

This Booklet
is Published in Memory of
My Beloved Grandfather
Late Shri Justice J.P. Jain

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Late Shri Justice J.P. JAIN



15-11-1917 — 17-9-1975

Public Interest Litigations

Gaurav Jain

Date: 8.8.2008

Message
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Foreword

I have prepared and compiled some of the decision of Supreme Court of India, issuing certain directions and guidelines in Public Interest Litigation matters, right from 1980 onwards. On earlier occasion a small booklet ("an overview on 'law'") pertaining to a few questions and answers on various topics of law was prepared by me and published for the benefit of members of this noble profession. In continuation, some of the lectures prepared & delivered by Justice N.K. Jain at various functions including judicial academy at Madras High Court and Karnataka High Court while he was Chief Justice, of respective High Courts for about five years was published and released by me on "Directive Principles of State Policy", "Right to Equality", "Law of Precedents", & "Gender Justice in Employment and in Profession" to perpetuate the memory of my beloved grandfather late Justice J.P. Jain, who died as a sitting Judge Rajasthan High Court Jodhpur on 17.9.1975, at Jodhpur. My humble endeavour is to release this small booklet on "Public Interest Litigation", not for sale and for the benefit of general public and in particular to law students, young and budding lawyers and members of legal fraternity. I hope that this small effort of mine will be of some help to all those who are discharging their duties in the administration of the Justice.

— Gaurav Jain
Advocate

1st September, 2006

S.P. JAIN

Asso. Professor &
Principal (Retd.)
Rajasthan College

D-2, Raman Marg,
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Date : 8.9.2006

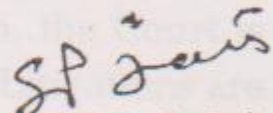
Message

After going through the valuable work including selecting PIL cases, the foremost idea of admiration for Mr. Gaurav Jain occurs to me. I appreciate this attempt and in compilation of the different topics related to law and lectures delivered at various functions by Justice Shri N.K. Jain during his tenureship as Chief Justice at Madras and Karnataka High Courts. Mr. Gaurav Jain released that articles, lectures and speeches on legal issue should be published in the form of small booklets, so that large number of students of law and practising advocates are benefitted.

Gaurav has dedicated his book to the memory of his grandfather Late Justice Shri J.P. Jain, whose scintillating radiance from above ever insists confidence to carry out the mission of life and ever guide him in his efforts. This message will be incomplete, if I fail to express my gratitude towards the great personality.

Late Justice Shri J.P. Jain was upright and outspoken gentleman with a rare virtue of appreciating good work of others. He used to tell me, when I was working as an apprentice (pleader) in year 1955-56 that dedication, determination and innovation are key to success. He further made me to understand that 'success is a journey, not a destination'. As I had an opportunity to know and inculcate some of his good quality of hard work with dedication and determination with humbleness.

I am sure that the efforts in bringing out this work will be appreciated by all those who are interested in the study of constitutional law.


(S.P. Jain)

Justice N.M. Kasliwal

Former Judge

SUPREME COURT OF INDIA

20, Kasliwal Path, Mangal Vihar,
Gopalpura By-Pass, JAIPUR-302 018
Phone : 2761755 • Mobile : 94140-78755

Date : 8.9.2006

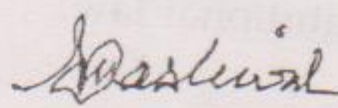
Message

The Public Interest Litigation aims to provide an effective remedy to the poor, weak and illiterate persons to enforce their rights and interests. The Directive Principles of State Policy contained in Articles 28 and 39A of The Constitution of India have also been taken account in allowing the development of the Public Interest Litigation. The concept of Locus Standi has been relaxed and any public-spirited person or group or organization is allowed to file Public Interest Litigation in good faith for vindicating and effectuating the interest of the public.

The Public Interest Litigation is of recent origin and has growth within a short span of three decades. It has now taken deep roots in the legal field.

Gaurav Jain, a young and budding lawyer has taken great pains in compiling all important cases relating to Public Interest Litigation rendered by the Apex Court. It would be of great assistance and benefit for the common man as well as the members of the legal fraternity to understand the legal nuances of Public Interest Litigation at a glance.

I wish all success and good wishes to Gaurav Jain in this effort.



(Justice N.M. Kasliwal)

PUBLIC INTEREST LITIGATIONS

Rule of law is the basic foundation of any democratic setup and judiciary has to play an effective role to uphold its norms to retain the confidence which the people have in it. All know that no body is above rule of law. Aggrieved person can always approach the court of law for any wrong against him and can get redress in accordance with law. However, with the exception The Indian Penal Code, 1860 contains a detailed catalogue of public nuisance offences in relation to air and water pollution. Sec. 133 of the Code of Criminal Procedure, 1973 permits an individual or a group to seek conditional order for removal of public nuisance. can institute a suit for declaration and injunction to seek conditional order for removal of public nuisance. Under sec 91 of Civil Procedure Code, the Advocate General or, two or more persons with the leave of the court with the leave of the Court may seek similar relief in case of public nuisance and other wrongful acts affecting the public. Order 1 Rule 8 of Civil Procedure Code permits class action suits where numerous member of a class have the same interest in the suit. These provisions are for particular purpose and not commonly used.

The apex court, and High Court under article 226 of the constitution are exercising jurisdiction in Public Interest litigation. Many PIL's are based even on newspapers reports.. PIL developed as an effective tool of rendering justice to the poor public or a determinate class of people. The poor, down trodden and who are unable approach the court of law either due to ignorance of law and poverty for them, the Court is granting relief in the garb of PIL's. In this way Public Interest Litigation are increasing in Hight Court and Supreme Court.

As per the directions and observations of the supreme Court in my opinion, the petition should be bonafide. Petitioner should indicate how public interest is involved and a prima facie case of public interest. If petition is filed by association/ group of persons alleging to be the members of an association, the court can ascertain and ask the petitioner to file aims and objects of the association, its registration number, list of elected office bearers on the basis of memorandum of the association as per election held and the person filing petition is duly authorised. Petitioner should also mention that he is fully aware of the facts and also with the genuine grievance of a determinate class of person. On issuing notice, It would not result greater hardship, unnecessary harassment to the class of persons for whose benefit the alleged PIL was filed. In this way abuse of the process of the court check for -----.

No doubt In an a appropriate case High court can issue a direction in a public interest litigation, if there is clear violation of fundamental rights or if the issue touches the conscience of the court, but at the same time, public interest litigation cannot be used for espousing personal cause or the cause of someone else in whom the petitioner are obviously interested, for publicity or political motivation. The courts are not entertaining such petitions and dismissing the same with costs. However, each case depends upon the facts and circumstances of its own case. As per words of Justice Bhagwati, (as he then was), "the courts must be careful in entertaining public interest litigations" as per Justice Sarkaria(as he then was), "the applications of the busybodies should be rejected at the threshold itself and according to Justice Krishna Iyer (as he then was) "the doors of courts should not be ajar for such vexatious litigants". Some of the decisions are

1. Criminal special leave petitions have been filed by third party, wherein question of locus standi or rule of standing in criminal appeals was discussed. This judgement is twetnty five years old but very important on the points **(P.S.R.**

Sadanathan V/S Arunadralam (1980) 3 SCC 141 w). Recently, The criminal writ petition filed by the NHRC, Malika Sarabhai and Teista Setalwas in respect of Gujrat riots in Supreme Court. The apex court explained its jurisdiction under Article 136 and held -

“It is true that the strictest vigilance over abuse of the process of the court, especially at the expensive and exalted level of the Supreme Court, should be maintained and ordinary meddlesome bystanders should not be granted ‘Visa’. It is also true that in the criminal jurisdiction, this strictness applies a fortiori since an adverse verdict from this court may result in irretrievable injury to life or liberty. “--- Also observed that while “the criminal law should not be used as a Weapon in personal vendettas between private individuals”, as Lord Shaw cross once wrote, “In the absence of an independent prosecution authority easily accessible to every citizen, a wider connotation of the expression ‘standing’ is necessary for Article 136 to further its mission. There are jurisdictions in which private individuals – not the state alone – may institute criminal proceedings”. --- “We are satisfied that the bogey of busybodies blackmailing adversaries through frivolous invocation of Article 136 is chimeral. Access to justice to every bona fide seeker is a democratic dimension of remedial jurisprudence even as public interest litigation, class action, pro bono proceedings are”.

