

## <sup>1</sup>[Chapter XXI-A

### **Writs in the nature of Public Interest Litigation under Article 226 of the Constitution of India**

In exercise of powers conferred under Article 225 of the Constitution of India and all other powers enabling in that behalf, the Court has been pleased, by way of amendment of the existing **Rules of the Court, 1952, to add Chapter XXI-A** to the said rules, which shall bear the heading “Writs in the nature of **Public Interest Litigation** under Article 226 of the Constitution of India”.

**1. Enforcement**—These Rules shall come into force at once, on the publication thereof in the official gazette.

**2. Definitions**—For this Chapter, unless the context requires otherwise, the terms expressed in these rules shall be read and understood as they have been defined hereunder:

- (a) ‘PIL-Petition’ means a petition filed under Article 226 of the Constitution of India by a “Public Spirited Person”, for espousing a cause in public interest.
- (b) ‘PIL-Letter’ means a “Letter” addressed to the “Chief Justice” or the “Registrar”, raising issued of public interest, and deserving consideration on the judicial side at the hands of the “High Court”.
- (c) “Letter” means a communication addressed to the “Chief Justice” or the “Registrar” of the High Court of Uttarakhand, complaining of an issue, espousing a cause in public interest and desiring consideration on the judicial side by the “High Court”.
- (d) ‘High Court’ means the High Court of Uttarakhand.
- (e) ‘Chief Justice’ means Chief Justice of the High Court of Uttarakhand.
- (f) ‘Registrar’ means the Registrar of the High Court of Uttarakhand.
- (g) ‘Public Spirited Person’ means and includes, a person who has a genuine interest in the issue(s) being canvassed through a ‘PIL-Petition’, and can substantiate on the basis of material in his posses-

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<sup>1</sup>Vide Notification No. 275 UHC/Admin B/XVIII-9-2010, Dehradun, May 26, 2010

sion, that he has been pursuing the subject matter involved with the concerned authorities; but shall not include a person pursuing a private interest litigation, or a publicity interest litigation, or a political interest litigation, in the guise of a 'PIL-Petition'.

- (h) 'Commission' means an advocate or a group of advocates, or an expert or a group of experts, appointed by a court dealing with a 'PIL-Petition' or a 'PIL-Letter', to carry out a task assigned to it, and to report to the court its finding(s) thereon, after investigating into the matter assigned to it, and / or researching upon the issue(s) assigned to it, and / or carrying out any other express instructions assigned to it.
- (i) 'Amicus Curiae' means an advocate on the rolls of the bar Council of Uttarakhand, normally practicing in the "High Court", nominated by the "Chief Justice", to assist the Court hearing a "PIL-Letter", on the legal aspects of the issue(s) raised thereon; or an advocate on the rolls of the Bar Council of Uttarakhand, normally practicing in the "High Court", nominated by the Court hearing a "PIL-Petition", to assist it on the legal aspects of the matter.

**3. Subject matter of "PIL-Petition" and "PIL-Letter"—(1) PIL Petition—**A "Public Spirited Person", may file a "PIL-Petition" in respect of one or more of the subject matters expressed in sub-rule (3), unless the same is barred under sub-rule (4).

**(2) PIL Letter—**The "Chief Justice" may entertain a Letter as a "PIL Letter", received in the "High Court", in respect of one or more of the subject matters expressed in sub-rule (3), unless the same is barred under sub-rule (4).

(3) A cause in public interest may be raised in respect of any of the following subjects:

- (a) Matters relating to enforcement of fundamental rights, including social and economic justice, and more particularly, for the enforcement of human rights, including the right to live with dignity, enshrined in Article 21 of the Constitution of India, concerning sections of the society who are either extremely poor, illiterate, depressed, vulnerable, discriminated, marginalized, or who may have no easy access to justice, so that they do not remain victims of ignorance, deception or exploitation; including matters, on the aforesaid issues as would shock judicial conscience; or
- (b) Matters relating to protection of environment, ecology, forests, ma-

rine life, wildlife, mountains, hills, rivers, lakes, other natural resources of water, historical monuments, etc.; including provision for insuring quality of life and living; or

- (c) Matter relating to good governance, pertaining to inaction of wrongful action of Government / Public Authorities or such other Authorities which can be treated as Instrumentalities of the State under Article 12 of the Constitution of India; wherein the Government / Public Authority / Instrumentality of the State, has transgressed a constitutional mandate or nay law, or has failed to perform a duty vested in it, including matters pertaining to corruption and maintenance of probity and morality in governance; or
- (d) Matters relating to the enforcement of the Directive Principles of State Policy enshrined in Part IV of the Constitution of India, or issues of the like nature, or
- (e) Matters of public interest not falling within sub-clauses (a) to (d) above, but are of a like nature, on being certified by the advocate representing the petitioner in a “PIL-Petition”, or the concerned “Public Spirited Person” (in cases where he himself is pursuing the “PIL-Petition”), to be a cause in public interest, requiring consideration at the hands of the “High Court”.

