



## Article 200, Gubernatorial Discretion and the Crisis of Cooperative Federalism: An Analytical Study of Punjab and Tamil Nadu in the Light of Supreme Court Verdicts

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### ABSTRACT

Article 200 of the Indian Constitution authorizes the Governor either to grant assent to state bills, withhold assent, or reserve them for the consideration of the President. This provision is designed to function as a formal constitutional procedure rather than a source of political discretion. However, in recent years, arbitrary use of this power by the governor has not only disrupted the state legislative process and has also undermined the principles of cooperative federalism in India. This paper specifically examines the use of Article 200 by Governors in Punjab and Tamil Nadu, where prolonged withholding of assent to state legislation by the Governor has led to institutional friction between democratically elected governments and constitutional heads of the states. The study analyses how such practices have disrupted legislative functioning and weakened mutual trust between the Centre and the States. The paper further explores the Supreme Court verdicts on the gubernatorial discretion under Article 200 and emphasizes the sagacious usage of this article to ensure smooth functioning of legislative process in the states. It highlights how the court emphasizes on accountability, constitutional morality and the need for time-bound decisions in its judgment. Through an analytical study of Punjab and

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Tamil Nadu, the paper presents how judicial intervention has intended to curb arbitrary actions of the governor and safeguard the authority of elected state governments. The Supreme Court tried to redefine the Governor's role as a facilitator of governance rather than a political actor. The paper concludes that accountable exercise of Governor's powers under Article 200 is essential for promoting constitutional governance and strengthening cooperative federalism in India.

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## Introduction

India adopts a parliamentary system of government at both the Union and State levels, in which there is a difference between nominal and real executive authority. At the State level, the Governor serves as the constitutional or formal head of the government, while the Chief Minister, along with the Council of Ministers, exercises real executive powers. The Council of Ministers is collectively responsible to the State Legislature and remains in office as long as it enjoys the confidence of the legislative assembly. Alongside, India is federal country where powers are divided between the Union and State governments and both are working independently in their own sphere.

The Governor, as the executive head of the State in India's parliamentary system, is appointed by the President under his hand and seal.<sup>i</sup> He serves as an important institutional link between the Union and the States. He functions as a constitutional head of the State as well as the representative of the President within India's federal framework. The Constitution of India provides that there shall be a Council of Ministers with the Chief Minister as its head to aid and advise the Governor in the exercise of his functions, except when he/she is required by the Constitution to act in his discretion.<sup>ii</sup> However, the Governor exercises discretionary powers in specific circumstances provided in Indian constitution. In such cases, he is not bound by the advice of the Council of Ministers. For example, under Article 200, the Governor may act in his discretion in deciding whether to assent to a Bill or reserve it for the consideration of the President of India. The exercise of discretionary powers by Governors has often generated constitutional and political controversies in India. Critics argue that, on certain occasions, the office of the Governor has been utilized as an instrument of Union intervention in the affairs of the States, which strains the centre-state relations. The arbitrary use of Article 200 has emerged as a contentious issue, especially in Punjab and Tamil Nadu, where Governors did not grant his assent and reserved the bills for the consideration of the President. It leads to legislative deadlock and friction between the constitutional head and elected state governments. Such actions are inconsistent with the true spirit of federalism and the principles of parliamentary

democracy, wherein the Governor is expected to function mainly as a constitutional head acting on the aid and advice of the Council of Ministers. Thus, in this type of situation where gubernatorial discretion attempted to obstruct the legislative process, and exceed the constitutional limits judicial intervention assumes critical importance in safeguarding constitutional governance and preserving the smooth functioning of the federal system. Therefore, it is the need of the hour that there should be clear constitutional guidelines and institutional reforms to ensure that gubernatorial discretion is exercised in a manner that upholds democratic accountability and principles of cooperative federalism.

