CHAPTER 11

PUBLIC INTEREST LITIGATION

General : A novel and recent feature of the Indian Legal System is the rapid growth and development of Public Interest Litigation. In a number of cases, the Supreme Court as well as many High Courts have entertained petitions and 'letters' not only by the persons or persons who can be said to be 'aggrieved' or 'adversely affected' in the strict sense of the terms by any action or omission by the respondents but acting *pro bono publico*.

The Council for Public Interest Law set up by the Ford Foundation in U.S.A. has given its broad definition:

> "Public Interest Law is the name that has recently been given to efforts to provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that the ordinary market place for legal services fails to provide such services to significant segments of the population and to significant interest. Such groups and interests include the poor, environmentalists, consumers, racial and ethnic minorities, and others.

Public interest litigation in its present form constitutes a new chapter in our judicial system. It has acquired a significant degree of importance in the jurisprudence practised by our Courts and has evoked a lively, though somewhat controversial, response in legal circles, in the media and among the general public. In the United States, it is the name "given to efforts to provide legal representation to groups and interests that have been unrepresented or under-represented in the legal process. These include not only the poor and the disadvantaged but ordinary citizens who, because they cannot afford lawyers to represent them, have lacked access to Courts, administrative agencies and other legal forums in which basic policy decisions affecting their interests are made". In our own country, this new class of litigation is justified by its protagonists on the basis generally of vast areas in our population of illiteracy and poverty, of social and economic backwardness, and of an insufficient awareness and appreciation of individual and collective rights. These handicaps have denied millions of our countrymen access to justice. Public interest litigation is said to possess the potential of providing such access in the milieu of a new echos, in which participating sectors in the administration of justice co-operate in the creation of a system which promises legal relief without cumbersome formality and heavy expenditure. In the result, the legal organisation has taken on a radically new dimension, and correspondingly new perspectives are opening up before judges and lawyers and state law agencies in the tasks before them. A crusading zeal is abroad, viewing the present as an opportunity to awaken the political and legal order to the objectives of social justice projected in our constitutional system. New slogans fill the air, and new phrases have entered the legal dictionary, and we hear of the 'justicing system' being galvanised into supplying justice to the socio-economic disadvantaged. These urges are responsible for the birth of new judicial concepts and the expanding horizon of judicial power. They claim to represent an increasing emphasis on social welfare and a progressive humanitarianism. **A I R 1984 SC 802.**

It is a fascinating exercise for the Court to deal with public interest litigation because it is a new jurisprudence which the Court is evolving, a jurisprudence which demands judicial statesmanship and high creative ability. The frontiers of public are expanding far and wide and new concepts and doctrines which will change the complexion of the law and which were so far embedded in the womb of the future, are beginning to be born. This is a innovative strategy which has been evolved by the Supreme Court for the purpose of providing easy access to justice to the weaker sections of humanity and it is a powerful tool in the hands of public-spirited individuals and social action groups for combating exploitation and injustice and securing for the underprivileged segments of society, their social and economic entitlements. It is a highly effective weapon in the armoury of the law for reaching social justice to the common man. **A I R 1987 SC 1086.**

Nature : Public interest litigation is part of the process of participate justice. It is a strategic arm of the legal aid movement and is intended to bring justice within the reach of the poor masses, who constitute the low visibility area of humanity. It is a totally different field of litigation from the ordinary traditional litigation which is essentially of an adversary character where there is a dispute between two litigating parties, one making claim or seeking relief against the other and that other opposing such claim or resisting such relief. Public interest litigation is brought before the Court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of large number of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and unredressed. That would be destructive of the rule of law which forms one of the essential elements of public interest in any decorative form of Government. The rule of law does not mean that the protection of law must be available only to a fortunate few or that the law should be allowed to be prostituted by the vested interests or protecting and upholding the *status quo* under the guise of enforcement of their civil and political rights. The poor too have civil and political rights and the rule of law is meant for them also, though today it exists only on paper and not in reality. Public interest litigation, as we conceive it, is essentially a co-operative or collaborative effort on the part of the petitioner, the State or public authority and the Court to secure observance of the constitutional or legal rights, benefits and privileges conferred upon the vulnerable sections of the community and to reach social justice to them. The State or public authority against whom public interest litigation is brought should be as much interested in ensuring basic human rights, constitutional as well as legal, to those who are in a socially and economically disadvantaged position, as the petitioner who brings the public interest litigation before the Court. The State or public authority which is arrayed as a respondent in public interest litigation should, in fact, welcome it, as it would give it an opportunity to right a wrong or to redress an injustice done to the poor and weaker sections of the community whose welfare is and must be the prime concern of the State or the public authority.

