INTRODUCTION

Public Interest litigation in India is a latest concept and for the increased societal reliance on judicial process to find social relief liberalising and/or extending the rules of locus standi, it has left open limitless fields. In its ordinary meaning, it brings within its fold all acts or carrying on a process at law for the people at large for their good. A litigation becomes of public interest if the public or a section of the public becomes interested in it. The word Public includes any class of the public or any community. A particular locality may also come within the terms of 'public'. In popular parlance the word public means the general body of mankind or of a nation. According to Webster, it also denotes only a particular body or, aggregation of people. It is also called social action litigation. It is not confined within this approach alone. Ever since the introduction of the process of Courts for relief of the public, it has been seen that there are several provisions in the statutes for extending such relief to the people in certain definite spheres. Where the State has assumed power in the interest of the public or has given

1. Section 12 Indian Penal Code.
2. (1958) 18 Pat 76.
power and opportunities to the public to ventilate their grievances for settlement. But in practice, it appears that the provisions of the statute in the interest of the public towards prevention of nuisance, enforcement of trusts, human health, welfare, and basic protection of livelihood towards food and shelter are not usually complied giving rise to remedial measures through public interest litigation in the Court of law. Once Mr. Gajendragadkar, the former Chief Justice of India, represented new awakening in the field of social function of law. According to him, law is a flexible instrument of socio-economic adjustment and socio-economic revolution and it is a specialised agency of social contract or science of social engineering. Accordingly, the Courts have now become people oriented. The former Justice V. R. Krishna Iyer pleaded for sociological approaches to law, being truly Roscoe Poundian in his legal approach. In his eagerness to help downtrodden people, he said that jurisprudence to be living law must respond to the grievances of common people intelligently enough to equalise opportunities within the social, political and economic orders by making up for long spells of deprivation. He was also of the opinion that the Court's view should also be 'need based' substituting the functions of the
administration\(^3\). In Akhil Bharatiya Soshit Karmachari Sangh (Railways) -vs- Union of India\(^4\) - he observed that "our processual jurisprudence is not of individualistic Anglo Indian mould. It is broad based, and people oriented and envisions access to justice through 'class actions', public interest litigations and 'representative proceedings'. Indeed 'little Indians' in large numbers seeking remedies in Courts through collective proceedings, instead of being driven to an expensive, 'plurality of litigations', is an affirmation of participative justice in our democracy......". In Banglu Mauzi Morcha Case\(^5\) human exploitation was aptly recalled as in R.N. Tagore's 'Kadi and Kamal' - "Into the mouth of these dumb, pale and weak, we have to infuse the language of the soul. Into the hearts of these weary and worn, dry and forlorn we have to minstrel the language of humanity'.

Hence the question is always there atleast for the ordinary people, who have no reasonable means to seek for redress before the Courts failing administrative and/or legislative measures which are also matters of time, then how to get relief and that too in no time. Usually, in these cases people take the help of local

4. AIR 1981 SC 298
5. AIR 1984 SC 802
public men of importance or any social organisation of
standing for such relief. Access to Courts may also
become easier with the help of the State Committees of
Local Aid in certain special circumstances. In India,
Public interest litigations sponsored at the instance
of public men or social/voluntary organisations are
quite in spate and incidentally mention may be made of
some of them which are - Bhagalpur Blinding Case⁶ -
Banchu Mukti Morcha Case (by a person acting pro bono
publico) Kalahandi Starvation Death Case⁷ by Kishen
Pattanayak and Shri Kapil Narayan Tiwary - two social
workers; Ranchi Mental Hospital Case⁸ (by Rakesh Ch.
Narayan, a citizen from Bihar); was Leak Case⁹ by
one Shri M.C. Mehta; Shweta Barse -vs- State of Maharashtra¹¹
(by a social worker) All these representations have given
a new dimension to locus standi for social reliefs.