(4) No “PIL-Petition” or “PIL-Letter” shall be entertained on any of the following subjects:

- (a) Matters which are purely in the private domain, such as landlord-tenant relationship, master-servant relationship, relationship between individuals or any juristic person, or any matter of the like nature; or
- (b) Matters pertaining to service, employment, matrimonial issues or matters of the like nature; or
- (c) Matters strictly falling in the arena of criminal or civil jurisdiction, and which constitute disputes amongst individuals, or any matter of the like nature; or
- (d) Matters which relate to one person, as opposed to a group or class of persons.

**4. Format of “PIL-Petition”**—(1) The format for filling a “PIL-Petition” shall be the same, as has been prescribed for filing a writ petition in the “High Court”. A “PIL-Petition” shall, however, not be entertained

unless the requirements, depicted in sub-rules (2) to (5), have been satisfied.

(2) Particulars about the petitioner, such as his name, address, nature of work and his interest in the cause he is espousing, shall be expressed in paragraph 1 of the “PIL-Petition”, so as also to establish, that he fulfills the definition of the term “Public Spirited Person” recorded in Rule 2(g).

(3) The Petitioner in a “PIL-Petition” shall express in paragraph 2 the reasons why the cause espoused falls in a particular sub-clause, under Rule 3(3), as also, briefly the subject matter in relation to which relief has been sought:

Provided that, in case the subject matter, raised in a “PIL-Petition”, falls in sub-clause (e) of Rule 3(3), the petitioner shall express in paragraph 2 the reasons, on the basis whereof such conclusion has been drawn.

(4) The petitioner in a “PIL-Petition”, shall express in paragraph 3, whether or not, as per his knowledge, any earlier petition(s) has/have been filed in the “High Court” on the same cause of action. It shall also disclose, whether the said petition(s) is/are pending or has/have been decided. In the later case, the order(s) of the “High Court”, in the said earlier petition(s), shall also be attached as an annexure(s) to the “PIL-Petition”.

(5) The “Public Spirited Person” filing a “PIL-Petition”, on a pure question of law, shall express in paragraph 4 of the petition, whether or not the question of law raised, is res integra.

**5. Format of “PIL-Letter”**—(1) There shall be no prescribed format of a “PIL-Letter”.

(2) Any “Letter”, approved by the “Chief Justice”, on such approval, shall be entertained on the judicial side as a “PIL-Letter”.

(3) While approving a letter for consideration as a “PIL-Letter” on the judicial side, the “Chief Justice”, shall nominate an “Amicus Curiae” to assist the court on the legal aspects involved therein.

**6. Entertainment of a “PIL-Petition” or “PIL-Letter”**—(1) A PIL-Petition”, certified as falling in one or more of the subjects expressed in sub-clauses (a) to (e) of Rule 3(3), shall be entertained, upon certification by the advocate, or the “Public Spirited Person”, as the case may be, filling the “PIL-Petition”.

(2) A “Letter” shall be entertained for espousing a cause in public interest, on the judicial side as a “PIL-Letter”, consequent upon the adminis-

trative approval thereof; by the “Chief Justice”, or by the Hon’ble Judge nominated by him, for the said purpose.

**7. Personal presence of the petitioner in a “PIL-Petition”**—(1) The “Public Spirited Person”, filing a “PIL-Petition”, shall be present before the Court hearing the same, on the first date of hearing, and on all or any subsequent date(s) of hearing, as may be directed by the Court.

(2) In a “PIL-Petition” filed by a society / organization / body, its authorized representative, who has signed the “PIL-Petition”, shall be present on the first date of hearing, and on all subsequent date(s) of hearing, as may be directed by the Court.

**8. Personal presence of the author in a “PIL-Letter”**—The Court hearing a “PIL-Letter”, may require the personal presence of the author of the “PIL-Letter”, on the first date of hearing, and on all or any subsequent date(s) of hearing.

**9. Appointments of “Commission”**—The concerned Court, hearing a “PIL-Petition” or a “PIL-Letter” may appoint a “Commission” for the effective disposal of the issues arising for consideration.

**10. Costs in “PIL-Petition(s)”, “PIL-Letter(s)”**—(1) Costs may be imposed on the petitioner in a frivolous “PIL-Petition” at the discretion of the Court hearing the same.

(2) Costs may be imposed if the facts/averments made in paragraphs 1 to 4 of the “PIL-Petition”, in the format expressed in Rule 4, are false or have been filed without due application of mind.

(3) No costs shall be imposed in a “PIL-Letter”, entertained with the approval of the “Chief Justice”;

Provided that, in case a “PIL-Letter” is based on false facts, or fabricated documents, or is found to have been filed on account of extraneous considerations, the Court hearing the “PIL-Letter” may impose costs on the author of the “PIL-Letter”.

(4) Costs shall be imposed in a “PIL-Petition”, and /or a “PIL-Letter”, if the Court hearing the same arrives at the conclusion that the filing of the “PIL-Letter” or “PIL-Petition” was vexatious or frivolous in nature.

(5) Costs shall be imposed in respect of subject matters falling in sub-clause (b) of Rules 3(3), at the discretion of the Court hearing the same, keeping in mind the costs involved for the restoration of the environmental violation committed.]