2. Rakesh Chand Narain v. State of Bihar 1986 (Supp)SCC576

1. In respect of each patient in the Ranchi Mansik arogya Shala the daily allocation for diet will be increased from the existing inadequate figure of only Rs. 3.50 to Rs. 10 per day per patient and dietary articles of that value shall be supplied to each patient.
2. Arrangement should be made forthwith to supply adequate quantity of pure drinking water to the hospital, if necessary, by engaging water tankers to transport potable water from outside.
3. Immediate arrangements should be made for the restoration proper sanitary conditions in the lavatories and bathrooms of the hospital.
4. All patients in the hospital who are not at present having mattresses and blankets should be immediately supplied the same within 15 days from today. Such of the patients who have not been given cots should also be provided cots within 6 weeks from today so that no patient shall be thereafter without a cot.
5. The ceiling limit at present in vogue in respect of cost of medicines allowable for each patient will stand removed, with immediate effect and the patients will be supplied medicines according to the prescription made by the doctors irrespective of the costs.
6. The state government shall forthwith take steps to appoint a qualified psychiatrist and a Medical Superintendent for the hospital and they should be posted and take charge in the institution within six weeks from today.

3. Sheela Barse v. Secretary Children’s Aid Society (1987) 3 SCC 50

1. The officer at the different levels should be called upon to perform statutory duties by exercising powers conferred under the statute and be given the proper training and only when they have the requisite capacity in them should they be called upon to handle the situation.
2. The child welfare officer (Probation) as also the Superintendent of the Observation Home must be duly motivated. They must have working knowledge in psychology and have a keen sense of observation and on their good functioning would depend the efficacy of the scheme.
3. Children in Observation Homes should not be made to stay long and as long as they are there, they should be kept occupied and the occupation should be congenial

and intended to bring about adaptability in life aimed at bringing about a self confidence and picking of humane virtues.

4. Dedicated workers have to be found out, proper training to them has to be imparted and such people alone would be introduced into the children homes.
5. The Juvenile Court has to be manned by a Judicial Officer with some special training. The statutory scheme contemplates a judicial officer of a different type with a more sensitive approach-oriented outlook. Without these any Judicial Officer would, indeed, not be competent to handle the special problem of children.

4. Upendra Baxi v. State of U.P. AIR 1987 SC 191

1. The approach road to the new building shall be made into a pucca or semipucca road so that it does not get blocked or waterlogged by rain. This shall be done within 3 months from today.
2. The big hall as also the three rooms used as class-rooms and the kitchen shall be provided with cross ventilation by putting up sufficient number of windows so as to ensure passage of air in and out the rooms. The District Judge or the additional District Judge nominated by him shall determine how many windows are necessary to be constructed for this purpose.
3. Exhaust fans shall be provided in the big hall, three classrooms, kitchen and offices.
4. The state government shall provide police protection throughout day and night for the inmate of the Protective Home in the new building.
5. The state government shall either provide accommodation to the staff of the protective home in or near the new building or provide conveyance to the members of the staff for coming to the Protective Home and going back to their respective homes unless public transport is available in the immediate vicinity of the Protective Home.
6. We are informed that mosquito nets have been provided by the state government to each and every inmate as also to the members of the staff staying in the protective Home but if that has not yet been done, the State Government shall immediately take steps to provide mosquito nets to each and every inmate and member of the staff staying in the Protective Home.
7. The state Government shall provide a conveyance for taking the inmates to the court and bringing them back to the Protective Home and similarly, conveyance shall also be provided to the District Judge or Additional District Judge inspecting the Protective Home.
8. The District manager (Telephones), Agra shall immediately shift the telephone to the new building and whatever steps are necessary for this purpose shall be taken by the State Government without any delay.
9. The State Government shall immediately provide cooking gas in the kitchen so that it is not necessary to use wood for cooking which may emit a lot of smoke and lead to discomfort and suffocation on account of lack of ventilation.
10. The state Government shall immediately proceed to carry out rewiring as also to install the electric meter in a safe place where there is no dampness. We find from the latest Inspection Report of the additional District Judge dated 30th June 1986 that the electric meter has been shifted to the chamber of the Superintendent. We hope and trust that the new place to which it is shifted is not damp so as to imperil

the safety of the inmates. That is a matter which would have to be looked into by the District Judge when he goes for inspection. But we also think it necessary to direct that since the electric line is of 440 voltage and not 220 voltage and would, therefore, be dangerous for the inmates, the state Government shall without any undue delay proceed to take the necessary steps to install a generator so that the safety of the inmates is not jeopardized.

11. Thirdly, we find that despite direction given by this Court on various occasions. The State Government has not yet constituted a Board of Visitors as prescribed in Rule 40 of the Rules made under the Suppression of Immoral Traffic in Women & Girls Act. We would therefore direct the State Government to set up, within a period of two weeks from the receipt of this order, a Board of Visitors on which there shall be at least three social activists working in the field of welfare of women and particularly suppression of immoral traffic in women and there shall also be included in the Board of visitors two persons to be nominated by the District Judge, Agra within two weeks from today.
12. Fourthly, the superintendent of the Protective Home shall take care to see that no woman or girl is detained in the Protective Home without due authority and process of law. The District Judge, Agra who carries out monthly inspection of the Protective Home shall verify during every visit that no woman or girl is detained except under the authority of law, he shall take steps to see that she is released and repatriated to her parents or husband or other proper authority.
13. Fifthly, we would direct the District Judge, Agra to nominate two socially committed Advocates who would by turn visit the protective Home once in a fortnight and enquire from the inmates in regard to their needs and requirements and provide them legal aid and assistance, where required. Each of the advocates visiting the protective Home pursuant to this direction shall be paid by the State Government an honorarium of Rs. 50/- per visit plus out of pocket expenses.
14. We have pointed out on more than one occasion that it is absolutely essential that the inmates in the Protective Home should be provided a proper rehabilitation programme so that when they came out of the Protective Home, they are in a position to look after themselves and they do not slide into prostitution on account of economic want. The inmates must be given vocational training and guidance by way of rehabilitation. We would, therefore, once again direct the State Government to produce at the next hearing of the writ petition a detailed rehabilitation programme which they have either set up or they propose to set up within specified time limit. We would also like the Superintendent of the Protective Home to consider whether it would be possible to arrange for their wedding to proper persons in case they want to get married. The Superintendent of the Protective Home can follow the example of the Nari Niketan in Delhi where a Committee was set up by this Court for the purpose of investigating into the antecedents of the would be bridegrooms in order to ensure that they were genuine persons wishing to marry the inmates and not bogus or sham bridegrooms who were going through the ceremony of marriage merely for the purpose of selling the inmates or pushing them into prostitution. The District Judge will constitute an appropriate Committee for this purpose consisting of himself and at least two social activists. The state Government will also initiate proper follow-up action in this behalf with a view to ensuring that the inmates are not taken back to the brothels or/ and they do not once again slide into prostitution.
15. The District Judge, Agra or any other Additional District Judge nominated by him shall visit the Protective Home once every month for the purpose of ensuring that the aforesaid directions given by us are carried out fully and effectively and he shall submit an Inspection Report to this Court on/ or before the 15th of every month.

