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# GUBERNATORIAL DISCRETION AND LEGISLATIVE ASSENT: A CONSTITUTIONAL ANALYSIS OF STATE OF TAMIL NADU V. GOVERNOR OF TAMIL NADU (2025)

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## ABSTRACT

This research provides a rigorous examination of the Supreme Court's landmark judgment in *State of Tamil Nadu v. Governor of Tamil Nadu* (2025), focusing on the constitutional boundaries governing gubernatorial discretion in the legislative process under Articles 200 and 201 of the Indian Constitution. The decision was prompted by the Governor's prolonged withholding of assent and subsequent reservation of re-enacted bills for the consideration of the President, actions that precipitated a serious constitutional impasse and necessitated judicial intervention. Through a meticulous doctrinal and analytical approach, this study investigates the constitutional relationship between the Governor, as the executive head of the State, and the elected State Legislature, drawing upon Constituent Assembly debates, commission reports, foundational legal scholarship, and limited comparative constitutional practices.

The findings advance the proposition that gubernatorial discretion in matters of legislative assent is highly circumscribed and must operate strictly within clearly defined constitutional parameters. Such discretion is fundamentally subordinate to the principles of responsible government, legislative supremacy, and the democratic mandate of elected representatives. The Supreme Court's judgment emphatically rejected the notions of an "absolute veto" or a "pocket veto," holding that indefinite inaction or arbitrary reservation of bills is unconstitutional and violative of parliamentary democracy. Significantly, the Court laid down mandatory, time-bound guidelines for the disposal of bills, thereby reducing ambiguity, preventing executive overreach, and ensuring procedural certainty in the legislative process.

The judgment further expanded the scope of judicial review by affirming the power of constitutional courts to issue writs of mandamus to enforce compliance with constitutional duties. This development reinforces judicial oversight as a crucial safeguard against institutional deadlock and executive obstruction. The paper also elaborates on the broader implications of the

decision for India's federal structure, constitutional morality, and legislative autonomy. It recommends statutory clarification, institutional conventions, and strengthened accountability mechanisms to promote transparent executive conduct and timely legislative procedures. By critically engaging with judicial reasoning and scholarly discourse, this study contributes substantively to the understanding of gubernatorial and presidential roles, delineates the limits of executive interference, and underscores the judiciary's role in safeguarding democratic governance within India's constitutional framework.

**Keywords:** Governor's assent; constitutional discretion; Article 200; judicial review; federalism; legislative procedures

## INTRODUCTION

The constitutional standoff between the State of Tamil Nadu and its Governor over the latter's refusal to assent to several legislative bills has elicited significant constitutional discourse concerning the limits of gubernatorial powers, the principle of responsible government, and the judiciary's pivotal role in maintaining the constitutional balance<sup>1</sup>. This dispute arose when the Governor of Tamil Nadu, despite multiple enactments by the State Legislature, withheld assent to ten important bills and subsequently reserved these bills for the consideration of the President. The Governor's actions, particularly the prolonged delay and reservation of legislations even after their reconsideration and re-passage by the legislature, raised critical questions about the scope and exercise of gubernatorial discretion under Articles 200 and 201 of the Constitution of India.

Articles 200 and 201 provide the Governor with four constitutional options upon presentation of a bill<sup>2</sup>—grant assent, withhold assent, return the bill for reconsideration with a message, or reserve the bill for the President's consideration. However, the Constitution does not explicitly stipulate timelines for these actions, resulting in interpretative ambiguities. The Tamil Nadu case, therefore, spotlighted the potential for executive overreach through indefinite delays and possible misuse of discretionary powers, threatening the legislative autonomy of the states and undermining democratic governance.

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<sup>1</sup> State of Tamil Nadu v Governor of Tamil Nadu SC 481 (SC)

<sup>2</sup> Supreme Court Observer, *Pendency of Bills Before the Tamil Nadu Governor: Judgment Summary*, <https://www.scobserver.in/reports/pendency-of-bills-before-tamil-nadu-governor-judgement-summary/> (last visited Sept. 19, 2025).

