which the court appointed *amicus curiae* to settle the matter.