Object : Public interest litigation is not in the nature of adversary litigation but it is a challenge and an opportunity to the Government and its officers to make basic human rights meaningful to the deprived and

vulnerable sections of the community and to assure them social and economic justice which is the signature tune of our Constitution. When the Court entertains public interest litigation, it does not do so in a cavilling spirit or in a confrontational mood or with a few to tilting an executive authority or seeking to usurp it, but its attempt is only to ensure observance of social and economic rescue programmes, legislative as well as executive, framed for the benefit of the have-nots and the handicapped and to protect them against violation of their basic human rights, which is also the constitutional obligation of the executive. The Court thus merely assists in realisation of the constitutional obligations. The Government and its officers must welcome public interest limitation. Where one of the parties to a litigation belongs to a poor and deprived section of the community and does not possess adequate social and material resources, he is bound to be at a disadvantage as against a strong and powerful opponent under the adversary system of justice, because of his difficulty in getting competent legal representation and more than anything else, his inability to produce relevant evidence before the Court. The problems of the poor are qualitatively different from others and they need different kind of lawyering skill and a different kind of judicial approach. Therefore, when the poor come before the Court, particularly for enforcement of their fundamental rights, it is necessary to depart from the adversarial procedure and to evolve a new procedure which will make it possible for the poor and the weak to bring the necessary material before the Court for the purpose of securing enforcement of their fundamental rights. **A I R 1987 SC 2021.**

In public interest litigation, the role played held by the Court is more assertive than in traditional actions; it is creative rather than passive, and it assumes a more positive attitude in determining facts. Where the Court finds, on being moved by an aggrieved party or by any public-spirited individual or social action group, that the executive is remiss in discharging its obligations under the Constitution or the law, so that the poor and the underprivileged continue to be subjected to exploitation and injustice or are deprived of their social and economic entitlements or that social legislation enacted rights and benefits conferred upon them, the Court certainly can and must intervene and compel the executive to carry out its constitutional and legal obligations and ensure that the deprived and vulnerable sections of the community are no longer subjected to exploitation or injustice and they are able to realise their social and economic rights. When the Court passes any orders in public interest litigation, the Court does so not with a view to mocking at legislative or executive authority or in a spirit of confrontation but with a view to enforcing the Constitution and the law, because it is vital for the maintenance of the rule of law that the obligations which are laid upon the executive by the Constitution and the law should be carried out faithfully and no one should go away with a feeling that the Constitution and the law are meant only for the benefit of a fortunate few and have no meaning for the large number of property-stricken, half-clad, half-hungry people of this country. That is a feeling which should never be allowed to grow. **A I R 1985 SC 910.**