### **What is Article 200?**

Article 200 traces its origin in the 1935 Act and was referred as Article 175 during the drafting stage of Indian Constitution.<sup>iii</sup> Under article 200, when a Bill has been duly passed by the Legislative Assembly of a State, or by both Houses of the State Legislature in states having a bicameral legislature, it must be presented to the Governor for assent. Upon receiving the Bill, the Governor may exercise one of four constitutional options: (i) grant assent to the Bill, thereby enabling it to become law; (ii) withhold assent; (iii) reserve the Bill for the consideration of the President; or (iv) in the case of a Bill other than a Money Bill, as soon as possible return it to the Legislature for reconsideration along with a message outlining the reasons for such reconsideration. When a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent there from.<sup>iv</sup> Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate the powers of the High Court as to jeopardize the constitutional role intended for that Court under the Constitution.<sup>v</sup> However, the issue arises from the ambiguous phrase “as soon as possible” in the proviso to Article 200. Since this provision is directory rather than mandatory, it allows the Governor reasonable time to consider a bill and decide upon the course of action prescribed under the Constitution. However, this ambiguity has increasingly been used to justify prolonged delays in decision-making on legislative bills. Such delays raise serious concerns for Indian federalism and prompt an important constitutional question: does the framework of Article 200 permit a form of constitutionally sanctioned executive obstruction that undermines the democratic will of the legislature?<sup>vi</sup> In *State of Telangana v. Secretary to Her Excellency the Hon’ble Governor for the State of Telangana & ANR*<sup>vii</sup> the Supreme court observed that “The expression “as soon as possible” has significant constitutional content and must be borne in mind by constitutional authorities. Furthermore, article 254 deals with repugnancy of state laws to union laws , and Article 254 ( 2) reads as : “(2)Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any

provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State.”<sup>viii</sup> Thus, reservation by the Governor under Article 200 is permissible when there is inconsistency between union and state laws.

When a Bill is reserved by the Governor for the consideration of the President, the President under Article 201 may either grant assent to the Bill or withhold assent. In the case of a Bill other than a Money Bill, the President may direct the Governor to return the Bill to the State Legislature, accompanied by a message similar to that contemplated under Article 200, requesting reconsideration of the Bill or specified provisions thereof. Upon such return, the House or Houses of the State Legislature are required to reconsider the Bill within six months from the date of receipt of the message. If the Bill is subsequently passed again, with or without amendments, it must be resubmitted to the President for final consideration.<sup>ix</sup> The Constitution does not prescribe any specific time frame within which the President must either grant or withhold assent to a Bill reserved for consideration. Consequently, the President possesses the discretion to keep such a Bill pending indefinitely without communicating a final decision.<sup>x</sup> This constitutional silence has the potential to create prolonged legislative uncertainty by allowing a Bill passed by the State Legislature to remain in abeyance for an indeterminate period.

### **Factual overview of *State of Punjab v Principal Secretary to the Governor of Punjab (2024)* Case and the Judgment of Supreme Court**

The dispute arose on 22 February 2023 when the Punjab Council of Ministers recommended the summoning of the Budget Session of the Punjab Vidhan Sabha. The Governor’s refusal to act on this advice, citing the need for legal consultation, led the State Government to approach the Supreme Court. In its judgment in *State of Punjab v. Principal Secretary to the Governor of Punjab*<sup>xi</sup>, the Court held that the Governor was constitutionally bound by the aid and advice of the Council of Ministers and had no valid basis for seeking legal advice on the convening of the Budget Session.

Following the decision of the Court, the Sixteenth Punjab Vidhan Sabha was summoned on 3 March 2023. The Speaker adjourned the session sine die on 22 March 2023 and reconvened the sitting of the session of the Vidhan Sabha on 19 and 20 June 2023. During the course of the session, the Vidhan Sabha passed four Bills and sent to the Governor for the assent, but no action was taken by the Governor on these Bills. Subsequently, the Vidhan Sabha session was reconvened on 19 October 2023, and three Money Bills were forwarded to the Governor for consideration. The Governor, however, withheld assent to the Bills, contending that both the June and October sessions of the Legislative Assembly were constitutionally

invalid. He questioned the legality of the session and characterized it as inconsistent with constitutional provisions.<sup>xii</sup>

In the judgment of above mentioned case, the Supreme Court strongly criticized the Governor of Punjab for withholding assent to four Bills passed by the State Assembly, observing that such conduct endangered the functioning of the parliamentary system of government. The Court held that the Governor's decision was based on the erroneous assumption that the Assembly session held on 19 and 20 June was invalid. The Bench, comprising Chief Justice D.Y. Chandrachud and Justices J.B. Pardiwala and Manoj Misra, clarified that the Speaker was constitutionally empowered to adjourn the Budget Session *sine die* without prorogation. Consequently, the validity of the legislative proceedings and the Bills passed therein could not be questioned on the ground that the session itself was invalid.<sup>xiii</sup> Constitutionally, reconvening a sitting of the Vidhan Sabha which has not been prorogued is permissible and is within the exclusive domain of the Speaker.

