



EDITORIAL: THE HINDU

GENERAL STUDIES 2: POLITY

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TOPIC: GOVERNOR'S ROLE

A Governor's conduct and a judgment of significance

Supreme Court Clarifies Governor's Constitutional Role

1. Context of the Judgment

- A recent Supreme Court judgment clarified the **constitutional limits of a Governor's powers**.
- The Court ruled that a **Governor is not an independent constitutional authority**.
- He must function within the **framework of legal norms and democratic accountability**.
- The Court emphasized that the **Governor is not a representative of the Union government**, nor is he a **separate power center**.

The Trigger: Governor's Inaction on State Bills

2. Issue of Bill Pendency

- The case involved **12 Bills passed by a State Legislative Assembly**, some pending since **2020**.
- Several of these Bills sought to **reduce the Governor's discretion**, such as in the **appointment of Vice-Chancellors**.

3. Governor's Inaction and Legal Challenge

- The **Governor failed to act** on these Bills for an extended period, neither assenting, rejecting, nor forwarding them in time.
- The **State government approached the Supreme Court in 2023**, citing constitutional deadlock.

4. Timeline of Events

- The Governor **referred 2 Bills to the President** after the court case began.
- The **remaining 10 Bills were re-passed** by the Assembly in a special session to reaffirm legislative intent.
- However, the Governor again **sent all 10 Bills to the President** without using his discretion or providing valid reasons.



5. President's Response

- Of the 10 re-passed Bills:
 - **1 was approved**
 - **7 were rejected**
 - **2 remained undecided**
- This led to a constitutional dilemma and questions on the **Governor's accountability**

Federalism and Constitutional Structure

6. Division of Powers

- The Constitution mandates a clear **division of legislative powers** between the **Union and the States** under the **Seventh Schedule**.
- The **State legislature has complete authority over subjects in List II** (State List).
- The Governor, though appointed by the Union, **must act on the advice of the State Council of Ministers** in all routine matters.

Understanding Article 200 of the Constitution

7. Governor's Options Under Article 200

- Upon receiving a Bill passed by the State legislature, the Governor can:
 - **Give assent**
 - **Withhold assent**
 - **Return it for reconsideration (except Money Bills)**
 - **Reserve it for the consideration of the President**

8. Union's Argument and Court's Response

- The Union argued that the Governor can **withhold assent indefinitely**, akin to a **"pocket veto"**.
- The Supreme Court rejected this, stating it **violates democratic principles and constitutional intent**.
- The Court cited **previous judgments** to reaffirm that the Governor **cannot act arbitrarily**.



Discretionary Powers of the Governor

9. When Can the Governor Use Discretion?

- The Court listed **three limited circumstances** where the Governor can act independently:
 1. When a Bill **impacts the powers of a High Court**.
 2. When a Bill **requires prior Presidential assent** (like under **Article 31C**).
 3. When a Bill is **clearly unconstitutional** or violates basic structure.

10. Judicial Review of the Governor's Decisions

- The Governor is **personally immune under Article 361**, but his decisions are **not beyond judicial scrutiny**.
- Courts can **examine and strike down** unconstitutional actions taken in the Governor's name.

Supreme Court's Use of Article 142

11. Court's Final Remedy

- The Court **declared the Governor's delay as unconstitutional**.
- Although the Court could have ordered the Governor to approve the Bills, it avoided such a directive due to **practical enforcement issues**.
- Instead, under its special powers granted by **Article 142**, the Court ruled that:
 - All 10 Bills are **deemed to have received assent** on the date they were **re-submitted** to the Governor.

Conclusion: Upholding Democratic Governance

12. Key Takeaways

- The Governor is **constitutionally bound to act in accordance with democratic norms**.
- **Delaying or withholding assent** without justification violates the **spirit of federalism and parliamentary democracy**.
- The office of the Governor is meant to **uphold the Constitution, not obstruct the elected State government**.
- The judgment sets a precedent for **future disputes involving gubernatorial inaction or overreach**.



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