
END OF POCKET VETO: SC DEFINES GOVERNOR'S ROLE IN STATE LAW-MAKING

Ankush Sharma, Indore Institute of Law

ABSTRACT

This article analyzes the latest landmark decision of the Supreme Court of India regarding the constitutional propriety of the role of the Governor in the legislative process, with special reference to the long delay in withholding assent to bills by the Governor of Tamil Nadu. The judgment deals with important questions concerning the governor's prerogative under Articles 200 and 201 of the Constitution of India, the limits of this prerogative, and that power's implications in India's federal structure. In investigating the factual backdrop to the case, the relevant provisions of the Constitution of India, the historical misuse of the prerogative of the governor, the relevant comparison, the Court imported judicially imposed timeframes on the state's prerogative action preventing entirely unreasonable or possibly indefinite "pocket vetoes", and the neologism of "deemed assent" designed to support legislative effectiveness. We may also begin to understand the implications for governance of that newly defined prerogative, and the downsides of judicial overreach and the uncertainty of the role of the President. Finally, we suggest possible legislative and constitutional solutions to prevent a recurrence of this constitutional dispute, and reflect on the Presidential advice before the Supreme Court, which may further delimit legislative assents within India's constitutional ecology.

Keywords: Constitution, Bill, Presidential, Assent, Legislative

Introduction

The Supreme Court of India, in a recent and significant pronouncement, addressed the constitutional propriety of the Governor's role in the legislative process, specifically in the context of the State of Tamil Nadu. The controversy arose from the prolonged withholding of assent by the Governor, R.N. Ravi, to multiple bills duly passed by the Tamil Nadu Legislative Assembly. This persistent inaction generated institutional friction between the State Government and the gubernatorial office, raising concerns over the erosion of the federal balance envisaged under the Constitution of India.¹ The judgment not only scrutinises the limits of gubernatorial discretion under Articles 200 and 201 of the Constitution² But also underscores the judiciary's role in ensuring that constitutional authorities discharge their functions within the bounds of legality and reasonableness. By prescribing definitive timelines for the exercise of the Governor's powers, the Court seeks to safeguard legislative efficacy, prevent governance paralysis, and reinforce the principles of cooperative federalism.

What led to the controversy?

Over the past year, the Governor of Tamil Nadu withheld assent to ten bills duly passed by the State Legislative Assembly, refraining from granting approval to any of them and unduly delaying action under Article 200 of the Constitution of India.³ This prolonged inaction, lacking any constitutionally justifiable basis, was perceived by the State Government as a direct impediment to its legislative and administrative functions. Consequently, the State approached the Hon'ble Supreme Court, contending that the Governor's conduct amounted to a clear violation of constitutional mandates and a disruption of the governance framework envisaged under the Constitution.⁴

What constitutional authority does a Governor have concerning state bills?

Article 200 of the Constitution of India delineates the powers of the Governor concerning bills passed by the State Legislature.⁵ Upon receiving a bill, the Governor may adopt one of the following courses of action:

¹ (INDIA CONST. arts. 200, 201).

² (INDIA CONST. arts. 200, 201; *S.R. Bommai v. Union of India*, (1994) 3 S.C.C. 1).

³ (INDIA CONST. art. 200).

⁴ (*S.R. Bommai v. Union of India*, (1994) 3 S.C.C. 1).

⁵ (INDIA CONST. art. 200).

1. **Grant Assent** – Approve the bill, thereby enabling it to become law.
2. **Withhold Assent** – Refuse approval, effectively rejecting the bill.
3. **Return for Reconsideration** – In the case of a bill other than a Money Bill, remit it to the State Legislature for review and reconsideration.
4. **Reserve for the Consideration of the President** – In specified circumstances, particularly where the bill concerns a matter of national importance or may be repugnant to central legislation, reserve it for the President's approval.

Article 201 empowers the President to decide on bills reserved by the Governor for consideration. Upon such reservation, the President may:⁶

1. **Grant Assent** – Approve the bill, thereby enacting it into law.
2. **Withhold Assent** – Decline approval, thereby preventing it from becoming law.

What were the issues and concerns related to the Governors of the state in India?

- **Impartiality concerns:** One of the main issues which were faced by the opposition faced was that sometimes the Governor acts as an agent of the ruling party, which raises the concern of being biased towards the central government.
- **Misuse of Art 356:** It has been seen sometimes that the Governor had recommended the President rule without or just after conducting a floor test.⁷

For instance, in 2016, the Governor of Uttarakhand recommended the President rule just before conducting the floor test. This action of the Governor indicates misuse of their power by not providing the elected government to prove its majority.

