

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

THE STATE OF TAMIL NADU V. THE GOVERNER OF TAMIL NADU & ANR.

AUTHORED BY - ANURAG YADAV
University of Allahabad

CITATION:

Writ petition (C) No. 1239 of 2023; (2025) 8 SCC 1

BENCH

Hon'ble Justice J.B. Pardiwala, R. Mahadevan

ABSTRACT

This case examines the constitutional limits of the Governor's powers under Articles 200 and 201 of the Indian Constitution, arising from prolonged inaction and disputed decisions by the Governor of Tamil Nadu on Bills passed by the State Legislature. Between 2020 and 2023, twelve Bills were enacted and sent for assent, but the Governor delayed action for nearly three years. Only after the State approached the Supreme Court did the Governor withhold assent to ten Bills and reserve others for Presidential consideration. When the Legislature re-passed the Bills, the Governor again reserved them for the President, citing alleged repugnancy, despite acknowledging the State's legislative competence.

The Supreme Court held that the Governor's actions violated the constitutional procedure under Article 200. It clarified that withholding assent must follow the first proviso to Article 200, requiring the Bill to be returned with reasons. Once a Bill is re-passed, the Governor has no authority to reserve it for the President or withhold assent again. The Court emphasized that the Governor generally acts on the aid and advice of the Council of Ministers and that discretionary powers are limited and reviewable.

While rejecting judicially imposed timelines for assent, the Court struck down the post-repassage reservation of Bills and declared all subsequent Presidential actions void. The judgment reinforces legislative supremacy, federalism, and constitutional accountability, while curbing misuse of gubernatorial discretion. At the same time, it raises concerns about judicial intervention and separation of powers, reflecting the delicate balance within India's federal constitutional framework.

INTRODUCTION

The Legislature for the State of Tamil Nadu, between 13-01-2020 and 28-04-2023, enacted and forwarded 12 Bills to the Governor for grant of assent as per Article 200 of the Constitution. Even though the current Governor took charge of the office with effect from 18-11-2021, yet he did not take the necessary action on any of the said Bills forwarded to his office till October 2023. The petitioner, being aggrieved by the inaction on part of the Governor, had to ultimately file the instant writ petition. The Court issued notice to the respondents on 10-11-2023 and the Governor took a decision on the 12 Bills on 13-11-2023 by withholding assent simpliciter to 10 bills. On 28-11-2023, the Governor, without the aid and advice of the Council of Ministers of the State, in exercise of his discretion, reserved the said re-passed Bills for the consideration of the President. Although the Governor noted that the Bills were intra-vires the competence of the State Legislature having been legislated under Entry 66 of List I, Entry 32 of List II and Entry 25 of List III, yet he reserved the said Bills for the consideration of the President in the second round on the ground that the Bills suffered from repugnancy on account of being contrary to Entry 66 of the Union List i.e., List I.¹

FACT OF CASE

The present case arises from persistent constitutional inaction and disputed exercise of powers by the Governor of Tamil Nadu concerning (i) assent to Bills passed by the State Legislature, and (ii) sanction for investigation and prosecution under the Prevention of Corruption Act, 1988.

Between 13.01.2020 and 28.04.2023, the Tamil Nadu Legislative Assembly enacted 12 Bills and forwarded them to the Governor under Article 200 of the Constitution. Despite assuming office on 18.11.2021, the Governor took no action on any of these Bills until November 2023. Aggrieved by prolonged inaction, the State filed the present writ petition on 31.10.2023.

Following issuance of notice by this Hon'ble Court on 10.11.2023, the Governor, on 13.11.2023, withheld assent to 10 Bills simpliciter, without returning them for reconsideration as required by the first proviso to Article 200, and reserved 2 Bills for the consideration of the President. The 10 Bills were returned to the Legislature.