5. Laxmi Kant V. Union of India AIR1987 SC 232

1. When the Court makes an order appointing a foreign parent as guardian of a child with a view to its eventual adoption in the foreign country, the Court thinks reasonable, having regard to the nature of the case and the extent and volume of the services as the Court thinks reasonable, having regard to the nature of the case and the extent and volume of the services rendered by the scrutinizing agency. In the case of an application for appointment of a foreign parent as guardian of child the reasonable amount to be paid to the scrutinizing agency would be Rs. 450/- to Rs. 500/-. In case of Indian parent it should not exceed Rs. 150/-. This amount shall be directed to be paid to the scrutinizing agency by the recognized placement agency which has processed the application for adoption, and such placement agency shall have the right to recover such amount from the parent whose application of guardianship it has processed.
2. By its very nature it is not possible to devise a fool-proof formula which will in all cases prevent illegal sales of babies but a procedure can and must be formulated which will definitely reduce the possibility of such illegal sales. With this end in view, it was directed that all nursing homes and hospitals which come across abandoned or destitute children or find such children abandoned in their precincts or otherwise shall immediately give information in regard to the discovery or find of such children to the Social Welfare Department of the concerned Government, where such nursing homes or hospitals are situated in the capital of the State and in other cases to the Collector of the District and copies of such intimation will also be sent to the Foster Care Home where there is such a home run by the Government as also to the recognized placement agencies functioning in the city or town where such nursing homes or hospitals are situated.
3. The Foster care Home run by the Government as also the recognized placement agencies in the capital of the State or in the District will also exchange with one another information regarding Indian parents who wish to take children in adoption so that the Foster Care Home as also each recognized placement agency will have a consolidated list of such Indian parents. Registered prospective Indian parents will be entitled to information about all the children available for adoption in the group specified by him, according to the consolidated list maintained by the recognized placement agency.
4. By the judgment dt. 6.2.1984 a direction was given that the notice of the application for guardianship should not be published in any newspaper. It is clarified that this direction should not be confined only to cases of adoption by foreign parents, and that the notice of an application under S.9, sub-s.(4) of the Hindu Adoptions and Maintenance Act, 1956 will also not be published in any newspaper.
5. It was directed that no recognized placement agency shall make and process an application for appointment of a foreigner as guardian of a child has been in the custody of the recognized placement agency for a period of at least one month before the making of the application and it shall not be permitted to act merely as a post office and conduit pipe for the benefit of an unrecognized agency.
6. Whenever a child is produced before the Juvenile Court by a recognized placement agency for a release order declaring that the child is abandoned or destitute so as to be legally free for adoption, The Juvenile Court must in all such cases complete the inquiry within one month from the date of application and proper vigilance should be exercised by the High Court for the purpose of ensuring that this new direction given by is complied with by the Juvenile Courts.
7. Direction was given that the Court entertaining an application for appointment of a foreigner as guardian of a child should not require the representative of the recognized placement agency processing the application to join the application as a co-petitioner nor should the Court insist on appointing such representative as joint guardian of the child along with the foreigner.
8. Direction given to the Government to publish in newspaper the list of such agencies at least once in a year.

9. In a case of a foreigner who has been living in India for one year or more, the home-study report and other connected document may be allowed to be prepared by the recognized placement agency which is processing the application of such foreigner for guardianship of a child with a view to its eventual adoption and that in such a case the Court should not insist on sponsoring of such foreigner by a social or child welfare agency based in the country to which such foreigner belongs nor should a home-study report in respect of such foreigner be required to be obtained from any such foreign social or child welfare agency. The home-study report and other connected documents prepared by the recognized placement agency should be regarded as sufficient.
10. The Court need not insist on security or cash deposit or bank guarantee and it should be enough if a bond is taken from the recognized placement agency which is processing the application and such recognized placement agency may in its turn take a corresponding bond from the sponsoring social or child welfare agency in the foreign country.

6. In Sachidananda Pandey V/s State of West Bengal 1987(23) SCRm 223

It was observed by adding “My purpose in adding these few lines of my own is to highlight the need for restraint on the part of the interest litigants when they move Courts. Public interest litigation has now come to stay. But one is led to think that it poses a threat to courts and public alike. Such cases are now filed without any rhyme or reason. It is, therefore, necessary to lay down clear guidelines and to outline the correct parameters for entertainment of such petitions. If courts do not restrict the free flow of such cases in the name of Public Interest Litigations, the traditional litigation will suffer and the courts of law, instead of dispensing justice, will have to take upon themselves administrative and executive functions.”

7. In Sheela Barse v. Union of India (AIR 1988 SC 2211) = 1987 3SCC 50

The Supreme Court has made it clear that in a Public Interest Litigation, unlike traditional dispute resolution mechanism, there is no determination or adjudication of individual rights. The proceedings in a PIL are intended to vindicate and effectuate the public interest by prevention of violation of the rights, constitutional or statutory or sizeable segments of the society while owing to poverty, ignorance, social and economically disadvantages cannot themselves assert and quite often not even aware of those rights.

The public interest litigation aims to provide an effective remedy to the poor, weak and illiterate person to enforce their rights and interest. From the Preamble of the Constitution of India it becomes clear that the Constitution emphasizes on Equality of Status and of opportunity and equal justice to all persons. Article 14 provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

8. Jagat Singh V. Delhi Administration and others 1989 Supp (2) SCC

1. It is desirable that post-mortem examinations should be conducted by the Medical Officers attached to the Department of Forensic Sciences in the All India Institute of Medical Sciences, New Delhi, or person holding equivalent positions in respect of conducting post mortem within local limits of Delhi. This would be in consonance with the notification of the Government of India dated May 26, 1969. This procedure should be followed whenever possible. It is also indicated in the communication dated January 6, 1988 by the Principal of Lady Harding Medical College and Smt. Sucheta Kriplani Hospital, New Delhi that resident doctor along with senior member of the rank of Professor/ Assistant Professor or Assistant Professor working in the Department of Forensic Science and having requisite

qualification, should conduct the post-mortem report. The Medical Officer should always sign the post-mortem reports.

2. Dead bodies from other States should not be brought to Delhi for post-mortem examinations, except in accordance with or pursuant to the order either of the Sub-Divisional Magistrate or Magistrate or in accordance with law.
3. There must be uniform pattern of pro forma of results of the post mortem examinations and the respondents should approach All India Medical Council to prepare a pro forma for post mortem examination, which can be applicable in all these cases and that the pro forma followed by the All India Institute of medical Science may be taken into consideration to be made the pro forma. The Delhi Administration should also take steps in the aforesaid matter.

9. B.R. Kapoor v. Union of India (1989) 3 SCC 387

1. This Court is of the view that the Mental Hospital located at the capital of the country should be run by the Union of India and not the Delhi Administration. The takeover of this Hospital by the Union of India would have certain natural advantages. Some time back this Court had to deal with the Mental Hospital located at Kanke near Ranchi. That institution once upon a time enjoyed international reputation and patients from outside India used to come for treatment. But the complaints which this court received about the said institution about five years aback were lowly. This Court made some directions and even suggested that the constitution could be modeled after NIMHANS at Banglore.
2. We are of the view that the Mental Hospital located at Shahdara should be taken over the Union of India from the Delhi Administration and modeled on the lines of similar psychiatric specialty obtaining at institutions run by NIMHANS at Banglore. Possibly with the allocations of more funds a wider range of modern amenities and treatment facilities geared up with modern equipment and super-specialist talent can be made available so that when this large country of ours would be marching into the twenty first century, a modern well-equipped mental hospital-so indispensable today-s society would be at the service of the nation at the country's capital. It could also be examined whether the Hospital could be attached to a teaching institution which has post-graduate specialization in Psychiatry, Neurology and Neuro-psychiatry.

