

4C. BOX 5: SIMPLIFIED RULES OF PROCEDURE AND EVIDENCE TO FACILITATE ENFORCEMENT ACTION

In developing the field of public interest litigation, the Indian Supreme Court has interpreted provisions in the Indian Constitution that allow persons to petition it to protect fundamental rights in “appropriate proceedings” as enabling it to simplify procedural requirements. In *Gupta v Union of India* the court observed that the term “appropriate proceedings” in Article 32 of the Constitution does not refer to the form but to the purpose of proceeding: so long as the purpose of the proceeding is to enforce a fundamental right, any form will do.¹ This interpretation allowed the Court to develop epistolary jurisdiction by which even letters or telegrams were accepted as petitions.

The Supreme Court’s PIL Guidelines reiterate that there is no prescribed procedure for commencing a PIL petition, but provide that it “may be worthwhile to require an affidavit to be filed in support of the statements contained in the petition whenever it is not too onerous a requirement.”² Were such a purposive approach taken to pleading requirements (the technical rules of commencing claims) in other jurisdictions it would substantially limit the tobacco industry’s ability to engage in protracted and ultimately pointless pleading disputes in which it asserts that the claims made against them are technically defective. The jurisprudence of the Indian Supreme Court recognizes that the court should be concerned with matters of substance and not form, and increasingly courts in other jurisdictions are taking the same approach.³

¹ *Gupta v Union of India* (1981) Supp S.C.C. 87.

² Supreme Court of India, *Compilation of Guidelines to be Followed for Entertaining Letters/Petitions Received in this Court as Public Interest Litigation*.

³ See e.g., *Denton v TH White & Or, Decadent Vapours Limited v Bevan & Ors, Utilise TDS Limited v Davies & Ors* [2014] EWCA Civ 906.