

**Public Interest Litigation: A Legal Analysis on Bangladesh Perspectives.**



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## LETTER OF APPROVAL

March 10 , 2023

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Subject: **Public Interest Litigation: A Legal Analysis on Bangladesh Perspective.**

Dear Sir,

It's a great pleasure for me to submit the paper titled **Public Interest Litigation: A Legal Analysis on Bangladesh Perspective** While preparing this research Monograph Paper.

I have attempted my dimension best to keep up the required Standard. I trust that this research monograph will satisfy your desire.

I hereby do solemnly declare that the work presented in dissertation has been carried out by me and has not been previously submitted to any other institution. The work I have presented does not breach any copyright.

I, along these lines, supplicate and Hope that you would be sufficiently benevolent to this exploration paper for advancement.



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## DECLARATION

I hereby declare that the research paper titled “**Public Interest Litigation: A Legal Analysis on Bangladesh Perspectives**” has been done by Pritom Das (Id No: 221-38-069) in partial fulfillment of the requirement for the degree of LLM program from Daffodil International University. This research monograph has been carried out successfully under my supervision.

A handwritten signature in black ink, appearing to be 'Dr. Kudrat-E-Khuda (Babu)', written over a horizontal line.

.....  
Dr. Kudrat-E-Khuda (Babu)  
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## **Dedication**

I would like to dedicate this paper to my Parents who have given me inspiration and courage in every aspect of my life. Without their unconditional support I would not have been able to complete this paper.

## **List of Abbreviation**

PIL	Public Interest Litigation
HCD	High Court Division
AD	Appellate Division
UK	United Kingdom
USA	United States of America
FAP	Flood Action Plan
CPC	Code of Civil Procedure
CrPC	Code of Criminal Procedure

## **Abstract**

*This paper explore all about the Public Interest Litigation as well as the current scenario regarding the application and implementation of the concept of the public interest litigation. PIL is a litigation by which a certain backward class of people, who is not able to appear before the court due to various obstacles, get proper justice. In another word it can be said that, where any person or a group of person become aggrieved by violation of some fundamental rights and there is not any remedy in the court and they also could not get the proper justice because of their poverty, illiteracy etc, then if that scenario causes bleeding in one's heart, then if that person appear before the court on behalf of that person or group of a person, then it will be called as PIL. In this paper the author pointed out the efficiency of the PIL and its practical implementation in the judiciary of Bangladesh. In this paper the author also pointed out the legal provision of domestic law of Bangladesh regarding the PIL.*

## **Keywords**

Public Interest Litigation, Grievance, Standing Principle, Writ Petition, Vulnerable, Backward Section, Fundamental Rights, Court, Suo Motu, Public-Spirited

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## Chapter 1

# INTRODUCTION

### 1.1 Introduction

This study discusses Bangladeshi judicial activism in delivering justice through the promotion and preservation of 'public interest' and constitutional requirements by analyzing Public Interest Litigation (PIL) jurisprudence. Initially related with the concept of a more accessible legal system for the larger population, PIL in Bangladesh formerly focused largely on the rights of both the 'weak' and the pure. Notwithstanding the fact that the PIL has lately broadened its scope to include larger constitutional problems, it keeps its commitment. Some proceedings taken for public convenience and to decrease public concerns are referred to as 'public interest litigation'. Public Interest Litigation denotes lawsuit to protect the public interest. Since 1996, the notable case of Bangladesh Kazi Mukhlesur Rahman v. Bangladesh and another known as the Berubari case have experienced judicial advancements. After failing to establish a permanent principle, the subject matter of this case was entirely dealt with by the courts through parliamentary approval of this initial case and legislation, and the FAP 20 case was finally described in 1996 as a perfect example of a PIL where a PIL is characterized. Furthermore, if a member of the public detects any wrongdoing or harm to the public, he has the option of bringing a writ petition on behalf of persons or groups from the community's weaker parts. Article 102 of the Constitution requires public interest litigation. It is a basic right that allows a court to maintain a ruling that violates Article 102. (1). Section III of the Constitution enumerates such rights.

### 1.2 Conceptual Understanding:

The concept of the public interest litigation is most traditional and developed concept of the judiciary of a country. In Bangladesh this concept is developing day by day. The main themes of this term "PIL" is litigation on behalf of that person of the society who is not able to reached before the court because of their vulnerability due to poverty, illiteracy and most of that person is backward section of the people. But the concept of the PIL help them to to get proper justice and for the judiciary of a country PIL ensure natural justice through providing justice to that vulnerable people of the country.

### **1.3 Statement of the Problem:**

When the basic rights entrenched in the Constitution, including due process, are infringed by any act or omission of the President or the Legislature; which is an independent fundamental right without which the Constitution would be worthless. When the HCD deems that a basic right stated in Part III of the Constitution has been infringed by any act of public power or any legislation, the aggrieved person can move to the High Court Division for its enforcement. It is a constitutional requirement to provide remedy and make orders or instructions to implement it. The rights of Bangladesh and India may be restricted. An aggrieved individual may file a writ petition with the HCD for the enforcement of basic rights under Article 102 (2).

### **1.4 Objective of this Study:**

The primary goal of this research is to shed light on public interest cases in Bangladesh. There are various secondary goals in addition to the primary goal.

The following are the study's objectives:

- (i) Deciphering the concept of Public Interest Litigation.
- (ii) 'Public interest litigation' to evaluate the applicant's stance.
- (iii) To investigate the constitutional provisions pertaining to 'Public Interest Litigation' under Bangladesh's Constitution.
- (iv) To provide information on current developments in 'Public Interest Lawsuit' cases

### **1.5 Research Question:**

The research question will be divided into two parts where the main question is as follows:

- How the concept of the public interest litigation had judicially developed in Bangladesh?
- Whether the existing legal provision regarding PIL is sustainable to ensure the justice to the vulnerable people?
- When and how that concept of PIL can play its role?
- Which process have to be gone through to file a PIL application ?

## **1.6 Scope of the Study:**

Public Interest Litigation (PIL) is a strategic arm of the legal aid movement aimed at bringing justice to the underprivileged. It is a tool for administering justice to persons who are unable to attend court in person. It was founded to help those who had lost their constitutional and legal rights as a result of their socioeconomic disadvantage. The goal of a PIL is to provide ordinary citizens of the country access to the courts in order to get legal remedies. Only the individual whose rights have been infringed may seek legal remedies, according to the ancient Anglo-Saxon idea of locus standi. No one could represent him in court. This idea arose during a time when courts were primarily concerned with individual rights. As a result, it is believed that the conventional meaning of locus standi should be amended in order to deliver justice to the underprivileged people. According to the current understanding of this idea, any public-spirited individual or organization can intervene in good faith when a person's or a class of people's rights are infringed and they are unable to seek redress in court owing to poverty or handicap. Go to court to seek remedy.