10. Assam Rifles Multi-purpose Co-op Society Ltd. v. Union of India ,1989 Supp (1) 484

1. The central Government and the State Government should decide between them as to which of them will give loans to the settlers and to what extent.
2. The Central Government should direct that the existing Post Office establishment be enlarged to handle disbursement of pensions.
3. The State Government should upgrade the existing middle schools to the status of a high school and make adequate the corresponding increase in the number of students resulting from such up gradation.
4. The grant of domicile certificates should be considered in relation to the settlers, at least in respect of the members of the petitioner society.

11. Vishal Jeet v. Union of India (1990) 3 SCC 318

1. All the State Governments and the Governments of Union territories should direct their concerned law enforcing authorities to take appropriate and speedy action under the existing laws in eradicating child prostitution without giving room for any complaint of remissness or culpable indifference.
2. The State Government and the Governments of Union territories should set up a separate Advisory Committee within their respective zones consisting of the secretary of the Social Welfare Department or Board, the secretary of the law department, sociologists, criminologists, members of the women's organisations, members of Indian Council of Child Welfare and Indian Council of Social Welfare as well the member of various voluntary social organizations and associations etc. the main objects of the Advisory Committee being to make suggestions of :
 - a) the measures to be taken in eradicating the child prostitution
 - b) the social programmes to be implemented for the care, protection, treatment, development and rehabilitation of the young fallen victims namely the children and girls rescued either from the brothel houses or from the vices of prostitution.
3. All the states Governments and the Governments of Union territories should take steps in providing adequate and rehabilitative homes manned by well-qualified trained social workers, psychiatrists and doctors.
4. The Union Government should set up a committee of its own in the line, we have suggested under direction No.(2) the main object of which is to involve welfare programmes to be implemented on the national level for the care, protection, rehabilitation etc. of the young fallen victims namely the children and girls and to make suggestions of amendments to the existing laws or for enactment of any new law, if so warranted for the prevention of sexual exploitation of children.
5. The Central Government and the Government of states and Union territories should devise a machinery of its own for ensuring the proper implementation of the suggestions that would be made by the respective committees.
6. The Advisory Committee can also go deep into Devadasi system and Jogin tradition and give their valuable advise and suggestions as to what best the government could do that regard.

12. M.C. Mehta v. State of Tamil Nadu AIR 1991 SC 417

1. We are of the opinion that in consideration of their (children's) special adaptability at least 60% of the prescribed minimum wage for an adult employee in the factories doing the same job should be given to them. Our indicating the minimum wage does not stand in the way of prescription of higher rate if the state is satisfied that a higher rate is viable.
2. It is necessary that special facilities for providing the quality of life of children should be provided. This would require facility for education, scope for recreation as also providing an opportunity for socialization. Facility for general education as also job oriented education should be available and the school time should be so adjusted that employment is not affected.
3. Learned counsel for the State of Tamil Nadu has agreed that the state would be ready to contribute a matching grant to the Fund and even if necessary, a little more funds could be provided so that facilities for education and recreation can

be provided for the children working in the factories we direct that the State of Tamil Nadu shall take appropriate steps in the matter of creating the welfare fund and finalizing the method of contribution and collection thereof so that the welfare fund maybe set up by 1st January, 99. The matching contribution by the State can be put into the fund by the end of the financial year 1990-91 so that the consolidated money would be available for implementing welfare scheme.

4. Under the Factories Act there is a statutory requirement for providing facilities for recreation and medical attention. The State of Tamil Nadu is directed to enforce these two aspects so that the basic requirements are attended to. We e have been told by learned counsel for the State that mobile medical vans have been provided by UNICEF and are regularly coming to the area. He has told us further that four mobile vans are likely to be provided. The State is directed to take immediate steps to ensure provision of a basic diet during the working period and medical care with a view to ensuring sound physical growth.
5. We are of the opinion that compulsory insurance scheme should be provided for both adult and children employees taking into consideration the hazardous nature of employment. The state of Tamil Nadu shall ensure that every employee working in these match factories is insured for a sum of Rs. 50,000/- ad the Insurance Corporation, if contacted should come forward with a viable group insurance scheme to cover the employees in the match factories of Sivakasi area. The premium of the group insurance policy should be the liability of the employers to meet as a condition of service.

13. M.C. Mehta v. Union of India (Tanneries cases)1991 Supp (1) SCC

1. All the tanneries falling within category B of the report are directed to ensure that the Primary Treatment Plant installed by them have proper solid waste disposal within a period of six weeks. After taking the effective measures, the tanneries will submit report to the State Pollution Control Board and obtain certificate from them. Thereafter they may approach this Court for further orders, if necessary. The tanneries falling within this category are.....
2. The tanneries falling within Category C have several defects in treatment plant as pointed out by the Committee inasmuch as their operation and maintenance is rudimentary and the plant is not in regular operation. The tanneries are directed to remove the defects and keep the Primary Treatment Plant in regular operation. They are allowed six weeks' time for removing the defects. These tanneries are....
3. The tanneries which are included in category D-1 of the report, namely ,....have not installed any Primary Treatment Plant and they have also failed to obtain approval letter from the State Pollution Control Board even though the tanneries are in operation. We accordingly direct that these tanneries shall be closed forthwith. The District Magistrate, Kanpur is directed to ensure the compliance of this order. However, these tanneries may take measures to remove the defects pointed out by the Committee and to obtain certificate from the State Pollution Control Board, thereafter they may approach this Court, for obtaining further orders for operating their tanneries.
4. The tanneries working in Category D-2 do not have treatment plant in working order, and it needs rectification repairs and removal of defects. These tanneries are directed to take steps for removal of the defects to ensure effective operation of Primary Treatment Plant within six weeks. On the removal of the defects, the tanneries will obtain certificates from the state Pollution Control Board. If no certificate is obtained within a period of six weeks, the Pollution Board and the District Magistrate shall ensure closure of these tanneries and in the event of obtaining certificate from the Board, the tanneries may if necessary, approach this Court for further orders. These tanneries are.....

14. A.S.Krishna & Co. Pvt. Ltd. v Land Acquisition Officer (1992) 1 SCC 141

1. An All India judicial Service should be set up and the Union of India should take appropriate steps in this regard.
2. Steps should be taken to bring about uniformity in designation of officers both in civil and the criminal side by March 31, 1993.
3. Retirement age of judicial officers be raised to 60 years and appropriate steps are to be taken by December 31, 1992.
4. As and when the Pay Commission/Committees are set up in the States and Union territories, the question of appropriate pay scale of Judicial officers be specifically referred and considered.
5. A working library at the residence of every judicial officer has to be provided by June 30, 1992. Provision for sumptuary allowance as states has to be made.
6. Residential accommodation to every judicial officer has to be provided and until State accommodation is available, government should provide requisitioned accommodation for them in the manner indicated by December 31, 1992. In providing residential accommodation, availability of an office room should be kept in view.
7. Every District Judge and Chief Judicial Magistrate should have a State vehicle, judicial officers in sets of five should have a pool vehicle and others would be entitled to suitable loans to acquire two wheeler automobiles within different time limits as specified.
8. In-service Institute should be set up within one year at the Central and State or Union territory level.

