



## The Rule of Locus Standi and its Relaxation before Tribunals

“Justice not only done but seems to be done”

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### Abstract

For any person the right to appear and to represent is an important right for getting justice. An opportunity of hearing must be available to person. Being a welfare state liability lies on state to provide speedy justice to a person while approach for the same. The strict rule of locus standi relaxed before the court proceeding, in case of proceeding before the tribunal it is not so relaxed. This paper puts emphasis upon the relaxation of rule before the tribunal and also covers some basic concept regarding the rule of locus standi.

**Keywords:-** Rule of Locus Standi, Tribunals, Relaxation, Right, Court, Justice

### Introduction

“Justice delay is justice denial”, taking the principle in view, speedy justice is an integral part for administration of justice. There is Rule of law in India and therefor,if any kind of violation of rights occurs person has right to get justice and for the same person has a right to stand before the court or tribunal. Persons right of standing before court relaxed up to some extend while in case of tribunal it is not so.

The concept of locus standi

The literal meaning of Locus Standi is the right to appear and be heard before a court. In legal parlance Locus Standi means the right or capacity of standing for legal action. This maxim refer to the right



of a party to appear and be heard before a court of law or to institute a suit or an action before the court. The traditional rule is that a person whose constitutional or legal right is violated can apply for relief. Locus standi applies to a plaintiff to show the court that there is generous relation or correlation or existence of cause of action for the plaintiff in the suit. In other words, it related to person's capacity to put a case before the court of law to testify before the court of law.

## Relaxation of the rule

The principle of Locus Standi is significantly used for the enforcement of Fundamental Rights through petitions filed before the Supreme Court and various High Courts respectively under Article 32 and 226 of the Constitution of India and in the Court of Magistrate under Sec. 133 of the Criminal Procedure Code. Prior the courts used to be strict in demanding the petition filed only by the person whose fundamental right has been violated. If a third person filed a petition the courts used to refuse to entertain the petitions merely on the ground that the person whose fundamental right has been violated has not approach the courts himself, even after the grave violation of fundamental rights of such person. But now the courts have become liberal in the sense that they entertain the petition filed even by the third person for enforcement of fundamental rights of another persons<sup>1</sup>. In Public Interest Litigation or in Writ like Habeas Corpus and Quo Warranto, this rule of locus standi has been relaxed and modified<sup>2</sup>. A Public Interest Litigation can be filled against a State or Central Government, Municipal Authorities and not any private party. One of the landmark case in relation of the principle of locus standi is *Hussanara khatoon v. State of Bihar*<sup>3</sup> in which a writ petition filed by an advocate was entertained by the court on the basis that public interest was involved in the matter. In the case of *Sheela Barse v. State of Maharashtra*<sup>4</sup> even a letter written by a journalist addressed to the Supreme Court was considered as entertain-able petition. Indian judiciary has not only taken the plea of prisoners but also of other civilians as well. A writ petition filled by the citizens against the removal open drains was entertained by the court in the case of *Municipal Council of Ratlam v. Vardichand*<sup>5</sup>. A petition filled by a third person for protecting a lives of people who drink from the river Ganga was considered as matter of public interest and therefore entertained by the court. Another

<sup>1</sup> Relaxation of the principle of locus standi in public interest cases from <https://lawsisto.com> accessed on 16 July 2021.

<sup>2</sup> *Railway Board v. Chandrimadas* (2000) 2 SCC 465 ; *M.S. Jayraj v. Commr. Of Excise* (2000) 7 SCC 552; *Satyanarayan Sinha* (1973) 2 SCC 696.

<sup>3</sup> AIR 1980 1 SCC 81.

<sup>4</sup> AIR 1983 1 SCC 378.

<sup>5</sup> AIR 1980 4 SCC 162.



landmark judgement in *S.P. Gupta v. Union of India*<sup>6</sup> in this case the court recognised the Bar Associations standing to file writ petitions on behalf of another person. In this case the issue was that of questioning the executive policy of transferring the High Court judges arbitrarily. The court explain the significance of Public Interests Litigation and stated that where a person whose right or interest has been violated is not able to enforce his right or interest due to any barrier such as economic, social etc. another person can approach the court on his behalf to enforce the legal right or interest protected legally.