## **1.7 Data Collection:**

My source is the secondary data collection. I collect the data from different types of books, articles, laws, newspaper and also from mass media.

## **1.8 Conclusion:**

PIL expansion in Bangladesh was originally slow because of threshold issues. This was followed by a lengthy period of martial law and authoritarian control, which restricted fundamental rights and impeded regular court processes. After impeachment via the democratic process, the judiciary proceeded swiftly and vigorously in accordance with its constitutional role. As a result, progressive constitutional interpretation became a possibility, and PIL was acknowledged as a valuable tool.

## **Chapter 2**

### **GENERAL CONCEPT**

#### **2.1 Meaning of PIL**

Which of the following can result in a court lawsuit for abuse or misuse of power? Can members of the general public attend? Is he in need of personal rights? Many statutes or tribal laws stipulate that a "aggrieved individual" may make a complaint before a court or bench in the event of noncompliance.

These phrases were extensively used in the nineteenth century. It was stated that a guy was not dissatisfied unless he suffered an unique loss that jeopardized his plutocracy or property rights. He was not 'dissatisfied' because he had grievances. It wasn't enough that he was a member of the public, voicing his displeasure with hundreds or thousands of others.

A rare sequence has occurred in which private citizens have appeared in court and had hearings. When a complaint is brought against a public authority, there is now a wide concept of locus standi. This includes anyone who is not a Bear Batinsky but is representing the common people in court. Indeed, in some situations, the Court may automatically choose a fair path in the interests of justice, even if the Court is not dissatisfied. According to legal precedent, the Full Bench of Pakistan's Supreme Court in the Miss Benazir Bhutto case opened the way for the Ajat PIL in Pakistan.

The court found that when a class or group of people's religious rights are violated and they are unable to seek remedy via the courts, the 'traditional' rule of locus standi can be used and be the method accessible in public interest lawsuits. If a person submits it to court in good faith, it is used. Relaxation of the locus standi rule to accommodate a person acting in good faith to enforce the mortal rights of a nefarious class of people whose grievances go unacknowledged and unaddressed.

#### **2.2 Definition of PIL**

The term "public interest litigation" refers to the effort to offer legal representation to previously unrepresented organizations and interests. Similarly, similar sweats have observed that traditional request channels for legal services fail to deliver comparable services to major sectors of the community and key interests. The impoverished, environmentalists, consumers,

ethnic and non-ethnic groups, and others all belong to the same group and have similar interests.

"A subject of public or general interest is one in which a class of the population has a monetary stake, or some interest influencing their legal rights or dues," according to Stroud's Judicial Dictionary. "A product in which the public, the community at large, has some monetary interest, or some interest by which their legal rights or dues are impacted," according to Black's Law Dictionary. It has no meaning. A simple curiosity or uniqueness As specific as the area of interest that may be impacted by the issues at hand. Citizen participation in core, state, and national governmental activities is extensive.

The American Bar Association has offered a detailed overview of public interest law, which typically involves attorneys working pro gratis. Public interest litigation, according to this definition, is a "legal service supplied without charge or at a greatly reduced rate that fits into one or more of the following areas:

- (1) Poverty law;
- (2) Civil Rights Law;
- (3) Public Rights Law;
- (4) Charitable Organization Representation;
- (5) Administration of Justice."

Rajeev Dhawan describes 'public interest litigation' as "public interest litigation is part of the battle for, and on behalf of, the poor to utilize 'legal' to break the social and economic issues that occur due to unequal and unstable distribution and entitlement in society. "For justice in the mortal, natural, and technical assets concerned with the avoidance of present and non-exploitable exploitation."

The Janata Dal v. H.S. Chowdhury case "Lexually, the phrase PIL denotes a legal action initiated in a court of law to enforce public interest or common interest," which is the financial interest of the public or a class of community or some interest that affects their legal rights or dues.

### **2.3 What is public interest?**

The concepts "public" and "interest" are difficult to define. When they come together to produce the phrase "public interest," we have a breeding environment for misconceptions and opposing opinions. The term 'public' refers to the population of a country or area. In other words, "community is a whole, but not in its systematic ability, thus community member". The phrase can apply to all community members, a group of community members, or any

part or class within that community. It is a phrase with ambiguous meaning that must constantly be constrained by the context in which it is used.

The phrase "interest" refers to a right or title to a thing, a claim, or an objectively relevant relationship to the item. It includes several summaries of rights, boons, privileges, and immunities. Furthermore, the phrase has several number of counter-accusations in diverse situations. For numerous reasons, combining the phrases public and interest to generate the term public interest makes it difficult to define.

The statement has varied meanings and views in numerous areas, including political science, economics, and law. It also depends on the stoner and the aim of the bone; everyone uses it, from egalitarians to rulers- and it differs from regime to regime. This misunderstanding prompted Colum to claim that 'no broad consensus exists as to whether the word has any meaning at all and that the notion has no functional significance. In general, the term "public interest" refers to a collection of interests, or a single interest in which a certain group or people is regarded to be interested. Barry and Reese go even further. "The idea of the public interest is a tool that allows us to evaluate all men's mortal interests as a function of mortal interests within a certain political territory. It has significant usefulness as a weapon for condemning selfish individual or class goals, and its benefits are greatly individualistic and sometimes brutally competitive. It is harmful to society."

Thus, whereas a special interest serves a portion of the public, the public interest ultimately serves the interests of the whole community. Indeed, when multiple private or special interests clash, the public interest is in the most elegant and just conclusion of the conflict, which assures that the public as a whole wins a better landscape when the conflict is settled. Covering nonage rights, for example, is in the public interest because, while some members of the public may lose things, the society as a whole will profit from the growth of mortal and noble rights.

The word "public interest" has various other meanings. It is frequently associated with public interest, public safety, or even irrationality. It is also acknowledged that the general public's expressive interest includes public safety, public order, and public morality.

#### **2.4 When a PIL can be filed**

A PIL can only be filed if the "public interest" is seriously jeopardized. Because a single person harmed by governmental inactivity is inadequate to sustain a PIL.

The following are some probable PIL regions.

1. When a plant or artificial unit pollutes the air and causes people to suffer as a result.

2. Where there is no streetlight in an area or on a route, causing commuters inconvenience.
3. Is there a lot of loud "creating" in the house that generates noise pollution?
4. Where some building firms harm the environment by felling trees.
5. Where impoverished individuals are hurt by the government's arbitrary choice to levy high taxes.
6. To advise police/jail officials on jail reforms such as prisoner segregation, pretrial detention, and the production of undertrials on remand dates.
7. To abolish child labor and click labor.
8. Where sexual immorality undermines working women's rights.
9. Those in positions of power are concerned about fighting corruption and criminality.
10. Maintaining roads, teamsters, and other infrastructure.
11. To minimize business concerns, oversized hoardings and banners should be removed from popular highways.