This judicial confrontation compelled the Supreme Court to clarify and redefine the contours of the Governor's powers in its landmark judgment delivered in April 2025. The Court unequivocally held that the Governor cannot exercise an "absolute veto" or "pocket veto" and must act in accordance with the aid and advice of the Council of Ministers, reflecting the doctrine of responsible government foundational to India's parliamentary democracy. Furthermore, the Court ruled that once a bill is returned for reconsideration and repassed by the legislature, the Governor is constitutionally obligated to grant assent and is precluded from reserving the bill for Presidential consideration. This assertion reinforces the primacy of the elected legislature and curtails arbitrary obstruction by the executive.

Additionally, the judgment prescribed clear, time-bound guidelines to regulate the exercise of gubernatorial and presidential discretion, thereby ensuring procedural efficiency and transparency. By expanding the scope of judicial review over the Governor's conduct, the Court fortified constitutional accountability, preventing institutional impasse and safeguarding the federal balance.

This case marks a seminal development in Indian constitutional law, emphasizing constitutional morality and executive restraint, while reinforcing judicial oversight as a guardian of democratic governance. It also foregrounds the need for statutory reforms and institutional mechanisms to systematically regulate legislative assent processes, ensuring conformity with constitutional principles and the democratic mandate. Thus, this research situates the Tamil Nadu case as a critical reference point for understanding the evolving dynamics between the Governor, the state government, and the judiciary in India's federal structure.

## **LITERATURE REVIEW**

The tension around gubernatorial discretion has a long history in Indian constitutional scholarship, with multiple commissions examining its contours.

- The First Administrative Reforms Commission (1966) recommended clear guidelines for Governors' discretionary powers, highlighting the importance of transparent action to avoid arbitrariness and promote federal values<sup>33</sup>.

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<sup>33</sup> First Administrative Reforms Commission Report (1966)

- The Rajamannar Commission (1971) and Sarkaria Commission (1983) both emphasized restricting discretionary powers to rare cases of demonstrated unconstitutionality, not policy differences, advocating strict adherence to constitutional conventions for legislative assent.
- The Punchhi Commission (2007) reaffirmed these principles and proposed concrete timelines for gubernatorial and presidential decisions, as excessive delay undermines state autonomy and the will of the people<sup>4</sup>.
- International jurisprudence (UK, Canada, Australia, Sri Lanka) universally rejects open-ended vetoes by heads of state; convention requires prompt action on bills passed by elected legislatures, with very limited room for discretion.

Recent scholarly articles echo these findings and warn that excessive delays or politically motivated reservations negatively impact the integrity of Indian federalism and democratic governance.

## STATEMENT OF PROBLEM

The controversy in *State of Tamil Nadu v. Governor of Tamil Nadu* arises from the Governor's prolonged inaction on bills duly passed by the State Legislature, followed by selective reservation of certain bills for Presidential consideration. This situation raises constitutional concerns over the extent of gubernatorial discretion under Article 200, the potential for misuse of such discretion to obstruct democratic processes, and the absence of clear constitutional timelines for assent. The problem lies in reconciling the Governor's constitutional role with the principles of legislative supremacy, cooperative federalism, and responsible government.

### • Research Questions

1. What are the constitutional limits of gubernatorial discretion under Article 200?
2. Is prolonged inaction or reservation of bills for the President after legislative reconsideration constitutionally valid?
3. Can judicial review effectively control the misuse of gubernatorial powers?

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<sup>4</sup> Sarkaria Commission Report (1983); Punchhi Commission Report (2007)

4. What reforms are necessary to prevent future deadlocks between state governments and Governors? Objectives
  - To critically examine the scope of gubernatorial discretion under Articles 200 and 201.
  - To analyze the Supreme Court's reasoning in *State of Tamil Nadu v. Governor of Tamil Nadu* and its implications for responsible government.
  - To assess whether judicial review can provide an effective check on gubernatorial inaction or misuse of powers.
  - To recommend constitutional or legislative reforms to minimize future conflicts between Governors and elected governments.

