

Governor's Assent and the Spirit of Federalism

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Governor's Assent and the Spirit of Federalism: Supreme Court's Timely Intervention

Context

In a significant development, the **Supreme Court of India** pulled up the **Governor of Tamil Nadu** for the **unconstitutional delay** in granting assent to **10 Bills** that had been **re-enacted by the State Assembly**. These delays prompted a constitutional crisis, leading the Court to not only **deem the Bills assented** but also lay down **clear timelines** for gubernatorial actions in the future.

Case Title

The State of Tamil Nadu v. The Governor of Tamil Nadu & Another

Constitutional Provisions Involved

- **Article 200:** When a Bill is passed by the State Legislature and presented to the Governor, the Governor may:
 - **Give assent**
 - **Withhold assent**
 - **Return the Bill** (except Money Bills) for reconsideration
 - **Reserve it for the President's consideration**

- **Proviso to Article 200:** If a Bill is returned and **re-passed by the legislature**, the Governor **must not withhold assent**.
 - **Article 163:** The Governor is required to act on the **aid and advice of the Council of Ministers**, except in matters where discretion is explicitly permitted.
 - **Article 142:** Empowers the Supreme Court to pass orders necessary for **complete justice** in any matter.
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Key Issues with Governor's Role in Bill Assent

- **No timeline prescribed** under Article 200 → allows for **indefinite delay** (often called "pocket veto").
 - **Political misuse** in Opposition-ruled states → Governors accused of obstructing legislative processes.
 - **Lack of accountability** → No requirement to disclose reasons for withholding assent.
 - **Growing legal challenges** from states like **Kerala, Telangana, and Punjab** on similar grounds.
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Major Outcomes of the SC Judgment

1. **Declared the delay unconstitutional:** The Court ruled that the Governor's indefinite withholding or referring Bills to the President after re-passage was **legally impermissible**.
2. **Bills deemed to have received assent:** Invoking **Article 142**, the Court **deemed all 10 re-enacted Bills** to have **received gubernatorial assent**.
3. **No absolute veto or indefinite delay:** The Governor **cannot reserve Bills or sit on them indefinitely**, especially after re-enactment.
4. **Time-bound framework established:**
 - **1 month to assent or reserve** a Bill based on Cabinet advice.

- **3 months** if the Governor intends to withhold assent against advice.
 - **1 month** to grant assent to **re-passed Bills**.
 - **3 months maximum** to reserve a Bill for the President (with justification).
5. **Cabinet advice is binding:** Except where discretion is constitutionally permitted (e.g., Bills affecting High Courts), the **Governor must follow Cabinet advice**.
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Significance of the Judgment

- **Strengthens federalism:** Reaffirms the **legislative authority of elected state governments**.
 - **Ends arbitrary delays:** Prevents **executive overreach** by ensuring Governors cannot block laws through inaction.
 - **Clarifies constitutional intent:** Affirms that the term “**shall**” in Article 200 implies a **mandatory duty**, not discretion.
 - **Upholds democracy:** Reinforces that **state legislatures represent the will of the people** and must not be undermined.
 - **Sets national precedent:** Provides legal clarity and consistency for similar cases in **Kerala, Punjab, Telangana**, and other states.
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Conclusion

This landmark ruling by the Supreme Court marks a **turning point in Centre-State relations**, ensuring that **democratically elected governments** are not **subverted by constitutional functionaries**. It reasserts the principle that **constitutional morality** must guide all offices, including that of the Governor. As **Dr. B.R. Ambedkar** rightly said, “*The Constitution is only as good as those who are called to implement it.*” This judgment gives that statement renewed relevance in India’s contemporary constitutional practice.