15. M.C. Mehta v. Union of India (Cinema hall case) (1992) 1 SCC 358

1. Respondents 1,2 and 3 shall issue appropriate directions to the State Government and Union Territories to invariably enforce as a condition of license of all cinema halls, touring cinemas and video parlours to exhibit free of cost at least two slides/messages on environment in each show undertaken by them. The Ministry of Environment should within two months from now come out with appropriate slide material which would be brief but efficiently carry the message home on various aspects of environment and pollution. This material should be circulated directly to the Collectors who are the licensing authorities for the cinema exhibition halls under the respective State laws for compliance without any further direction and helping the cinema halls and video parlours to comply with the requirements of our order. Failure to comply with our order should be treated as a ground for cancellation of the license by the appropriate authorities. The material for the slide should be such that it would at once be impressive, striking and leave an impact on everyone who sees the slide.
2. The Ministry of Information and Broadcasting of the Government of India should without delay start producing information films of short duration as is being one now on various aspects of environment and pollution bringing out the benefits for society on the environment being protected and the hazards involved in the environment being protected being polluted. Mind catching aspects should be made the central theme of such short films. One such film should be shown, as far as practicable, in one show everyday by the cinema halls and the Central Governments are directed to ensure compliance with this condition from February 1, 1992.

3. Realizing the importance of the matter of environment and the necessity of protecting it in an unpolluted (sic) for as we had suggested to learned Attorney-General to have dialogue with the ministry of information and Broadcasting as to the manner the All India Radio and Doordarshan can assist this process of education. We are happy to indicate that learned Attorney-General has told us that five to seven minutes can be devoted everyday on there could be, once a week, a longer programme. We do not want to project an impression that we are authorities on the subject, but we should suggest to the programme-controlling authorities of Doordarshan and the All India Radio to take proper steps to make interesting programmes and broadcast the same on the radio and exhibit the same on the television. The national network as also the State Doordarshan Centers should immediately stake steps to implement this direction so that from January 1, 1992, regular compliance can be made.
4. We accept on principle that through the medium of education awareness of the environment and its problems related to pollution should be taught as a compulsory subject. Learned Attorney-General pointed out to us that the Central Government is associated with education at the higher levels and the University Grants Commission can monitor only the undergraduates and post-graduate studies. The rest of it, according to him, is a State subject. He has agreed that the University Grants Commission will take appropriate steps immediately to give effect to what we have said, i.e., requiring the Universities to prescribe a course on environment. They would consider the feasibility of making this a compulsory subject at every level in college education. So far as education up to the college level is concerned, we would require every state Government and every Education Board connected with education up to the matriculation stage or even intermediate colleges to immediately take steps to enforce compulsory education on environment in a graded way. This should be so done that in the next academic year there would be compliance with this requirement.

16. M.C.Mehta v. Union of India (Stone crushers case) (1992) 3 SCC 256

1. The mechanical stone crushers established/operating in... and in any other area of the Union territory of Delhi shall stop operating/functioning with effect from August 15, 1992. No stone crusher shall operate in the Union Territory of Delhi from August 15, 1992, onwards.
2. The mechanical stone crushers established / operating in shall stop operating / functioning with effect from August 5, 1992. No stone crusher shall operate in the above-said area from August 15, 1992 onwards.
3. The stone crushers in the Union territory of Delhi....etc which do not have valid licenses from the authorities under the Delhi Municipal Corporation Act, 1957/ Faridabad Complex Administration (Regulations and Development) Act, 1971 or from any other authority which the law requires, shall stop functioning and operating with immediate effects.
4. The stone crushers, in respect of which closure-orders/directions have been issued by the Central Pollution Control Board under Section 31-A of Air (Prevention and Control of Pollution) Act, 1981 or by the Central Government under section 5 of the Environment (Protection) Act, 1986, shall stop functioning/operating with immediate effect.
5. The Delhi Development Authority through its Vice-Chairman and Commissioner (Planning), the Delhi Municipal Corporation through its Commissioner, Faridabad Complex Administration through its Chief Administrator, Director Town and Country Planning Department, Haryana, Deputy Commissioner Faridabad, Haryana Urban Development Authority through its Commissioner/ Chief executive, Central Pollution Control Board through its Member-Secretary, Central Government under the Environment (protection) Act, 1986 and the Commissioner Police Delhi are directed to ensure the compliance with our above orders.

6. The officers of the Town and Country Planning Department, Government of Haryana, who were present in Court, informed us that a new "crushing zone" has been approved at village Pali and the lay-out Plan has been prepared and is in the process of demarcation by the Haryana Urban Development Authority. The said "crushing zone" has been set up with the object of rehabilitating the existing stone crushers who are being stopped from functioning as a result of our orders. We, therefore, direct the State of Haryana through the Director, Town and Country Planning Department, Haryana, Chandigarh, the Chief Administrator Faridabad Complex Administration, the Deputy Commissioner, Faridabad and the Haryana Urban Development Authority to demarcate, and allot the sites to the stone crushers mentioned in paras 1,2,4 and 4 above by draw of lots or by any other fair and equitable method. We further direct these authorities to provide additional land in or around the 'crushing zone' if there is not sufficient land in the said zone to accommodate all the stone crushers within a period of six months from today. The Director, Town and Country Planning Department, Haryana, Chandigarh, is further directed to send a progress report to the Registry of this Court before July 31, 1992 in this respect.

17 .Mr. Rajangam, Secretary District Beedi Workers' Union v. State of Tamil Nadu and others AIR 1993 SC 404

1. The beedi and Cigar Workers (Conditions of Employment) Rules, 1968 should be strictly implemented and once that is done the evil of not furnishing the books to the home workers would be eradicated.
2. An establishment of the Regional Provident Fund Commissioner with full equipment for the purpose of implementation of the Statute should be located within the area and the Regional Provident Fund Commissioner should have directions to enforce the Act in all aspects. This establishment should start functioning within three months from now.
3. The labour laws as also the Beedi and Cigar Workers (Conditions of employment) Act should be strictly enforced so that the workers get their legitimate dues and the conditions of employment improve.
4. Tobacco manufacturing has indeed health hazards. Child labour in this trade should therefore be prohibited as far as possible and employment of child labour should be stopped either immediately or in a phased manner to be decided by the State Governments but within a period not exceeding three years from now. The provisions of Child Labour Abolition Act, 1986 should be strictly implemented.
5. Contract labour system, it is alleged, is indispensable in this trade. The Union Government is directed to look into this aspect of the matter and take its final decision one way or the other within six months from now.
6. Beedi trade is a flourishing one. Exploitation of labour is rampant in this trade. A governmental labour establishment should be located in the area with full complement to answer the requirements of the matter.
7. Since beedi manufacturing process is carried more outside the factory than within, the system of maintaining the registers as a regulating practice has become necessary. Great care should, therefore, be taken to ensure the maintenance of the register system as the bulk of the employees outside the factories can be regulated only through the record maintained in the registers.
8. The Beedi Workers Welfare Cess Act, 1976 and the Beedi Workers Fund Act, 1976 which contain beneficial provision should be implemented in the true spirit and since they are legislation of the Central Government, the machinery of the Central Government should be made operational in the area.
9. Grievance has been made that the pass books are not maintained in the names of actual workers. This should be ensured.

10. The Welfare Fund should be properly administered after and in the case of death of a woman appropriate assistance should be extended out of the Fund quickly.
11. In view of the health hazard involved in the manufacturing process, every worker including children, if employed, should be insured for a minimum amount of Rs. 50,000/- and the premium should be paid by the employer and the incidence should not be passed on to the workman.

18. In Janata Dal v. H.S. Choudhary (AIR 1993 SC 892) –

It was held by the Hon'ble Supreme Court that "Public Interest Litigation has been defined as a legal action initiated by a Court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected. The Court also deprecated to field PIL to settle political score and it was held "It is clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will have locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any other oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold."