¹SCC Online.com <https://www.sconline.com> (last visited jan. 3, 2026)

On 18.11.2023, the State Legislature convened a special session and repassed the 10 Bills without material modification, forwarding them again to the Governor for assent. While the matter was pending before this Court, the Governor, on 28.11.2023, reserved the repassed Bills for the consideration of the President, citing alleged repugnancy with Entry 66 of List I, despite acknowledging that the Bills were intra vires the State Legislature under Entries 32 (List II) and 25 (List III).

The State contends that once assent was withheld, the Governor was constitutionally bound to follow the first proviso to Article 200, and after repassage, had no authority to reserve the Bills for Presidential consideration. It is further alleged that the Governor acted without the aid and advice of the Council of Ministers and to defeat judicial scrutiny.

Subsequently, the President acted on the reserved Bills: assent was withheld in seven Bills, granted in one Bill, and two Bills remain pending.

Separately, between April 2022 and May 2023, the State submitted four files to the Governor seeking sanction under Sections 17A and 19 of the Prevention of Corruption Act, 1988 for investigation and prosecution of former Ministers and public servants. These files remained pending for several months and were acted upon only after filing of the writ petition, with sanctions granted in some cases and others still under consideration.²

ISSUES

The Court is called upon to determine several questions of constitutional significance concerning the powers, discretion, and accountability of the Governor and the President under Articles 200 of the Constitution. Broadly, the issues are:

1. What courses of action are available to the governor in exercise of his power under article 200 of the constitution?
2. Whether there is an express constitutionally prescribed time-limit with in which the governor is required to act in the exercise of his power under article 200 of the constitution?
3. Whether the governor can reserve a bill for the consideration of the president when it is presented to him for assent after being considered in accordance with article 200

² SCC Online.com <https://www.sconline.com> (last visited jan. 3, 2026)

proviso 1, more particularly when he had not reserved it for the consideration of the president in the first instance?

4. Whether the governor in the exercise of his power under article 200 of the constitution can only act in accordance with the did and advice tendered to him by the state council of ministers?
5. Whether the exercise of discretion by the governor in discharge of his function under article 200 of the constitution could be said to be subject to judicial review?

If yes, what are the parameters for such judicial review?

6. What is the manner in which the president under article 200 of the constitution is required to act once a bill has been reserved for his consideration by the governor under article 200 of the constitution?³

ARGUMENT BY PETITIONER

The petitioner challenges the constitutional validity of the Governor's and President's actions concerning assent to State Bills under Articles 200 and 201 of the Constitution.

Key Contentions

No Pocket Veto / Mandatory Duty under Article 200

- The Governor cannot indefinitely delay action on Bills ("pocket veto" is alien to the Constitution).
- Article 200 uses "shall declare", imposing a mandatory duty to act within a reasonable time.
- Inordinate delay frustrates legislative democracy and federalism.

Withholding of Assent Must Follow the First Proviso

- Simpliciter withholding of assent without a message to the Legislature violates Article 200.
- The first proviso mandates communication of reasons to enable reconsideration.
- Non-speaking withholding is arbitrary and violative of Article 14.

³ Pendency of the Bills before the Tamil Nadu Governor, SUPREME COURT OBSERVER, (April 14, 2025, 13:15 P.M.), <https://www.scobserver.in/cases/pendency-of-bills-before-tamil-nadu-governor-the-state-of-tamil-nadu-v-governor-of-tamil-nadu/>.

Repassed Bills: No Power to Reserve for President

- Once assent is withheld and the Bill is repassed, the Governor is constitutionally barred from:
 - Reserving the Bill for the President, or
 - Withholding assent again.
- The negative language “shall not withhold assent therefrom” makes assent mandatory.

Limited Power to Reserve Bills for President

- Reservation is not open-ended and applies only where the Constitution expressly requires Presidential assent (e.g., Arts. 31A, 31C, 254(2), 304(b)).
- Even reservation must be on the aid and advice of the Council of Ministers.
- Vague references to “repugnancy” without identifying Central laws show non-application of mind.

