



THE ADVOCATES LEAGUE

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Short Article on

CASE COMMENT ON
MS. JUHI CHAWLA & ORS. VS SCIENCE AND ENGINEERING RESEARCH

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“PILs have now degenerated into publicity-seeking litigations.”

-Fali S. Nariman

PIL stands for Public Interest Litigation. It also refers to a legal action taken primarily for the benefit of the general public in order to resolve complaints that have an influence on legal rights or obligations in some way. When a concept like PIL was drafted into the constitution, it served a purpose, which was to achieve and expedite the aims of the framers, such as rule of law, balance of interests, rationality, and non-arbitrariness. With particular regard to Articles 14, 19, and 21 of the Indian Constitution, these are the basic elements of the Constitutional spirit. The main goal of PIL was to make the judicial system accessible to those who were unable to approach the courts for different reasons like as illiteracy, poverty, backwardness, and so on. As a result, any member of the public may appear on behalf of the whole public if there is a substantial public interest as well as a public injury. Generally the petitioner bears the burden of demonstrating that the cause of action is in the public interest and not for any nefarious motives.

However, in the twenty-first century, PIL has become associated with Exposure/Political Interest Litigation, since many legal professionals, middle-class citizens, and celebrities utilise it to gain public attention and publicity.

PIL is a weapon that must be used with extreme caution and vigilance, and the judge must be vigilant to ensure that terrible private vindictiveness and personal stake or expose seeking do not lurk beneath the ostensibly good cloak of public interest. It is to be handled with caution and attention as a powerful yet delicate weapon in the armoury of the law for bringing justice to the people. PIL's appealing feature should not be utilised for shady or fraudulent reasons. It should be focused on solving genuine issues or preventing widespread public harm, not on gaining attention or popularity for the sake of it. PIL isn't a cure-all for all ills. Furthermore, any meddling intruder posing as a warrior for justice must not be permitted to take advantage of the legal system for their own personal gain. Under no circumstances will courts enable the

judicial system to be disrupted or contaminated by unscrupulous litigants for any oblique purposes under the guise of a PIL. PIL is currently being misused by a large number of persons, primarily celebrities, who want to submit frivolous petitions in the name of public spirit, which is considered misconduct. Such shady PILs jeopardise the fundamental foundations of the judicial system, as the court's time is squandered, and the number of procedures rises, leaving the entire legal system at risk. There are already significant and urgent cases before the courts, but they are frequently postponed because of these so-called "Public Interest Litigations." which are actually 'Publicity Interest Litigation'.

Even at this time of pandemic, when the procedure has grown more complicated, the judiciary continues to strive to equitably provide faster justice to all citizens of the country. There are a number of continuing issues that need to be resolved, including those involving people's health and safety during pandemics, as well as redressing the grievances of those who have been genuinely affected. However, such proceedings are frequently postponed as a result of such false PILs, inflicting injury to a broad section of society as well as the legal structure.

A suit filed by Bollywood actress Juhi Chawla is the most recent example in this regard. She filed the PIL against India's 5G network in order to obtain a public statement from the government whether these 5G waves will have any adverse effects on the life of humans, flora, or fauna. The petition was filed for the sake of the 'public interest.' However, it is impossible to prove that the PIL was filed in the public interest because, for instance, court proceedings are extremely sensitive and require complete discipline, whereas Juhi Chawla purposefully shared the WebEx link of the court hearing on social media, causing disruptions and mocking the justice system. The petition was just a Publicity Interest Litigation, since she made several videos and postings on social media platforms discussing the petition in a very casual manner, but in real PILs, the individual who files the petition on behalf of the public is truly "aggrieved."

The Juhi Chawla case exemplifies the saying, "Hard cases make bad law." A 'hard case,' according to Black's Law Dictionary, is a lawsuit containing equities that entice a judge to extend or even reject a legal principle at question.

The Delhi High Court's expenses of Rs.20 lakh are a manifestation of this proverb.

"Curiae Actus Neminem Gravabit" is a legal theory that states that a court's action should not prejudice anybody. The quality of the procedure followed by courts is the cornerstone of any jurisprudence. In the absence of a free and fair procedure, substantive laws are rendered

ineffective. This type of judicial overreach was seen in Juhi Chawla's case before the Delhi High Court.

The High Court rejected the complaint right away, stating that it was brought for publicity and that the CPC's obligatory procedures had not been followed.

In my opinion it is worth noting that while the High Court is operating under the CPC regime, it cannot invoke Article 226 of the Constitution. Without a doubt, if a matter is before the High Court under writ jurisdiction (Article 226), it has broad and unrestricted authority to impose such exemplary/punitive costs.

However, in a case regulated by the CPC, the High Court has extremely limited authority to impose costs.

The CPC has five sections that govern the expenses that can be imposed by courts.

1. Section 35: This Section states that the court shall have full power to determine by whom and out of which property and of what extent the costs be given. *Prima facie*, it may appear that the court has unfettered power impose costs, but this is not the case. Section 35 starts with "subject to such conditions and limitations as may be prescribed," and these conditions and limitations are provided under Order XX A of the CPC.

2. Order XX A: This provision circumscribes the power of courts to impose costs. There are six heads (a to f) under which costs may be imposed. These include expenses in giving notice; expenses of typing or printing; charges paid by parties in inspection of records; expenses for producing the witness; and expenses for obtaining the copies of decree/judgement in case of appeal or revision. Under this Order, courts may take into account all these expenses incurred by parties while accounting the cost. This Order also provides that the award of costs shall be in accordance with the rules made by High Courts in that regard. The rules of cost made by the Delhi High Court are in consonance with Sections 35, 35A and 35B of the CPC.

3. Section 35A: The most important and relevant provision for the purpose of this article is Section 35A of CPC, which empowers the courts to impose compensatory costs on a party which has filed false and vexatious claim or defence. The outer limit set for such costs is fixed at Rs.3,000.

4. Section 35B: This section of CPC also empowers courts to impose cost on parties, but it is meant particularly for those cases where parties use delay tactics like unnecessarily taking adjournment.

5. Section 151: The provision talks about the inherent power of courts to ensure justice and to prevent abuse of process. But it is significant to mention that this provision cannot be used in derogation of expressed statutory provisions and hence the power of Section 151 shall remain subject to Section 35, 35A and 35B.

The dismissal of the action with costs of Rs.20 lakh appears to be outside the High Court's jurisdiction under the CPC. There is no legislative provision or established precedent in the CPC on the subject of expenses that allows a court to impose such high charges on plaintiffs while dismissing frivolous or vexatious cases brought for publicity.

It has been decided that the inherent power of courts under Section 151 cannot be utilised in a way that contradicts the Code's overall structure and intent.

Nevertheless, the costs granted under Section 35A and other related provisions are too low and will not serve as a deterrent to fraudulent and vexatious lawsuits.

Despite suggestions from the Law Commission and the Supreme Court, no legislation has been introduced to fill this lacuna.

There is little question that High Courts can innovate in order to punish those who pursue vexatious litigation, but this must be done within the boundaries of the law. With all due respect to the Delhi High Court, I believe that the imposition of exemplary costs in the Juhi Chawla case was outside the bounds of the law and was contrary to judicial precedents and CPC rules.