Locus Standi : As discussed in Chapter 10 (*supra*), the traditional rule in regard to *locus standi* is that judicial redress is available only to a person who has suffered a legal injury by reason of violation of his legal right or legally protected interest by the impugned action of the State or a

public authority or any other person or who is likely to suffer legal injury by reason of threatened violation of his legal right or legally protected interest by any such action. In other words to have *locus standi* to file a petition, the petitioner must be an "aggrieved person". And a person can be said to be an 'aggrieved person', if he has 'a genuine grievance because an order has been made *which prejudicially affects his interests'*. (Emphasis supplied) But as Schwartz and Wade state "restrictive rules about standing are in general inimical to a healthy system of administrative law." In these circumstances, the strict rule of standing has been liberalised in the United States, in England and in this country. A number of exceptions have been carved out to affording standing by liberally interpreting the phrase 'person aggrieved', and one of such fields is public interest litigation. As Krishna Iyer, J. says the narrow concept of 'person aggrieved' and individual litigation is becoming obsolescent in some jurisdictions. Our current processual jurisprudence is not of individualistic Anglo-Indian mould. It is broad-based and people-oriented, and envisions access to justice through 'class actions' public interest litigation' and 'representative proceedings'. Indeed, little Indians in large number seeking remedies in Courts through collective proceedings, instead of being driven to an expensive plurality of litigations, is an affirmation of participative justice in our democracy. In *People's Union for Democratic Rights* v. *Union of India*. **A I R 1982 SC 1473.** Bhagwati, J. (as he then was) also observed:

> "The traditional rule of standing which confines access to the judicial process only to those to whom legal injury is caused or legal wrong is done has now been jettisoned by this Court and the narrow confines within which the rule of standing was imprisoned for long years as a result of inheritance of the Anglo-Saxon system of jurisprudence have been broken and a new dimension has been given to the doctrine of *locus standi* which has revolutionised the whole concept of access to justice in a way not known before to the western system of jurisprudence. This Court has taken the view that, having regard to the peculiar socio-economic conditions prevailing in the country where there is considerable poverty, illiteracy and ignorance obstructing and impeding accessibility to the judicial process, it would result in closing the doors of justice to the poor and deprived sections of the community if the traditional rule of standing evolved by Anglo-Saxon jurisprudence that only a person wronged can sue for judicial redress were to be blindly adhered to and followed, and it is therefore necessary to evolve a new strategy by relaxing this traditional rule of standing in order that justice may become easily available to the lowly and lost. **A I R 1987 SC 579.**

Reasons for Development of Public Interest Litigation : A number of factors are responsible for the rapid growth and development of public interest litigation:-

(1) Where a person who has suffered a legal wrong or a legal injury or whose legal right or legally protected interest is violated, is unable to approach the Court on account of his socially or economically disadvantaged position, some other person can invoke assistance of the Court for the purpose of providing judicial redress to the person wronged or injured, so

that the legal wrong or injury caused to such person does not go unredressed and justice is done to him.

A rate-payer of a local authority can also challenge an illegal action of that authority. Being a tax-payer, he is closely connected and directly interested in the proper administration of the local authority. **A I R 1980 SC 1622.**

There may be cases where the State or a public authority may act in violation of a constitutional or statutory obligation or fail to carry out such obligation, resulting in injury to public interest or what may conveniently be termed as public injury as distinguished from private injury. If no one can maintain an action for redress of such public wrong or public injury, it would be disastrous for the rule of law, for it would be open to the State or a public authority to act with impunity beyond the scope of its power or in breach of a public duty owned by it. The Courts cannot countenance such a situation where the observance of the law is left to the sweet will of the authority bound by it, without any redress if the law is contravened. Therefore, whenever a public wrong or a public injury is caused by an act or omission of the State or a public authority which is contrary to the Constitution or the law, any member of the public acting *bona fide* and having sufficient interest can maintain an action for redressal of such public wrong or public injury. If no one can have standing to maintain an action for judicial redress in respect of a public wrong or public injury, not only will the cause of legality suffer but the people not having any judicial remedy to redress such public wrong or public injury may turn to the street and in that process, the rule of law will be seriously impaired. It is absolutely essential that the rule of law must wean the people away from the lawless street and win them for the Court of law. **A I R 1988 SC 1115.**

