

5. President & Governor on State Bills – Polity

Judiciary cannot tie President, Governor to timelines, says Supreme Court. In its 16th Presidential Reference, the Supreme Court ruled that Governors cannot indefinitely "sit on" State Bills, declaring such inaction unconstitutional. The Court established that while the President and Governors enjoy personal immunity, their failure to act within a "reasonable time" is subject to limited judicial review.

1. Context and Background

The Trigger – The Supreme Court (SC) ruled in State of Tamil Nadu vs Governor (April 2025) that Governors cannot delay Bills indefinitely. It extended a three-month decision timeline to the President as well.

The Conflict – This ruling raised questions about judicial scrutiny of the President's discretionary powers, leading President Droupadi Murmu to seek clarity.

The Reference – The President invoked Article 143(1) to ask the SC 14 questions regarding constitutional processes and assent timelines.

The Outcome – A 5-Judge Constitution Bench answered 11 questions and returned 3 as irrelevant.

2. Why the Supreme Court Answered

Constitutional Duty – The SC has an obligation to clarify doubts for the highest constitutional office (President) to ensure smooth governance.

Institutional Integrity – Refusing to answer would undermine the Court's role and the "Constitutional Dialogue" between the Executive and Judiciary.

Necessity – Uncertainty around Articles 200 & 201 (assent to Bills) was hindering legislative functioning.

Rejection of Mala Fide – The Court dismissed claims that the Reference was a political move or an "appeal in disguise."

3. Key Constitutional Provisions Involved

Article	Description
Article 143	Presidential Reference – Empowers the President to seek SC's advisory opinion on matters of law/fact. The opinion is not binding but has high persuasive value.
Article 200	Governor's Role – Deals with giving assent, withholding assent, returning a Bill (except Money Bills), or reserving it for the President.
Article 201	President's Role – Deals with Bills reserved by the Governor. The President can assent, withhold, or direct the Governor to return it to the House.
Article 361	Immunity – Protects the President and Governors from being answerable to any court for exercising their powers (personal immunity).
Article 142	Complete Justice – SC power to pass any order necessary for "complete justice."
Article 131	Original Jurisdiction – SC's exclusive power to hear Centre-State or Inter-State disputes.

4. Supreme Court's Stand on Key Questions

A. Governor's Powers (Article 200)

Options Limited – The Governor has only three options – Assent, Withhold (Return), or Reserve.

No Pocket Veto – They cannot invent options like "sitting indefinitely" or maintaining silence.

Bound by Advice – While they have some discretion, it cannot be used as a political veto against elected governments.

B. Justiciability (Can Courts Intervene?)

Merits of Decision – Courts cannot judge the content or merit of why a Governor/President withheld assent.

Inaction – Courts can intervene if there is "indefinite inaction."

Mandamus – In rare cases of indefinite delay, the Court can issue a writ of Mandamus commanding the Governor to decide within a reasonable time.

C. Immunity (Article 361)

Absolute Bar – The Governor/President is personally immune from court proceedings.

Distinction – While the person is immune, their inaction or unconstitutional delay is not shielded from judicial review.

D. Timelines

No Fixed Deadline – The Constitution is silent, so Courts cannot invent a specific deadline (like 3 months) for the President/Governor.

"Reasonable Time" – However, acting within a "reasonable time" is a constitutional requirement.

E. Other Clarifications

Deemed Assent – The Court cannot use Article 142 to declare that a Bill has "deemed assent" just because the Governor delayed it.

President's Discretion – The President is not required to seek SC opinion for every reserved Bill.

State Law Validity – A State law cannot come into force without the Governor's assent.

5. Questions Not Answered

The Court returned 3 questions unanswered as they were irrelevant to the core issue –

1. Whether a 5-judge bench is mandatory for all substantial questions of law (Irrelevant).
2. Whether Article 142 is limited only to procedural law (Already covered broadly).
3. Whether Article 131 is the only way to resolve Centre-State disputes (Irrelevant).

6. Implications of the Advisory

End of Indefinite Delays – "Maintaining silence" is now unconstitutional. Governors must act.

Federalism Strengthened – Protects State Legislatures from having their Bills stalled by the Centre's appointees.

Judicial Accountability – While avoiding "Judicial Overreach" (by not fixing dates), the Court enabled "Judicial Review" of inaction.

Constitutional Convention – Establishes a firm precedent that "Reasonable Time" must be respected.

7. Concept – Judicial Activism vs. Overreach

Feature	Judicial Activism	Judicial Overreach
Definition	Upholding rights or filling legal vacuums within constitutional limits.	Crossing into Executive/Legislative domains (Policy/Law-making).
Nature	Corrective and Constructive.	Invasive and Substitutive.
Example	Vishaka Guidelines (Sexual Harassment).	NJAC Case (Striking down appointment commission).
View	Legitimate exercise of power.	Abuse of power / Violation of Separation of Powers.

Source – <https://www.thehindu.com/news/national/judiciary-cannot-tie-president-governor-to-timelines-says-supreme-court/article70304190.ece>