

Transparency, Pricing and Accountability in Private Healthcare: The Role of Public Interest Litigation in Consumer Protection

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Abstract

The privatisation in India's healthcare sector has led to exponential growth in private hospitals and diagnostic services, but it has also raised serious concerns regarding pricing, transparency, and accountability. This article explores how Public Interest Litigations (PIL) have been instrumental in bringing issues such as overcharging, non-disclosure of treatment costs, unethical billing, and profiteering into judicial scrutiny. By analysing key constitutional and statutory provisions, landmark judgments, and empirical data, the study critically examines the effectiveness of PILs in ensuring consumer rights and healthcare justice. The article also suggests reforms to institutionalise fair pricing mechanisms and improve the enforcement of judicial directives.

Keywords: Accountability, Consumer, Healthcare, Pricing, PIL, and Transparency.

1. Introduction

India's healthcare system is increasingly dominated by private actors, with nearly 65% of hospital beds and 74% of outpatient services provided by the private sector. While this has improved access to advanced medical technology and services, it has also introduced market-driven practices that often disregard transparency and ethical responsibility.

Excessive pricing, opaque billing practices and denial of insurance coverage have become systemic problems. Consumers, especially during emergencies, often face exorbitant costs without adequate recourse. Public Interest Litigations have emerged as a powerful legal tool to demand accountability, address regulatory gaps, and protect consumer rights in the health sector.

2. Legal and Regulatory Framework on Pricing and Accountability

2.1 Constitutional Foundations: Article 21¹ of the constitution guarantees the right to life, which the Supreme Court has interpreted to include access to affordable and quality healthcare. Article 47² obligates the state to improve public health and regulate harmful practices.

2.2 Statutory Mechanisms

2.2.1. Medical Council of India's Code of Ethics³: Requires medical practitioners to maintain transpar

¹ Article 21 of the Constitution of India.

² Id., Article 47.

ency in treatment and cost.

2.2.2 Clinical Establishments (Registration and Regulations) Act, 2010⁴: Mandates hospitals to display rates and prohibits non-disclosure of treatment costs.

2.2.3 Consumer Protection Act, 2019⁵: includes healthcare as a service, enabling consumers to file complaints against unfair trade practices and medical negligence.

Despite these frameworks, enforcement remains poor and fragmented, often necessitating judicial intervention through PILs.

3. Role of PILs in Addressing Non-Transparency and Price Exploitation

3.1 Indian Medical Association v. Union of India⁶, although not a PIL in origin, this case set the tone for defining healthcare as a service under the Consumer Protection Act. The Court held that private hospitals are liable for medical negligence and unfair trade practices, enabling future PILs to frame arguments around consumer rights.

3.2 People for Better Treatment v. Union of India⁷, this PIL sought uniform pricing policies across private hospitals. The Supreme Court directed the Union Ministry of Health to explore pricing caps for essential procedures and standardisation of rates. However, the implementation remains partial due to state-level variation and resistance from hospital lobbies.

3.3 Adv. Reepak Kansal v. Union of India⁸, filed during COVID-19, this PIL sought regulation of testing and treatment rates in private labs and hospitals. The Court directed the Centre to fix price ceiling under the Epidemic Diseases Act and Disaster Management Act, reinforcing the principle of health affordability during emergencies.

3.4 In Re: Distribution of Essential Services and Supplies during Pandemic⁹, during the COVID-19 crisis, private hospitals were accused of charging exorbitant fees for treatment oxygen, and ambulances. In this *suo motu* PIL, the Supreme Court directed governments to regulate pricing in private hospitals and ensure transparency in billing, warning against profiteering during public health emergencies.

4. Empirical Overview of Pricing Practices in Private Healthcare¹⁰

Parameter	Private Hospitals (Median)
COVID- 19 ICU cost per day (2021)	Rs. 25, 000 – Rs. 75, 000
Cardiac Surgery (CABG)	Rs. 2.5 lakh – Rs. 5 lakh
MRI Scan	Rs. 4,000 – Rs. 12, 000
Caesarean delivery	Rs. 70, 000 – Rs. 1.2 lakh

Sources: *NITI Aayog*, NHSRC, MoHFW Data (2022-23).