### **2.5 Who can file a PIL?**

Previously, only someone whose interests were directly harmed by others, so jeopardizing his abecedarian rights, could pursue a comparable lawsuit. The tide has shifted, and any concerned person can now file a PIL on behalf of a group whose rights are being abused. As a result, the individual filing the action does not need to have a direct stake in the PIL. A person in Dhaka, for example, can submit a PIL saying that a cracker plant in the capital utilizes child labor, or a citizen can file a PIL contesting the government's arbitrary decision to levy excessive taxes on the poor, even if the individual filing the PIL would be personally harmed by it. No; moreover, a lawyer can submit a PIL for the release of someone who is on trial in jail and has served more time in jail as punishment for the offense for which they are being prosecuted. As a result, anybody can file a PIL on behalf of a group of people who have been wronged. However, whether or not a PIL should be permitted is determined by the circumstances of the case.<sup>1</sup>

### **2.6 Against whom a PIL can be filed**

A PIL can only be brought against the State and, in rare situations, governmental authorities, not against any private person. Nonetheless, a "private party" may be designated as a "respondent" in a PIL only after the State authority or the relevant authority has been named

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<sup>1</sup> PIL-who can file, [<http://www.virtualpune.com/citizen-centre/html/file-pil.shtml>, accessed on 13 April 2010].



as a party or parties. For example, if a tannery factory in Dhaka's Hazaribagh pollutes the environment, a local or anybody else might file a PIL against it.

(a) The government,

(b) The Ministry of Forests and Environment, and others are all against it.

(c) That specific plant. It should be emphasized that a PIL is filed similarly to a writ petition.

PILs are launched and tried in the same way as Writ Petitions. However, if the court deems it essential, he may appoint a commissioner to investigate charges of anti-public-interest acts, etc., throughout the proceedings.<sup>2</sup>

## Chapter 3

### INTERNATIONAL PERSPECTIVE

#### 3.1 Public Interest Litigation in United Kingdom:

The "Crown Procedure Act," "British Civil Law," and "Rules of Civil Procedure" govern PIL law and writs, and there are two categories of actions: factor actions and representative actions, sometimes known as class actions.

1) A PIL was filed by a British prosecutor. The prosecutor is entitled to pursue proceedings on behalf of the British royal family if the interests of the British royal family are breached, according to the "Crown Prosecutor Act" revised in 1994 and the third edition of the Act for Crown Prosecutors. UK civil proceedings that allow a prosecutor to participate include:

(a) The civil case affected the royal family's interests. When the royal family's interests are breached, the Attorney General, acting as a member of the royal family, has the authority to sue the tortfeasor on behalf of the monarch or the royal family.

(b) Citizens have come out in opposition to the case. The Attorney General may engage in an action launched by and on behalf of a citizen who discloses that the action pertains to a breach of the public interest in upsetting public order, causing damage to public property, or interfering with the fulfillment of public obligations.

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<sup>2</sup> [[http://en.wikipedia.org/wiki/Public\\_Interest\\_litigation](http://en.wikipedia.org/wiki/Public_Interest_litigation), last accessed on April 13, 2010]

The Attorney General may bring a single action if the conditioning is intended to be damaging to the public interest.

(c) Suits for illegitimate and legitimate child confirmation. The operation form must be given to the Attorney General who rules over it and the Attorney General will be arraigned and prosecuted as a defendant, by accordance with the Vittle of the "Civil Procedure Act".

2) The Ambassador Action is a class action lawsuit filed in the United Kingdom. Ambassador actions and class actions are examples of mass claims in the United Kingdom. A group in a representative action has a common claim in a mass claim and is thus allowed to engage in the action as a representative of one or more of the groups. The decision of the court is binding on all other members of the class. A class action is a lawsuit involving a large number of persons in the case of a mass claim, and these individuals create a group to get a lawsuit on behalf of the group or members who are disqualified due to their worldwide claims. The "Rules of Civil Procedure" in the United Kingdom empower parties or the court itself to launch a class action. Court decisions bind all parties concerned. Any member who refuses to comply with this ruling may submit an appeal, and he will be vacated if the decision and judgment are authorized by the court.

### **3.2 Public Interest Litigation in United States:**

The current PIL was developed in the United States, which approved the "Sherman Antitrust Act" in 1890, which was the first statute to oversee the PIL system. An environmental PIL can be filed in two ways: through an action brought by the Attorney General or by a citizen. A PIL for environmental protection brought by the Attorney General on behalf of the US federal government or state governments against any individual, legal person, or other body that causes pollution and environmental harm is referred to as an Attorney General's action. An action filed by a citizen refers to a PIL filed against another citizen, legal person, association or state authority whose illegal conditioning has caused environmental pollution and damage under US statutory law. In the United States, acceptable civil PILs include "qui tam actions", antitrust actions, and civil lawsuits in areas of land law.

"Qui Tam" writs, first defined in the United States' "False Claims Act" of 1863, allow a U.S. citizen to initiate a civil action against an illegal effort to deceive the government in order to collect damages suffered by the government and apply if the suit is successful. A person who files an action under the Act may accept a share of any penalty levied under the Act. The litigation is characterized as a PIL because the city government, rather than the person who

filed the suit, is the primary originator of such suits. Civil PIL systems play an important role in antitrust law in the United States Article 15 of the Clayton Antitrust Act of 1914 permitted any person, institution, vessel, or union to initiate an action for injunctive relief in a court possessing jurisdiction over the parties. Civil litigation in the field, often known as PILs in the United States, was originally described in the Clean Air Act of 1970, and the Act began to include civil litigation vigils, permitting any citizen to bring a civil case. Improves government support and monitoring, as well as appropriate civil litigation operations.

### **3.3 Public Interest Litigation in India:**

It has been believed that events in the United States impacted and motivated the judges and professors who implemented PR in India. Bhagwati, in particular, references Cappelletti in the Judge Transfer case and uses his views constructively in subsequent writings. Other Indian pens, such as Cappelletti, were also prohibited by Western researchers, although this was generally after the PIL notion was developed and accepted in India. The great sense of social wisdom of some judges was maybe the most crucial element that spurred the development of public relations in India. India is an undeveloped and destitute third-world country more than three decades after independence, with millions of people living in abject poverty. Not only has the state failed to better the condition of the poor, but it has also failed to incorporate meaningful distributive or social justice for millions of individuals. The Council was viewed as unconcerned with the problems of the poor and a venue for politicians who were unable to achieve their individual goals. Furthermore, the superintendent fell short of public expectations, and there was rampant inefficiency, miscalculation, and criminality in administration.

