

Supreme Court finds Tamil Nadu Governor's conduct on 10 re-passed Bills was 'unconstitutional', puts Governors on the clock

Court deems 10 Bills take a call on future veto"



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Constitution Article

Article 142 in Constitution of India

142. Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc

- (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.
- (2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

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Constitutional Role of the Governor in Assenting to Bills

- Article 163 outlines the general powers of the Governor, requiring them to act on the advice of the Council of Ministers except in certain discretionary matters.
- Article 200 specifically deals with the Governor's options when a Bill is presented after being passed by the State Legislature.

Governor's Four Options Under Article 200

- Grant Assent to the Bill.
- Withhold Assent to the Bill.
- Return the Bill (except Money Bills) for reconsideration.
- Reserve the Bill for the President's consideration.

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Key Proviso in Article 200

- The Governor may return a non-money Bill **"as soon as possible"** with a message for reconsideration.
- If the Bill is passed again by the legislature, **the Governor is bound to grant assent.**
- However, **no specific timeframe** is defined for the Governor to act, creating a loophole.

Issue of Delay

- Governors, particularly in Opposition-ruled states, have used this ambiguity to **delay assent indefinitely**, leading to legislative deadlocks and Centre–State tensions.

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- **Timely Action When Acting on Ministerial Advice**
 - If the Governor decides to withhold assent or reserve a Bill for the President, they must take action within a maximum of one month, provided it is based on the advice of the State Council of Ministers.
- **Return of Bill When Acting Contrary to Advice**
 - When the Governor withholds assent contrary to the advice of the Council of Ministers, they are required to return the Bill with a message for reconsideration within a period of three months.
- **Reservation for the President Against Ministerial Advice**
 - If the Governor chooses to reserve the Bill for the President despite the contrary advice of the State Council, such reservation must also be made within a maximum of three months.
- **Assent to Reconsidered Bill**
 - In cases where the Bill is re-presented after reconsideration by the legislature, the Governor must grant assent within a maximum period of one month.
 - Failure to act within these timelines would make the Governor's inaction **subject to judicial review**, reinforcing democratic accountability and **ensuring that the legislative process is not obstructed arbitrarily**.

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Earlier Judgements of SC on Governors Power to Withhold Assent

- **Nabam Rebia Case (2016): Arunachal Pradesh Assembly Ruling**
 - In the *Nabam Rebia & Bamang Felix vs Deputy Speaker* case, the Supreme Court emphasized that:
 - The Governor cannot withhold assent indefinitely.
 - If the Governor has concerns, they must **return the Bill with a message**, which may include **recommended amendments**.
 - The Court cited **Rules 102 and 103** of Assembly procedures, mandating the Speaker to read or circulate the Governor's message when a Bill is returned.

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- **State of Punjab vs Principal Secretary to the Governor (2023)**

- The dispute involved the **Punjab government** and **Governor Banwarilal Purohit**, who refused assent to certain Bills, citing procedural irregularities in reconvening the Assembly.
- The **Governor claimed the session was illegal**, as it was resumed after an adjournment *sine die* without formal prorogation.
- The **Supreme Court ruled in favour of the Punjab government**, stating:
 - A Governor is **an unelected Head of the State** and must **not obstruct the legislative process**.
 - If the Governor chooses to withhold assent under Article 200, they must **follow the first proviso** — i.e., **return the Bill for reconsideration**, not stall it indefinitely.

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