Let us now come down to the steps taken by the
govt. of India to solve public interest litigation since
pre-independence to the present State of affairs of the
state. ranchayat systems were introduced at the village
level to settle disputes at grass root level. Convenience
also required that where there is a community of interest
amongst a large number of persons, a few should be allowed

⁶ AIR 1981 SC 928 ⁷ SUPRA note 5 ⁸ AIR 1989 SC 677
to represent the whole, liberalising the principle of locus standi as in public interest litigation so that trouble and expense may be saved. This principle has been codified as representative suit upon consent of the Court and notice to parties in order I rule 8 and 8a of the Code of Civil Procedure subsequently amended in 1973. Accordingly, a villager may bring a suit on behalf of himself and his fellow villagers for a declaration of a right of away and for an injunction against the defendant for obstructing the way or water passage (Natabar SasmaL -vs- Krishna Chandra Bera; Harish Chandra -vs- Pran Nath) Likewise, anyone taxpayer may bring a suit against a Municipality from misapplying its funds - Vaman -vs- Municipality of Sholapur. These were suits of public interest litigation of adversarial nature. Similar to above, it can be traced that by way of public interest litigation, the Advocate General of the State or two or more persons authorised in this behalf may institute a suit under Section 91 and 92 of the Code of Civil Procedure in Cases of public nuisances affecting public rights and also in Cases of breach of any express or constructive trust created for public purposes of a charitable or

13. (1921) 26 CWN 587,69 IC 910,(41) AC 495 - § 261
14. (1898) 22 Bom 646
religious nature. These remedies are concurrent as criminal prosecutions are also maintainable. Section 268 of Indian Penal Code defines that a public nuisance is an act or illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. But with the advancement of industries in independent India, it is also found that in the public interest any industry engaged in the manufacture or production of any of the articles mentioned in the First Schedule of Industries (Development and Regulation) Act, 1951 may be managed or controlled by the 'authorised persons' appointed by High Court at the instance of the Central Govt. pending investigation where there is substantial fall in production, market deterioration in the quality, rise in price for conserving resources of national importance as being public interest litigation. In Industrial Disputes Act, 1947 representation by the Labour unions on behalf of the aggrieved workmen is allowed. An industrial dispute can be raised even by a single workman under Section 2A of the Act not to speak of only by a group of workmen against their employer or
by a Union composed of such workmen. It is not necessary that the workmen raising the dispute must be in the majority. It is enough if the dispute when raised by a group of workmen, affects the class as a whole. If it is taken up by a Union, it need not be even a registered or a recognised Union - Gauhati Transport Association vs. Labour Court, Modern Stores vs. Krishnadas Shah. It is also found that law has provided public justice to guard social interests as in the Monopolies and Restrictive Trade Practices Act, 1969, it has provided that the Registrar for Restrictive Trade Practices Agreement has the power to act as an 'Advocate of Public interest' for investigating and initiating proceedings against restrictive trade agreements and practices. Section 38 of the said Act provides the gateways of public interest in which restriction is found reasonably necessary to protect public against injury in connection with the consumption, installation, or use of the goods or to help generation of employment or to protect volume of earnings of the export business or to maintain competition in any relevant trade and industry or to maintain supplies of goods and services essential to the community. Similarly, for the control of production, supply and distribution of essential

15. 1969 Labour IC 1568 ASS, 1969 ASS LR 195
16. 1970 Labour IC 196
commodities, Essential commodities Act of 1955 has come to stay for the interest of the general public. Companies Act, 1956 in Section 396 of the said Act has provided for amalgamation of companies in the public interest. Article 31A (b) and (c) of the Constitution also provide for taking over and amalgamation of Companies in public interest. The Indian Contract Act in its Section 23 took into consideration the public policy in the lawfulness of the object or consideration of agreement. The Trade and Merchandise Marks Act, 1958 provides for protection and prevention of the use of fraudulent marks on merchandise in the interest of the public. Foreign Exchange Regulations Act, 1973 has its objective to conserve foreign exchange resources of the country and to utilise the same in the interests of the economic developments of the country.