19. T. N. Mathur v. State of U.P. 1993 Supp (1) SCC 722

1. The state of U.P. was directed that the persons detained must be housed in a lock-up which will provide at least 40 Sq.ft. per person with minimal facilities of some furniture such as a cot for each of the detained persons and supply of potable water. Having regard to the climatic conditions of the place the lock-up should provide for an electric fan. There must be hygienic arrangements for toilet. The State of U.P. shall ensure the satisfaction of these conditions wherever such arrests and detentions are resorted to.

20. Common Cause v. Union of India (1996) 1 SCC 753

1. The Union Government shall take steps to establish forth with a National Council of Blood Transfusion as a society registered under the Societies Registration Act. It would be representative body having in it representation from the Director General of Health Services of the Government of India, the drug controller of India, Indian Red Cross Society, private blood banks including the Indian Association of the Blood Banks, major medical and health institutions of the country and non-government organisation active in the field of securing voluntary blood donations. In order to ensure coordination with the activities of the National Aids Control Organization, the Additional Secretary in the ministry of Health, who is in charge of the operations of the programme of National Aids Control Organisation for strengthening the blood banking system could be the President of the National Council.
2. The National Council shall have a Secretariat at Delhi under the charge of a Director.
3. The basic requirements of the funds for the functioning of the National council shall be provided by the Government of India but the National Council shall be empowered to raise funds from various other sources including contributions from trade, industry and individuals.
4. In consultation with the National Council, the state Government/Union Territory Administrations shall establish a State Council in each State/Union Territory

which shall be registered as a society under the Societies Registration Act. The State Council should be a representative body having in it representation from Directorate of health Services in the State. State Drug Controller, department of Finance of the State Government / Union Territory Administration, important medical institutions in the State Government/ Union Territory, Indian Red Cross Society, private blood banks, non-governmental organisation active in the field of securing voluntary blood donations. The Secretary of the Government in charge of the Department of Health could be the President of the State Council.

5. The state Council Should have its headquarters at the premises of the premier medical institution or hospitals.

21. Indian Council for Enviro-Legal Action v. Union of India (1996) 5 SCC 281

1. Considering the fact that the Pollution Control Boards are not only overworked but simultaneously have a limited role to play insofar as it relates to controlling of pollution for the purpose of ensuring effective implementation of the notifications of 199 and 1994, as also of the Management plans, the Central Government should consider setting up under section 3 of the Act, State Coastal Management Authorities in each State or zone and also a National Coastal Management Authority.
2. The States which have-not filed the Management plans with the Central Government are directed to file the complete plans by 30-6-1996. The Central Government shall finalise and approve the said plans, with or without modifications within three months thereafter. It is possible that the plans as submitted by the respective State Governments and Union Territories may not be acceptable to the Ministry of Environment and Forests. Returning the said plans for modifications and then resubmission of the same may become an unnecessary, time-consuming and, perhaps a futile exercise. In order to ensure that these plans are finalised at the very earliest, we direct that the plans as submitted will be examined by the Central Government who will inform the State Government or the Union Territory concerned with regard to any shortcomings or modifications which the Ministry of environment and Forests may suggest. If necessary, a discussion amongst the representatives of the State Governments and the Ministry of environment and Forests may suggest. If necessary, a discussion amongst the representatives of the State Governments and the Ministry of environment and Forests should take place and thereafter the plans should be finalised by the Ministry of Environment, if necessary, by carrying out such modifications as may be required. The decision by the Ministry of Environment and Forests in this regard shall be final and binding.

22. Vellore Citizens' Welfare Forum v. Union of India (1996) 5 SCC 647

1. The Central Government shall constitute an authority under section 3(3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the powers necessary to deal with the situation created by the tanneries and other polluting industries in the State of Tamil Nadu. The authority shall be headed by retired Judge of the High Court and it may have other members- preferably with expertise in the field of pollution control and environment protection - to be appointed by the Central Government. The Central Government shall confer on the said authority the powers to issue directions under Section 5 of the Environment Act and for taking ensures with respect to the matters referred to in clause (v), (vi), (vii), (viii), (ix), (x) and (xii) of sub-section (2) of section 3. The Central Government shall constitute the authority before September 30, 1996.
2. The authority so constituted by the Central Government shall implement the "Precautionary Principle" and "Polluter pays Principle". The authority shall, with

the help of expert opinion and after giving opportunity to the polluter concerned assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/ families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/ families. The authority shall further determine the compensation to be recovered from the polluter as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.

3. The authority shall compute the compensation under two heads namely, for reversing the ecology and for payment to individuals. A statement showing the total amount to be recovered, the names of the polluters from whom the amount is to be recovered, the amount to be recovered from each polluter, the persons to whom the compensation is to be paid and the amount payable to each of them shall be forwarded to the Collectors/ District Magistrate shall recover the amount from the polluters, if necessary, as arrears of land revenue. He shall disburse the compensation awarded by the authority to the affected persons/families.
4. The authority shall direct the closure of the industry owned/managed by a polluter in case he evades or refuses to pay the compensation awarded against him. This shall be in addition to the recovery from him as arrears of land revenue.
5. An industry may have set up the necessary pollution control device at present but it shall be liable to pay for the past pollution generated by the said industry which has resulted in the environmental degradation and suffering to the residents of the area.
6. We impose pollution fine of Rs. 10,000/- each on all the tanneries in the districts of North Arcot Ambedkar, Erode, Periyar, Dindigul Anna, Trichi and Chengai M.G.R. The fine shall be paid before October 31, 1996 in the office of the Collectors/District Magistrate concerned. We direct the Collectors/District Magistrates of these districts to recover the fines from tanneries. The money shall be deposited, along with the compensation amount recovered from the polluter, under a separate head called "Environment Protection Fund" and shall be utilized for compensating the affected persons as identified by the authorities and also for restoring the damages environment. The Pollution fine is liable to be recovered as arrears of land revenue. The tanneries which fail to deposit the amount by October 32, 1996 shall be closed forthwith and shall also be liable under the Contempt of Courts Act, 1971.
7. The authority, in consultation with expert bodies like NEERI, Central Board, Board shall frame scheme/schemes for reversing the damage caused to the ecology and environment by pollution in the State of Tamil Nadu. The scheme/schemes so framed shall be executed by the State Government under the supervision of the Central Government. The expenditure shall be met from the "Environment Protection Fund" and from other sources provided by the State Government and the Central Government.
8. We suspend the closure order in respect of all the tanneries in the five districts of North Arcot Ambedkar, Erode, Periyar, Dindigul Anna, Trichi and Channai M.G.R. We direct all the tanneries in the above five districts to set up CETPs or Individual pollution Control Devices on or before November 30, 1996. Those connected with CETPs shall have to install in addition the primary devices in the tanneries. All the tanneries in the above five districts shall obtain the consent of the Board to function and operate with effect from December 15, 1996. The tanneries who are refused consent or who fail to obtain the consent of Board by December 15, 1996. The tanneries who are refused consent or who fail to obtain the consent of the Board by December 15, 1996 shall be closed forthwith.
9. We direct the Superintendent of Police and the Collector/ District Magistrate/ Deputy Commissioner of the district concerned to close all those tanneries with immediate effect who fail to obtain the consent from the Board by the said date. Such tanneries shall not be responded unless the authority permits them to do so.

10. Government order No. 213 dated March 30, 1989 shall be enforced forthwith. O new industry listed in Annexure I to the notification shall be permitted to be set up within the prohibited area. The authority shall review the cases of all the industries which are already operating in the prohibited area and it would be open to the authority to direct the relocation of any of such industries.
11. The Standards stipulated by the Board regarding total dissolved solids (TDS) and approved by the NEERI shall be operative. All the tanneries and other industries in the State of Tamil Nadu shall comply with the said standards. The quality of ambient waters has to be maintained through the stands stipulated by the Board.

