

Presidential Reference: SC Clarifies Governor's Powers on State Bills

In a major decision clarifying how Governors and state legislatures must interact, the **Supreme Court's five-judge Constitution Bench** issued its opinion on a presidential reference related to the Governor's assent to state Bills.

The Court held that Governors cannot indefinitely delay Bills passed by state legislatures and must work cooperatively with elected governments, upholding the principle of cooperative federalism. At the same time, it stated that **courts cannot mandate a fixed timeframe for the Governor or the President to grant assent**, nor can they create a concept like "deemed assent" in cases where no action is taken.



Source- IE

Why the Presidential Reference was submitted to the Supreme Court?

- President **Droupadi Murmu** approached the Supreme Court under **Article 143(1)** to seek its advisory opinion after disputes arose over delays by Governors and the President in granting assent to state Bills.
- The immediate trigger was an **April 8 judgment from Tamil Nadu**, where a two-judge Bench had set strict timelines for Governors and the President to act on Bills.
- In a highly unusual step, the court invoked **Article 142** and declared **10 Tamil Nadu Bills** as having received "deemed assent" because the Governor had not taken action for extended periods. This unprecedented move raised questions about constitutional boundaries.
- To clear the confusion, the President submitted a **five-page reference containing 14 specific questions**, seeking guidance on:
 - Whether courts can set deadlines for constitutional authorities.
 - The validity of the concept of "deemed assent."

- The scope and limits of gubernatorial and presidential powers under **Articles 200 and 201**.

Read more:

1. [Presidential Reference](#)
2. [Role of Governor](#)

What is the Supreme Court's position on the 14 key questions regarding the powers of Governors and the President?

1. What are the constitutional options before a Governor under Article 200?

Article 200 outlines the process for a Governor to give assent to a Bill passed by the state legislature. The Court held that the Governor has three options:

- Grant assent
- Reserve the Bill for the President's consideration
- Withhold assent and return the Bill to the legislature with comments for reconsideration

Crucially, the Court ruled that there is no option to "withhold assent simpliciter." The Governor cannot simply refuse to sign a Bill and keep it pending; if they withhold assent, they must return it to the House.

2. Is the Governor bound by the aid and advice of the Council of Ministers under Article 200?

No. Article 163 states that the Governor must act on the aid and advice of the Council of Ministers, except where the Constitution requires discretion. The Court ruled that when granting assent to Bills, the Governor enjoys discretion and is not bound by the Cabinet's advice. The Bench reasoned that if Governors were bound by the Cabinet, they could never return a Bill for reconsideration, as no government would advise against its own legislation.

3. Is the Governor's exercise of discretion under Article 200 justiciable?

The merits of the Governor's decision are not justiciable. However, "prolonged, unexplained, and indefinite inaction" is subject to judicial review. If a Governor sits on a Bill without acting, the Court can direct them to do so.

4. Is Article 361 an absolute bar to judicial review of the Governor's actions under Article 200?

No. Article 361 grants the President and Governors personal immunity, stating they are not "answerable to any court" for their duties. The Court held that while this protects the individual, it does not protect the office of the Governor from judicial scrutiny in cases of constitutional inaction. Immunity cannot shield indefinite delays.

5. Can timelines be imposed on the Governor under Article 200?

No. The Court overruled its April judgment that set one- to three-month timelines. Article 200 uses the phrase "as soon as possible," so rigid deadlines are inappropriate.

6. Is the President's discretion under Article 201 justiciable?

No. Article 201 deals with Bills reserved by the Governor for the President. Like the Governor, the President's decision to assent or withhold assent cannot be reviewed on merits.

7. Can timelines be imposed on the President under Article 201?

No. Judicial timelines cannot bind the President regarding reserved Bills.

8. Must the President consult the Supreme Court under Article 143 when a Bill is reserved?

No. Article 143 allows consultation but does not make it mandatory. The President's subjective satisfaction is sufficient.

9. Are decisions of the Governor/President justiciable before a Bill becomes law?

No. Judicial review applies only to enacted laws, not proposed Bills. Courts cannot adjudicate on a Bill before it receives assent.

10. Can Article 142 be used to create “deemed assent”?

No. Article 142 allows the Supreme Court to do “complete justice” but cannot create a legal fiction to substitute the Governor’s role.

11. Can a Bill become law without the Governor’s assent?

No. A Bill cannot become law without the Governor’s assent, or the President’s if reserved.

12. Is it mandatory for a Bench to first decide if a matter requires a five-judge Bench under Article 145(3)?

The Court declined to answer, stating it was irrelevant to the reference on legislative assent.

13. Can Article 142 override substantive or procedural provisions of the Constitution?

The Court clarified that Article 142 cannot override substantive provisions such as the requirement of assent.

14. Does the Constitution bar the Supreme Court from exercising jurisdiction beyond Article 131 in Union-State disputes?

The Court declined to answer, deeming it irrelevant to the Governor’s powers.

Significance of the Supreme Court Opinion on Governor’s Powers

1. Clarification of Governor’s Role: The SC reaffirmed that the Governor’s function under Article 200 is discretionary and generally not justiciable, except in cases of prolonged, unexplained, or indefinite inaction.

2. Strengthening Separation of Powers: By rolling back strict timelines, the Court preserves executive autonomy while retaining judicial oversight as a corrective mechanism.

3. Facilitating Dialogue: The Governor’s assent is seen as the “initiation of a dialogic process” between the state and Centre, highlighting its advisory, consultative, and mediative character.

4. Preventing Judicial Overreach: The SC explicitly rejected the idea of “deemed assent” or substituting executive functions, emphasizing adherence to constitutional boundaries.

5. Preserving Federal Balance: The ruling ensures that both the Centre and state governments respect the constitutional discretion of Governors while maintaining checks and balances.

Challenges Highlighted

1. Prolonged Inaction by Governors: Despite constitutional safeguards, delays in granting assent can stall legislative processes, affecting governance and citizens’ interests.

2. Ambiguity in Judicial Intervention: The Court can intervene only in “glaring circumstances,” which leaves a grey area about when exactly judicial review is warranted.

3. Political Pressures: Governors may face political pressure from the Centre or opposition parties, potentially compromising neutrality in legislative assent.

4. Coordination Between Centre and States: Lack of structured dialogue mechanisms can exacerbate disputes and lead to litigation, straining federal relations.

5. Limited Accountability Mechanisms: While the SC can nudge action, there is no fixed timeline, which may reduce the deterrence against deliberate delays.

Way Forward

- 1. Promote Timely Assent:** Governors should ensure prompt consideration of Bills, and state governments should maintain open channels for dialogue.
- 2. Judicial Oversight as Last Resort:** Courts should intervene only in exceptional cases, issuing limited mandamus without reviewing merits of the decision.
- 3. Institutionalize Dialogue:** Establish structured consultations between Governors, state governments, and Centre to resolve legislative impasses.
- 4. Training and Awareness:** Enhance understanding of constitutional roles under Articles 200 and 201 among Governors and state officials.
- 5. Safeguard Federalism:** Both Centre and states must respect the discretionary role of Governors to maintain federal balance.
- 6. Monitor Deliberate Inaction:** States can move courts when Governors delay action excessively, ensuring accountability without compromising discretion.

Read more- [IE](#)

UPSC Syllabus- GS 2- Separation of powers and checks and balances