The Supreme Court of India handed down a historic ruling in the case of Union of India v. Assistant for Electoral Reforms with the People's Union of India. The court determined that a) the Election Commission's regime is comprehensive enough to contain all of the authorities required for the appropriate conduct of elections, and the term "election" is used broadly to include the whole electoral process, which encompasses several phases and incorporates numerous ways.

b) Article 324 is the use of force to achieve the stated objective of free and fair elections. The Constitution provided a compass for the exercise of the residual powers of the Commission in its own right as a critic of the Constitution in the unpredictable circumstances arising from time to time in a large republic, as no contingency could be foreseen or anticipated. By law or rule made.

c) The term "selection" refers to the entire decision-making process, which consists of several stages and includes various approaches, some of which can have a significant impact on the process of selecting an explorer. A fair selection exposes the researcher once with the means at his disposal to provide a correct choice based on his thoughts and opinions. However, if a candidate is forced to declare the means he used during the election, the nominator has the authority to decide whether or not he should be it-tagged.

d) To order to safeguard the integrity of elections and, in particular, to increase openness in the election process, the Commission may question campaigns about the expenditure of political parties, and transparency in the election process should include transparency of an election candidate. Alternatively, re-election. In a republic, the electoral process is strategic. The ordinary man in our nation has the right to know the entire details of every candidate who aspires to represent him in Parliament, where laws governing his liberty and property may be enacted.

e) The right to knowledge is recognized across the Republic and is a natural right arising from the Republic's idea. At this point, Articles 19(1) and (2) of the International Covenant on Civil and Political Rights are mentioned.

f) If the field reserved for the Council and the Superintendent is left vacant, it is clear that the Supreme Court would have sufficient jurisdiction to issue necessary directions to the Superintendent to protect the public interest under Article 32 read with Articles 141 and 142 of the Constitution.

Our Constitution provides freedom of speech and expression under Article 19(1)(a). In the event of an election, a voter's speech or expression would include the casting of the elect, which means that the name expresses itself by speaking or casting the name. For this reason, information about the designated candidate is essential. The right of the voter (minority-citizen) to know the antecedents of his candidate for membership in parliament or legislature, including the shady history of the election in question, is excessively elitist and detrimental to the republic's existence. Ordinary people should think twice before electing lawmakers.

### **3.4 Public Interest Litigation in Pakistan:**

Pakistan, like India, began as an impoverished country plagued by poverty and social inequality. Administrative illegality, along with the Council's failure to assure legislative progress, resulted in comparable grievances, which were worsened by Indians. However, Pakistan's crisis might be exacerbated by the republic's long-standing unwillingness to

implement martial law. Pakistan had three constitutions during his term, as well as various temporary domestic arrangements. The awful status of the people's nobility was one of the consequences of this dysfunction. For a long period, the aggrieved cannot claim these rights since they have been annulled, checked, or ruled unenforceable. When the constitution is restored, the bar maintains its authority until the coming martial law restores normalcy. Articles 32 and 226 of the Indian Constitution establish the legitimacy of public interest activities, as do Articles 184(3) and 199 of the Pakistani Constitution. Respect the rule of law and make justice available to all individuals, regardless of wealth or social station.

"Without prejudice to the provisions of Article 199, if the Supreme Court considers that any exercise of the fundamental rights conferred by Chapter I of Part II involves a question of public importance, it has the power to make an order of the nature mentioned in the said article," states Article 184(3).

This article has been read as granting the Court the authority to commence due process in the event of a breach of rights. The High Court is given comparable powers under Article 199 of the Constitution. The fundamental distinction between the Supreme Court's and the High Court's powers is that the Supreme Court's jurisdiction is confined to cases of "public significance," but the High Court is not bound by any such condition.

The Supreme Court articulated the range of abessedarian rights in the case of Benazir Bhutto v. Federation of Pakistan, stating that analogous rights include those protected by Article 2A as well as those given in the Principles Chapter of the Constitution.

## Chapter 4

### **LEGAL PROVISION REGARDING PIL IN BANGLADESH**

#### **4.1 Public Interest Litigation in Bangladesh**

Bangladesh is, as we all know, an impoverished nation. It is in a serious socioeconomic and economic crisis, with more than 80 million people living in poverty and more than 55 million landless. Day laborers, garment workers, and construction workers in the nation work more than 72 hours each week yet are not paid the minimum wage. There are certain smart ways advised by which the minimum wage envelope is fully decreased and they receive less. These

folks cannot be expected to go to court and demand their rights. As a result, the courts can design a new approach to safeguard the weakest elements of society by loosening the locus standi rule, which is the main rule controlling writs of mandamus, certiorari, and prohibition in Bangladesh. The violator may seek a writ. Although a citizen, like the rest of the population of Bangladesh, was allowed to exercise his right of nobility, an aggrieved party known as a trade union was allowed to keep his writ petition intense international convention, but could not keep a writ petition for determination of workers' benefits. The Hon'ble High Court Division Bench has determined that the union, which is a cooperative negotiating agency, is not a disgruntled party; the only person who is disgruntled is the worker.<sup>3</sup>

The Newspaper Proprietors' Association could not maintain their writ petition challenging the Newspaper Employees (Conditions of Employment) Act, 1974, and the constitution of the 4th Wage Board and their interim award as their Lordships held that "under our Constitution, the petitioner must be one for the exercise of a fundamental right or constitutional remedy". "Aggrieved individual". Our Constitution varies from the Indian Constitution in this regard. The Indian Constitution does not clarify in Article 32 or Article 226 who can seek for basic rights enforcement. As well as constitutional remedies. In Indian courts, just the applicant was considered an aggrieved party. The absence of any constitutional mechanism to argue for a writ has encouraged the emergence of eminent domain public litigation in India, i.e., litigation driven by a public-spirited person to plead the cause of others. Their Lordships' report in the matter 1991 DLR (AD) p. 126 also referred to the statutory "certainties" imposed in England by Supreme Court Order 53 Rule 3 and the new Rules of 1981, which allowed anybody with a "sufficient interest" to seek judicial review in England. In later rulings, the Court appears to have acknowledged public interest litigation in restricted instances, meaning that public interest litigation is only partially recognized..<sup>4</sup>

Mr. Faroque, Secretary General of the Bangladesh Environmental Lawyers Association, filed a writ petition challenging Flood Action Plan No. 20, and for the first time, the Bangladesh Supreme Court's Appellate Division found in favor of a public interest case. The High Court Division rejected the case on the premise that the petitioner was not a 'aggrieved person'. The petitioner was a 'aggrieved individual,' hence the Appellate Division granted the appeal. This judgement is anticipated to give public interest lawsuits in Bangladesh legitimacy. It is

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<sup>3</sup> *Berubari Case* 26 (1974) DLR, 44.

<sup>4</sup> *Mohiuddin Faroque v. Government of Bangladesh*, 46 (1994) DLR, 235.

clearly evident that a shift is occurring in our legal system. The legal stage is fast shifting, and the poor's worries are coming to the fore. Courts must create new procedures and strategies to enable access to justice to huge numbers of persons who have achieved their core human rights and for whom freedom and liberty have no value. This may only be accomplished by hearing writ petitions and even letters from public-spirited citizens seeking judicial remedies on behalf of those who have suffered legal wrongs or injuries or whose constitutional or statutory rights have been infringed. However, the question of how relief might be given on an application brought by someone other than an aggrieved person while exercising writ jurisdiction under Article 102 of the Bangladesh Constitution may arise. The following is the solution to this question: First, even if a letter is addressed by a public-spirited individual or an association or organization, it is easy to interpret such a letter or application as being prepared for the advantage of the offended party. Those who would otherwise be at a disadvantage.