The relaxation of the principle of locus standi has significantly helped in protection of Fundamental Rights of citizens effectively which otherwise would have been extremely difficult. The objective of such relaxation was that whenever legal wrong done or legal right violated must not go unaddressed for lack of amenities or due to any other disability to approach the court. A legal right is in fact, a benefit conferred upon a person by the rule of law.<sup>7</sup> Public Interest Litigation is not in the nature of adversary litigation, but it is challenge and an opportunity to the government and its officers to take basic human rights meaningful to the deprived and venerable group of the society and assure them socio and economic justice, which is the base of our constitution.

### Misuse of the relaxation

The potential misuse of this relaxation has to be taken into consideration by supreme court in one of its judgments<sup>8</sup>. This weapon of public interest litigation should be used with due care and caution and must not be misused. The tool of public interest litigation has been devised for protecting the interest of weaker section of the society. It further stated by the Supreme Court in another case<sup>9</sup> that this tool can not be used to create nuisance or for obstruction in administration of justice. Where the court finds the petitioners only try to waste the time of the court it doesn't entertain such petitions. Now the courts allows only such petitions where it finds it necessary for the administration of justice.

### Locus standi before the Tribunals

Locus standi to approach the Court or Tribunal relates to the maintainability of the petition or application.<sup>10</sup> an aggrieved person will be entitled to relief including of a writ of Certiorari as a matter of

<sup>6</sup> AIR 1982 SC 149.

<sup>7</sup> State of Rajasthan & Ors.v. Union of India & Ors, AIR 1977 SC 1361.

<sup>8</sup> Dattaraj Nathuji Thaware v. State of Maharashtra A.I.R. 2005 SC 540.

<sup>9</sup> Common Cause v. Union of India & others 2008.

<sup>10</sup> Bangalore Medical trust v. B.S. Muddappa 1991 AIR 1902.



course, but if he is a “stranger” the Court or Tribunal will deny him this remedy. The availability of the right of a person to appear or to be heard before the Tribunal is covered under the act<sup>11</sup>. The person who are not specifically exempted under the Act do have the locus standi to approach the Tribunal<sup>12</sup>. In various cases the Supreme Court has scrutinized that when and to whom the access of tribunal will be allowed. In a case<sup>13</sup> an employee of the post and telegraph department, deputed to army postal service, might have gone up to rank of a major on temporary commission but not being full fledged army personnel, can raise service dispute only before Central Administrative Tribunal and not before the High Court. In a case<sup>14</sup> the tribunal held that the Telephone Nigam Limited, Bombay is not an ‘industry’ therefore it has no jurisdiction to adjudicate the dispute. In courts view, the person is holding civil post hence he can approach the administrative tribunal for redressing his grievance. In *H. Mukherjee (Dr) v. SK Bhargava*<sup>15</sup> plaintiff was selected by UPSC alleges that respondent acting in that post on ad-hoc basis wanted to spoil his record and career by destroying his chance of being appointed as chief controller of explosive. On receiving the notice of the suit the defendant submitted that the civil court has no jurisdiction to entertain the said suit in view of the Administrative Tribunals Act, 1985. In this matter the Supreme Court held that the subject matter being a tort of harassment and mental pain by fabricating evidence, and not being service matter, the civil court has jurisdiction, and not of the administrative tribunal. Statutory exclusion<sup>16</sup> of court’s jurisdiction does not bar filing a civil suit for the tort committed by a civil servant. There is no specific legislation in India guaranteeing remedies against tort committed by public servants in the discharge of their duties. Hence the question becomes extremely important. In *Union of India v. Chotelal*<sup>17</sup> the Central Administrative tribunal taking into account the fact that washer-men are working for nearly 30 years in defence establishment and yet not covered by government scheme and also the Provident Fund Act issued the direction that the authority of National Defence Academy to prepare a scheme for appointment of such washer-men on permanent basis. the Supreme Court held, the fact that commanding officer holding some control over the dealing of washer-men alone can not be concluded that the post are civil post.

Relaxation of the rule before Tribunal.

<sup>11</sup> Sec 2 (c) of the Administrative Tribunal Act, 1985.

<sup>12</sup> P. Leelakrishnan, Reviewing Decision of Administrative Tribunal: Paternalistic Approach of the Indian Supreme Court and Need for Institutional Reforms, 54 JILI at 16 (January - March 2012)

<sup>13</sup> Mejor MR Penghal v. Union of India, AIR 1999 SC 543.

<sup>14</sup> Bombay Telephone Canteen Employee’s Association v. Union of India (1997) 6 SCC 723.

