

The Changing Paradigm of Public Interest Litigation in India: Mismatch or A Dream Team?

by [Anshul Dalmia](#) | Apr 17, 2026



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intersection with allied interdisciplinary studies. I have attached my photo for your reference as well.

The Public Interest Litigation ('PIL') paradigm indicates a **unique jurisdiction** in which the Indian Courts relax rules of standing to admit any petition of 'public interest'. The adoption of this jurisdiction **transformed** the Indian litigation paradigm from being dominated by 'men with long purses' to the last resort for the 'oppressed and the marginalised'. The PIL litigation in India has been extremely **successful** in reforming investigative agencies, ensuring police reforms, protecting the environment, providing food security, enabling labor welfare and preventing illegal demolitions. However, PILs have been claimed to overstep the demarcation of boundaries between the three pillars of the government. Recent cases in 2026 indicate the adoption of a newer balanced approach between judicial activism and restraint.

Using two recent cases (*Dr Jaya Thakur v. Union of India* and *Suhas Chakma v. Union of India*), delivered by two different judicial benches of the Supreme Court ('Court'), it appears that the contours of PILs seem to be changing. Courts now seem to be conscious of overstepping their limits as dictated by the 'separation of powers', while simultaneously attempting to solve the public interest matter at hand.

Firstly, rather than sweeping directions being provided which transcend separation of powers and lead to non-compliance, the Court is now adopting a 'delegated feasibility model'. This model ensures that rather than the Court imposing its directions on the States and Union Territories, governments are required to first assess their feasibility using strict criteria; and then modify the protocol and instructions to suit their realities. In *Suhas Chakma*, in order to ensure provision of open prisons, the Court instructed feasibility studies to take place with indicators of the minimum common standards. In *Jaya Thakur*, the extent of menstrual hygiene products that were to be provided were left to the periodic inspections undertaken by District Education Officers.

This model ensures better compliance and prevents governmental nonchalance, which was extremely **common and prevalent erstwhile**. This is done by providing tailored context-sensitive solutions incorporated after considering implementational flaws, acknowledging prevalent infrastructure, and adopting perspectives of diverse stakeholders. This also leads to the prevalence of a structured channel of dialogue between the Court and political actors.

Secondly, rather than the Court supervising the implementation of the directions through 'continuing mandamus' orders, there has been a shift towards a 'delegated monitoring model'. 'Continuing mandamus' are orders which allow the Court to regularly monitor the enforcement of their directions. Herein, the Court continues to supervise the case until and unless substantial compliance has been reached. The delegated monitoring model on the other hand, entrusts the responsibility of monitoring the implementation of the judicial directions with not the Court but with quasi-judicial bodies such as committees and commissions or subordinate courts. Additionally, the Court empowers these bodies to prevent non-compliance. In *Jaya Thakur*, the Court mandated the National Commission for Protection of Child Rights and the State Commission for Protection of Child Rights to oversee the implementation of its directions (Para 176). In case of non-compliance, these bodies were instructed to take necessary steps as provided under the legislation. In *Suhas Chakma*, the Court formed a 'Monitoring Committee' and a 'High-Powered Committee' to ensure appropriate supervision. Moreover, High Courts were instructed to register a *suo moto* case to facilitate effective oversight.

This model allows the Court to delegate its monitoring work to stakeholders that are responsible first-hand to ensure compliance. Moreover, such delegation ensures that the cases and beneficiaries get the adequate attention they deserve at an appropriate enforcement level by a competent authority.

Thirdly, rather than emphasising on a complete satisfaction of the directions provided, the Court adopts a 'substantial compliance model'. Herein, the government is required to not follow each and every direction, but largely comply with the overall spirit of the directions.

Fourthly, rather than subsuming the existing legislation by its directions, the Courts observe a 'substantial accentuation model' which means that its directions do not replace the legislation but merely accentuate it by filling the gaps. Thus, by not changing legislation under the garb of judicial observations, the Court is setting-up the PIL jurisdiction for success.

Ultimately, the effectiveness of these models and oversight mechanisms lie in their faithful implementation by the political executive. However, the Court has ensured that they substantially respond to the criticisms levied and accommodate 'separation of powers' concerns vis-a-vis PILs. This leads us to hope that PIL will not merely be a 'romance gone wrong' but a 'romance worth fighting for'.