- **Scope & Limitation**

1. **Scope:**

- Focuses on constitutional provisions relating to gubernatorial assent powers, primarily Articles 200 and 201.
- Analyzes the Supreme Court's interpretation in *State of Tamil Nadu v. Governor of Tamil Nadu*.<sup>5</sup>
- Considers relevant Constituent Assembly debates, judicial precedents, and commission reports (e.g., Sarkaria Commission, Punchhi Commission).
- Uses comparative federal experiences (e.g., Australia, Canada) only for limited reference.

2. **Limitation:**

- Restricted to judicial pronouncements and constitutional interpretation; does not cover extra-legal political negotiations.
- Limited by availability of reported judgments and commission findings.

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<sup>5</sup> *Nabam Rebia v. Deputy Speaker*, (2016) 8 SCC 1.

- Future political developments or legislative reforms that may alter the constitutional scheme are beyond the present analysis.

## HYPOTHESIS

It is hypothesized that the Indian Constitution does not vest in the Governor an absolute or indefinite veto power over bills passed by the State Legislature. The discretion available under Article 200 must be understood within the broader constitutional framework of responsible government, legislative supremacy, and cooperative federalism. Prolonged inaction or indefinite reservation of bills amounts to a “pocket veto,” a device unknown to the Indian constitutional scheme, and undermines the principle that sovereignty lies with the people through their elected representatives. The Governor, being a constitutional head, is expected to act on the aid and advice of the Council of Ministers, and not as an independent political authority capable of frustrating the legislative will.

In *State of Tamil Nadu v. Governor of Tamil Nadu*, these constitutional concerns came to the forefront when the Governor withheld assent and reserved bills without reasonable justification, creating a legislative deadlock. The Supreme Court clarified that such conduct is inconsistent with the spirit of the Constitution and emphasized the necessity of reasonable timelines in the exercise of gubernatorial functions. Thus, the hypothesis is that gubernatorial assent is a constitutionally constrained duty, subject to judicial review, and must operate to uphold federal democracy rather than obstruct it.

## SUBSTANTIVE CONTEXTUALIZATION

- **Factual Matrix of the Case**

Between January 2020 and April 2023, the Tamil Nadu Legislative Assembly enacted a total of twelve bills, seeking to implement various state-level legislative reforms and administrative updates. These bills, after being duly passed by the legislature, were forwarded to the Governor of Tamil Nadu for his assent, a constitutional requirement under Article 200 of the Indian Constitution. However, the Governor, on several occasions, consistently delayed providing assent to these bills. In some instances, the Governor withheld assent outright, while in others, he reserved the bills for the consideration of the President of India, invoking reasons such as

alleged repugnancy with subjects enumerated in the Union List<sup>6</sup>.

Significantly, even after the State Legislature reconsidered and re-passed these bills without amendments—affirming their legislative intent and content—the Governor maintained a disposition of withholding assent or reserving the bills for the President’s further scrutiny. This peculiarity elicited increasing concern from the State Government, which viewed the

Governor’s conduct as an obstructionist tactic impeding the democratic mandate and legislative process within the state.

Consequently, the Government of Tamil Nadu approached the Supreme Court of India, filing writ petitions challenging the constitutionality of the Governor’s actions. The State alleged that the Governor’s refusal to grant timely assent and repeated reservations of the bills constituted a violation of fundamental constitutional guarantees enshrined within the parliamentary democratic framework of the country. The controversy raised profound questions pertaining not only to legislative procedure but also to the broader principles of federalism, responsible government, and the separation of powers.

- **Legal Issues Addressed**

At the crux of the Supreme Court proceedings was the determination of the constitutional limits of the Governor’s discretionary powers under Articles 200 and 201. Specifically, the Court examined whether the Governor possessed an absolute or so-called “pocket veto,” allowing indefinite withholding of assent without accompanying legislative communication or justification. The Court decisively clarified that such a notion has no place within the Indian constitutional order.