<sup>15</sup> (1996) 4 SCC 542.

<sup>16</sup> S. 28 of Administrative Tribunal Act, 1985

<sup>17</sup> (1999) 1 SCC 554.



According to most English decision, for the purpose of locus standi to invoke certiorari jurisdiction, the should be “aggrieved person” but if he does not fulfill that character and is a “stranger”, the court will in its discretion, deny him this extraordinary remedy, save in very special circumstances.<sup>18</sup> A nominal or highly speculative adverse effect on the interest or right of a person is insufficient to give him the “standing to sue” for judicial review of administrative action. In order to have locus standi an applicant should ordinarily be one who has a personal or individual right in the subject matter. The expression “ordinarily” Indicates that this rule is not a cast iron rule. It is flexible in the sense that if the applicant has been prejudicial affected by act or omission of an authority, even though he has no proprietary or even a fiduciary interest in the subject-matter. In exceptional cases, even a stranger or person not being a party to the proceeding before the authority, has a substantial and genuine interest in the subject-matter of proceeding will covered by this rule.<sup>19</sup>

Relaxation of the rule of locus standi available to any person in case public interest to approach the court, the same is not available to a person before tribunal. if the statute itself contains provision regarding the right of a person to appear or to be heard before the tribunal only then a person can approach the tribunal otherwise the person whose right affected can alone approach the tribunal. A person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal, may make an application to the tribunal for the redressal of his grievance. It is not any person who make an application to the Tribunal, but only a “person aggrieved by any order” who is entitled to do so, and that too only for the redressal of his grievance, and not of anyone else. The expression “aggrieved person” denotes an elastic, and to an extend, an exclusive concept. It cannot be confined within the bonds of rigid, exact and comprehensive definition. Its scope and meaning depends on different variable factors such as the content and intend of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extend of the interest of petitioner, and the nature and extend of the injury or prejudice suffered by him. The words aggrieved are likely to cover any person who has a genuine grievance of whatever kind.<sup>20</sup> In *Maurice v. London County Council*<sup>21</sup> the taxicab owner’s association has a locus standi to apply for relief. In this case, the whole question turned on the effect in law of the undertaking, and whether the applicants had been treated fairly. The court emphasis the “very special circumstances” and read into the statute, a duty to act fairly in

<sup>18</sup> Jashabhai Motilal Desai v. Roshan Kumar, Haji Bashir Ahmed, (1976) 1 SCC 671.

<sup>19</sup> Ibid.

<sup>20</sup> H.W.R. Wade & C.F. Forsyth., Administrative law: tenth edition.

<sup>21</sup> [1964] 2 Q.B. 362, 378.



# Vidhyayana - ISSN 2454-8596

An International Multidisciplinary Peer-Reviewed E-Journal

[www.j.vidhyayanaejournal.org](http://www.j.vidhyayanaejournal.org)

Indexed in: ROAD & Google Scholar

accordance with the principle of natural justice. In *Bar council of Maharashtra v. M.V. Dabholkar*<sup>22</sup> it was held that “ the person aggrieved” may vary according to the context of the statute. Normally one is required to establish that one has been denied or deprived of something to which one is legally entitled. If a legal burden imposed on him then a person is aggrieved. The National Green Tribunal has given the widest interpretation for ‘aggrieved person’ any and every person has the right to approach the tribunal against any entity with complains regarding the breaches of environment laws.<sup>23</sup> An application for compensation shall be made to Motor Accident Claim Tribunal by any person mention under sec.166 of the Act<sup>24</sup> also deals with the liberal interpretation of locus sandi before Tribunal.

## Conclusion

The rule of locus standi relaxed in public interest litigation such kind of relaxation also available to a person, on approaching the Tribunal, when the matter is of such nature that affect rights of groups of person. Right to hear and right of representation must be available to a person for dispensation of justice. In court preceding it is available to person entitled and also to representative of person depending on matter. While in case of hearing before tribunal this right is restricted, there are few tribunals there which allowed this kind of procedure. To fulfill the object behind the creation of tribunal relaxation of the rule of locus standi must be available before the Tribunal if the matter is of such nature.

<sup>22</sup> 1976 AIR 242, 1976 SCR (2) 48.

<sup>23</sup> Union of India & another v. Association of class I ( group on 8 January 2020) writ petition (s/b) No. 445 of 2016

<sup>24</sup> The Motor Vehicles Act, 1988.