

Is Public Interest Litigation an Appropriate Vehicle for Advancing Road Safety?

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Public interest litigation has value as a tool for enhancing road safety. But it is unlikely to succeed if it asks courts to give directions to the government on a wide range of road safety policies, or if it asks for amendments to the law, or if it asks the judges to direct the government on desired legislation. It has a fair likelihood of success in a high court if the petitioners focus on aspects of road safety for which laws are already on the books but are not being enforced properly. The Supreme Court is likely to consider the issue favourably only if the petitioners make a convincing argument that unsafe roads have a negative impact on a fundamental constitutional right.

This is a short analysis on the appropriateness of public interest litigation (PIL) as an avenue to ensure the success of policies on road safety.

I do not argue about the rights or wrongs of the PIL mechanism, or whether the process has come unmoored from its original intent as conceived by Justices P N Bhagwati and V R Krishna Iyer in the late 1970s. Many scholars have presented detailed arguments, analyses, and opinions on the many facets of this issue (Trubek and Trubek 1981; Baxi 1985; Cassels 1989; Desai and Muralidhar 2000; Krishnan 2003, 2006; Mehta 2007; Deva 2009; Gauri 2009; Sen 2012; Fowkes 2012). I present my interpretation of the higher judiciary's current perception of the role and limitations of PIL as far as the specific issue of road safety is concerned. The former includes righting a legal wrong, which is unarguably a judicial function, and the latter, formulating policies and laws, which is an executive and legislative function.

Seeing PILs as limited to righting legal wrongs is very much in accord with the original intent as Baxi pointed out almost 30 years ago when he noted that they are primarily "concerned with combating repression and government lawlessness", and are tools to "ensure that authorities of the state fulfill the obligations of law under which they exist and function" (1985). In this context, it is helpful to keep in mind that a "legal wrong" can occur in two ways – through violation of an existing law, or through violation of a fundamental right, even if no specific statute has been violated in the latter case.

PIL can be a double-edged sword, particularly in the Supreme Court if the judges see it as asking them to "give directions of a legislative or executive nature" since the contemporary court generally does not consider such matters a legitimate judicial function. This concern is particularly well illustrated in the Court's ruling on a PIL with broad road safety policy goals. I discuss this ruling in some detail later, but mention it here to point out that this PIL was unsuccessful in that the Court saw the petitioners as attempting to use it as a policy tool and Justice Markandey Katju, the junior justice on the two-judge bench that heard the case, took the opportunity to express strong displeasure with what he saw as an abuse of the PIL process. Justice Katju's ruling effectively negated one of the Court's earlier judgments on road safety, a judgment that had a narrower scope and led to changes in government policy that resulted in increased road safety, at least in the National Capital Territory (NCT) of Delhi.

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This is not to say that the Supreme Court will not take cognisance of road safety issues. The Court has in the past ruled in favour of asking the government to enhance road safety, but such rulings are rare. I also do not say that PIL has no value as a tool for enhancing road safety. The high courts, particularly those whose jurisdictions include large metropolitan areas, have been somewhat more willing to step into the policy vacuum, but their rulings only have an impact within their territory.

Road Safety in Rulings by the Supreme Court

Road safety as a stand-alone litigable matter generally does not make its way to the Supreme Court. The Court has sometimes made observations on issues related to road safety, but has rarely ruled on road safety issues, the few exceptions being a series of related rulings in 1997-98 on cases filed by a public interest lawyer, and on a PIL by a public advocacy organisation in 2008.