Today the law is being increasingly used as a device of organised social action for the purpose of bringing about socio-economic change. The task of national reconstruction has brought about enormous increase in developmental activities and the law is being utilisied for the purpose of development, social and economic. It is creating more and more a new category of rights in favour of large sections of people and imposing a new category of duties on the State and the public officials with a view to reaching social justice to the common man. The new social and economic rights which are sought to be created in pursuance of the Directive Principles of State Policy essentially require active intervention of the State and other public authorities. Amongst these social and economic rights are freedom from indigency, ignorance and discrimination as well as the right to a healthy environment, to social security and to protection from financial, commercial, corporate or even governmental oppression. More and more frequently the conferment of these socio-economic rights and imposition of public duties

on the State and other authorities for taking positive action generates situations in which a single human action can be beneficial or prejudicial to a large number of people, thus making entirely inadequate the National Scheme of litigation as merely a two-party affair. For example, the discharge of effluent in a lake or river may harm all who want to enjoy its clean water; emission of noxious gas may cause injury to large number of people who inhale it along with the air; defective or unhealthy packaging may cause damage to all consumers of goods and so also illegal raising of railway or bus fares may affect the entire public which wants to use railway or bus as a means of transport. In cases of this kind it would not be possible to say that any specific legal injury is caused to an individual or to a determinate class or group of individuals. What results in such cases is public injury and it is one of the characteristics of public injury that the act or acts complained of cannot necessarily be shown to affect the rights of determinate or identifiable class or group of persons; public injury is an injury to an indeterminate class of persons. In these cases the duty which is breached giving rise to the injury is owed by the State or a public authority not to any specific or determinate class or group of persons, but to the general public. In other words, the duty is one which is not correlative to any individual rights. If breach of such public duty were allowed to go unredressed because there is no one who has received a specific legal injury or who was entitled to participate in the proceedings pertaining to the decision relating to such public duty, the failure to perform such public duty would go unchecked and it would promote disrespect for the rule of law. It would also open the door for corruption and inefficiency because there would be no check on the exercise of public power except what may be provided by the political machinery, which at best would be able to exercise only a limited control and at worst, might become a participant in misuse or abuse of power. It would also make new social collective rights and interests created for the benefit of the deprived sections of the community meaningless and ineffectual.

(5) Where a legal wrong or legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is by reason of poverty, helplessness or disability socially or economically disadvantaged position, unable to approach the Court for relief, any member of the public can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 and in case of breach of any fundamental right of such person or determinate class of persons, in the Supreme Court seeking

judicial redress for the legal wrong or injury caused to such person or determinate class of persons. **A I R 1987 SC 355.**

(6) Today a vast revolution is taking place in the judicial process; the theatre of the law is fast changing and the problems of the poor are coming to the forefront. The Court has to innovate new methods and devise new strategies for the purpose of providing access to justice to large masses of people who are denied their basic human rights and to whom freedom and liberty have no meaning. The only way in which this can be done is by entertaining writ petitions and even letters from public spirited individuals seeking judicial redress for the benefit of persons who have suffered a legal wrong or a legal injury or whose constitutional or legal right has been violated but who by reason of their poverty or socially or economically disadvantaged position are unable to approach the Court for relief.

(7) The judicial function is primarily aimed at preserving legal order by confining the legislative and executive organs of Government within their powers in the interest of public at large. The traditional concept of *locus standi* being an impediment to the said object cannot be strictly applied.

(8) If public duties are to be enforced and social collective 'diffused' rights and interests are to be protected, we have to utilise the initiative and zeal of public-minded persons and organisations by allowing them to move the Court and act for a general or group interest, even though, they may not be directly injured in their own rights. In such cases, any citizen acting *bona fide* and who has sufficient interest has to be accorded standing.

(9) What is sufficient interest to give standing to a member of public would have to be determined by the Court in each individual case and no hard and fast rule or any straight-jacket formula can be laid down to define 'sufficient interest.'