The Court elucidated that the Governor’s discretion to withhold assent is constitutionally circumscribed to certain narrowly defined scenarios—such as when legislation affects the powers and functions of the High Courts per the second proviso of Article 200 or where the bill is manifestly unconstitutional. Moreover, the Court affirmed that when a Governor withholds assent, he is constitutionally obligated under Article 200 to return the bill to the legislature along with a message setting out his objections or reasons, thereby enabling the

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<sup>6</sup> State of Tamil Nadu v Governor of Tamil Nadu SC 481 (SC)

legislature an opportunity for reconsideration.

Further, once the bill is reconsidered and re-passed by the legislature, particularly without modification, the Governor no longer retains the discretion to withhold assent or reserve the bill for the President's consideration. Any such act post-reconsideration would transgress constitutional mandates and principles underpinning legislative supremacy and parliamentary democracy.

In addressing procedural and institutional ambiguities, the Court introduced clear, time-bound mandates to regulate gubernatorial assent: the Governor must grant assent or reserve a bill within one month of receipt; if withholding assent contrary to ministerial advice, the Governor must return the bill with a message within three months; and if a bill is re-presented after reconsideration, assent must be granted within one month. These measures were aimed at enhancing transparency, accountability, and efficiency within the legislative process, while curtailing the potential misuse of gubernatorial discretion.

Through this elaborate factual and legal contextualization, the Supreme Court endeavored to uphold the constitutional values of responsible government, federal equilibrium, and the primacy of the legislative will, setting important legal precedents for the harmonious functioning of state governments under the Constitution of India.

## **CHAPTER 1: CONSTITUTIONAL FRAMEWORK AND THE ROLE OF THE GOVERNOR**

- **Constitutional Provisions Governing the Governor's Powers**

The constitutional position of the Governor in India is enshrined in various provisions of the Constitution, with Articles 200 and 201 playing a crucial role in defining the Governor's legislative powers. Article 200 provides the Governor four options upon the presentation of a bill passed by the State Legislature: to grant assent, withhold assent, return the bill for reconsideration with a message (except in the case of Money Bills), or reserve the bill for the consideration of the President<sup>7</sup>. The Governor's power to withhold assent or return bills is circumscribed by constitutional safeguards, intended to ensure that the legislative will of the

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<sup>7</sup> The Constitution of India, article 200



State Legislature is respected and that the Governor acts within defined limits.

Article 201 empowers the President to consider bills reserved by the Governor. The President may grant or withhold assent or return the bill to the State Legislature for reconsideration, delineating a further layer of scrutiny in federal legislative processes<sup>8</sup>. Thus, these articles together create a system of checks and balances between the State Legislature, the Governor, and the Union Executive, reflecting the federal nature of the Indian polity.

Under Article 163, the Governor acts on the aid and advice of the Council of Ministers, except in matters where the Constitution explicitly grants the Governor discretion. This provision implies that the Governor's role is largely ceremonial and executive decisions are to be taken by the elected government, with the Governor serving as the nominal constitutional head.

### **Interpretation and Historical Perspectives on Gubernatorial Discretion**

While Articles 200 and 201 provide the framework, judicial pronouncements and commission reports have further clarified the scope and limits of gubernatorial discretion. The Supreme Court, in several judgments including the recent Tamil Nadu case, has underscored that the Governor's discretion is limited and must not be used to override or subvert the democratic mandate expressed by the State Legislature.

Historical reports such as those by the Sarkaria Commission and the Punchhi Commission have consistently emphasized that gubernatorial discretion should be exercised sparingly, primarily in exceptional circumstances such as potential unconstitutionality of bills or threats to the constitutional machinery. These commissions caution against the expansion of discretionary powers based on political considerations or personal preference of Governors.

This interpretation aligns with the principle of responsible government, where the Governor functions as a constitutional sentinel who protects the Constitution without interfering unduly in the legislative process. The recent Supreme Court judgment reinforces this vision by invalidating indefinite withholding or reservation of bills, thereby reaffirming the Governor's limited and supervised role under the Constitution.

