
PUBLIC INTEREST LITIGATION AND THE RIGHT TO EDUCATION IN INDIA: ADDRESSING GAPS IN QUALITY AND ACCESS

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ABSTRACT

In India, Public Interest Litigation (PIL) has served as an important tool in operationalizing the right to Education (RTE), which has upgraded it from a constitutional promise to a more meaningful reality for underprivileged children. This article explores how PIL has broadened the concept of locus standi, allowing activists and civil society to look for remedies for underprivileged groups, thereby increasing access to and improving the quality of education. This article also studies how courts have read education into article 21 and enforced Article 21A to address issues like infrastructure deficits, teacher absenteeism, discrimination, and unsafe learning environments with the help of various cases laws like S.P. Gupta, Hussainara Khatoon, Bandhua Mukti Morcha, PUCL (mid-day meals), and subsequent RTE related cases. This article This further explores the conflict between the government's obligation to improve education and the role of the courts. It reveals that although courts have been crucial in promoting educational reforms, they are not able to manage everything on their own. This article also addresses contemporary issues, including the necessity to include children with disabilities, particularly during the COVID-19 period, through PILs, and also the lack of access to digital education. It concludes by arguing that although Public Interest Litigation is a crucial means of holding the government responsible, the right to education can only be fully achieved when the government has strong and effective policies, sufficient funding, and community-level monitoring that works alongside the courts.

INTRODUCTION

Education has always been considered essential for social change, democratic governance, and human empowerment. In addition to promoting economic mobility and individual dignity, it gives citizens all the details and abilities they need to engage in public life in a meaningful way. In India, through the 86th constitutional amendment 2002, the Right to Education (RTE) has been evolved from a directive principle into a fundamental right guaranteed under Article 21A.¹ The subsequent enactment of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act),² the constitutional right was put into effect which guaranteed free and compulsory high quality primary education to all children between the age of 6-14 years.

Despite this positive change, there are still gaps in quality and access. Millions of young children still struggle to even get basic education because of administrative errors, infrastructure problems, lack of accountability and socio- economic factors. Many children belonging to the marginalized section of the society are deprived of education. They are either denied access to schools or receive very low- quality education. The Annual Status of Education Report (ASER)³ has highlighted the above issues. The judiciary through the use of Public Interest Litigation has been extremely important in bridging this gap. PIL allows citizens and civil society organizations to approach the courts on behalf of the marginalized and disadvantaged children, making it as an efficient tool to protect educational rights, guarantee state accountability and promote structural changes.

This article seeks to examine the ways in which Public Interest Litigation has helped in the improvement of the right to education in India. It focuses on the intersection of PIL and the Right to Education with particular attention to their role in addressing the challenges in access and quality. It will also study landmark cases where PIL played a vital role in safeguarding educational rights and discuss how these rulings have impacted the laws and improve educational access. This article will also discuss the limitations and difficulties of relying on it. Along with it, it also gives suggestions to strengthen its effectiveness. Moreover, this article aims to show how the courts may turn the constitutionally guaranteed right to education into a reality for all the children in India.

¹ The Constitution of India, art. 21 A.

² The Right of Children to Free and Compulsory Education Act, 2009 (Act 35 of 2009).

³ Pratham (ASER Centre), “Annual Status of Education Report (ASER) 2023” (2023).

DEFINING THE CONCEPT

This research paper revolves around the discussion of Public Interest Litigation (PIL) and the Right to Education (RTE). These two topics of discussions led to a major development in Indian constitutional law. Both of them have been crucial in promoting social justice and making sure that the rights guaranteed by the constitution are not just promises made on paper but something that can be put into practice in real life.

