

In [Pasupuleti Venkateswarlu v. Motor & General Traders . - 1975 PLRonline 0002](#) Court dealt with the adjectival activism relating to post-institution circumstances Two propositions were laid down. Firstly, it was held that 'it is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceedings'. This is an emphatic statement that the right of a party is determined by the facts as they exist on the date the action is instituted. Granting the presence of such facts as they exist on the date the action is instituted. Granting the presence of such facts, then he is entitled to its enforcement. Later developments cannot defeat his right because, as explained earlier, had the court found his facts to be true the day he sued he would have got his decree. The Court's procedural delays cannot deprive him of legal justice or rights crystallised in the initial cause of action. This position finds support in *Bhajan Lal v. State of Punjab*, 1970 PLJ 812 SC

. The impact of subsequent happenings may now be spelt out. First, its bearing on the right of action, second, on the nature of the relief and third, on its impotence to create or destroy substantive rights. Where the nature of the relief, as originally sought, has become obsolete or unserviceable or a new form of relief will be more efficacious on account of developments subsequent to the suit or even during the appellate stage, it is but fair that the relief is moulded, varied or reshaped in the light of updated facts. Patterson⁴ illustrates this position. It is important that the party claiming the relief or change of relief must have the same right from which either the first or the modified remedy may flow. Subsequent events in the course of the case cannot be constitutive of substantive rights enforceable in that very litigation except in a narrow category (later spelt out) but may influence the equitable jurisdiction to mould reliefs. Conversely, where rights have already vested in a party, they cannot be nullified or negated by subsequent events save where there is a change in the law and it is made applicable at any stage.

The philosophy of the approach which commends itself to us is that a litigant who seeks justice in a perfect legal system gets it when he asks for it. But because human institutions of legal justice function slowly, and in quest of perfection, appeals and reviews at higher levels are provided for, the end product comes considerably late. But these higher courts pronounce upon the rights of parties as the facts stood when the first court was first approached. The delay of years flows from the infirmity of the judicial institution and this protraction of the court machinery shall prejudice no one. *Actus curiae neminem gravabit*.

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