As Dicta

The Supreme Court does take note of the dangerous conditions on roads in India, and has sometimes expressed its dismay about the government's apparent lack of focus on road safety. Unfortunately, in almost all such cases, the expression of dismay occurs in dicta, alongside rulings on criminal or civil appeals on convictions in the lower courts for various offences related to road accidents or violations of the Motor Vehicles Act, 1988 and other laws.¹

One of the earliest cases where the Supreme Court uses strong language on the issue of road safety is *Ratan Singh vs State of Punjab*, 1979 SCC (4) 719 (also cited as 1980 AIR 84 and 1980 SCR (1) 846). The case came to the Court on an appeal by a truck driver who had been convicted of the criminal offence of causing death by rash and negligent driving. While denying the appeal and affirming the driver's sentence, more than half the Court's short judgment (less than 1,000 words) was an expression of distress on the state of road safety in India. Among other observations, it said,

More people die of road accidents than by most diseases, so much so the Indian highways are among the top killers of the country. What with frequent complaints of the State's misfeasance in the maintenance of roads in good trim, the absence of public interest litigation to call state transport to order, and the lack of citizens' tort consciousness, and what with the neglect in legislating into law no-fault liability and the induction on the roads of heavy duty vehicles beyond the capabilities of the highways system, Indian Transport is acquiring a menacing reputation which makes travel a tryst with Death. It looks as if traffic regulations are virtually dead and police checking mostly absent. By these processes of lawlessness, public roads are now lurking death traps. The State must rise to the gravity of the situation and provide road safety measures through active police presence beyond frozen indifference, through mobilisation of popular organisations in the field of road safety, frightening publicity for gruesome accidents, and promotion of strict driving licensing and rigorous vehicle invigilation, lest human life should hardly have a chance for highway use.

In Rulings

1997 and 1998 Rulings on the M C Mehta PIL: In a series of connected judgments delivered in 1997 and 1998, the Supreme Court made some landmark rulings on enhancing road safety.² This case was initiated by a writ petition filed by M C Mehta, a

public interest lawyer, in 1985.³ The Court accepted the case as a PIL and issued its initial ruling in 1997 and its final ruling in 1998.⁴ Among other things, the original writ petition of 1985 related to "proper management and control of the traffic in the National Capital Region (NCR) and the National Capital Territory (NCT), Delhi to ensure the maximum possible safeguards which are necessary for public safety."⁵ The Court found that the existing law had adequate provisions, "which, if properly enforced, would take care of the immediate problem and to a great extent eliminate the reasons which are the cause of the road accidents in NCR and NCT, Delhi",⁶ but that the inaction of the executive had resulted in the road safety "menace" continuing to grow in the 12 years since the writ petition had been filed. As such, the judges ruled,

It has become necessary for this Court to also issue certain directions which are required to be promptly implemented to achieve the desired result. It is needless to add that these directions are to remain effective till such time as necessary action in this behalf is taken by the concerned Executive authorities so that the continuance thereafter of these directions may not be necessary. In our opinion, the provisions of the Motor Vehicles Act, 1988, in addition to the provisions in the existing laws, for example, the Police Act and the Code of Criminal Procedure confer ample powers on the authorities to take the necessary steps to control and regulate the road traffic and to suspend/cancel the registration or permit of a motor vehicle if it poses threat or hazard to public safety. It need hardly be added that the claim of any right by an individual or even a few persons cannot override and must be subordinate to the larger public interest and this is how all provisions conferring any individual right have to be construed.⁷

The Court here lays down a new principle in Indian jurisprudence by equating the right to be safe on the roads with the right to life, a fundamental right guaranteed by Article 21 of the Constitution, and rules that it takes precedence over the Article 19 (1)(g) right "to practise any profession, or to carry on any occupation, trade or business".

The Court further ruled that the authorities can overcome the "inadequacy of personnel... [by] delegation of these powers to other authorities/officers and if need be even to responsible members of the public".⁸ It concluded its judgment by reiterating that public safety on the roads is "within the ambit of Article 21 of the Constitution", and so implicates the right to life.

2008 Ruling on the Common Cause PIL: In the 10 years since *M C Mehta vs Union of India*,⁹ Supreme Court jurisprudence appears to have moved away from issuing directives which "intrude" on the role of the legislature and the executive. This is most evident from a recent ruling by the Court on a PIL focused on road safety.