(10) The jurisdiction of the High Courts is much wider than the jurisdiction of the Supreme Court under Article 32, since it is not only for the enforcement of a fundamental right but also for enforcement of any legal right and there are many rights conferred on the poor and the disadvantaged which are the creation of statute and they need to be enforced as urgently and vigorously as fundamental rights. **A I R 1984 SC 802.**

(11) *Locus standi* must be distinguished from the justiciability which asks whether the judicial process is suitable for the resolution of such dispute, whoever may bring it to the Courts. In other words, *locus standi* means legal capacity to challenge an act or decision. Whether the decision is valid or invalid is seldom relevant to the determination of the question whether the applicant has *locus standi* to impugn it.

Power and Duty of Courts : Where the Court finds, on being moved by an aggrieved party or by any public-spirited individual or social action

group, that the executive is remiss in discharging its obligations under the Constitution or the law, so that the poor and the underprivileged continue to be subjected to exploitation and injustice or are deprived of their social and economic entitlements or that social legislation enacted for their benefit is not being implemented thus depriving them of the rights and benefits conferred upon them, the Court certainly can and must intervene and compel the executive to carry out its constitutional and legal obligations and ensure that the deprived and vulnerable sections of the community are no longer subjected to exploitation or injustice and they are able to realise their social and economic rights. When the Court passes any orders in public interest litigation, the Court does so not with a view to mocking at legislative or executive authority or in a spirit of confrontation but with a view to enforcing the Constitution and the law, because it is vital for the maintenance of the rule of law that the obligations which are laid upon the executive by the Constitution and the law should be carried out faithfully and no one should go away with a feeling that the Constitution and the law are meant only for the benefit of a fortunate few and have no meaning for the large numbers of half-clad, half-hungry people of this country. That is a feeling which should never be allowed to grow. But at the same time the Court cannot usurp the functions assigned to the executive and the legislature under the Constitution and it cannot even indirectly require the executive to introduce a particular legislation or the legislature to pass it or assume to itself a supervisory role over the law-making activities of the executive and the legislature. **A I R 1985 SC 910.**

There is a misconception in the minds of some lawyers, journalists and men in public life that public interest litigation is unnecessarily cluttering up the files of the Court and adding to the already staggering arrears of cases which are pending for long years and it should not, therefore, be encouraged by the Court. This is, to our mind, a totally perverse view smacking of an *elitist* and *status quoits* approach. Those who are decrying public interest litigation do not seem to realise that Courts are not meant only for the rich and the well-to-do, for the landlord and the gentry, for the business magnate and the industrial tycoon, but they exist also for the poor and the down-trodden, the have-nots and the handicapped and the half-hungry millions of our countrymen. So far the Courts have been used only for the purpose of vindicating the rights of the wealthy and the affluent. It is only these privileged classes which have been able to approach the Courts for protecting their vested interests. It is only the moneyed who have so far had the golden key to unlock the doors of justice. But, now for the first time the portals of the Court are being thrown open to the poor and the down-trodden, the ignorant and the illiterate, and their cases are coming before the Courts through public interest litigation which had been made possible by the recent judgment delivered by this Court in *Judges' Appointment and Transfer case* (*supra*). Millions of persons belonging to the deprived and vulnerable sections of humanity are looking to the Courts for improving their life conditions and making basic human rights meaningful for them. They have been crying for justice but their cries have so far been in the wilderness. They have been suffering injustice silently with the patience of a rock, without the strength even to shed any tears. Mahatma Gandhi once said to Gurudeve Tagore, "I have had the pain of watching birds, who for want of strength could not be coaxed even into a flutter of their wings. The