#### **4.2 Constitutional Provision for Development of PIL in Bangladesh**

Unlike in common law, where locus standi is found by assessing the eligibility of judicial review applications, status in Bangladesh has always been seen as a 'threshold' matter. The court found in *Mohiuddin Farooq v. Bangladesh* that a consortium that included an environmental pressure organization had standing to challenge the legitimacy of the 1988 Bangladesh Flood Control Plan. It was designated as a "aggrieved man or woman" under Articles 102(1) and 102(2) of the Constitution. In this case, the spirit of the Constitution was evoked to interpret the phrase "any man or woman offended" as meaning simply and singly human beings, rather than human beings as a collective and integrated character capable of standing in opposition to the constitution. In evaluating the status question, the entire Constitution, including the basic rights, must be reviewed. Bangladesh's Constitution creates a legal framework for financial and extradition dealings. It is excluded from judicial review, as stated in its First Schedule Act. Article 47 establishes some types of financial restructuring regulations that cannot be overturned on the basis of contradiction with basic rights if Parliament openly announces that such laws are intended to impact any of the country's key policy conceptions.

As a consequence, the Bangladeshi Constitution surpassed both the Indian and Pakistani constitutions by demonstrating that these notions could now not only lead the country in constructing the legal rules supplied by the Indian Constitution, but could also be utilized as a guide. The constitution of Bangladesh, as well as other legal norms and principles, can be

translated. The objectives mentioned in the second portion (Articles 8 to 25) offer the government and legislature a mandate for financial and social exclusion actions aimed at eliminating inequality and ensuring equal opportunity for all residents. Article 15 further proclaims the nation's commitment to provide needs of life such as food, clothes, housing, education, and clinical care. As a result, these principles are no longer intended to serve as religious statements, but rather as national guidelines that benefit the court as well as the legislative and administration. As a result, the Constitution was conceived fully as a constitution for a substantive affirmative action program. It comes to light in the following context: By definition, affirmative action entails the violation of inherited rights. It has the quality of a redistributor rather than a staid. It is not usually a brake on the extrude, but rather a regulator of the extrude, aiming to guarantee that the extrude takes place while still proceeding in an orderly manner according with the set up requirements. Affirmative action enables all interested parties to make appropriate contributions or, at the very least, understand where they stand. It implies a consensual consolidation of various authorities, with the state playing the final decisive, if not necessarily exclusive, role in the process.

Public interest litigation, by invoking Article 8 of the Constitution, can play a significant role in interpreting the law in a way that advances the application of basic principles of state policy. In a recent case in Bangladesh, the dissolution and dissolution of elected local councils at the thana level were challenged under Article 8.

When analyzed in conjunction with fundamental rights, the essential conceptions of state policy explain the unified design of a political, social, and economic order that the Constitution guarantees to preserve stable for the people. As a result, not only must every portion of the country now adopt those principles, but it also provides a valuable pool from which knowledgeable individuals may engage in public education, public opinion organization, and, of course, public interest litigation. Understanding social and economic justice obligations through the usage of the Constitution.

#### **4.3 The Need to Expand *Locus Standi* in Bangladesh**

According to Bangladesh's Constitution, everyone is entitled to the same legal security (Article 27) and the right to be handled most efficiently by the law (Article 31). Under Article 102 of the Constitution, the High Court Division of the Bangladesh Supreme Court can be activated to enforce those rights for the benefit of the aggrieved individual. To grasp the nuances of the phrase "aggrieved," one must first understand the content of Article 102 in the context of constitutionally guaranteed essential rights, the process of their application (as



provided by Article 102(1), compare Article 44. ), and the circumstances under which Article 102 (2) Writ jurisdiction may be invoked under s. Article 102(2) states:

'The High Court Division may also be convinced that the regulations afford no other equally effective treatment to the utility of any person aggrieved.' In circumstances when the rule no longer allows for comparably effective therapy, Article 102 provides the treatment. It is meant to broaden the range of viable therapies and should not be taken narrowly. This article may also be published to order to attract the attention of persons who would not otherwise be able to obtain comparably effective therapy under other regimes. Remedies that fall under current legal norms may be ineffectual for a variety of reasons. If they cannot afford an attorney to pay court docket expenses and other incidental costs, the poor, uneducated, and defenseless may be denied access to justice. Furthermore, the system's multiple therapies might be time-consuming and inconvenient. The impoverished, ignorant, and downtrodden are given particular consideration in Writ jurisdiction under Article 102.

There is no need to interpret Article 102 narrowly because of an obsolete understanding of locus standi. Long ago, the famous scholar, writing from the standpoint of Anglo-Saxon law, observed: Restrictive norms regarding status are well recognized to be antagonistic to a sound administrative control mechanism. If a strong plaintiff's case is rejected merely because he is not substantially harmed, it signifies that some government entity is allowed to break the restriction, which is contrary to the public interest. Unless there is a genuine pastime at issue, litigants are hesitant to expend their money and effort. In the few circumstances where they just wish to sue because of popular sentiment, they must be discouraged.<sup>5</sup>

There is no in-depth examination of the definition of the term "application" in relation to Article 102. As a result, a court may find it easy to regard a post card addressed to it as a pleading, especially given that such treatment of a post card is well established in the early PIL instances and has been followed in many jurisdictions since its initial usage in the United States Supreme Court in 1876. "The procedure is neither an alibi to strangle the right to life, nor is it pastoral ritual for the dignified burial of a basic freedom," remarked Justice Krishna.

#### **4.4 The Code of Civil Procedure**

Sections 91 and 92 of the CPC provide PILs some leeway. The CPC is concerned with public affairs and public disturbance in 99% of its cases. Thus, an action in the form of a PIL can be brought before the court if it is not currently justified by law or if the failure to perform the

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<sup>5</sup> *Ibid.*

criminal duty causes annoyance or injury to the general public. PILs can address issues such as encroachment and encroachment of a piece of a public roadway, or, for example, dumping of waste in a highly populated residential neighborhood, resulting in unclean circumstances for city people. Section 92 of the CPC addresses public trusts, which are trusts formed for the benefit of the majority of people, and also allows for PIL, i.e. a person of competent counsel. The issue is identified in such instances of low public confidence. As a result, motions will most effectively lie to the trustee and can be started with the approval of an educated counsel. However, rule eight of Order 1, C.% for PILs permits for an appropriate body to act in an advising role at the request of a member of the public. Order 32 of the Civil Procedure Code also allows for a minor to file such a suit.