Governor Bound by Aid and Advice

- Under Articles 163 and 200, the Governor has no independent discretion.
- Constitutional scheme, Constituent Assembly Debates, and precedents (Samsher Singh, Nabam Rebia, Bommai) confirm the Governor’s titular role.
- Allowing discretion would make the Governor dominant over an elected government.

Judicial Review and Justiciability

- No constitutional power is immune from judicial review.
- Actions under Article 200 can be reviewed for arbitrariness, mala fides, or constitutional violation.

President under Article 201

- The President is also bound by aid and advice.
- Unlike Article 200, Article 201 does not mandate assent after repassage.
- However, non-speaking withholding by the President is constitutionally suspect.

Need for Time Limits

- “As soon as possible” must be given substantive meaning.

- Courts should prescribe an outer limit (2–3 months) to prevent gubernatorial procrastination.
- Sarkaria (1 month) and Punchhi (6 months) Commission reports support this.

Malice in Law and Fact

- The Governor's actions during pendency of litigation were aimed at frustrating judicial review.
- Such conduct violates constitutional morality and the Governor's oath.

Overall Submission The Governor's delay, simpliciter withholding of assent, post-repassage reservation of Bills, and the President's non-speaking withholding are unconstitutional, void, and liable to be set aside, with appropriate judicial directions to restore constitutional governance.⁴

ARGUMENT BY RESPONDENT

Mr. R. Venkatramani, Attorney General for India

- The Governor's role under Article 200 is a constitutional responsibility, not merely ordinary discretion. Even assuming absence of individual discretion, the Governor may withhold assent to fulfil constitutional obligations.
- While the Governor may seek advice from the Council of Ministers to understand legislative intent, he may independently apply his mind where a Bill raises constitutional contraventions, serious debatable issues, or concerns of repugnancy.
- The Governor's role in federal matters should neither be expanded excessively nor reduced to insignificance.
- Relying on Valluri Basavaiah, it was submitted that withholding assent results in the Bill ceasing to exist; however, if the first proviso to Article 200 is invoked, its mandatory procedure binds the Governor.
- Assent was withheld to prevent a repugnant law that could undermine university administration and dilute the Chancellor's role, adversely affecting higher education.
- Article 200 does not bar the Governor from reserving a Bill for the President even after initially withholding assent.
- Bills forwarded by the State without following the first proviso cannot restrict the Governor's authority, including reference to the President.

⁴ https://api.sci.gov.in/supremecourt/2023/45314/45314_2023_11_1501_60770_Judgement_08-Apr-2025.pdf

- The first proviso applies only where Bills are otherwise constitutionally valid but require amendments; it does not necessarily apply in cases of repugnancy.
- Since the President has withheld assent, such action is non-justiciable (Hoechst Pharmaceuticals), and the Governor's referral cannot be indirectly challenged.
- The interpretation in State of Punjab is sub silentio for not considering Valluri Basavaiah.
- The matter warrants reference to a larger Bench to harmonise conflicting precedents.

Mr. Vikramjit Banerjee, Additional Solicitor General

- Article 163 recognises that while the Governor ordinarily acts on ministerial advice, discretion exists where the Constitution so requires, including under Articles 200 and 201.
- Relying on M.P. Special Police Establishment, it was submitted that exceptions to acting on advice are fact-dependent and not exhaustive.
- Situations involving institutional bias or threat to democratic principles may justify independent action by the Governor.
- In the present case, the Bills sought to encroach upon the Governor's role as Chancellor and impinged upon Entry 66 of the Union List, justifying independent scrutiny.
- Reliance was placed on Purushothaman Nambudiri to submit that no time limit can be read into Articles 200 or 201, as such an interpretation has been expressly rejected.⁵

COURT ANALYSIS

1. Three distinct options under Article 200

The substantive part of Article 200 uses three verbs: assent, withhold, and reserve. Each option is qualitatively different and carries a distinct constitutional meaning.

2. Meaning of “withhold” is qualified by the first proviso

The repetition of the word “withhold” in the first proviso shows that it is not absolute. The first proviso qualifies the substantive provision.