human bird under the sky gets up weaker than when they pretended to retire. For millions it is an eternal vigil or an eternal trance." This is true of the 'human bird' in India even today after more than 30 years of independence. The legal aid movement and public interest litigation seek to bring justice to these forgotten specimens of humanity who constitute the bulk of the citizens of India and who are really and truly the "People of India" who gave to themselves this magnificent Constitution. It is true that there are large arrears pending in the Courts but, that cannot be reason for denying access to justice to the poor and weaker sections of the community. No State has a right to tell its citizens that because a large number of cases of the rich and the well-to-do are pending in our Courts, we will not help the poor to come to the Courts for seeking justice until the staggering load of cases of people who can afford, is disposed of. The time has now come when the Courts must become the Courts for the poor and struggling masses of this country. They must shed their character as upholders of the established order and the *status quo*. They must be sensitised to the need of the doing justice to the large masses of people to whom justice has been denied by a cruel and heartless society for generations. The realisation must come to them that social justice is the signature tune of our Constitution and it is their solemn duty under the Constitution to enforce the basic human rights of the poor and vulnerable sections of the community and actively help in the realisation of the constitutional goals. This new change has to come if the judicial system is to become an effective instrument of social justice, for without it, it cannot survive for long. Fortunately, this change is gradually taking place and public interest litigation is playing a large part in bringing about this change. It is through public interest litigation that the problems of the poor are now coming to the forefront and the entire theatre of the law is changing. It holds out greater possibilities for the future. **A I R 1987 SC 38.**

Procedure : Where judicial redress is sought of a legal inquiry or legal wrong suffered by a person or class of persons who by reason of poverty, disability or being in socially or economically disadvantaged position are unable to approach the Court and the Court is moved for this purpose by a member of the public by addressing a letter drawing the attention of the Court to such legal injury or legal wrong, the Court would cast aside all technical rules of procedure and entertain the letter as a writ petition on the judicial side and take action upon it. **A I R 1987 SC 2021.** Where the weaker sections of the community are concerned, such as undertrial prisoners languishing in jails without a trial, inmates of the Protective Home in Agra, or Harijan workers engaged in road construction in the district of Ajmer, who are living in poverty and destitution, who are barely eking out a miserable existence with their sweat and toil, who are helpless victims of an exploitative society and who do not have easy access to justice, the Court will not insist on a regular writ petition to be filed by the public-spirited individual espousing their cause and seeking relief for them. The Court will readily respond even to a letter addressed by such individual acting *pro bono publico*. It is true that there are rules made by the Supreme Court, prescribing the procedure for moving the Court for relief under Article 32 and by High Courts under Article 226, and they require various formalities to be gone through by a person seeking to approach the Court. But it must not be forgotten that procedure is but a handmaiden of justice

and the cause of justice can never be allowed to be thwarted by any procedural technicalities. The Court would, therefore, unhesitatingly and without the slightest qualms of conscience cast aside the technical rules of procedure in the exercise of its dispensing power and treat the letter of the public-minded individual as a writ petition and act upon it. Today a vast revolution is taking place in the judicial process; the theatre of the law is fast changing and the problems of the poor are coming to the forefront. The Court has to innovate new methods and devise new strategies for the purpose of providing access to justice to large masses of people who are denied their basic human rights and to whom freedom and liberty have no meaning. The only way in which this can be done is by entraining writ petitions and even letters from public-spirited individuals seeking judicial redress for the benefit of persons who have suffered a legal wrong or a legal injury or whose constitutional or legal right has been violated but by reason of their poverty or socially or economically disadvantaged position are unable to approach the Court for relief. Where one of the parties to a litigation belongs to a poor and deprived section of the community and does not possess adequate social and material resources, he is bound to be at a disadvantage as against a strong and powerful opponent under the adversary system of justice, because of his difficulty in getting competent legal representation and more than anything else, his inability to produce relevant evidence before the Court. The problems of the poor are qualitatively different from others and they need different kind of lawyering skill and a different kind of judicial approach. Therefore, when the poor come before the Court, particularly for enforcement of their fundamental rights, it is necessary to depart from the adversarial procedure and to evolve a new procedure which will make it possible for the poor and the weak to bring the necessary material before the Court for the purpose of securing enforcement of their fundamental rights. **A I R 1984 SC 802.**