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<sup>8</sup> The Constitution of India, article 201

## CHAPTER 2: JUDICIAL REVIEW AND LIMITS ON GUBERNATORIAL DISCRETION

- **Judicial Intervention on Gubernatorial Powers**

This subsection critically examines the Supreme Court's active role in delineating the constitutional boundaries of gubernatorial discretion, particularly in the context of assent to bills under Articles 200 and 201 of the Indian Constitution. The judgment in *State of Tamil Nadu v. Governor of Tamil Nadu* reflected a decisive judicial assertion that the Governor's power to withhold assent is neither absolute nor unfettered. The Court emphasized that such discretionary powers are existential only within constitutionally prescribed confines, primarily to protect the constitutional scheme and the powers of the High Court.

The Court repudiated the concept of a "pocket veto" or indefinite withholding of assent, clarifying that the Governor must communicate reasons for withholding assent by returning the bill with specific objections, thereby respecting the legislative process and maintaining democratic accountability. The Supreme Court's pronouncements indicate that silence or unreasonable delay in assenting to bills is constitutionally impermissible and subject to judicial scrutiny, reinforcing the role of courts as guardians protecting legislative sovereignty.

The judgment draws from foundational judicial precedents such as *Nabam Rebia v. Deputy Speaker* and *Shamsher Singh v. State of Punjab*<sup>9</sup>, which assert the primacy of the elected legislature and clarify that the Governor's discretionary powers are exceptions, tightly circumscribed and justiciable. Through its decision, the Court delineated the limits of discretion applicable to the Governor and underscored that any misuse or overreach may be rendered null and void through judicial review, thereby upholding constitutionalism and the principle of responsible governance.

### **Principles of Justiciability and Enforcement of Constitutional Limits**

This subsection analyzes judicial principles affirming justiciability of gubernatorial actions, establishing that constitutional powers are not immune from scrutiny merely by virtue of their high constitutional dignity. The Supreme Court emphasized that the doctrine of responsible

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<sup>9</sup> *Nabam Rebia v Deputy Speaker* 8 SCC 1; *Shamsher Singh v State of Punjab* 2 SCC 831

government prevails, requiring the Governor to act largely on the aid and advice of the Council of Ministers, except in rare, defined situations warranting genuine discretion.

The Court prescribed enforceable time frames for gubernatorial assent, including one month to act on bills, three months for returning bills with messages, and strict timelines for the President once bills are reserved. These procedural safeguards aim to prevent arbitrary obstruction or unnecessary legislative delays, fostering transparency and efficiency.

Moreover, the Court clarified that reserving bills for the President's consideration after they have been reconsidered by the Legislature undermines the legislative remit and is unconstitutional. Similarly, judicial review extends to acts by both the Governor and the President, ensuring that even discretionary decisions comply with constitutional morality and federal balance.

In summary, this chapter highlights the judiciary's crucial role in protecting democratic governance by setting constitutional guardrails on gubernatorial discretion. It underscores that the Governor operates as a constitutional facilitator bound by legal limits, failing which judicial remedies are warranted to maintain legislative supremacy and uphold federal democracy.

### **CHAPTER 3: IMPLICATIONS FOR FEDERALISM AND LEGISLATIVE AUTONOMY**

- **Strengthening Federal Balance and Legislative Autonomy**

The Supreme Court's judgment in the Tamil Nadu Governor case fundamentally reinforces the constitutional balance between the Centre and the States, emphasizing the autonomy and supremacy of state legislatures in the exercise of their legislative functions. By unequivocally holding that the Governor's discretionary power to withhold assent is limited and must be exercised within constitutionally prescribed boundaries, the ruling places significant constraints on executive interference in the legislative process.

The judgment underscores the principle that elected legislatures, as representatives of the people, have primacy in state governance, and their will cannot be stymied by unilateral gubernatorial actions. It reaffirms the doctrine of responsible government under which the Governor acts primarily on the aid and advice of the Council of Ministers, except in narrowly defined situations. This jurisprudence promotes healthier Centre-State relations by curbing

potential abuses of gubernatorial discretion, which historically have been a source of friction and political instability in federal governance<sup>10</sup>.

