

## Detailed guidelines laid down re PILs\* (2010) 3 SCC 402

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(2010) 3 Supreme Court Cases 402

(Before Dalveer Bhandari and Dr. M.K. Sharma, JJ.)

State of Uttaranchal . . Appellant;  
Versus

Balwant Singh Chauhan And Others . . Respondents..

Civil Appeals Nos. 1134-35 of 2002â€ decided on January 18, 2010

A. Constitution of India â€ Arts. 226 and 32 â€ Public Interest Litigation â€ Need to maintain purity and sanctity â€ Guidelines laid down â€ Genuine and bona fide PIL to be encouraged while PIL filed for extraneous considerations to be discouraged â€ PIL available only where larger public interest is involved and matter is so grave and urgent that it must take precedence over other matters â€ All High Courts to frame rules relating to PIL so that need for formulation of procedure by individual Judges is obviated The respondents filed PIL challenging the appointment of an Advocate General on the ground that he had crossed 62 years of age and was therefore not entitled to become a Judge of a High Court and therefore was also not entitled to be appointed as Advocate General. One of the persons who filed PIL was a local practising lawyer. The High Court directed the State Government to take decision on the issue raised within 15 days and inform the High Court. The appellant State filed SLP in the Supreme Court which granted leave to appeal and also stayed the High Court order. The legal issue regarding applicability of age-bar to appointment of Advocates General and Attorney General stood settled by a catena of decisions of the High Courts as well as a Constitution Bench decision of the Supreme Court holding that age-bar which was applicable to appointment of Judges of the Supreme Court and High Courts, was not applicable to appointment of Advocates General and Attorney General. The respondents while filing PIL neither referred to the existing case law nor did they justify why there was a need for reconsideration of law-point already settled. After filing PIL, the respondents also did not pursue the matter seriously. The point-at-issue was whether PIL was bona fide or was it filed for extraneous reasons. The Supreme Court found that it was an abuse of the process of court. Allowing the appeal and imposing costs of Rs 1 lakh on the respondents, the Supreme Court laid down the following guidelines relating to PIL Held :

- The Courts must encourage genuine and bona fide PIL and effectively discourage and curb PIL filed for extraneous considerations.
- Instead of every individual Judge devising his own procedure for dealing with PIL, it is appropriate for each High Court to properly formulate rules for encouraging genuine PIL and discouraging PIL filed with oblique motives. The High Courts which have not yet framed the rules, should do so within three months. The Registrar General of each High Court is directed to ensure that a copy of rules prepared by the High Court is sent to the Secretary General of the Supreme Court immediately thereafter.
- The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.
- The Courts should be prima facie satisfied regarding the correctness of contents of the petition before entertaining a PIL.
- The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.
- The Courts should ensure that petition which involves larger public interest, gravity and urgency must be given priority over other petitions.
- The Courts before entertaining PIL should ensure that PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing public interest litigation.
- The Courts should also ensure that petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and petitions filed for extraneous considerations. â€ From the Judgment and Order dated 12-7-2001 and 1-8-2001 of the High Court of Uttaranchal at Nainital in Civil Misc. WP No. 689 (M/B) of 2001