



GOVERNOR AND STATE BILLS - GS II MAINS

Q. Enumerate the role of Governor with regards to the bills passed by the state government. Also, discuss the issues concerning governors in the state legislature with respect to state bills in the light of the recent Supreme Court Judgement. (15 marks, 250 words)

News: *SC Says 'No Question' of TN Governor Referring 10 Bills to President After Withholding Assent*

What's in the news?

- The Supreme Court said a governor cannot refer to the president Bills that they have previously withheld assent to, advising Tamil Nadu governor R.N. Ravi to resolve the impasse with the state government over 10 Bills.

Role of Governor regards state bills:

1. **Article 200** of the Constitution lays down that when a Bill, passed by a State Legislature, is presented to the Governor for their assent, they have four alternatives —
 - a. may give assent to the Bill;
 - b. may withhold assent to the Bill, that is, reject the Bill in which case the Bill fails to become law;
 - c. may return the Bill (if it is not a Money Bill) for reconsideration of the State Legislature;
 - d. may reserve the Bill for the consideration of the President.
2. As held by the Supreme Court in various cases including the **Shamsher Singh case (1974)**, the **Governor does not exercise their discretionary powers while withholding assent or returning a Bill to the State Legislature.**
3. They are **required to act as per the advice of the Council of Ministers.**
4. The **situation of 'withholding assent' may arise in case of a Private Members' Bill (any Member of State Legislature other than a Minister) passed by the State Legislature, which the council of ministers do not want to be enacted into a law. In such an instance, they would advise the Governor to 'withhold assent'.**
5. However, this is an unlikely scenario as the council of ministers who enjoy a majority in the Legislative Assembly would not allow the passage of such a Bill.
6. Secondly, **if the incumbent government whose Bill has been passed by the legislature falls or resigns before it is assented to by the Governor, the new council may advise the Governor to 'withhold assent'.**
7. The return of any Bill to the State Legislature for reconsideration is also to be done based on ministerial advice.
8. However, Governors in the past have exercised their discretion in returning Bills, like the Tamil Nadu Governor with respect to the Bill prohibiting online gambling.



9. However, the Governor shall assent to such a Bill if it is passed again by the State Legislature.
10. The Governor must **reserve certain Bills**, like those which **reduce the powers of the High Court**, for the consideration of the President.
11. They may also reserve **Bills on concurrent lists that are repugnant to a Union law based on ministerial advice**.
12. It is **only under rare circumstances that the Governor may exercise their discretion**, where they feel that the **provisions of the Bill will contravene the provisions of the Constitution** and therefore, should be reserved for the consideration of the President.
13. It must however be noted that the **Constitution does not lay down any time limit within which the Governor is required to make a decision**.

Issues regarding governor's role in state legislation:

1. **Inordinate delay in assenting to bills:**
 - a. An indefinite timeline in deciding on Bills can in effect amount to paralysing the elected government.
 - b. The Governor's inaction on bills passed by the Assembly creates a situation where the state government is unable to function in accordance with the Constitution.
 - c. Though the constitution doesn't specify any time limits within which the governor should act on bills, the Article 200 clearly mandates that Governors should "as soon as possible" return Bills, other than Money Bills, for reconsideration by the House with a note that the proposed law should be reconsidered.
2. **Against the advice of the Council of Ministers:**
 - a. Apart from the rare circumstances, the governor should not act discretionarily during the normal course of legislation.
 - b. The governor should act on Aid and advice of the council of ministers headed by the Chief minister for a normal course of legislation in States.
3. **Biased nature of Governor:**
 - a. Allegations of biased and prejudicial acts by the governor against the non-ruling party states.
 - b. Governor as the agent of central government shows partisan behaviour towards non-ruling party states such as Tamil Nadu, Punjab and Kerala.
4. **Frequently reserve the bill for President:**
 - a. The governor is expected to reserve certain bills for President assent.
 - b. However, frequent reservation of bills and prejudicial reservation of bills, after inordinate delay, to the President delays the law making process.



Various Committee recommendations:

1. The Sarkaria Commission (1987)

- The Commission has submitted that it is only the reservation of Bills for consideration of the President, that too under rare cases of unconstitutionality, that can be implied as a discretionary power of the Governor.
- Save in such exceptional cases, the Governor must discharge his functions under Article 200 as per the advice of ministers.
- It further recommended that the President should dispose of such Bills within a maximum period of six months.
- In the event of the President 'withholding assent', the reasons should be communicated to the State Government wherever possible.

2. The Punchhi Commission (2010):

- The Commission had recommended that the Governor should take a decision with respect to a Bill presented for their assent within a period of six months.
- However, these recommendations have not been implemented till date.

Highlights of Recent Supreme Court Judgement regards Governor's role in law making:

1. The Governor, as an unelected Head of the State, is entrusted with certain constitutional powers. However, this power cannot be used to thwart the normal course of lawmaking by the state legislatures.
2. In a Parliamentary form of democracy, real power vests in the elected representatives of the people.
3. The Governor as an appointee of the President is the titular head of State,
4. Governor cannot indefinitely stall a bill without taking any action.
5. The court highlighted that the Governor, acting as a guiding statesman, can recommend a thorough review of the entire bill or specific sections, suggesting amendments. However, the final decision on accepting the Governor's advice, conveyed in the message, lies solely with the legislature.