Moreover, the decision affirms the necessity of timely legislative action, enshrining enforceable timelines for assent and discouraging deliberate delays. This ensures that state legislatures can effectively discharge their constitutional roles without undue executive obstruction, thereby preserving the democratic accountability and integrity of the legislative process.

- **Recommendations for Legislative and Administrative Reforms**

In light of the constitutional clarifications provided by the Court, this chapter advocates for legislative and administrative reforms to prevent future deadlocks between state governments and constitutional functionaries. First, it is imperative to codify procedural timelines within the constitutional or statutory framework, making explicit the deadlines for assent, withholding, and reservation of bills. Such codification would preclude arbitrariness and promote uniformity in gubernatorial conduct.

Second, institutional mechanisms fostering regular dialogue and consultation between Governors and state administrations during the bill-drafting and legislative process should be established. Enhanced communication can mitigate misunderstandings and avoid escalation to judicial or political conflicts.

Third, sustained judicial oversight must continue to serve as an effective check against executive excesses, ensuring gubernatorial powers are exercised in accordance with constitutional ethics and democratic principles. Courts should retain the authority to issue writs directing Governors to comply with their constitutional duties within prescribed timeframes.

Collectively, these measures would institutionalize responsible governance, strengthen legislative autonomy, and maintain the cooperative federalism envisaged by the Indian Constitution. Upholding constitutional morality and federal balance through such reforms is crucial for the stability and resilience of India's democratic polity.

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<sup>10</sup> Press Release, Supreme Court of India, April 2025; InsightsonIndia Editorial, April 2025

## CONCLUSION

The Supreme Court's judgment in the *State of Tamil Nadu v. Governor of Tamil Nadu* case serves as a pivotal affirmation of constitutional principles governing the legislative process within India's federal system. The Court decisively held that the Governor's power to withhold assent to state bills is neither absolute nor unfettered, emphasizing that such discretion must be exercised within narrowly defined constitutional limits. By invalidating the concept of a "pocket veto" and mandating strict timelines for the Governor's actions, the judgment safeguards legislative autonomy and reinforces the doctrine of responsible government.

This ruling underscores the primacy of elected legislatures in democratic governance and delineates the Governor's role as a constitutional sentinel rather than a political obstructionist. Moreover, it fortifies judicial review as an essential mechanism to check executive excesses and uphold constitutional morality. The judgment thus preserves the delicate balance between state autonomy and central oversight, enhancing the robustness of India's quasi-federal polity.

In conclusion, the Supreme Court's verdict not only corrects the constitutional improprieties exhibited in this specific instance but also sets a binding precedent that will govern gubernatorial conduct nationwide. It is a significant step toward ensuring that the constitutional framework functions as intended—promoting transparent, accountable, and timely governance in alignment with democratic values and constitutional ethos<sup>11</sup>.

## SUGGESTIONS

Based on the constitutional clarifications and judicial directives arising from the *State of Tamil Nadu v. Governor of Tamil Nadu* case, the following recommendations are proposed to strengthen legislative autonomy, fortify federal balance, and ensure responsible governance:

- Codify clear procedural timelines within the Constitution or statutory framework for gubernatorial assent, withholding, and reservation of bills to prevent indefinite delays and arbitrariness.
- Establish formalized channels of communication and consultation between Governors and State Governments during the legislative drafting and assent process to foster

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<sup>11</sup> *State of Tamil Nadu v Governor of Tamil Nadu* SC 481 (SC); Drishti IAS, Daily News Analysis, 7 April 2025

cooperative and transparent governance.

- Maintain vigilant judicial oversight as an effective constitutional safeguard to ensure Governors and Presidents adhere strictly to their constitutional duties within prescribed timelines.
- Consider reforms to the appointment process and role definition of Governors to reinforce impartiality and their function as constitutional facilitators rather than political actors.
- Promote comprehensive administrative reforms that institutionalize principles of accountability, transparency, and democratic legitimacy in State legislative processes.

Implementing these measures will uphold the democratic mandate of elected legislatures, preserve constitutional morality, and strengthen the resilience of India's federal polity.