Sections 91 and 92 of the CPC do not grant an absolute right to make a pro gratis public motion. The obligation to get the chosen attorney's prior approval checks such instances and prevents members of the general public from protecting citizens' rights, which may be violated due to violations of legal rights or refusal to enforce the law. To widen the scope of such measures, the necessity of legal expert permission should be eliminated from this section, especially in a democratic polity oriented to the welfare of citizens.

#### **4.5 The Code of Criminal Procedure**

Section 491 of the CRPC supplanted the highly privileged writ of English common law in pre-partition India before the Charter came into force. Section 491 of the CRPC empowers the Supreme Court of Bangladesh's High Court Docket Department to issue a writ at the request of a prisoner or another person on his behalf, or on courtroom suo motu plea. Facilitating the release of a person who has been held illegally or in blatant violation of his fundamental right to mobility.

In a recent case, the High Court Division made an ad hoc ruling to broaden the scope of PILs in such circumstances based on a media article. In such circumstances, the order expands the scope of PILs in Bangladesh. The Deputy Commissioner, Superintendent of Police, and Darzi of Satkhira district were ordered by the High Court Division to explain why Nazrul Islam was held. Produce him in court from prison. The court acted on a document published in the newspaper Ittefaq Tel on October 6, 1992. Justice M.M. Mahfuzur Rahman of the Justice and Additional Court Department made this order.

In the absence of any vigorous public individual action, the erudite judges initiated the movement out of a basic feeling of responsibility as protectors of people' fundamental rights.<sup>6</sup>

#### **4.6 The Penal Code**

The provisions within computers pertain to violations harming public health, safety, comfort, decency, and morality. Section 268 of the Penal Code deals with a crime against the public that is deemed vexatious to the general public or may be caused by the failure to do any act essential for the general welfare of the public. Section 269 of the Computer Code defines a negligent conduct as one that may result in infection or disease that is hazardous to one's health. Section 278 of the laptop is harmful to one's health. Pornography is addressed in Article 292 of the Act. This final part was inserted to make Article I of the International Convention for the Suppression of the Flow and Traffic in Obscene Publications effective.<sup>7</sup>

## **Chapter 5**

### **CASE STUDY ON PIL**

#### **5.1 Introduction**

For numerous reasons, public interest litigation is required. Most critically, in the majority of poor nations, environmental criminal systems are inadequate, and legal standards are difficult to apply and frequently imprecise. This void was filled by Public Interest Litigation. Where authorities are unwilling to sell/protect the environment, public hobby litigation is critical. Governments may be hesitant to pursue people who break environmental rules, and governments may violate environmental laws themselves. An injunction can be issued in some jurisdictions to compel or prohibit the government from harming the environment. Most governments in underdeveloped countries lack the capacity to prosecute and investigate all criminal crimes that occur inside their borders. Individuals can file a public interest lawsuit on behalf of the community, which the government will not do. When criminal remedies are insufficient. An exemption may be insufficient in light of the level of environmental harm. For demands such as restitution and payback that are not covered by a country's tort law, a civil litigation is strongly advised. Where criminal sanctions are not

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<sup>6</sup> Sara Hossain, *ibid.*, p. 81.

<sup>7</sup> *Ibid.*, pp. 81-82.

applicable. When a corporation commits a crime that is punishable by imprisonment, it will be difficult to penalize the corporation.

Public prosecutions for carelessness, nuisance, and strict responsibility can be pursued as torts under the Ryland v. Fletcher rule of thumb. PIL has evolved into a weapon for supporting the rule of law, demanding justice and openness, combating administrative corruption, and increasing general accountability of government entities. The underlying motivation for these public demands and court action was to reinforce the legitimacy of civil society's ongoing desire to limit government authority. As a consequence, the judiciary ordered the authorities to fulfill their constitutional responsibilities.

The following are two systems in which PILs have aided the general public:

1. Because there is just a small fixed court docket charge involved in Public Interest Litigation (PIL), diligent people of the United States may discover a less expensive criminal therapy.

2. Furthermore, through so-called PILs, plaintiffs can bring critical public concerns to light and obtain outcomes, notably in the fields of human rights, consumer welfare, and environmental protection.

PIL no longer dyes invisibly. It is a subset of the greater legal aid movement or a subset of the larger issue of public interest regulation. Thus, according to social activist attorneys, PIL is one of several techniques that concerned citizens and activists in Bangladesh are currently utilizing jointly. There is no single remedy that addresses all difficulties and problems. In collaboration with Clicking, non-profit organizations are increasingly utilizing innovative techniques like as publications, lobbying, and representation. PIL's future in Bangladesh might be quite promising. Given that PIL is a kind of social acknowledgment for a select few, its growth is our societal responsibility.

## **5.2 Case Reference 1**

### ***Dr. Mohiuddin Farooque v. Bangladesh***<sup>8</sup>

Dr. Mohiuddin Farooque, a well-known secretary of the Bangladesh Environmental Lawyers Association, quickly filed a writ case requesting the issuing of a rule under both Sections 102(1) and 102(2)(a) of the Charter. Nisi to respondents: Please explain why all sports and

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<sup>8</sup> 17 (1997) BLD, AD, 1.

FAP-20 implementation inside Tangail District are now undertaken without legislative permission and should not be deemed without legal effect. The appellant in the writ petition cites the predicted negative environmental impact of the flood control plan on the existence, property, livelihood, occupation, and environmental protection of 1,000,000 Tangail district residents. Mr. Justice Mostafa Kamal delivered the preliminary ruling, who was joined by the Chief Justice, Mr. Justice ATM Afzal, and Mr. Justice Mohammad Abdur Rauf. Separate judgements were made by Mr. Justice Latifur Rahman and Mr. Justice Bimalendu Bikas Roy Chowdhury, both of whom concurred with Mr. Mustafa Kamal. On July 25, 1996, a judgment was entered.

Concerning the appellant's position, it is stated that the appellant is the Secretary-Fashionable of Bangladesh Environmental Attorneys Affiliation, abbreviated as BELA, an affiliation registered under the Societies Registration Act, 1860. 16- By a decision of the Committee of Government dated 6-1994, he was accepted to represent the Association and conduct the docket division of the High Court under Article 102 of the Constitution, as well as to do all other duties. Bella has been a major organization in the fields of environment, ecology, and public interest concerns since 1991. It studied policies, surveyed and investigated criminal and quasi-criminal issues, institutional causes, and traditional environmental and ecological issues, and has actively participated in many public, private, and neutral national and local/global sports, achieving national and international acclaim. Bela, a lawyer's group, has promoted the legality of FAP sports in all possible venues, most notably as an invited panel speaker at the Second Flood Action Plan Convention in Dhaka in March 1992. Some people were critical of Bellar's investigation on the legitimacy of FAP and FPCO. Belao has received written complaints from several unhappy Tangail area residents requesting legal and other assistance with FAP-20 authorities, human rights groups, and others wanting to rectify their grievances. The detrimental environmental and ecological repercussions of FAP-20 have been widely covered in the media. In 1992-1993, BELA, as an ecologically conscientious and proactive organization, reacted to resident concerns and performed many investigations inside the FAP-20 region. A closer look revealed that a big percentage of persons in the task area were opposed to the recruiting. Dr. Mohiuddin Farooque pleaded for the spell on his own behalf as he exited the courtroom in support of the petitioner-discovered appellant. He claims that the phrase "any man or woman injured" in Article 102 of the Charter should be considered in the context of the complete Constitution, rather than in isolation. Article 102 is no longer a mere procedural instrument, but rather an institutional vehicle for ventilating