Apart from these economic legislations in the public interest, we have our social legislation for the benefit of the poor workmen to improve their own conditions and working environments and mentionable some of them are Factories Act, 1948 for measures of health, safety, welfare, working hours; Industrial Disputes Act, 1947 for settlement of industrial disputes; Minimum Wages Act, 1948, Employees State Insurance Act and a host of other Acts including Bonded Labour System (Abolition) Act etc. Besides, there
are Child Marriage Restraint Act, Prohibition of Offenders Act, 1958, Equal Remuneration Act, 1976, The Suppression of Immoral Traffic on Women and Girls' Act, 1956, Maternity Benefits Act, Dowry Prohibition Act, 1961 etc., all aiming at social reliefs in the public interest. Prior to independence, there were Acts towards Social reforms and reliefs like Abolition of Sati, Remarriage of Hindu Widow, as well as Laws on land settlements, Cooperation, Agriculturists' Loan and also Workmen's Compensation Act, 1923, Payment of Wages Act, 1936, Dock Labour Act, 1934, Employers' Liability Act, 1938 having provisions against the imposed doctrines of "Common employment and the doctrine of assumed risk". It will appear from the above legislative measures by the Government of India that there were efforts to give relief to the socially distressed and economically weaker section of the people. Continued Statutory Violations of these Acts in the areas of public interest affecting the rights of the people for long give rise to remedial measures through the Writs of the highest Courts in the Union and the State under Article 32 and 226 of the Constitution of India. Towards environmental protection, several acts, inter alia, like The Wild Life (Protection) Act, 1972, The Forest Conservation Act, 1980, Air (Prevention and Control of Pollution) Act, 1981, Water (Prevention and Control of Pollution) Act, 1974 and
The purpose of changing needs of the modern societies and massification thereof is to press for extension of the scope of public interest litigation by liberalising the views about the requirement of locus standi i.e., standing and procedural formalities to mitigate the claims for social reliefs on the background of (a) the sociology of law and (b) justiciability (Keshavananda Vs. State of Kerala\footnote{17} and/or constitutionality of the above claims. People create law on their necessity and the State administers justice according to law which is now for greater good of the society. The Court would lean in favour of the weaker section of the Society without any serious detriment to the remaining others. The dispensation of justice now should be people oriented broadening the concept of locus standi and opening the door of judicial justice enabling all people, right thinking persons, public spirited citizens and organisations to have access to justice for the right causes and sufferings. Since human rights and fundamental freedom are indivisible, the full realisation of civil and political rights without the enjoyment of economic, social

\footnote{17. (1973) 4 SCC 225}
and cultural rights is impossible. On the proper attainment of economic social and cultural rights the civil and political rights come to mature themselves. In the language of Karl Marx, it can be said that most of the Indians are "degraded, enslaved, abandoned and contemptible being" for whom social justice is imperative to bring them away from toils and tears in agony and filth. On the argument about rights in the context of Indian conditions, Rawls enumerated two principles, the first being about the protection of basic liberties with the second one about egalitarian principle which looked to the situation of the worst off group and every change in the social structure should benefit that group which he called 'the principle of priority'. In this context, Ronald Dworkin observed that the second principle must not be carried to extreme as he observed that one can imagine situation in which it would seem and most people to follow it. The principle might require any sacrifice in people better off necessary to give the starving poor of India each one more bowl of rice which make difference in fact to their lives. Human actions and relationships have assumed a meta-individual, social and collective character rather than individual ones. Justiciability of the social rights has called for new legislations and
interveiensions of the judiciary in case of mass injuries through public interest litigations in India.

In India the public interest litigations movement takes their spurt at the time of P.N.Bhagwati J, who was then Chairman to monitor and implement legal aid programmes in the Court and the 'Committee for Implementing Legal Aid Schemes (CILAS) set up Legal Aid and Advice Boards throughout the country. Now the Legal Services Authorities Act, 1987 provides Constitution of Statutory legal service authorities at the national, State and district levels and to provide funds for those authorities through grants from both Central and State Governments. The authorities are required to organise legal aid camps, especially in rural areas, slum, or labour colonies for the purpose of educating the weaker section of the community as to their rights as also encouraging the settlement of disputes through Lok Adalats and the same should also encourage the settlement of disputes by negotiation, arbitration or conciliation and to make appropriate measures for legal literacy, legal awareness and legal aid research. Section 5 of the Act authorises Central authority to work in co-ordination with other Governmental and non-Governmental agencies, Universities and other engaged in the work of
promoting the cause of legal services to the poor.
Whereas in American approach to equal justice towards equal protection in favour of the indigent against the rich, mention may be made to certain decisions of their Supreme Court like that in Griffin -Vs- Illinois\(^1\) where the convicted Griffin and Crenshaw were refused free transcript of their trial for use in preparing an appeal, but Justice Hugo L Blask upheld in favour of those convicted on the ground that law stands on equality for protection and due process being the central aim of the judiciary. Subsequently, the decision in Mayor -Vs- Chicago\(^2\) expanded the above Griffin ruling. In Gideon -Vs- Wainright 372 US 335\(^3\), it was held that a State Violated due process when it refused to provide Court appointed attorneys to indigents charged with felonies. In the above premises, the right to notice, the right to be heard and the right to counsel are now not false promises to the poor.