Further, the court observed that if a Governor has constitutional reservations regarding a Bill, the Constitution provides appropriate remedies, such as reserving it for the consideration of the President or returning it to the Legislative Assembly for reconsideration. However, the Governor cannot withhold action by questioning the validity of the legislative session itself. Accordingly, the Court directed the Governor to examine the Bills strictly within the scope of his constitutional authority.<sup>xiv</sup>

In *Shamsher Singh v. State of Punjab*<sup>xv</sup>, the Supreme Court clarified that the President and the Governors function as constitutional heads of the Union and State governments. The Court held that, except in a few exceptional situations expressly provided for in the Constitution, they are required to act on the aid and advice of the Council of Ministers. This landmark judgment established the foundational doctrine that gubernatorial authority is largely constitutional, formal, and ceremonial in nature

### **The State of Tamilnadu v The Governor of Tamilnadu (2025) Case and the verdict of Supreme Court**

Another notable instance of gubernatorial overreach emerged in Tamil Nadu, where the Governor withheld assent to twelve bills passed by the State Legislature for nearly two years. Such an extended delay, marked by the absence of any clear explanation or invocation of constitutional procedures, raised significant concerns about the effective functioning of federal institutions and the principles of democratic accountability. It highlighted the potential for gubernatorial inaction to disrupt the legislative process and undermine the constitutional balance between the governor and the elected legislature.

Confronted with this deadlock, the State of Tamil Nadu approached the Supreme Court of India by invoking its jurisdiction under Article 32 of the Constitution of India, arguing that the Governor's conduct amounted to a constitutional failure in the discharge of duties prescribed under Article 200. The petition further asserted that such inaction was not merely a procedural delay but constituted a disruption of the legislative process itself. This concern is more serious because the bills involved matters of pressing public importance. Although Article 200 does not prescribe a fixed time limit, its constitutional scheme clearly requires the Governor to act with due consideration and promptness, rather than remain silent indefinitely.<sup>xvi</sup>

Tamil Nadu government argued that a Governor cannot function as a "super Chief Minister," as the Constitution does not envisage a parallel centre of executive authority within the State. Appearing before the Presidential Reference Bench headed by Chief Justice of India B.R. Gavai, senior counsel A.M. Singhvi contended that the Governor's role is confined to that of a constitutional facilitator and mediator, rather than a legislator or an authority with independent policymaking powers.<sup>xvii</sup>

On 10 November 2023, the Supreme Court of India issued a notice to the Governor of Tamil Nadu regarding the pending bills.<sup>xviii</sup> Shortly thereafter, the Governor withheld assent to several of the bills and reserved two of them for consideration by the President. In response, the Tamil Nadu Legislative Assembly convened a special session on 18 November 2023 and re-enacted all ten bills without any modification, thereby reaffirming its constitutional authority. However, instead of granting assent as required under the first proviso to Article 200 of the Constitution of India, which mandates that a Governor must assent to a bill once it has been reconsidered and passed again by the legislature which is reaffirmed by the Supreme Court in its judgment on *State of Punjab v Principal Secretary to the Governor of Punjab* case.<sup>xix</sup> Acting without the aid and advice of the Council of Ministers, the Governor subsequently reserved the bills for the President's consideration on 28 November 2023.

The Government of Tamil Nadu filed an interlocutory application before the Supreme Court of India contending that the actions of the Governor of Tamil Nadu were *mala fide* in nature. This action was challenged on the grounds that it violated constitutional conventions and undermined the democratic mandate of the elected legislature. The Supreme Court of India invoked its authority under Article 142 of the Constitution of India, an extraordinary constitutional provision that empowers the Court to issue any decree or order necessary to ensure complete justice in a given case. The court declared that the ten Bills would be deemed assented to from the date of their re-presentation. While the judgment settled the immediate dispute, its broader significance lies in reaffirming that the Governor, though appointed by the

Union, must act on the aid and advice of the State executive. The governor is thus intended to function as a constitutional authority, not as a political obstruction to representative government.<sup>xx</sup>

In a landmark judgment delivered in *The State of Tamilnadu v The Governor of Tamilnadu* (2025)<sup>xxi</sup>, the Supreme Court of India laid down the new strict guidelines for the State Governors regarding his powers under Article 200 of the Constitution of India and to prevent the misuse of gubernatorial authority and to ensure the timely disposal of bills. The judgment was delivered by a two-judge Bench consisting of Justice J. B. Pardiwala and Justice R. Mahadevan. The Supreme Court of India categorically held that Governors do not possess a **pocket veto** under Article 200 of the Constitution of India.<sup>xxii</sup> A Governor cannot indefinitely withhold action on a bill or delay a decision without valid constitutional justification. The expression “**as soon as possible**” in Article 200, the Court observed, imposes a clear constitutional obligation to act with promptness and urgency.