In 2003, a writ petition was filed in the Supreme Court by *Common Cause*, a public interest advocacy organisation working on multiple issues of public welfare, asking it to issue a "writ, direction or order in the nature of mandamus" directing the government to "establish Road Safety Committees", improve medical facilities, including "having readily available Ambulances", improve "road safety education", improve infrastructure, and make enforcement effective through "enactment of a Road Traffic Safety Act".¹⁰ The petitioners primarily relied on M C Mehta¹¹ in making their arguments.

The case was heard by a two-judge bench, which dismissed the petition in its judgment on 11 April 2008.¹² In separate opinions, both judges, Justice H K Sema and Justice Katju, agreed that “the Motor Vehicles Act is a comprehensive enactment on the subject... [and] that the relief sought for in this Writ Petition is adequately taken care of by the Motor Vehicles Act itself and if there is lacuna or defect [in the Act], it is [up to] the legislature to correct it by amending the Act and not the Court.”¹³ Although there was substantial difference of opinion on the value of PILs to enhance enforcement of existing laws, as we discuss later, the Court was unanimous in its decision that “the prayers made by the petitioner in this petition require us to give directions of a legislative or executive nature which can only be given by the legislature or executive”.¹⁴ The judges further said,

Policy matters, fiscal, educational or otherwise, are thus best left to the judgment of the executive. The danger of the judiciary creating a multiplicity of rights without the possibility of adequate enforcement will, in the ultimate analysis, be counter-productive and undermine the credibility of the institution. Courts cannot ‘create rights’ where none exists nor can they go on making orders which are incapable of enforcement or violative of other laws or settled legal principles.¹⁵

And added,

The justification given for judicial activism is that the executive and legislature have failed in performing their functions. ...If the legislature or executive are not functioning properly it is for the people to correct the defects by exercising their franchise properly in the next elections..., or by other lawful means...not by the judiciary taking over the functions of the other organs.¹⁶

Justice Sema disassociated himself from 15 paragraphs of Justice Katju’s judgment, paragraphs where the latter expresses “doubts about the jurisdiction of this Court entertaining the petition in the form of public interest litigation”.¹⁷ Three of the most critical of these paragraphs are,

The concern of the petitioner is that many people die in road accident. But many people also die due to murders. Should then the Court issue a general directive that murders be not committed in the country? And how would such a directive (even if issued) be implemented?¹⁸

We would be very happy to issue such directives if they could really be implementable. However, the truth is that they are not implementable (for various reasons, particularly lack of financial and other resources and expertise in the matter). For instance, the directives issued by this Court regarding road safety in M C Mehta’s case (supra) hardly seem to have had any effect because every day we read in the newspapers or see the news on TV about Blue line buses killing or injuring people.¹⁹

The directives sought for in this petition require the expertise of administrative and technical officials, apart from financial resources. Not only should the Court not give such directives because that would violate the principle of separation of powers, but also because these are highly technical matters to be left to be dealt with by administrative and technical authorities who have experience and expertise in the matter. For instance, what should be the maximum permissible speed for vehicles in a city, where should speed breakers be fixed, when should heavy vehicles be allowed on roads, and other matters for ensuring road safety are all matters to be dealt with by the concerned authorities under the Motor Vehicles Act and other enactments, and it would be wholly inappropriate for the judiciary to meddle in such matters. Decisions on such matters by the judiciary land the administrative agencies in practical difficulties and make

them bear the brunt of the decisions of the Court some of which are wholly oblivious to administrative needs and as such ill conceived.²⁰

Road Safety in the High Courts

My observation about road safety as a stand-alone litigable matter generally not making its way to the Supreme Court also applies to the high courts. The few times that the high courts have addressed road safety issues, the rulings have been on specific aspects of road safety, and limited to a specific metropolitan region as illustrated by the cases discussed next.