3. Obligation to return the Bill

When the Governor “withholds” assent (except for a Money Bill), he is constitutionally obliged

⁵ https://api.sci.gov.in/supremecourt/2023/45314/45314_2023_11_1501_60770_Judgement_08-Apr-2025.pdf

to return the Bill to the Legislature with comments.

Therefore, withholding assent cannot be done silently or indefinitely.

4. No fourth option created by the first proviso

The first proviso does not create a separate or fourth option.

It merely limits and conditions the exercise of the power to withhold assent.

5. Federalism and State legislative autonomy

States have the right to determine legislative policy within their constitutionally allotted spheres.

Indian federalism cannot be captured by a single label (federal, quasi-federal, cooperative, etc.), but is a unique constitutional arrangement.

6. Withholding assent without dialogue violates federalism

Allowing the Governor to withhold a Bill without following the dialogic process in the first proviso would:

Undermine federalism, and

Derogate from the powers of State Legislatures.

7. Governor generally acts on aid and advice

As a rule, the Governor exercises functions on the aid and advice of the Council of Ministers.

8. Exceptions: discretionary functions

The Constitution permits the Governor to act without aid and advice in certain situations.

Such discretion arises:

When expressly provided, or

By necessary constitutional implication.

9. Role of “in the opinion of the Governor”

The phrase in the second proviso to Article 200 clearly indicates discretionary power.

Discretion under Article 200 is not confined only to the second proviso.

10. Discretion varies across options in Article 200

Some options under Article 200 involve no discretion, while others do.

Restricting discretion only to the second proviso is illogical and inconsistent with the constitutional scheme.

11. Temporal requirements under Articles 200 and 201

The Constitution prescribes time-related obligations only in limited instances:

Governor must return a Bill “as soon as possible” if he chooses to withhold assent (first proviso).

State Legislature must reconsider a Bill within six months when returned by the President under Article 201.

12. Rejection of judicially imposed timelines

The Court held that earlier observations in *State of T.N. v. Governor of T.N.*, (2025) 8 SCC 1 imposing timelines on Governors were erroneous.

13. Constitutional elasticity preserved

Articles 200 and 201 are deliberately framed with elasticity, allowing constitutional authorities flexibility.

This accommodates diverse political, federal, and democratic contexts.

14. Timelines contrary to constitutional design

Imposing rigid timelines would defeat the carefully preserved flexibility of the Constitution and disrupt the balance in law-making within a federal democracy.⁶

JUDGEMENTS

- With the afore-stated assessment, the reservation of the 10 Bills by the Governor of Tamil Nadu for the consideration of the President on 28-11-2023 after their due reconsideration by the State legislature in terms of the first proviso to Article 200 being in contravention of the procedure prescribed under Article 200 was declared to be erroneous in law by the Court.
- Any consequential steps that might have been taken by the President on these ten Bills were held to be equally non-est and were set-aside.⁷

⁶ <https://www.scconline.com/blog/post/2025/11/20/discharge-of-governor-and-president-functions-under-arts-200-201-sc/> (jan. 3, 2026)

⁷ <https://www.scconline.com/blog/post/2025/04/14/explained-sc-decsion-tamil-nadu-governor-powers-article->

CONCLUSION

The Supreme Court through its judgment curbs the misuse of gubernatorial discretion to stall state legislatures, reaffirming that Governors are constitutional heads, not political actors. It emphasizes the primacy of the legislative process and limits executive overreach. The judgment also sets a precedent for similar cases in states like Kerala, West Bengal, Telangana, and Punjab, where Governors have delayed assent to Bills. The judgment can be seen as a boost for the state governments and the legislative autonomy. It tilts the balance a bit from the Centre which has the power to appoint the Governors towards the elected state governments reinforcing the federal principle. On the other hand, the decision of the Apex Court can be seen as the judicial overreach thereby undermining the principle of separation of the powers. The Court in the exercise of the extraordinary powers under Article 142 of the Constitution interfered with the functioning of the state executive.