PIL has been regarded as one of the most significant developments ever introduced in India. It is a legal method through which any person or organization can go to court to seek justice on issues that impact the public at large particularly the rights of underprivileged or marginalized people, rather than for personal benefit. It is filed mainly under Article 32⁴ or article 226⁵ of the Supreme court and High Court respectively. Before 1970 the concept of locus standi rule was applicable for all which means only those who were directly affected by a wrong were allowed to approach the court to seek remedy. As a result, underprivileged or marginalized sections of the people who had no knowledge and were not aware of their right to approach court were left without efficient remedies. In a landmark case of *S.P. Gupta v. Union of India*,⁶ the Supreme court changed this rule and brought in a new rule, permitting even an interested individual or organization to bring a case on behalf of people who are not able to do it on their own. Also, in another famous case of *Hussainara Khatoon v. State of Bihar*,⁷ the Supreme court considered a mere newspaper report as a petition and ruled that the right to a speedy trial is a component of the Right to Life under Article 21⁸ of the constitution. This established the foundation of PIL in India and also showed that how courts can step in on behalf of those who are not able to approach the court themselves. From these developments PIL became an effective means of seeking justice.

Some of the main features of PIL are-

1. Liberalisation of Locus Standi – Petitions can be filed by activists, NGO's or even ordinary citizens.

⁴ The Constitution of India, art. 32.

⁵ The Constitution of India, art. 226.

⁶ *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

⁷ *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1360.

⁸ The Constitution of India, art.21.

2. New and unexpected issues- PIL's have dealt with a lot of issues like bonded labour, prison conditions, environment and education.
3. It focuses on corrective relief more than compensatory.
4. Even letters and reports have been used as writ petitions making it easier for the public to seek justice.

RIGHT TO EDUCATION

The right to education emerged out of the combination of lot of factors like judicial rulings, constitutional change, and legislation. In the beginning, under article 45⁸ of the constitution the state was required to provide free and compulsory education to all children up to the age of 14 but this was not enforceable in courts but after the amendment of 2002 now the focus has been shifted to early education and it mandates the state to provide free and compulsory education to all children until they attain the age of six years. Through multiple cases the court made education as the basic right. Like in the case of *Mohini Jain v state of Karnataka*,⁹ the Supreme court ruled that Right to Education comes under the ambit of Right to Life under Article 21. According to the court's later rulings in *Unni Krishnan v. state of Andhra Pradesh*¹⁰, all children up to the age of 14 have the right to free education after that the cost of the education is determined by the state. This fundamental right was the put into practice by the Right of Children to Free and Compulsory education act, 2009, which set minimum requirements for schools and mandated a 25% reservation for underprivileged children in private schools. The aim of PIL as described by P.N Bhagwati is to provide "real and meaningful fundamental rights" to the weaker sections of the society. Therefore, PIL and RTE aims to fill the gaps in access and quality in Indian education.

LITERATURE REVIEW

1. The paper "**Judicial Activism and Public Interest Litigation**" by Justice P.N Bhagwati (1984)¹¹ shows a drastic change in Indian legal philosophy of law. He claimed that the poor, the illiterate, and the marginalized had limited access to justice

⁸ The Constitution of India, art. 45.

⁹ *Mohini Jain v. State of Karnataka*, AIR 1992 SC 1858.

¹⁰ *Unni Krishnan, J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645.

¹¹ P.N. Bhagwati, "Judicial Activism and Public Interest Litigation" 23 Columbia Journal of Transnational Law 561 (1984).

due to the traditional locus standi restrictions as a result he argued courts should allow petitions from public- spirited citizens. He created the concept of PIL to serve as a tool for social justice, mainly to address systemic injustices and to enforce socioeconomic rights. In particular, when the executive branch failed to defend the rights of disadvantaged groups, he highlighted that the court had a responsibility to serve as a catalyst for social change. This work paved the way for the use of PIL to defend rights such as dignity, food, and education. However, it also sparked concerns about whether courts were exceeding their powers. In case of education in particular, Bhagwati's theories provided the court with a foundation upon which they directly interpreted the right to education as a fundamental part of Article 21.