23. Vishaka v. state of Rajasthan AIR 1997 SC 3011

1. It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.
2. For this purpose, sexual harassment includes such unwelcome sexually determined behavior (whether directly or by implication) as:
 - a) physical contact and advances;
 - b) a demand or request for sexual favours;
 - c) sexually coloured remarks,
 - d) showing pornography;
 - e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in Government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. All employers or persons in charge of work place whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:
 - (a) Express prohibition of sexual harassment as defined above at the work place would be notified, published and circulated in appropriate ways.
 - (b) The Rules/ Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
 - (c) As regards private employers steps should be taken to include the aforesaid prohibition in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.
 - (d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have

reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.
6. Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.
7. The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counselor or other support service, including the maintenance of confidentiality.

The complaints committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such a Complaints Committee should involve a third party, either an NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government Department.

8. Employees should be allowed to raise issues of sexual harassment at workers' meetings and in other appropriate forums and it should be affirmatively discussed in employer-employee meetings.
9. Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.
10. Where sexual harassment occurs as a result of an act or omission by any third party or outside, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.
11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in the Private Sector.

24 . Vineet Narain v. Union of India (1998) 1 SCC 226

I) CENTRAL BUREAU OF INVESTIGATION (CBI) AND CENTRAL VIGILANCE COMMISSION (CVC)

1. The Central Vigilance Commission (CVC) shall be given statutory status.
2. Selection for the post of Central Vigilance Commissioner shall be made by a Committee comprising the Prime Minister, Home Minister and the Leader of the Opposition from a panel of outstanding civil servants and

others with impeccable integrity, to be furnished by the Cabinet Secretary. The appointment shall be made by the President on the basis of the recommendations made by the Committee. This shall be done immediately.

3. The CVC shall be responsible for the efficient functioning of the CBI. While Government shall remain answerable for the CBI's functioning, to introduce visible objectivity in the mechanism to be established for over viewing the CBI's working, the CVC shall be entrusted with the responsibility of superintendence over the CBI's functioning. The CBI shall report to the CVC about cases taken up by it for investigation; progress of investigations; cases in which charge sheets are filed and their progress. The CVC shall review the progress of all cases moved by the CBI for sanction of prosecution of public servants which are pending with the competent authorities specially those in which sanction has been delayed or refused.
4. The Central Government shall take all measures necessary to ensure that the CBI functions effectively and efficiently and is viewed as a non-partisan agency.
5. The CVC shall have a separate sanction in its Annual Report on the CBI's functioning after the supervisory function is transferred to it.
6. Recommendations for appointment of the Director, CBI shall be made by a Committee headed by the Central Vigilance Commissioner with the Home Secretary and Secretary 9 Personnel) as members. The views of the incumbent Director shall be considered by the Committee for making the best choice. The Committee shall draw up a panel of IPS Officers on the basis of their seniority, integrity, experience in investigation and anti-corruption work. The final selection shall be made by the Appointments Committee of the Cabinet (ACC) from the panel recommended by the Selection Committee. If none among the panel is found suitable, the reasons thereof shall be recorded and the Committee asked to draw up a fresh panel.
7. The Director, CBI shall have a minimum tenure of two years, regardless of the date of his superannuation. This would ensure that an officer suitable in all respects is not ignored merely because he has less than two years to superannuate from the date of his appointment.
8. The transfer of an incumbent Director, CBI in an extraordinary situation, including the need for him to take up a more important assignment, should have the approval of the Selection Committee.
9. The Director, CBI shall have full freedom for allocation of work within the agency as also for constituting teams for investigations. Any change made by the Director, CBI in the Head of an investigative team should be for cogent reasons and for improvement in investigation, the reasons being recorded.
10. Selection/ extension of tenure of officers up to the level of Joint Director (JD) shall be decided by a Board comprising the Central Vigilance Commissioner, CBI providing the necessary inputs. The extension of tenure or premature repatriation of officers up to the level of Joint Director shall be with final approval of this Board. Only cases pertaining to the appointment or extension of tenure of officers of the rank of Joint Director or above shall be referred to the Appointments Committee of the Cabinet (ACC) for decision.
11. Proposals for improvement of infrastructure, methods of investigation, etc. should be decided urgently. In order to strengthen CBI's in-house

expertise, professionals from the Revenue, Banking and Security sectors should be inducted into the CBI.

12. The CBI Manual based on statutory provisions of the Cr.P.C. provided essential guidelines for the CBI's functioning. It is imperative that the CBI adheres scrupulously to the provision in the Manual in relation to its investigative functions like raids, seizure and arrests. Any deviation from the established procedure should be viewed seriously and severe disciplinary action taken against the officials concerned.
13. The Director, CBI shall be responsible for ensuring the filing of charge-sheets in courts within the stipulated time-limits, and the matter should be kept under constant review by the Director, CBI.
14. A document on CBI's functioning should be published within three months to provide the general public with a feedback on investigations and information for redress of genuine grievances in a manner which does not compromise with the operational requirements of the CBI.
15. Time-limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other law officer in the AG's office.
16. The Director, CBI should conduct regular appraisal of personnel to prevent corruption and/ or inefficiency in the agency.

II- ENFORCEMENT DIRECTORATE

1. A Selection Committee headed by the Central Vigilance Commissioner and including the Home Secretary, Secretary (Personnel) and Revenue Secretary, shall prepare a panel of appointment of the Director, Enforcement Directorate the appointment to the post of Director shall be made by the Appointments Committee of the Cabinet (ACC) from the panel recommended by the Selection Committee.
2. The Director, Enforcement Directorate like the Director, CBI shall have a minimum tenure of two years. In his case also, premature transfer for any extraordinary reason should be approved by the aforesaid Selection Committee headed by the Central Vigilance Commissioner.
3. In view of the importance of the post of Director, Enforcement Directorate, it shall be upgraded to that of an Additional Secretary/ Special Secretary to the Government.
4. Officers of the Enforcement Directorate handling sensitive assignments shall be provided adequate security to enable them to discharge their functions fearlessly.
5. Extensions of tenure up to the level of Joint Director in the Enforcement Directorate should be decided by the said Committee headed by the Central Vigilance Commissioner.
6. There shall be no premature media publicity by the CBI/ Enforcement Directorate within a period of one year.
7. Adjudication/commencement of prosecution shall be made by the Enforcement Directorate within a period of one year.
8. The Director, Enforcement Directorate shall monitor and ensure speedy completion of investigations/adjudications and launching of prosecutions. Revenue Secretary must review their progress regularly.

9. For speedy conduct of investigations abroad, the procedure to approve filing of applications for Letters Rogatory shall be streamlined and, if necessary, Revenue Secretary authorized to grant the approval.
10. A comprehensive circular shall be published by the Directorate to inform the public about the procedures/systems of its functioning for the sake of transparency.
11. In-house legal advice mechanism shall be strengthened by appointment of competent legal advisers in the CBI/Directorate of Enforcement.
12. The Annual Report of the Department of Revenue shall contain a detailed account of the working of the Enforcement Directorate.

III) NODAL AGENCY

1. A Nodal Agency headed by the Home secretary with Member (Investigation), Central Board of Direct Taxes, Director General, Revenue Intelligence, Director, Enforcement and Director, CBI as members, shall be constituted for coordinated action in cases having politico-bureaucrat-criminal nexus.
2. The Nodal Agency shall meet at least once every month.
3. Working and efficacy of the Nodal Agency should be watched for about one year so as to improve it upon the basis of the experience gained within this period.