In summing up the matter of thesis, it is pointed out that the whole matter is divided between VI parts, each part having separate chapter or chapters.

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1. 351 US 12
2. 404 US 189
3. 372 US 335
In Part I, two chapters are dealt with, Chapter - I is upon sociology of law - a desideratum, and in Chapter - II, justiciability and/or constitutionality has been considered as one of the basic requirements towards above litigation. These are already discussed, Likewise, Part II contains five chapters covering concept (Chapter I), procedural aspects (Chapter II), Legal aid (Chapter III), Lok Pal and Lok Ayuktas (Chapter IV) and Panchayat Systems - (Chapter V). Part III, Similarly, provides nine chapters containing whole gamut of problems in these litigations, right from the functioning of administrative justice, Lok Adalat, consumers and environmental protection matters, right of access to an information and records and Human Rights problems including protection to women and children. Constraints and limitations suffered in the absence of proper machinery to follow-up and feed back and monitoring of the developments consequent upon orders, directions and writs issued in PIL matters urging need and co-operation of the other organs of the States for expeditious redress of grievances of the people. Part IV, Chapter, Chapter 1 refers to standing - a major issue for determination which has been dealt elaborately with a series of leading cases and so also Chapter II of the said part showing
social reliefs asked for in the PIL, particularly with reference to India. Part V is divided into two Chapters - Chapter I relates to relative approach with reference to practices followed in the PIL matters in other countries like France, U.K., U.S.A. with that followed in India. The PIL in America may be traced to the foundation of Legal Aid Society for German immigrants in New York City as back as 1876. In England, it was Director General of Fair Trading in 1973. In France, it was 'ministere public' and the Statute 'Loi Royer' had given standing. In Bavaria, there was 'popularklage' or citizen action. In Sweden, Consumer Ombuds man of 1970 was appointed against improper marketing and advertising purposes to bring suits in market court. In Federal Republic of Germany, a Statute of 1909 allows consumers' associations to challenge in Courts acts of unfair competition. The Relator action in England, Australia and certain other common law countries has become quite vital for suits brought in the public interest by private individual or groups. The creation of public interest law firms in USA to provide public interest legal services and New York legislations on class actions since 1975 despite hostility of Supreme Court and
Federal Courts was most encouraging.

Part V, Chapter II deals with the role of the Judges in different countries in the PIL matters with those in India in several Court decisions. It was, inter alia, observed that the Judiciary must be committed to the people as a whole, Independence of the Judiciary should not be abused to treat human beings as things as 'Slaves' in Dred Scott Case* or to say that the convict be hanged before argument as in Bhutto's execution or to announce death sentences on pro-democracy demonstrators as in China in the recent upheavals. The Judicial activism on a social philosophy is the crying need for the present day functioning of the legal system. There has been change from the doctrinaire approach of the judiciary to the liberal ones all where in the World from Blackstone to Denning in England and from Chief Justice Jay to Earl Warren in the USA Poverty Jurisprudence to prevent mass exploitation is gradually getting ways in place of laissez faire rub of law abetting the interests of those well off and the privileged and vested ones. Lastly, the Part VI expatiates on suggestions and conclusion summing up the whole matter vis-a-vis the provisions of the Constitution and other existing laws of India preceded by suggestions and Court decisions in the matter.

* 19 How 393 (1857)