

LOCUS STANDI

PUBLIC INTEREST LITIGATION PRINCIPLE OF LOCUS STANDI

Public interest litigation as defined by Black's Law Dictionary is something in which the public or community at large has some pecuniary interest, or some interest by which their legal rights or liabilities are affected, while the jurisdiction of High Court in this regard is defined in Article 199 of the Constitution which provides that any aggrieved person left with no other remedy can file an application.

There are stringent requirements imposed by Article 199 on this basis, such as the arguments of maintainability under the said article against *locus standi* and the requirement of being an aggrieved person to initiate public interest litigation.

LOCUS STANDI means, To bring suit in the court • Standing to sue • Person aggrieved shall activate judicial proceeding • Rights and remedies co-relative • Policy to save time and energy

PRINCIPLE: One directly injured shall take recourse • Show special injury in case public injury • Petition by total stranger not entertained

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JUDICIAL PRECEDENTS: The controversy is still not clear as this development is very slow and overlapping within the provinces of Pakistan. In the case *Balochistan Medical Association vs. Govt. of Balochistan, 2017 CLC 1195*, it was held that a person cannot be said to be aggrieved under article 199 of the Constitution unless he or she has shown any direct or indirect injury to himself or herself, and substantial interest, with no other available remedy. This imposed an obligation that in public interest litigation article 199 could only be invoked by the injured party i.e. aggrieved person.

In this regard, a recent case at Lahore High Court, *Mian Shabir Asmail vs. Chief Minister of Punjab, 2017 PLD Lahore 597*, was heard by the honorable Chief Justice of Lahore High Court, who explained public interest litigation in detail. While commenting on the scope of public interest litigation, he said it was an effort to provide legal representation to groups that had been underrepresented or unrepresented in the legal process

In another case *2015 SCMR 851*, it has been held that public interest litigation is only for the welfare and interest of the public. Does this suggest that anyone can file a claim for the interest and welfare of the general public

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In the case *M. Qahir Shah vs. Federation of Pakistan – Ministry of Railways*, 2014 YLR 2571, on the question of personal interest it was said that any citizen who brought forward a public matter disclosing the violation of Constitution or any legal provision, or the unreasonable behavior of a public functionary that was adverse to public interest, then that person may be characterized as an 'aggrieved person'

EXPANSION OF LOCUS STANDI: PIL• Filed by public spirited citizens• For the interest of public• For benefit of weaker section • Filed against state• Originated& developed by judiciary

CONSTITUTIONAL PROVISIONS: ARTICLE: 184 (3) Writ to supreme court•
ARTICLE: 199 Writ to high court

PIL DIFFERENT FROM LOCUS STANDI: can be filed by stranger in the interest of public, only against state

CONCLUSION: Locus Standi Applies on Case to Case Basis and ;

- Avoid hypothetical questions
- Developed PIL
- Base of justice
- Removes ambiguity

PRINCIPLES OF ADMINISTRATIVE LAW

◎ Natural Justice

The principals and procedures that govern the adjudication of the disputes between persons and organizations, chief among which are that the adjudication should be unbiased and given in good faith, and that each party should have equal access to the tribunal and should be aware of arguments and documents adduced by the others

NATURAL JUSTICE• Def:• Natural justice is also known as “substantial justice”, ”fundamental justice” and “universal justice”.

PRINCIPLE OF NATURAL JUSTICE: Rules of natural justice to be read as part and parcel of every statute.

PRINCIPLES OF NATURAL JUSTICE UNDER TRADITIONAL ENGLISH LAW:

The traditional English law recognizes two principles of natural justice.

NEMO INDEX IN CAUSA SUA “No man shall be a judge in his own case”

AUDI ALTERAM PARTEM: “hear to other side”

PRINCIPLES OF ADMINISTRATIVE LAW

EXEMPTION OF PRINCIPLE OF NATURAL JUSTICE

- **STATUTORY PROVISION:** If a statutory provision either specifically or by necessary implication excludes the application of any or all the principles of natural justice. Then the court can not ignore the mandate of the legislature or the statutory authority.

- **LEGISLATIVE ACTS:** Legislative acts are also not subject to the rules of natural justice. Thus before enacting law regarding imposing tax, fixing price etc. it is not necessary to issue notice and afford hearing.

- **NECESSITY:** The doctrine of necessity applies not only judicial matters but also to quasi-judicial as well as administrative matters.

- **CONFIDENTIAL INQUIRIES:** The observance of the principals of natural justice may be dispensed with where the inquiry is of confidential nature and disclosure of information may defeat the object of the statute.

PRINCIPLES OF ADMINISTRATIVE LAW

- **PREVENTIVE ACTION:** Principles of natural justice may be excluded if its effects would vitiate the action sought to be taken or would defeat or paralyze the administration of the law.
- **EMERGENCY:** In exceptional cases of urgency and emergency, where prompt and preventive action is required to be taken, the principles of natural justice need not to be complied with.

EFFECTS OF NON OBSERVANCE OF PRINCIPLES OF NATURAL JUSTICE:

In England, there are two views on this point.

- in some cases the courts have taken the view that the non compliance of principles of natural justice would not vitiate the order and the order cannot be said void but merely voidable.

- In other cases the courts have taken the view that non- observance of the principles of natural justice renders the order null and void. It is clearly stated in the following case: **INAM DIN V/S PROVINCE OF PUNJAB 1992 CLC 529 HELD:** Where petitioners are condemned unheard while passing orders against their interest, such orders would be hit by principle of natural justice and the order is null and void, have no more any effect