



## EDITORIAL: THE HINDU

**GENERAL STUDIES 2: POLITY**

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**TOPIC: JUDICIARY**

### A restoration of sanity to the constitutional system

#### Background of the Case: Tamil Nadu Governor's Inaction

- The Governor of Tamil Nadu, R.N. Ravi, kept **10 Bills pending without action for several years**, violating the constitutional responsibility under Article 200.
- After the Bills were re-passed by the Tamil Nadu Legislative Assembly, the Governor sent them to the **President of India**, instead of giving assent or returning them for reconsideration.
- This action was taken **only after the State government approached the Supreme Court**, highlighting an extreme case of executive delay and constitutional evasion.

#### Supreme Court's Landmark Judgment (April 8, 2025)

- A two-judge bench of **Justice J.B. Pardiwala and Justice R. Mahadevan** ruled that the Governor's action of referring the Bills to the President **at that stage was unconstitutional**.
- The Court **struck down both the Governor's and the President's actions**, declaring that the **withholding of assent was invalid**.
- Invoking its powers under **Article 142**, the Court declared that all ten Bills were **deemed to have received assent**—an extraordinary use of judicial power to prevent constitutional paralysis.
- This is the **first instance in Indian legal history** where **Bills withheld by the President were deemed assented to by the judiciary**, underscoring the gravity of the constitutional breakdown.

#### Legal Clarification of Article 200: The Bill Does Not Die

- **Article 200** outlines the Governor's options when presented with a Bill: assent, withhold assent, or reserve it for the President.
- Earlier interpretations implied that **withholding assent ends the Bill**, but the **Punjab case (2023)** clarified that **withholding does not terminate the Bill**.
- The Court held that if the Governor withholds assent, he **must return the Bill to the legislature for reconsideration**—he **cannot kill the Bill unilaterally**.
- Once the legislature re-passes the Bill (with or without amendments), the **Governor is bound to give assent**, thus **nullifying any form of pocket or absolute veto**.



## Tamil Nadu Case: Carrying Forward the Punjab Precedent

- The Court **reiterated the principle** from the Punjab case, reinforcing that a **Governor's withholding of assent must trigger a return to the legislature**.
- In the Tamil Nadu case, the Governor **neither gave assent nor returned the Bills**, and instead **referred them to the President after years of delay**—this was ruled unconstitutional.
- The judgment seeks to **prevent elected legislatures from being rendered powerless by unelected constitutional heads**.

## Fixing a Time Limit on Assent: A Historic First

- The Court introduced a **minimum of 1 month and a maximum of 3 months** for the Governor and President to act on a Bill.
- This move responds to **executive silence that lasted for years**, recognizing that **constitutional functionaries cannot remain inactive indefinitely**.
- Critics questioned whether such time limits are legally sound, but the Court justified this under the principle that **discretionary power must be exercised within a “reasonable time”**, especially where no explicit limit exists.

## Governor's Discretion Must Be Based on Council of Ministers' Advice

- The Court clarified that the Governor can **withhold assent or refer a Bill to the President only on the advice of the Council of Ministers**.
- If the Governor returns a Bill with recommendations and the legislature re-passes it, **he is constitutionally bound to assent—he cannot exercise discretion at this stage**.
- However, ambiguity remains: how can the Council of Ministers advise the Governor to propose amendments if the legislature is unlikely to accept them due to political alignment?
- The Court's stance on the **limits of gubernatorial discretion** is still evolving, with **contradictory opinions across different benches**.

## Judicial Review of the Governor and the President's Actions

- The most critical aspect of the judgment is the **reaffirmation that the actions of the Governor and President under Articles 200 and 201 are subject to judicial review**.
- The Court reviewed past cases and concluded that **no constitutional authority is beyond judicial scrutiny**, including the highest constitutional posts.
- This ruling provides a **strong check against executive inaction**, emphasizing that **constitutional powers must be exercised in good faith and within legal limits**.

## Criticisms and Legal Objections to the Judgment



- The Kerala Governor criticized the ruling as **judicial overreach**, arguing that only Parliament can amend the Constitution.
- However, the Court responded that it **did not amend the Constitution**, but merely **interpreted Articles 200 and 201 to prevent their misuse**.
- Another criticism was that the matter should have been referred to a **Constitution Bench under Article 145(3)**.
- The Court clarified that **no substantial question of constitutional law** was involved; it merely elaborated on **existing principles** to fill procedural gaps and prevent constitutional subversion.

## Long-Term Significance of the Judgment

- The Court's action **restores democratic functioning**, especially in cases where unelected heads delay or derail legislative processes.
- It recognizes that **timely action on legislation is vital for democratic governance**, especially within the limited timeframe of a government's electoral mandate.
- The ruling could prompt other states like **Kerala, Telangana, and Punjab**—which have faced similar delays—to seek similar judicial remedies.
- Historically, there have been instances where **even Presidents sat on Bills for years**, highlighting the **urgent need to reform assent-related provisions** in the Constitution.

## Need for Constitutional Reform Based on Judicial Guidance

- This judgment underscores the **necessity of inserting clear time limits and accountability mechanisms** into Articles 200 and 201.
- It prevents the misuse of **“pocket vetoes”** by Governors or Presidents and aligns with **democratic principles and federal spirit**.
- The **cue for legislative reform** must be taken from this ruling to avoid future constitutional standoffs.
- By plugging legal loopholes and emphasizing constitutional accountability, the Court has **reinstated trust in democratic procedures and rule of law**.

## Conclusion: A Judicious Intervention to Restore Constitutional Balance

- The April 8, 2025 judgment is a **milestone in Indian constitutional jurisprudence**, resolving ambiguities in the Governor's role and ensuring timely legislative assent.
- It is a bold yet reasoned use of **Article 142** to protect democratic processes from administrative inaction.





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- By ensuring that unelected constitutional authorities remain **accountable and non-obstructionist**, the judgment strengthens **India's democratic and federal structure**.
- Its broader impact lies in **rebalancing institutional power**, reinforcing that **elected legislatures must not be at the mercy of political appointees or procedural loopholes**.

Source: <https://www.thehindu.com/opinion/lead/a-restoration-of-sanity-to-the-constitutional-system/article69465524.ece>