2. The paper **“Public Interest Litigation in India: A Critical Review” (2009) by Surya Deva**,¹² points out the advantages and disadvantages of Public Interest Litigation (PIL). He acknowledges the pivotal role PIL plays in ensuring underprivileged groups have access to justice, safeguarding rights and bringing civil society into the political process by holding governmental institutions responsible. However, Deva cautions that excess use of judicial actions may blur the constitutional boundaries by entering into executive or legislative powers and cautions against its misuse for private, political, or publicity- driven goals. He further discussed in his paper that although PIL has improved socio- economic rights, a balance must be there. Legitimate petitions must be supported whereas misuse of PIL for political or personal purpose must be avoided. To ensure that PIL is used for people who are not able to obtain justice on their own, he suggested some changes such as explicit boundaries and incentives. Moreover, his opinions support our paper on PIL and the Right to Education, which shows that although PIL can lead to positive change still long-term changes require strong government actions and accountability along with court orders.

3. The paper **“The right to education in India: an overview”, (2020) by Prashant Rajan Dutt and Barun Kumar Singh**¹⁴, shows the evolution of the Right to Education as a basic right under article 21-A and its subsequent enforcement under the RTE Acts 2009. In their work they explained the main aspects of the act like the minimum standards for schools and free and compulsory education of children aged 6

¹² Surya Deva, “Public Interest Litigation in India: A Critical Review” 28 Civil Justice Quarterly 19 (2009).

¹⁴ Prashant Ranjan Dutt and Barun Kumar Singh, “The Right to Education in India: An Overview” 7 (1) International Education and Research Journal (IERJ) 1 (2021).

to 14. In addition, the authors highlight implementation issues such as inadequate infrastructure, a lack of teachers, and inequality between public and private schools. The paper is useful as it highlights the gaps between law and practise. It explains why courts have to intervene to hold state accountable for PIL and RTE related matters.

ANALYSING THE DEVELOPMENTS

ROLE OF PIL IN ADVANCING RTE

In India, Public Interest Litigation (PIL) has been one of the most effective legal methods for promoting the right to education. The Supreme Court changed the conventional locus standi rule in order to empower activists, NGO's and concerned people to file cases in courts on behalf of underprivileged children. This allowed access to education for people who might not have otherwise been able to seek justice.

PIL came into existence with the case of *Hussainara Khatoon v. state of Bihar (1979)*,¹³ when the court after reading a newspaper article brought attention to the conditions of the undertrial prisoners. Even though it had nothing to do with education specifically, it showed court's determination to take action on social justice issues. Soon after, in *Bandhua Mukti Morcha v. Union of India (1984)*,¹⁴ the court recognized education as way to end poverty and exploitation and ordered that children of bonded labourers be given rehabilitation and compulsory education.

Additionally, PIL linked education to other essential rights. In the case of *People's Union for Civil Liberties v. Union of India, (2001)*¹⁵, this case expanded the meaning of the Right to life under article 21 by including Right to food in it. The court ordered the implementation of midday meal scheme compulsory in schools to guarantee nutrition and education to children. This directive directly addresses the issue of classroom hunger, reduced drop out rates and increased school attendance. In *Avinash Mehrotra v. union of India (2009)*,¹⁸ it was held that everyone has the right to an environment that is safe, with all the necessary facilities and safety regulations.

¹³ *Id.* at 7.

¹⁴ *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802.

¹⁵ *People's Union for Civil Liberties v. Union of India*, AIR 2001 SC 3246.

¹⁸ *Avinash Mehrotra v. Union of India*, AIR 2009 SC 2167.

The judiciary broadened the definition of education with the help of the above cases. It included quality, safety, equality, and dignity. Courts used PIL's to address issues such as absence of teacher, inadequate classrooms, lack of washrooms and corporal punishment. Therefore, PIL served as a catalyst to move the discussion from just access to meaningful and high – quality education and also towards making sure that schools are not only accessible to children but also has the capacity to support their development in a dignified and secure manner.

ADDRESSING GAPS IN QUALITY AND ACCESS

Public Interest litigation (PIL) has made an important contribution in the area of education by focusing on the gaps in educational quality and access throughout India. Even though children aged 6 to 14 years were guaranteed free and compulsory education under the Right to Education (RTE) Act of 2009, the lived reality of millions of children still revealed the severe inequalities. PIL's were crucial in both pointing out these flaws and pressuring the government to take action.