Blueline Bus Case – Delhi High Court: Alarmed by the high number of fatalities being caused by the so-called Blueline buses in Delhi – 61 deaths in the first six months of 2007 – a division bench of the High Court of Delhi took suo moto notice of the havoc being created on the roads of Delhi. Treating the issue of “the persistent threat to life by the blue line buses, light commercial vehicles like the vehicles being used by the Call Centres, RTVs and other heavy commercial vehicles like trucks” as being in the public interest,²¹ the court issued notice to the NCT of Delhi as well as Ministry of Transport, Government of India, and directed the NCT of Delhi to file an affidavit on enforcement of existing road rules and permitting regulations for commercial vehicles, particularly the Blueline buses. The court also asked the government to show “what action had been taken to...[enforce] the directions given by the Hon’ble Supreme Court in *M C Mehta vs Union of India* (1997) 8 SCC 770 and *M C Mehta vs Union of India* (1998) 1 SCC 676?”

Over the next four years, the high court accepted multiple submissions from the government as well as from various stakeholders and issued multiple writs. In early 2011, it consolidated several issues and delivered a lengthy judgment related to “withdrawal of the blue line buses from the city; the validity of Cluster Scheme introduced by the Court; the requirement of public transport vehicles in the city and making provision for adequate public transport keeping in view the requisite requirement of public transport to cater the need of this city” [WP (CRL) 878/2007 and Misc appls]. The judges ordered that all Blueline buses be removed from the streets of the NCR and NCT of Delhi, that the proposed cluster scheme for public transport buses was valid, and that the government make adequate public transport available within a limited time frame. The high court based its judgment on the principle laid down by the Supreme Court in an earlier judgment that “control and

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regulation of traffic...is a matter of paramount public safety and, therefore, is evidently within the ambit of Article 21 [right to life] of the Constitution” [*M C Mehta vs Union of India*, 1997 (8) SCC 770 (para 14)].

The owners and operators of the Blueline buses claimed that a ban on operations of all Blueline buses violated their right “to practise any profession, or to carry on any occupation, trade or business”, as provided in Article 19 (1)(g) of the Constitution. The high court ruled that the right to life guaranteed under Article 21 took precedence over the rights guaranteed by Article 19 (1)(g). The court said,

The right under Article 19 (1)(g) would be subject to restrictions, particularly those which protect the right to life and the liberty of citizens to move freely within their city. Article 21 is all pervading in balancing of fundamental rights. The scheme for phasing out of Blue line buses is indeed a scheme directly within the ambit and would enjoy the protection of Article 21 of the Constitution of India [WP (CRL) 878/2007 and Misc appls (para 52)].

The Court explained its hierarchic interpretation of these two constitutional rights as follows,

It is settled law that the right to life is the paramount right. It is above all other rights as may be available to a citizen. Correspondingly, it is the paramount duty of the State to protect the life of its citizens, especially from wanton killing by reckless driving of Blue line buses on the roads of Delhi. All statutes and provisions of law on the basis of which the Blue line bus operators claim any right or interest seeking extension of permits to ply their buses in Delhi, will have to be viewed from the perspective of public security and safety. All statutes would have to be read in consonance with Article 21. The fundamental right to life takes precedence over all statutory rights. The right to livelihood of the blue line bus operators, numbering a few hundred, would have to be subservient to the larger public interest of safety to other road users. That was the specific consideration in mind when the Supreme Court passed orders in *M C Mehta* (supra) and in the instant case we find it proper to adhere to the same [WP (CRL) 878/2007 and Misc appls (para 54)].

Roadside Advertisement Hoarding Case – Madras High Court: A PIL was filed in 2011 by Coimbatore Consumer Cause (ccc) against advertisements posted on central medians. In its petition, ccc noted that

according to the Ministry of Road Transport and Highways, the Union Government’s extant policy[,] and instructions and the Indian Road Congress guidelines, no advertisement was permitted on the highways except signs of public interest.