Illustrative Cases : In the leading case of *S.P. Gupta* v. *Union of India* (popularly known as *Judges' Transfer case),* the Supreme Court entertained petitions by lawyers challenging the constitutionality of the Law Minister's circular regarding transfer of Judges of High Courts and non-confirmation of sitting Additional Judges of High Courts. Similarly, in people's *Union for Democratic Rights* v. *Union of India (Asian case)* a petition by a public-spirited organisation on behalf of persons belonging to socially and economically weaker section employed in the construction work of various projects connected with the Asian Games, 1982, complaining of violation of various provisions of Labour Laws was held maintainable. In *D.S. Nakara* v. *Union of India;* **A I R 1983 SC 130,** it was held that a registered co-operative society consisting of public-spirited citizens seeking to espouse the cause of old and retired infirm pensioners unable to seek redress through expansive judicial procedure can approach the Court by filing a petition. Again, a public-spirited organisation was held entitled to move the Court for release of bonded labourers working in stone quarries or against unjustifiable police atrocities, and for compensation. A guardian of a student of a medical college can complain to the Court about ragging of junior students by senior students of the college. A professor of politics 'deeply interested in ensuring proper implementation of the constitutional provisions' can approach the Court against the practice of issuing promulgation of Ordinances on large scale as being fraud on the

Constitution of India. In *Sunil Batra (II)* v. *Delhi Administration* the Supreme Court entertained a petition by a prisoner complaining about brutal assault by the head warden on another prisoner. In *Municipal Council, Ratlam* v. *Vardichand* the Supreme Court issued certain directions to the municipal Council to construct Public latrines, drains, etc.

In *A.S. Mittal* v. *State of U.P.* **A I R 1989 SC 1570**, the Supreme Court directed the State Government to pay certain amount by way of interim relief to the victims who has suffered irreversible damage to their eyes at the eye camp. In *Charan Lal Sahu* v. *Union of India* the Court, having regard to the 'need for immediate help and relief to the victims' who suffered due to the Bhopal Gas Leak Disaster upheld the validity of the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 and the settlement arrived at between the Union of India and the Company. Similarly, in *Parmanand Katara* v. *Union of India* the Court directed the Government that every injured citizen brought for medical treatment should instantaneously be given aid to preserve life and only thereafter the procedural criminal law should be allowed to operate in order to avoid negligent death of injured.

Pitfalls : Whatever may be the justification for the public interest litigation, there are some pitfalls in public interest litigation which the Court has to be careful to avoid. **A I R 1987 SC 1086.**

(1) The Court must be careful to see that the petitioner who approaches it is acting bona fide and not for personal gain, private profit or political or other oblique considerations.

(2) The Court should not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective. Political pressure groups who could not achieve their aims through the administrative process or political process may try to use the Courts to further their aims.

(3) It is also necessary for the Court to bear in mind that there is a vital distinction between locus standi and justiciability and it is not every default on the part of the State or a public authority that is justiciable.

(4) The Court must take care to see that it does not overstep the limits of its judicial function and trespass into areas which are reserved to the executive and the legislature by Constitution. **A I R 1986 SC 847.** It cannot even indirectly require the executive to introduce a particular legislation or the legislature to pass it or assume to itself a supervisory role over the law-making activities of the executive and the legislature.

(5) Ordinarily the Court would not, in the exercise of its discretion, intervene at the instance of a meddlesome interpoler or busy-body and would insist that only a person whose fundamental right is violated should be allowed to activise the Court.