ACCESS GAPS:

PIL's consistently exposed the systemic inequalities in educational access. There was a significant difference between urban and rural schools which caused the inequalities in access. Children in rural areas face shortage of schools within walking distance, a lack of transportation options and limited secondary schools' options whereas children in urban areas have better resources, there are still gaps between well- funded public schools and prestigious private schools.

Moreover, children of marginalized groups especially belonging to the Scheduled castes, Scheduled Tribes, minorities and children with disabilities continue to be disproportionately excluded. Despite the constitutional safeguards, these groups continue to face number of issues such as social discrimination, poverty, linguistic inferiority, and inaccessibility. A number of issues such as the exclusion of tribal children in isolated location, the lack of inclusive facilities for children with disabilities, and the non- enrolment of Dalit children because of class prejudice were brought to light by the PILs filed by activists and civil society organizations. Such petitions brought inclusivity under Article 21 -A by calling for ramps, special education teachers, and accessible washrooms for children with disabilities.

QUALITY GAPS:

Being granted access to education does not mean getting meaningful and quality education. PILs have been essential in highlighting the fact that the right to education is directly related to quality of education. Various petitions brought attention to the lack of inadequate and basic facilities in government schools such as lack of playgrounds, restrooms, drinking water, lack of qualified teaching and non-teaching staff and classrooms. In *Environmental and Consumer Protection Foundation v. Delhi (2012)*¹⁶, the Supreme Court recognized that a lack of basic facilities hampers the learning and dignity and therefore ordered the state to guarantee minimum standards in all private and public schools.

One of the main quality gaps in education is the lack of focus on learning outcomes. Many students in the government schools are unable to read or perform basic maths at grade level, despite higher enrolment after the RTE Act. This indicates that access by itself does not guarantee meaningful education. Therefore, courts have made clear through PILs that the Article 21 A Right to Education requires actual learning and not just attendance. According to courts, the government must establish clear educational standards, conduct regular assessments of children learning and take appropriate action to enhance instruction when necessary. In the absence of this, the purpose of free and mandatory education still remains meaningless.

Another issue is related to curriculum and pedagogy. Many schools still use rote learning techniques and outdated curriculum, which undermine the children's ability to think critically, be creative, or acquire practical skills. This issue has been brought to light through PILs particularly when minority or tribal students are struggling with a curriculum that is not attentive to their language or culture. Judiciary has urged the governments to use inclusive, modern, kid-friendly teaching strategies, guaranteeing that education is about a child's true growth rather than merely passing tests.

Another issue that is frequently brought up in PILs are teacher vacancies and absenteeism. According to court-filed reports, teachers in many rural schools were either untrained, absent, or performing non-teaching tasks. The court's actions emphasized the need for dedicated and skilled educators in order to provide high-quality education. PILs also focused on the lack of

¹⁶ *Environmental & Consumer Protection Foundation v. Delhi Administration and Others*, (2012) 10 SCC 204.

accountability in school administration, exposing mismanagement of funds under schemes like the mid- day meal scheme which was designed to promote attendance and address the hunger problem in the classroom.

JUDICIAL CREATIVITY vs. EXECUTIVE RESPONSIBILITY

The balance between judicial innovation and executive responsibility is one of the most controversial parts of Public Interest Litigation's role in advancing the Right to education. The Indian judiciary frequently has expanded the meaning of the right to education in a creative way, going beyond a limited interpretation of the statute. The courts have recognized education as a fundamental right and guaranteed its holistic, ki- friendly, and dignified nature through a number of PILs. Important examples of judicial activism include initiatives like the expansion of the midday meal program, the distribution of free textbooks, and providing school uniforms. In the same way courts have emphasized that education is incomplete without providing safe environment by requiring basic amenities like drinking water, washrooms, and safe classrooms. These actions show how the judiciary is effectively taking part in defending and protecting children's rights when the legislature and executive branch have neglected to prioritize education or have caused delay in taking actions.