constitutional rights and responsibilities. Every person has the right to create a society under Article 38 of the Constitution, and BELA is formed as a society under the Societies Registration Act of 1860, with the aspiration and object of organizing criminal actions to safeguard environmentally sensitive individuals, as well as sensitive habitats. Since its beginning, BELA has spent time, energy, and money to evaluating the FAP task, visiting with people, listening to their concerns, and performing significant research on their behalf to uncover the criminal and constitutional crimes perpetrated by FAP-20. It has the right to launch a criminal court lawsuit to pursue its declared purposes and objectives, as the right to create an association includes the right to pursue the group's legal objectives.

"Now we want to express how we understand Article 102 as a whole," Justice Mustafa Kamal remarked in his well-known decision. We don't place much emphasis on dictionary meanings or punctuation." "Neither man nor woman is wrong." Article 102 of our Charter is not an isolated island rising above or beyond the sea degrees of alternative Charter articles. It is part of the Constitution's general framework, goals, and functions. And its interpretation is intricately related to Bangladesh's progress. And its structure and construction, as well as (ii) the Preamble and Clause 7, (iii) the Basic Concept of State Coverage, (iv) Fundamental Rights, and (v) Other Constitutional Provisions.

It would be a mistake to see our Constitution as a localized version of the Charter of Westminster model, which is adopted by many Commonwealth nations of the Anglo-Saxon legal system. Our constitution is not the outcome of negotiations with past colonial countries. It was no longer subject to the permission, consent, or assent of any sovereign power. It is also not a relic of an often replaced and replaced constitution, after many constitutions have been attempted and failed, despite 13 amendments. It is distinct from other constitutions of comparable type in that it is the consequence of a historic battle for independence, achieved by the lives and sacrifices of a vast number of people for a common cause. It is a charter that identifies humans as dominating agents. It has evolved into the people of Bangladesh asserting their self-declared indigenous power, breaking free from the constraints of expanded statehood and seeking a charter of their own design. People power refers to alliances both historically and practically.

As a result, the people of Bangladesh are important rather than just ornamental in the Charter's development.

(ii) In light of the Preamble and Article 7, the Preamble of our Charter differs from previous Constitutions due to its unique essence of birth. It is a sincere and high-quality proclamation

of allegiance to our Constitution, approved, crafted, and delivered by the people themselves, not as a representation of expert drafters, but as a reflection of their historic battle for freedom's values. Among other things, the vow to maintain all citizens happy in a society with rule of law, fundamental human rights, and assurance of protection, shield, and holy responsibility. Protecting and sustaining the Sanad's dominance is helpful as an expression of the demands of the people of Bangladesh in indicating the course or direction that the people want in the days ahead. Article 7 of the Charter, which grants republican rights over the people, shall only be exercised under and through the authority of the Charter. Article 7 is no longer an empty sentence. Again, the people are the source of all authority in Article 7.

Part II of the Charter addresses (iii), which includes the fundamental principle of governmental coverage. According to Article 8(2), the ideas enunciated in this part "should serve as a guide to the translation of Bangladesh's charters and conflicting legislation." It is unconstitutional to disregard Part II of our Constitution when section 102 demands interpretive advice.

(iv) According to the third provision of the Constitution, inhabitants and other residents of Bangladesh have fundamental rights. Article 44(1) ensures the right to apply to the Supreme Court for the enforcement of these rights, which is guaranteed by Article 102(1). Article 102(1) is therefore a means for exercising the basic right that a man or woman alone can love as his person in common with others at this time when rights are spreading and extending to the entire people and area. Article 102(1), in particular, is inextricably linked to constitutional element III.

Concerning (v), depending on the circumstances, conflicting provisions of the Constitution may be applied in reading Article 102 of the Charter.

Article 102 is thus an instrument and a process, containing both substantive and procedural provisions, by which the people have devised a method and means to recognize for themselves the aims, objectives, regulations, rights, and obligations that they have set for themselves and that they have spread throughout the fabric of the Charter.

With popular sovereignty looming big behind the constitutional horizon, it is impossible to envision Article 102 as a vehicle or mechanism for the full fulfillment of individual rights by private activity. People will constantly focus on the problem of ideal courts because the Supreme Court is a vehicle, a medium, or a system established by the Constitution to execute the judicial authority of the people on their behalf. When the docket removes a justice, recommends judicial policy, or interprets a Charter clause. Given the context, the term "any

man or woman aggrieved" would be interpreted to mean exclusively and entirely the person, violating the Charter by treating humans as a collective and unified nature. There is complete trust in the locus standi, or the extension of the law through the courts.

In so far as this is intended to be a citizen-applicant or indigenous and local affiliation to decide on your behalf whether the applicant has the merit to demand to be heard. If he pursues purely selfish goals, he becomes a victim when his own interests are endangered. If he supports a public cause involving public wrongs or public harm, then in my opinion he should not be affected. Public wrong or loss is a prima facie case of the Best Court, which is a constitutional vehicle for the exercise of public judicial power within the framework of our Constitution.

The High Court Docket Division will provide cautious guidance in each case. This will establish whether the applicant is actually advocating for the public, whether his passion in the issue is genuine and not just a pastime to obtain some fame or raise public awareness. Operating properly, whether he is an outsider or an insider, if it is in the public interest to which he is entitled, and whether he is performing for a secondary reason, such as servicing a foreign pastime.

Man is entirely a torrent, and the constitution is the sluice-gate through which men organize their own admission. Our courts are capable of comprehending persons when they appear via a petitioner as well as those posing as people. Taking up people's concerns on their own is an uncommon occurrence, not a regional occurrence. We thus declare that the appellant was mistakenly found by the High Court Division to be a "person aggrieved" on the evidence and precedents of the case and we further hold that the appellant is a "aggrieved person". Both Article 102 (10) and Article 102(2)(a) of the Charter are applicable.

### **5.3 Case Reference**

#### ***Faustina Pereira v. State*<sup>9</sup>**

This suo-motu rule was established in response to a letter sent to the Hon'ble Chief Justice by Dr. Faustina Perera, a Supreme Court Advocate and Coordinator of the Center for Advocacy Law and Arbitration. The Registrar was asked by the Hon'ble Chief Judge to bring the case before this Bench for appropriate action.