The petitioners also told the court that the union government had repeatedly sent letters to the chief ministers/chief secretaries of all the state governments and to its own officials for removal of existing advertisements on all the national highways since such advertisements were a distraction that caused accidents.

ccc had originally filed a PIL before the Supreme Court against the state and central governments, but the Supreme Court dismissed the PIL stating that the matter was a state subject and the petitioners should move the Madras High Court. ccc then filed its PIL before the Madras High Court against the district collector, highways secretary and chief secretary of the Tamil Nadu government, the National Highway Authority of India, and the Ministry of Road Transport

and Highways, Government of India. The Madras High Court ruled in the petitioner’s favour and ordered the removal of advertisement hoardings from all central medians within its jurisdiction.

Implementation of Traffic Rules and Regulations – Bombay High Court: In a series of 18 rulings beginning in February 2010, the Bombay High Court took an active, ongoing role in trying to improve road safety in Mumbai. The case was initiated by a PIL filed by the Bombay Bar Association seeking implementation of traffic rules and regulations.²² The immediate impetus for the PIL was a letter written by Armin Wandrewala, a member of the Bombay Bar Association, to the court after a run-in with the traffic police. In one of the early rulings on the case, the court directed the joint commissioner of police (traffic) to set up subcommittees headed by the zonal deputy commissioner of police to select and recommend repairs/modifications/upgrades at pedestrian crossings at more than 500 road junctions. In its ruling of 23 June 2011, the court directed that more subcommittees be appointed at the police station level for “expeditious redressal of ‘micro grievances’ of pedestrians as well as motorists in the city”.

At a later stage, the court further directed the state government to permit “utilisation of funds collected for traffic violation for the purpose of the traffic department including generation and service of notice upon traffic violators and any other measures which may be necessary for more efficient and effective enforcement of the traffic Rules.”²³ In its latest ruling, the court has directed that road signs and road markings must be improved, with priority given to “zebra crossing, stop line, arrow, yellow box, and no parking boxes”.²⁴ The court is actively monitoring compliance with its various orders.

Implementing Road Safety Guidelines – Punjab and Haryana High Court: Thirteen schoolchildren were killed in March 2013 in an accident near Nakodar in Jalandhar, Punjab, when a school van collided with a truck. The incident prompted Kamaljeet Soi, the vice chairman of Punjab’s Road Safety Council, to write to the chief justice of the Punjab and Haryana High Court complaining that “school managements, transporters, transport departments, district transport officers (DTOs), road transport authorities, motor vehicle inspectors are culprits for not implementing road safety guidelines”. The high court has initiated a PIL based on this petition.

Road Safety Measures and Traffic Management Policy – Jammu and Kashmir High Court: In a ruling issued in late August 2011 on a PIL filed by the Sajid Iqbal Foundation, the Srinagar bench of the Jammu and Kashmir High Court directed the “National Highway Authority of India that the [Srinagar-Jammu] Highway should be demarcated with signboards, glow signs, and reflectors within three months”. Concerned over the high rate of fatal road accidents in Kashmir, the Sajid Iqbal Foundation had filed the PIL asking

the court to direct the state to “formulate a comprehensive traffic management policy in Kashmir”, in addition to implementing the specific measures suggested by the foundation.

Pedestrian Safety – Karnataka High Court: On 10 April 2013, a division bench of the Karnataka High Court issued notices to the state government and various civic authorities on a PIL seeking to ensure the safety of pedestrians in Bangalore. The PIL asks the court to direct

- the Bruhat Bangalore Mahanagara Palike (BBMP, or Greater Bangalore Municipal Corporation) and the city police to remove all advertisement hoardings and obstructions on all footpaths and medians in the city to ensure safety of pedestrians;
- various city authorities to jointly maintain the footpaths on all roads in the city by providing access for prams, wheelchairs and safe crossing zones/zebra crossings at regular intervals with suitable escorts for persons with disabilities, children, and senior citizens; and
- various city authorities to ensure that adequate pedestrian facilities are provided as per Indian Road Congress standards before building new roads.

The petitioners based their claim on the novel theory that poorly maintained and/or inadequate pedestrian infrastructure impedes the constitutionally guaranteed right to “freedom of movement” for pedestrians.