IV) PROSECUTION AGENCY

1. A panel of competent lawyers of experience and impeccable reputation shall be prepared with the advice of the Attorney General. Their services shall be utilized as prosecuting counsel in cases of significance. Even during the course of investigation of an offence, the advice of a lawyer chosen from the panel should be taken by the CBI/Enforcement Directorate.
2. Every prosecution which results in the discharge or acquittal of the accused must be reviewed by a lawyer on the panel and on the basis of the opinion given; responsibility should be fixed for dereliction of duty, if any, of the officer concerned. In such cases, strict action should be taken against the officer found guilty of dereliction of duty.
3. The preparation of the panel of lawyers with the approval of the Attorney General shall be completed within three months.
4. Steps shall be taken immediately for the constitution of an able and impartial agency comprising persons of unimpeachable integrity to perform functions akin to those of the Director of prosecution in U.K. On the constitution of such a body, the task of supervising prosecutions launched by the CBI/ Enforcement Directorate shall be entrusted to it.
5. Till the constitution of the aforesaid body, Special Counsel shall be appointed for the conduct of important trials on the recommendation of the Attorney General or any other law officer designated by him.

24. In J Jayalalitha v Government of Tamil Nadu AIR 1999 SC 2330

Sports stadium earlier ban, and to lifting the ban prohibiting the use of a sports stadium for purposes other than sports in order to facilitate the

Chief Minister to his platinum jubilee celebration were held to be not justified. However permitted without making a precedent so long as ban continues.

25. M.C. Mehta v. Union of India (1999) 6 SCC 12

1. All private (non-commercial) vehicles which conform to Euro II norms may be registered in NCR without any restriction.
2. All private (non-commercial) vehicles shall conform to Euro I norms by 1.6.1999. All private (non-commercial) vehicles shall conform to Euro II norms by 1.4.2000. Vehicles may in the meanwhile be registered in the manner indicated below:

With effect from 1.5.1999, 250 diesel-driven vehicles per month and 1250 petrol driven vehicles per month may be registered on first-cum-first-serve basis in NCR, till 1.4.2000 only if they conform to Euro I norms. From 1.4.2000 no vehicle shall be registered unless it conforms to Euro II norms.

3. So far as the ban on the registration of diesel-driven taxis is concerned, that shall be strictly enforced, unless the taxis (diesel) shall be registered with immediate effect unless it conforms to Euro II norms.
4. With a view to facilitate registration in the manner indicated above, the registering authority may register the vehicle concerned on a certificate of the manufacturer, duly authenticated by the authorized officer certifying that the vehicle concerned conforms to Euro I/Euro II norms.

26. Vishwa Jagriti Mission v. Central Government (2001) 6 SCC 577

1. Anti-ragging movement should be initiated by the institutions right from the time of advertisement for admission. The prospectus, the form for admission and/ or any other literature issued to the aspirants for admission must clearly mention that ragging is banned in the institution and anyone indulging in ragging is likely to be punished appropriately, which punishment may include expulsion from the institution, suspension from the institution or classes for a limited period or fine with a public apology. The punishment may also take the shape of : (i) withholding scholarships or other benefits, (ii) debarring from representation in events, (iii) withholding results, and a (iv) suspension or expulsion from hostel or mess, and the like. If there be any legislation governing ragging or any provisions in the statute/ ordinances they should be brought to the notice of the students/parents seeking admissions.
2. The application form for admission/ enrolment shall have a printed undertaking to be filled up and signed by the candidate to the effect that he/she is aware of the institutions approach towards ragging and the punishments to which he or she shall be liable if found guilty of ragging. A similar undertaking shall be obtained from the parent/guardian of the applicant.
3. Such of the institutions as are introducing such a system for the first time shall ensure undertaking being obtained from the students and their parents/guardians- already studying in the institutions before the commencement of the next educational year/sessions.
4. A printed leaflet detailing when and to whom one has to turn for information, help and guidance for various purposes, keeping in view the needs of new entrants in the institution, along with the addresses and

telephone numbers of such persons, should be given to fresher at the time of admissions so that the fresher need not look up to the seniors for help in such matters and feel indebted to or obliged by them.

5. The management, the principal, the teaching staff should interact with freshers and take them in confidence by apprising them of their rights as well as obligation to fight against ragging and to generate confidence in their mind that any instance of ragging to which they are subjected or which comes in their knowledge should forthwith be brought to their knowledge and shall be promptly dealt with while protecting the complainants from any harassment by the perpetrators of ragging. It would be better if the head of the institution or a person high in authority addresses meeting of teachers, parents and students collectively or in groups in this behalf.
6. At the commencement of the academic session, the institution should constitute a Proctorial Committee consisting of senior faculty members and hostel authorities like Wardens and a few responsible senior students:
 - (i) to keep a continuous watch and vigil over ragging so as to prevent its occurrence and recurrence,
 - (ii) to promptly deal with the incidents of ragging brought to its notice and summarily punish the guilty either by itself or by putting forth, its findings /recommendations /suggestions before the authority competent to take decision.All vulnerable locations shall be identified and especially watched.
7. The local community and the students in particular must be made aware of the dehumanizing effect of ragging inherent in its perversity. Poster, notice boards and signboards- wherever necessary, may be used for the purpose.
8. Failure to prevent ragging shall be constructed as an act of negligence in maintaining discipline in the institution on the part of the management, the principal and the persons in authority of the institution. Similar responsibility shall be liable to be fixed on Hostel Wardens / Superintendents.
9. The hostel/ accommodations where freshers are accommodated shall be carefully guarded, if necessary by posting security personnel, and placed in charge of a Warden/ Superintendents who should himself/ herself reside there, and wherein the entry of seniors and outsiders shall be prohibited after a specified hour of the night and before except under the permission of the person in charge. Entry at other times may also be regulated.
10. If the individuals committing or abetting ragging are not identified, collective punishment could be resorted to act as a deterrent punishment and to ensure collective pressure on the potential raggings.
11. Migration certificate issued by the institution should have an entry apart from that of general conduct and behavior whether the student had participated in and in particular was punished for ragging.
12. If an institution fails to curb ragging, UGC/funding agency may consider stoppage of financial assistance to such an institution till such time as it achieves the same. A university may consider disaffiliating a college or institution failing to curb ragging.
13. The universities and the institution shall, at a reasonable time before the commencement of an academic year, and thereafter at such frequent intervals as may be expedient, deliberate over and devise such positive

and constructive activities to be arranged by involving the students generally so that the senior and juniors, and the existing students and the freshers, interact with each other in a healthy atmosphere and develop a friendly relationship so as to behave like members of a family in an institution. Senior or junior should be encouraged to exhibit their talents in such events so as to shed their complexes.

27. BALCO Employees Union (Regd.) V. Union of India 2002 (2) SCC 333:

Hon'ble SC held that, "However, public interest litigation was not meant to be a weapons to challenge the financial or economic decisions which are taken by the government in exercise of their administrative power. No doubt a person personally aggrieved by any such decision, which he regards as illegal, can impugne the same in a Court of law, but a PIL at the behest of a stranger ought not to be entertained."

28. In 5 M & T Consultants v. S.Y. Nawab and Ors. 2003 (8) SCC 100

Hon'ble SC held that, "That facts averred in the writ petition and the stand pursued before this court also would bring out the real object i.e. vindication of his own personal interests and there is nothing in the matter involving any great public interest, which can justify any public outcry through a PIL."

If the Court is of the view that the said private Interest litigation is filed in the name of PIL and is for the benefit of the individual person and not for the benefit of the public at large then, the PIL is dismissed with heavy costs.

(Gaurav Jain)

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