(6) There may be cases where public interest litigation may affect the rights of persons not before the Court, and therefore in shaping the relief the Court must invariably take into account its impact on those interests. Moreover, when its jurisdiction in

invoked, on behalf of a group, it is as well to remember that differences may exist in content and emphasis between the claims of different sections of the group. The nature of the litigation may also require continued intervention of the Court over a period of time. For all these reasons, the Court must exercise the greatest caution and adopt procedure ensuring sufficient notice to all interests likely to be affected. **A I R 1986 SC 825.**

(7) Though in public interest litigation the Court enjoys a degree of flexibility unknown to the trial of traditional private law litigations, whatever the procedure adopted by it must be the procedure known to judicial tenets. It must conform at all stages to the principles of natural justice and other accepted procedural norms characteristic of a judicial proceeding. **A I R 1988 SC 2211.**

(8) The Court can treat a letter as a writ petition and take action upon it. But it is not every letter which may be treated as writ petition by the Court. It is only where a letter is addressed by an aggrieved person or by a public-spirited individual or a social action for enforcement of the constitutional or legal rights of a person in custody or of a class or group of persons who by reason of poverty, disability or socially or economically disadvantaged position find it difficult to approach the Court, for redress that the Court would be justified in treating the letter as writ petition. **(1985) 3 SCC 169.**

(9) It is eminently desirable that any party who addressed a letter or any other communication to the Court seeking intervention of the Court on the basis of the said letter or communication should address that letter or communication to the Court and not to any individual judge by name. Such communication should be addressed to the Chief Justice of the Court and the companion Justices. A private communication by a party to any learned Judge is not proper.

(10) Danger is inherent in a practice where a mere letter is entertained as a petition from a person whose antecedents and status are unknown or so uncertain that no sense of responsibility can, without anything more, be attributed to the communication. There is good reason for the insistence on a document being set out in a form, or accompanied by evidence, indicating that the allegations made in it are made with a sense of responsibility by a person who has taken due care and caution to verify those allegations before making them. There is good reason for maintaining the rule that, except in special circumstances, the document petitioning the Court for relief should be supported by satisfactory verification. This requirement is all the greater where petitions are received by the Court through post.

(11) The Court may confine this strategic exercise of jurisdiction to cases where legal wrong or legal injury is caused to a

determinate class or group of persons or the constitutional or legal right of such determinate class or group of persons is violated and as far as possible, not entertain cases of individual wrong or injury at the instance of a third party, where there is an effective legal aid organisation which can take care of such cases. **A I R 1986 SC 391.** The Court may also refuse to espouse the cause of unnamed and undisclosed persons. **A I R 1985 SC 1233.**

It should not, however, be forgotten that public interest litigation has its own limitations. Ultimately, what is needed is socio-economic change and in a hierarchical society organised around privilege, patronage and power it cannot be brought about just by few public interest litigation actions, howsoever, well-intentioned. It is a continuous, arduous task which only the social activists can undertake. Public interest litigation can at best serve as just one more weapon in the armoury of the social activist. It is rightly said:

"For the downtrodden of the world, we secure their rights by law, exactly as though they had the same privileged background as us, and then, outside the Court room we leave them to their separate ways. Ours is not, however, the universe which they inhabit. Their grim, hostile world, which recedes while we are present, returns with a vengeance. This is why our legal victories turn out to be both pyrrhic and dangerous to the poor. There is real danger if legal activists continue to interfere haphazardly, on a short-term, case-wise basis with the lives of the downtrodden. It is time we learn that it is not enough to expose the innumerable and appalling social evils through the Courts and the media. We must link up with social activists who alone can provide them with the ground support."

The ultimate guarantee of one's rights, however lies in self-assertion. The poor and the weak must, therefore, be organised and made self-reliant. As Bhagwati, J. states:

"We must always remember that social action litigation is a necessary and valuable ally in the cause of the poor, but it cannot be a substitute organization of the poor, development of community, self-reliance and establishment of effective organisational structures through which the poor can combat exploitation and injustice protect and defend their interest and secure their rights and entitlements. **A I R 1984 SC 1099.**

The following observations of great American Judge must always be borne in mind:

"A society so riven that the spirit of moderation is gone, no constitution can save; a society where that spirit flourishes, no Constitution needs save; a society which evades its responsibility by thrusting upon the Courts the nurture of that spirit, in the end will perish.