A similar act was also tried by the Governor of Arunachal Pradesh in 2016⁸ By dismissing the elected government of Arunachal Pradesh, which was later overturned

⁶ (INDIA CONST. art. 201).

⁷ (INDIA CONST. art. 356; *S.R. Bommai v. Union of India*, (1994) 3 S.C.C. 1).

⁸ (*Nabam Rebia v. Deputy Speaker, Arunachal Pradesh Legislative Assembly*, (2016) 8 S.C.C. 1).

by the Supreme Court, and reinstating the government.

- **Involvement in state matters:** In recent years, it has been observed that the Governor has interfered in administrative matters of the state government, which creates disputes with them.

For instance, in 2023, there was a dispute between the lieutenant governor of Delhi and the state government related to a bureaucratic appointment, which later on the matter was later dealt with by the Hon'ble Supreme Court.⁹

- **Lack of accountability:** Accountability of the Governor is also one of the reasons for the disputes because the Governor is only accountable to the President and can be appointed and removed at the discretion of the central government.

What was the Hon'ble Supreme Court's Ruling on the Governor's Authority Over State Bills?

The Tamil Nadu legislative assembly re-enacted the bill after the Governor withheld his assent to the bill. After making the changes in the bill, the governor refused to grant his assent to the bill and sent it to the President for reconsideration.

The Supreme Court considered the Governor's wrong actions of referring the re-enacted bills for the President's consideration instead of granting the assent and withholding the overall 10 bills over the last year, which created difficulty for the Tamil Nadu government to function properly.

Judicially Prescribed Limitations on the Governor's Power to Withhold Assent: Contemporary Implications of the Supreme Court's Ruling

The Hon'ble Supreme Court ruled that the Governor cannot exercise an "absolute veto" and "pocket veto" under Article 200 for indefinite delay and must act within the specified period and grant the assent to the bills made by the state legislature.

The court set specific deadlines for Governors, that is, one month to grant or withhold the assent, three months if they are acting against the state cabinet's recommendations, and one

⁹ (*State of NCT of Delhi v. Union of India*, (2018) 8 S.C.C. 501).

month for the bills that are resubmitted after reconsideration. Furthermore, the President is required to act on reserved bills within three months, and if there is any delay, then they must provide a reason to the state government.

The hon'ble supreme court also introduced the concept of "deemed assent"¹⁰ in context with the Tamil Nadu Governor's case, it states that if the Governor refuses to provide an assent on bills within the specified period, then the bill considered to receive an assent automatically, by bypassing the role of Governor and bill becomes the law which ensures the effective legislative functioning of the government.

The judgement also expands the scope of the concept of judicial review by providing a remedy to the states in scenarios where Governors fail to perform their duties in a prescribed timeline; in that case, the state can seek the writ of mandamus directly to the court.

Practical Impact of the Supreme Court's Decision on Governance and the Citizenry

The judgement passed by the Hon'ble Supreme Court made history by imposing a timeline on Governors giving an assent on the bills, which removes the partiality of the Governor made in the opposition party ruled states.¹¹

The current precedent ensures the smooth functioning of the states from now on by setting the time limit Governors have to act on the bills, and the state legislative branch can function properly with the help of the recent judgment.

The ruling of the case helped the other opposition-ruled states, which were also dealing with the same issue related to the Governor's assent on bills, such states are like Kerala, West Bengal, and Punjab. After the judgement, the Kerala government has decided to withdraw its petition, which was filed against the Governor by them related to the same issue in the Hon'ble Supreme Court.

What could be the possible drawbacks of the Supreme Court's ruling?

- **Weakening of the constitutional checks and balances:** By putting a time limit on the Governor related to the bill makes it difficult for the Governor to properly scrutinize

¹⁰ (Cf. *Shamsher Singh v. State of Punjab*, (1974) 2 S.C.C. 831).

¹¹ (M.P. JAIN, *INDIAN CONSTITUTIONAL LAW* 385–88 (8th ed. 2018).

the bills, which are especially conflicting with the national interest.

- **Judicial overreach concern:** The act of the Hon'ble Supreme Court is about going beyond the limit and making law which is the work of the parliament, not the judiciary.¹²
- **Ambiguity regarding the role of the President:** This precedent from the Hon'ble Supreme Court discusses the role of the Governor concerning bills, but the President's role remains unclear. Under Article 201, the President can act on bills reserved by the Governor, but there is no specified time limit for the President, which could potentially cause delays.