Traffic Enforcement to Reduce Accidents and Fatalities – Andhra Pradesh High Court: In response to a PIL filed in the

Andhra Pradesh High Court, the Andhra Pradesh Road Safety Authority submitted that in 2012 the state recorded 27,914 accidents till August 2012, and 10,087 road deaths. The state government claimed that these figures were lower than those for the corresponding period in 2011, and that this reduction in accidents and fatalities was a result of increased enforcement. The case is still going on.

Conclusions

The PIL has value as a tool for enhancing road safety. But as the cases discussed above illustrate, a PIL is not likely to succeed if it asks the courts to give directions to the government on a wide range of road safety policies, or if it asks for amendments to the law, or asks the judges to direct the government on desired legislation. The courts are willing to evaluate the constitutionality of existing laws and policy, but the Supreme Court has made it very clear in a series of rulings in the last 10 years that a court cannot legislate,²⁵ or even direct legislation,²⁶ as neither is a legitimate judicial function. These opinions are also clearly reflected in the following statements from the *Common Cause* ruling.²⁷

A perusal of the prayers made in this writ petition ... clearly shows that what the petitioner wants us to do is legislation by amending the law. In our opinion, this will not be a legitimate judicial function. The petitioner has prayed that we direct the Union of India to formulate a suitable Road Traffic Safety Act, but it is well settled that the Court cannot direct legislation.²⁸

India Time Series

The EPW Research Foundation (EPWRF) has been operating an online database service christened as ‘India Time Series’ (ITS), acronym as EPWRFITS, which can be accessed through the newly launched website <http://www.epwrfits.in>.

Under the online data service, time series have been structured under various modules: (i) Financial Markets; (ii) Banking Statistics; (iii) Domestic Product of States of India; (iv) Price Indices; (v) Agricultural Statistics; (vi) Power Sector; (vii) Industrial Production; (viii) Finances of State Governments; (ix) Combined Government Finances; (x) National Accounts Statistics; (xi) Annual Survey of Industries; (xii) External Sector; and (xiii) Finances of the Government of India.

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And,

These provisions [of the MVA 1988, related to traffic regulations, speed limit, road signage, and so on] are obviously meant for road safety, and if further provisions are required for this purpose the petitioner may approach the legislature or concerned authority for this purpose, but this Court can certainly not amend the law.²⁹

Paragraph 9 of Justice Katju's opinion,³⁰ one with which Justice Sema explicitly agreed in his separate opinion, is perhaps the most important from the point of view of assessing the continuing appropriateness of a PIL as a tool for advancing road safety. Justice Katju ruled that the *M C Mehta* judgment,³¹ a decision by a three-judge bench of the Supreme Court, was no longer binding since the "seven Judge Bench decision [of] this Court in *P Ramachandra Rao vs State of Karnataka*[,] 2002(4) SCC 578 has taken the view that such directions cannot be given".³²

In my opinion, the effect of this is that it has undermined the various high court judgments on road safety, which relied on *M C Mehta*, including the Delhi High Court's judgments in the Blue Line bus cases. Although the *Common Cause* ruling was by a two-judge bench, and so can theoretically be overruled by a larger bench, the Supreme Court has not done so to date. My opinion is that it will not do so lightly.

It is also important to remember that road safety is a state subject in India, and each state designs the road safety policies that it considers best for its conditions. As such, a PIL in the Supreme Court is likely to have unintended consequences if the petitioner asks the Court to give directions to the

government on broad road safety policies, and obtains a favourable ruling that would apply throughout India.

A final point to keep in mind is that a PIL is not private litigation in that the petitioner is given standing in the larger public interest, and not for a personal grievance, and as such, the petitioner cannot withdraw the case if the proceedings turn unfavourable. In addition, a PIL necessarily looks for sweeping changes, or if not sweeping, then at least broad. This makes PILs a risky tool, particularly in the Supreme Court, because a broad negative ruling from the highest court will cut off access to possible litigation strategies that may be developed to enhance road safety in incremental measures.