However, these legal actions also highlight the limitations of relying too much on PILs to manage educational policies. A frequent use of PILs by individuals and organizations indicates that the executive branch, that is the branch of the government in charge of education is not carrying out its duties effectively. Teaching absenteeism, inadequate facilities, and financial mismanagement are examples of fundamental issues that should be resolved by sound policies, frequent inspections, and capable management rather than by regular legal actions. The court function is to provide direction and guidance and not to see whether all the orders are being followed in every school or not. This leads to a situation where court orders are either implemented unevenly in different states or remain on paper in the absence of effective and consistent executive action. For example, directions to upgrade schools have not been implemented uniformly. some states have moved forward while others lag behind due to reasons like financial constraints, complex bureaucracy or lack of political will. This shows that although courts may bring about change but actual growth requires accountability from the government and appropriate and continuous execution.

The major problem in India is that education is always seen as a topic for legal cases instead

of appropriate policy improvements. This gives the perception that PILs can replace governance but in reality, they should only be used as a tool to hold the government accountable. Although the court have filled in certain gaps by providing crucial guidance, the government must take the initiative and implement better policies with adequate funding and effective mechanisms. PILs should be viewed as a catalyst for change rather than as a substitute for appropriate regulations and responsibility. Therefore, Strong government action and long – term changes must go together with judicial initiatives in order for the Right to Education to function effectively.

CURRENT DEVELOPMENTS AND FUTURE CHALLENGES

There are still a lot of issues in education, even after the developments brought in by PILs. Unequal opportunity, learning levels, high dropout rates, and the growing digital gaps are issues that still impact kids nationwide. Due to a lack of devices, internet, or electricity, millions of students were unable to attend online courses during the COVID-19 pandemic, which further highlighted these problems. In light of this, petitions were filed in the Supreme Court and other courts by the low-income households requesting the government to provide them with cell phones, tablets or data connection. For example, in the case of *Justice for All v. Government of NCT of Delhi (2020)*,¹⁷ the Delhi High Court ordered the government to give underprivileged children devices and internet access so they may attend online classes. These days, PILs also focus on inclusive education for children with disability. In *Rajneesh Kumar Pandey v. Union of India (2018)*²¹, the Supreme Court emphasized that in order to give the RTE Act importance for children with disabilities, schools must have qualified special educators and enough facilities. Similar to this, courts have broadened the definition of “quality education” to include hygienic washrooms, safe classroom environment and anti-discrimination measures, ensuring that school does not only provide literacy but also equality and dignity. These cases show how PILs are evolving from advocating for education’s fundamental access to schools to now calling for equitable access and quality of education. In the future, legal actions must force governments to ensure that every child learns, develops, and grows in a just and encouraging environment. Therefore, the main goal is to aim to achieve meaningful education that prepare children for the future rather than just focusing on the

¹⁷ *Justice for All v. Government of NCT of Delhi*, AIR 2021 SCC 107.

²¹ *Rajneesh Kumar Pandey v. Union of India*, (2018) 2 SCC 397.

enrolment numbers.

CONCLUSION

In India, Public Interest Litigation has been an effective tool in making the Right to education more meaningful in India. By handling issues like classroom hunger, teacher absence, a lack of infrastructure, and discrimination, courts have used Public Interest Litigation to not only guarantee children access to schools but also to enhance the quality of education. These shows how the judiciary can step in when the government is not able to take any actions. However, relying just on the judiciary is not going to solve all the problems, strong government actions, sufficient financing and appropriate control mechanisms are necessary for long – term growth. In my opinion, a practical approach would be to establish community-based monitoring cells along with judicial control mechanisms. The cell would include teachers, parents, activists and legal experts, who can look into the daily functioning of the schools, identify the inequality issues and report them. This would enable local people to take part in improving education while also giving judges access to accurate ground – level data. Such a strategy would improve the accountability and also the inequality gap between law and practice and guarantee that every child has access to high-quality, inclusive, and equal learning opportunities under the Right to Education.