Proposed Legislative and Constitutional Reforms to Prevent the Recurrence of Such Disputes

- **Introducing clear timelines in the constitution and state laws:** The judgement set the timeline through interpretation, but those timelines aren't written anywhere in that case. Parliament can amend the constitution by clearly specifying the time for the Governor and the President, as well as the time for the bill. This will prevent future disputes related to this type of matter.¹³
- **Define "Deemed Assent" in the constitution:** The Hon'ble Supreme Court has now introduced the concept of "deemed assent," which means that if the governor does not provide assent on a bill within the agreed timeline, the bill automatically becomes law, bypassing the role of the Governor. While this is a new concept, the Parliament must explicitly write it into the constitution with an amendment to make it more than just a judicial interpretation, establishing it as a legally backed provision.
- **Re-evaluate the appointment of the governor to ensure neutrality:** one of the core issues of the current matter is the appointment of the Governor, which is made at the discretion of the central government at the state level, which creates the problem. The parliament can make an independent panel for the appointment of the Governor to

¹² (*Indira Nehru Gandhi v. Raj Narain*, (1975) Supp. S.C.C. 1).

¹³ (H.M. SEERVAI, *CONSTITUTIONAL LAW OF INDIA* vol. 2, at 2022–25 (4th ed. 2013)).

ensure neutrality.

- **Accountability of the Governor:** As we know that the Governor is accountable to the President and the central government, and their removal is also done by them, which makes them biased towards the centre. Parliament has to enact changes related to accountability to ensure democracy in the country.
- **Clarify the role of president in reserved bill:** The judgement of the hon'ble supreme court specifying the role of the Governor and imposed the time limit on him for giving the assent on the bills, but there were no interpretation related to the matter of President as the President is not directly accountable to the courts which creates the problem, as there must be specific time limit has to be set on President as well related to the reserved bills which were sent by the Governor for the reconsideration to the President.

Presidential Response

In the aftermath of the Supreme Court's landmark pronouncement, the constitutional discourse has expanded to encompass not only the office of the Governor but also the role of the President of India in the legislative assent process. President Droupadi Murmu has formally sought clarification from the Hon'ble Supreme Court regarding the operative scope of its judgment—specifically, whether judicially prescribed timelines for granting or withholding assent, as articulated about gubernatorial powers under Article 200, may be validly imposed upon a constitutional functionary whose powers are expressly derived from the constitutional text. See INDIA CONST. Arts. 200, 201.

This request for clarification raises a fundamental question in Indian constitutional law: to what extent can the judiciary, through interpretive rulings, structure or limit the exercise of discretionary powers granted to high constitutional authorities? The inquiry involves the separation of powers doctrine, which, although not explicitly listed, has been recognized by the courts as part of the basic structure of the Constitution. See *Indira Nehru Gandhi v. Raj Narain*, (1975) Supp. S.C.C. 1; *State of Bihar v. Bal Mukund Shah*, (2000) 4 S.C.C. 640.

The matter has been listed for hearing before the Hon'ble Supreme Court on 19 August 2025. Its resolution is poised to carry far-reaching consequences. An affirmation of the applicability of such timelines would solidify the principle of time-bound constitutional decision-making in

the legislative process, reinforcing legislative certainty and reducing the potential for executive obstructionism. Cf. *Shamsher Singh v. State of Punjab*, (1974) 2 S.C.C. 831 (emphasising that constitutional powers must be exercised following constitutional conventions and the aid and advice of the Council of Ministers).

Conversely, a judicial finding that timelines cannot be imposed upon the President or Governor may preserve the formal breadth of their discretion under the constitutional scheme, but at the cost of perpetuating the possibility of legislative deadlock—particularly in politically adversarial contexts. Scholars have long cautioned that an unqualified power to withhold assent risks undermining the efficacy of representative democracy at the State level. See M.P. Jain, *Indian Constitutional Law* 385–88 (8th ed. 2018).

This pending adjudication thus represents the next critical stage in defining the contours of legislative assent within India’s federal architecture, with implications that will likely influence the balance between State autonomy and Union oversight for decades to come.

Conclusion

The Hon’ble Supreme Court’s landmark precedent related recent Tamil Nadu Governor’s case marks a significant step towards the federal principles. By imposing the timeline on the Governor’s power related to the matter of giving the assent is the most pivotal step taken by the Supreme Court of ensuring the proper functioning of the state government and restricting the Governor’s unlawful actions in the opposition ruling states.

This decision of the Supreme Court not only ensures the constitutional balance of the state government and the governor but also ensures the democratic process by which the elected state legislature can function properly without any interference.

This ruling has had an impact on the overall country, especially the opposition ruling state government, by ensuring the help of states like Kerala, Tamil Nadu, and Punjab, by which the Kerala government even withdrew their petition, which was filed by them related to the same matter in the Hon’ble Supreme Court.