None of this is to say that a PIL-based strategy does not have value as a tool for enhancing road safety in India. It does. As the cases and discussion illustrate, a PIL has a fair likelihood of success in a high court, but only if the petitioners focus on aspects of road safety for which the laws are already on the books (such as helmet laws, drinking and driving, seat belt use, and speed limits) but the state is not doing enough to enforce them.

If the litigation is narrowly tailored to address specific aspects of road safety, and the petitioners make a convincing argument that unsafe roads have a negative impact on a fundamental constitutional right, justifying an "intrusion" on the functions of the legislature and the executive, the Supreme Court is much more likely to consider the issue favourably.

NOTES

- 1 *State of Haryana vs Darshana Devi and Ors*, 1979 AIR 855, 1979 SCR (3) 184 (ruling ordering faster and free access to courts, and adequate compensation for poor and indigent victims of road accidents); *The State of Uttar Pradesh vs Bansraj (And Connected Appeal)*, 1959 AIR 79, 1959 SCR Supl (1) 153 (ruling that drivers of motor vehicles are equally liable as the owner of the vehicle for use contrary to the conditions of the vehicle permit); *Chairman, RSRTC and Anr vs Santosh and Ors*, judgment dated 10 May 2013, Special Leave Petition (C) No 3265 of 2012 (2013) (ruling on what constitutes a Motor Vehicle such that it falls within the purview of the Motor Vehicles Act and so can be regulated).
- 2 *M C Mehta vs Union of India and Ors* (1997) 8 SCC 770.
- 3 Writ Petition (Civil) 13029 of 1985.
- 4 *M C Mehta vs Union of India* (1998) 1 SCC 676.
- 5 *Supra* note 3.
- 6 *Supra* note 2 at 771.
- 7 *Id.*
- 8 *Id.* at 774.
- 9 *Supra* note 5.
- 10 *Common Cause (A Regd. Society) vs Union of India and Ors*, Writ Petition (Civil) 580 of 2003.
- 11 *Supra* note 5.
- 12 *Supra* note 11.
- 13 *Id.* opinion by Justice H K Sema, ¶ 3; and opinion by Justice M Katju, ¶ 24.
- 14 *Supra* note 14, opinion by Justice M Katju, ¶ 8.
- 15 *Id.* ¶ 22.
- 16 *Id.* ¶ 40.
- 17 *Supra* note 14, opinion by Justice H K Sema, ¶ 4.
- 18 *Supra* note 14, opinion by Justice M Katju, ¶ 38.
- 19 *Id.* ¶ 39.

20 *Id.* ¶ 43.

21 *Court on Its Own Motion vs State of NCT of Delhi and Ors*, WP (CRL) 878/2007 and Misc appls age 3 of 81.

22 *Bombay Bar Association and Anr vs The State of Maharashtra and Ors*, Public Interest Litigation No 18 of 2010. In the High Court of Judicature at Bombay, Ordinary Original Civil Jurisdiction.

23 *Id.* Ruling dated 22 August 2011.

24 *Id.* Ruling dated 13 March 2013.

25 *Sanjay Kumar vs State of UP*, 2004 All LJ 239; *Verareddy Kumaraswamy Reddy vs State of AP*, (2006) 2 SCC 670; *JT* (2006) 2 SC 361; *Suresh Seth vs Commr. Indore Municipal Corporation*, (2005) 13 SCC 287; *AIR* 2006 SC 767; *Union of India vs Deoki Nandan Aggarwal*, 1992 Supp(1) SCC 323; *AIR* 1992 SC 96.

26 *Union of India vs Prakash P Hinduja*, (2003) 6 SCC 195; *AIR* 2003 SC 2612.

27 *Supra* note 14.

28 *Id.* opinion by Justice M Katju, ¶ 31.

29 *Id.* ¶ 54.

30 *Id.*

31 *Supra* notes 2 and 5.

32 *Supra* note 11, opinion by Justice M Katju, ¶ 9.

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