### Timelines for Governor’s Action

Although the Constitution of India does not specify any time limit for gubernatorial action, the Supreme Court of India laid down clear timelines to prevent arbitrary delays in the exercise of powers under Article 200 of Indian Constitution. The Court specified the following procedural framework: if a bill is presented to Governor he decide within one month whether to assent to a Bill, return it for reconsideration with recommendations, or reserve it for the President’s consideration.<sup>xxiii</sup> If the Legislature repasses the Bill, then the Governor is bound to grant assent within a month and cannot refer the bill to the President until and unless state legislature incorporate such amendments in the original bill that are not recommended by the Governor. When a Bill is reserved for President’s consideration, the Governor must record reasons for doing so. The Court further prescribed a three-month timeline for the President’s decision when the bill passed again, required reasons for returning a Bill. If there is any constitutional issue regarding the bill the President may seek the advice of Supreme Court under Article 143 of Indian Constitution. However, such consultation is not required when the bill relates purely to public policy matters. The President retains the authority to withhold assent irrespective of the advice given by the Supreme Court due to the non-binding nature of Article 143.<sup>xxiv</sup> The court affirmed that presidential actions concerning assent remain subject to judicial review.<sup>xxv</sup>

The Court further held that any failure to adhere to these prescribed timelines would render the Governor’s inaction subject to **judicial review**, thereby reinforcing constitutional accountability and safeguarding the legislative process.<sup>xxvi</sup>

If the prescribed timelines or guidelines are not followed, the concerned State government may approach the competent court seeking a **writ of mandamus** to ensure constitutional compliance.<sup>xxvii</sup> Relying on the decision in *State of Rajasthan v. Union of India*<sup>xxviii</sup>, the Court reaffirmed that the judiciary, as the ultimate interpreter and guardian of the Constitution, bears the responsibility of determining the scope and limits of powers vested in each branch of government and of reviewing whether their exercise remains within constitutional boundaries, irrespective of the political nature or exclusive character of such powers.

In *S.R Bommai v Union of India*<sup>xxix</sup> case Supreme Court recognized federalism and responsible government as a basic structure of Indian Constitution and in *Government of NCT of Delhi v. Union of India*<sup>xxx</sup> case, court laid down the principle of constitutional morality in which constitutional authorities are required to act in good faith and uphold democratic institutions as well as the federal balance. So it is the responsibility of the judiciary to protect the Indian constitution from such practices that undermines the true spirit of federalism and parliamentary democracy.

### Significance of the Judgment

- **The judgment of the Supreme Court in both of the cases attempted to strengthen the principles of cooperative federalism by ensuring that State Governors do not function as an agent of the center government and reinforces the respect as well as autonomy for the elected state governments who represents the democratic will of the people.** The Court underscored that the Governor must function as a constitutional head of the State and refrain from actions that impede or delay the legislative process.
- The judgment will also prevent the arbitrary use of Article 200 by the Governor to delay the state legislation and protect the interests of the elected government.
- A key significance of the judgment lies in its prescription of timelines for granting assent, a matter not expressly addressed in the constitution. This ensures the timely discharge of the Governor's responsibilities regarding state bills.

### Conclusion

Thus, it can be said that Governor should act as constitutional head of the state and use his discretionary powers with accountability and judiciously. The genuine facts of both cases reflect a deeper constitutional tension within Indian federalism, particularly concerning the exercise of discretionary powers by the Governor under Article 200 of the Indian constitution. The use of Article 200 highlights the complex interplay between gubernatorial discretion and the doctrine of cooperative federalism. While the constitution

of India empowered the Governor of an Indian State to exercise certain discretionary powers, but the exercise of such authority must remain consistent with the democratic values and the spirit of responsible government. The recent constitutional controversies in Punjab and Tamil Nadu have brought renewed attention to the limits of gubernatorial discretion, particularly in relation to delays or withholding of assent to legislative bills that obstructs the democratic process and provoking the need for judicial intervention. However, there is absence of explicit timelines in Article 200 regarding the assent to state bills that created a constitutional vacuum. But the verdicts of the Supreme Court of India in both cases have therefore played a crucial role in clarifying constitutional boundaries regarding the usage of Article 200 and also fixing the timelines for assent to state bills. Here the Supreme Court commendably performs his role as a guardian of the Indian Constitution.

Ultimately, the effective functioning of Indian federalism depends not only on constitutional provisions but also on the adherence of constitutional authorities to the norms of cooperative federalism and respect for the democratic will of elected legislatures. So, governor is expected to act as a link, not a hurdle between the centre and the states.

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<sup>xxii</sup> *Ibid.*, para 396.

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<sup>xxvi</sup> *Ibid.*, para 434, xxi.

<sup>xxvii</sup> *Ibid.*, para 367.

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<sup>xxix</sup> *S. R. Bommai v Union of India* (1994): 3 SCC 1.

<sup>xxx</sup> *Government of NCT of Delhi v. Union of India* (2018): 8 SCC 501