³ The Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002.

⁴ The Clinical Establishments (Registration and Regulations) Act, 2010.

⁵ The Consumer Protection Act, 2019.

⁶ AIR 2011 SC 2365.

⁷ W.P. (C) No. 697/2012.

⁸ W.P. (C) No. 546/ 2020.

⁹ *Suo Motu* WP (c) No. 03/2021.

¹⁰ *NITI Aayog* Report on Health Expenditure, 2023, National Health Systems Resource Centre (NHSRC), Costing of Healthcare Services in India, 2022.

Survey conducted by the National SAMPLE Survey Office (NSSO)¹¹ show that nearly 80% of the population does not receive a cost estimate before admission in private hospitals. Further, 68% of medical expenses in private healthcare are out-of-pocket, pushing 63 million Indians into poverty annually.¹²

5. Judicial Directives on Transparency and Standardisation: In multiple cases, courts have issued directions that include:

- Display of service and treatment rates at conspicuous locations in hospitals.
- Advance disclosure of cost estimates for all major procedures.
- Itemised billing to prevent unbundled and duplicate charges.
- Regulation of diagnostic charges through NABH- accredited rates.
- Prohibition of diagnostic approvals to treatment admission.

Yet, implementation has been weak. Only 11 states have fully enforced the Clinical Establishments Act, which requires such disclosures.

6. Challenges in Ensuring Transparency and Accountability

6.1 Lack of Uniform Regulation: Healthcare is a state subject under the Constitution. As a result, the Clinical Establishments Act, 2010 is not enforced uniformly, leading to variations in compliance and pricing.

6.2 Weak Regulatory Oversight: There is no independent price regulatory authority for the private health sector. The National Pharmaceutical Pricing Authority (NPPA) regulates only drugs, not hospital charges.

6.3 Limited Scope of PIL Remedies: While PILs have catalysed judicial scrutiny; they do not always translate into long-term enforcement. Monitoring compliance across thousands of hospitals requires systemic reform, not just court orders.

6.4 Commercialisation of Healthcare: Profit-maximising incentives among hospital chains and insurance intermediaries lead to billing malpractices. Hospitals often deny treatment unless advance payments are made-even in emergencies.

7. Recommendations for Reform

7.1 Establish an Independent Healthcare Pricing Authority: Modelled on the NPPA, such a body should regulate prices for essential services and ensure uniformity across states and hospitals.

7.2 Make Clinical Establishments Act Mandatory Nationwide: Its full implementation with mandatory cost disclosures and penal provisions can curb billing opacity.

7.3 Enhance PIL Monitoring Mechanisms: Courts may institutionalise Public Interest Litigation implementation cells at High Courts to monitor compliance with transparency-related orders.

7.4 Use Technology to Ensure Billing Transparency: Mandating digital records, real-time cost estimates, and electronic billing for all hospitalised patients can reduce disputes and promote accountability.

7.5 Legal Aid for Healthcare Consumers: Legal Services Authorities should include specialised wings to assist consumers in health-related disputes, including those involving cost transparencies.

¹¹ National Sample Survey Report No. 75, Ministry of Statistics and Programme Implementation, 2022.

¹² Public Health Foundation of India (PHFI), Health Equity Report, 2023.

8. Conclusion

Public Interest Litigations have served as a crucial instrument in exposing and addressing the deep-rooted issues of pricing exploitation and opacity in private healthcare. They have forced regulatory and judicial attention towards consumer rights and constitutional obligations in health service delivery. However, the PIL mechanism must be complemented by robust statutory reforms and regulatory mechanisms to transform transparency from a judicially imposed norm into a university practiced standard. Healthcare must be treated not a luxury, but as a right – accessible, affordable, and accountable.