The Hon'ble Chief Justice has been informed in the aforementioned letter that 29 offenders from various nations have been detained for over five (5) years after serving their sentences.

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<sup>9</sup> 53 (2001) DLR, 79.



We heard the learned Deputy Legal Practitioner proposed and the learned motion in support of the petitioners, Md. Nizamul Haque and Dr. Faustina Perera, after the regulation was issued by the concerned Ministry of the Government. Today, we also heard from Mr. Armand Rausklot, Regional Consultant for Global Corporate Migration, who appeared before us and informed us on the Corporation's efforts since the rule's publication.

Nevertheless, during the hearing, we heard from the submission of the learned Deputy Legal Professional General Mr. M Farooq that the Government of Bangladesh is also interested in freeing these convicts, but the detainees could not be freed owing to various technicalities. Since that some of the inmates have already served more than six years of their sentences, the prison authorities and the Ministry of Home Affairs should take reasonable efforts to achieve their release as soon as feasible. Nonetheless, it is unfortunate that no such action has been taken. We are afraid that if action is not done quickly, additional detainees may face the same fate. An estimated 822 more foreign inmates await release after fulfilling their terms, according to a letter dated 12-4-2001 from Bangladesh Prisons Inspector Fashionable. Md. Nizamul Haque, learned counsel for the Center for Law and Arbitration, brought our attention to Prison Code Rules 78 and 578 and stated that putting a prisoner in jail after serving his sentence is a serious violation of human rights and vital rights granted by our Charter. The major function of the Prison Superintendent, according to Regulation 78, is to release convicts whose sentence has expired after validating all the rules of return to their personal possessions for payment of subsistence allowance.

As a result, the regulations become unbreakable. After obtaining reply from the different embassies of the worldwide locations of those detainees, the Superintendent of Jails, Dhaka, has been instructed to release the 28 convicts named in the regulations (excluding Md. Safi, who died on May 5, 2001). If the embassies do not make any arrangements for the detainees' return to their home country within a month, the Ministry of Home Affairs will take significant actions in light of the observations stated in the ruling once they are freed from jail within a month. Repatriation was eventually secured. The Superintendent of Vital Prison Dhaka must provide the aforementioned convicts' expected release paperwork within three months.

#### **5.4 Case Reference**

*Dr. Mohiuddin Farooque v. Bangladesh & Others*<sup>10</sup>

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<sup>10</sup> 46(1994) DLR, 358.

Bela filed this writ suit in 1994, requesting relief from the Ministry of Local Government, Rural Development, and Cooperatives' designation of 903 industries in 14 sectors as pollutants of the air, water, land, and environment (LGRDC). Announcement published in the Gazette on August 7, 1986. Tanneries, paper and pulp makers, sugar manufacturers, distilleries, iron and metallurgy, fertilisers, pesticides and insecticides industries, chemical industries, cement, prescription pharmaceuticals, fabric, rubber and plastics, tires and tubes, and jute are all examples of industries. Among the 14 industries. The notification, issued August 7, 1986, required the Department of Environment (DOE), the Ministry of Environment and Forests (MOEF), and the Ministry of Industry to guarantee that the industries in question implemented appropriate pollution control measures within three years. The notification requested that the government guarantee that no new industries are established without pollution-control equipment. Yet, after an 8-year delay with no degree, the above petition was submitted. On July 15, 2001, seven years after the petition was filed, the courtroom instructed the well-known, environment branch to execute investigation conclusions on pollution abatement through 903 industries classified as polluters within six months of that date.

The courtroom had previously issued a rule nisi to the respondents, as well as the LGRDC, Ministry of Environment and Forests, Ministry of Industries, and Environment Branch, directing them to show cause why they should not be directed to implement the Government's choices dated June 5, 1986, which were published in the Hon'ble Gazette. After hearing the petitioner, these days the rule has been finished and the DG, DOE has been asked to "submit in the docket of this Court after six months the filing of an affidavit indicating compliance with this order of this Court". In order to guarantee that the court's orders are implemented, the Hon'ble High Court additionally stated that "It is critical that the Director take disciplinary action against the branch responsible for the failure to execute this letter. The Environmental Protection Act of 1995."

## Chapter 6

# CONCLUSION

### 6.1 Recommendations

In view that it is opposed to the adversary version of private interest movement, PIL brings with it some of revolutionary changes on the subject of system and treatments. There are several motives why those revolutionary approaches are essential.

1. PIL pleaders are involved residents. It cannot be anticipated in all instances that they may endure all of the expenditure, time and energy needed to duly present and pursue the cases initiated.

2. The terrible and the helpless are often no in shape for important opponents similar as vested hobby agencies. Massive distinction of power of the contending events may beget injustice except the court intervenes.

Three. Public hobby topics frequently, contain thinly unfold out rights and subtle rights. As a result, traditional private interest model every now and then fails to present perfect and relevant relief.

4. Spend money on a dispatches method to guide PIL instances. Unite with activists to insure that the media is at once knowledgeable about reproductive rights violations and the cases being brought to remedy them. Arrange bars, stores, and trainings to make mindfulness approximately reproductive rights troubles among intelligencers.

Five. In which public hobby is worried, the decide can act suo motu and provoke a PIL case. The phrases ' suo motu ' imply on his personal stir in place of on an operation by a celebration.

6. Network and unite with social scientists, public health professionals, croakers , and activists working at the floor role to acquire clean and satisfying facts, studies, and facts. Contain similar mates as unbiased 1/3 events who can make contributions their moxie to unique elements of a PIL case via formal sessions to the court.

7. There's a deterrence aspect of PIL. Once case is initiated, it demonstrates the alert of the turns on. The vested interested admit a sign that any farther violation won't pass unchallenged.

## **6.2 Conclusions**

Eventually I would like to mention then that, Public Interest Litigation should be allowed to grow and develop further so that it would bring the successor to the indigent. The experience shows that it might be the case of defying of mortal rights and Rule of Law by any public authority, or careless and indifferent geste of the law administering agencies, the atrocities committed by defenders of, law, innocent people retaining in captivity without trial, since the court allowed the members of general public to bring similar mattes to the notice of the court

that a farther catastrophe was averted. The public interest therefore under the present condition is a strategic arm of mortal rights as well as legal aid movement in Bangladesh. And it's intended to bring justice within the reach of the poor millions. It's brought before the court with the object of promoting and vindicating public interest which demands non-violation of indigenous or legal rights of large number of people who are poor, ignorant or in a socially or economically inimical position shouldn't go unnoticed and deprived and if so, that would be destructive of the Rule of Law and mortal rights.

Future of PIL in Bangladesh, thus, is veritably bright. Uninterrupted success depends less on the cold computations of law and further on the warm passions our hearts. Since PIL is an expression of social knowledge of the fortunate many, its progress is guaranteed to the extent we appreciate, admit and remain conscious of our social responsibility.

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