
State Of Tamil Nadu Vs. Governor Of Tamil Nadu & Anr.
WRIT PETITION (CIVIL) NO. 1239 OF 2023

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Abstract

The Supreme Court's decision in **State of Tamil Nadu vs. Governor of Tamil Nadu & Anr.** redefines the boundaries of gubernatorial discretion under Article 200 of the Indian Constitution. Addressing a long-standing conflict between legislative authority and executive delay, the Court held that the Governor cannot withhold assent indefinitely or reserve a repassed bill for Presidential consideration. Emphasizing the constitutional mandate, the judgment underscores that the Governor must act on the aid and advice of the Council of Ministers, preserving the spirit of democratic governance. The ruling challenges the notion of a "*pocket veto*" and curtails arbitrary decision-making, reinforcing the principle that the Governor functions as a facilitator, not an autonomous power center. While the decision upholds legislative supremacy and cooperative federalism, it leaves room for interpretation regarding the precise time frame within which the Governor must act, hinting at future legal debates on executive accountability.

Keywords: *Gubernatorial discretion, legislative supremacy, Article 200, cooperative federalism, judicial review.*

I. INTRODUCTION AND BACKGROUND

The case of *State of Tamil Nadu vs. Governor of Tamil Nadu & Anr.* presents a significant constitutional issue relating to the role and powers of the Governor under Article 200 of the Constitution of India. The judgment, delivered by the Supreme Court, addresses the prolonged standoff between the State of Tamil Nadu and the Governor concerning the Governor's refusal to assent to several state bills. This case also examines the Governor's powers to reserve bills for the President's consideration and the limits of such discretionary powers. The decision has substantial implications for federalism and the constitutional role of the Governor in the Indian polity.

II. FACTS OF THE CASE

The dispute arose when the Governor of Tamil Nadu withheld assent to several bills passed by the Tamil Nadu Legislative Assembly between 2020 and 2023. Despite taking charge in November 2021, the Governor did not act on any of the twelve bills forwarded for assent until October 2023. Following the filing of a writ petition by the State, the Governor withheld assent to ten bills and reserved two bills for the President's consideration.

The matter was further complicated when the State Legislative Assembly reconvened and re-passed the ten bills without any substantive changes. These re-passed bills were then forwarded to the Governor, who, without the aid and advice of the Council of Ministers, reserved them for Presidential consideration. The Governor cited "repugnancy" with the Union List as the reason for this decision.

The State of Tamil Nadu, aggrieved by the Governor's actions, filed a writ petition before the Supreme Court under Article 32 of the Constitution, challenging the Governor's refusal to grant assent and the subsequent reservation of the bills.

III. ISSUES RAISED

The Supreme Court identified the following primary issues for consideration:

- a) Whether the Governor can reserve a bill for Presidential consideration after it has been reconsidered and repassed by the State Legislature.
- b) Whether there is a constitutionally mandated time limit within which the Governor must act under Article 200.
- c) Whether the Governor can exercise discretion in withholding assent without the aid and advice of the Council of Ministers.
- d) Whether the exercise of discretion by the Governor under Article 200 is subject to judicial review.
- e) Whether the Governor can act independently of the Council of Ministers in cases involving assent to bills and premature release of prisoners.

IV. ARGUMENTS BY THE PARTIES

A. Petitioner (State of Tamil Nadu):

- The petitioner argued that the Governor's action in withholding assent amounted to a "pocket veto," which is not recognized under the Indian Constitution.
- It was contended that the Governor, being a constitutional head, must act on the aid and advice of the Council of Ministers, especially when dealing with bills passed by the Legislature.
- The petitioner relied on *State of Punjab v. Principal Secretary to the Governor of Punjab*,¹ arguing that the Governor's refusal to assent without providing reasons violates Article 14.
- It was also argued that the Governor's delay in granting assent amounts to a failure of constitutional machinery and violates the democratic mandate.

B. Respondents (Governor of Tamil Nadu & Anr.):

¹ (2024) 1 SCC 384

- The respondents argued that the Governor's discretion under Article 200 allows him to reserve a bill for the President's consideration even after it is repassed by the Legislature.
- They contended that the concept of repugnancy, especially concerning the coordination and determination of standards in institutions of higher education (Entry 66, List I), justified the reservation of the bills.
- The Governor maintained that his actions were constitutionally valid and based on precedents, including the *B.K. Pavitra case*.²
- The respondents further asserted that the Governor has discretionary powers in certain situations where the Constitution expressly or implicitly mandates such discretion.

V. COURT'S ANALYSIS AND REASONING (RATIO DECIDENDI)

The Supreme Court's judgment meticulously analyzed the constitutional provisions, particularly Article 200, and the Governor's role as a constitutional head. The Court observed the following:

- The Governor's role under Article 200 is largely ceremonial and must be exercised on the aid and advice of the Council of Ministers.
- The Court stressed upon the fact that the framers of the Constitution did not intend to grant the Governor a "pocket veto."
- Relying on the *Samsher Singh v. State of Punjab*³ and *Nabam Rebia v. Dy. Speaker*,⁴ the Court reiterated that the Governor must ordinarily act on ministerial advice.
- The judgment clarified that once the Legislature reconsiders and passes the bill again, the Governor is constitutionally bound to give assent, as per the first proviso to Article 200.
- The Court held that the Governor's discretionary powers are limited and must be exercised only when the Constitution expressly provides so.
- Judicial review of the Governor's actions is permissible when there is manifest arbitrariness, malafide intent, or violation of constitutional provisions.

² (2019) 6 SCC 129

³ (1974) 2 SCC 831

⁴ (2016) 8 SCC 1

VI. JUDGMENT AND MAJOR FINDINGS

The Supreme Court ruled in favour of the State of Tamil Nadu, holding that the Governor's withholding of assent without conveying reasons was unconstitutional. The key findings were as follows:

- The Governor's inaction and delay amounted to a violation of Article 200.
- The Governor must grant assent when a bill is re-passed by the State Legislature, and the option to reserve the bill for Presidential consideration ceases to exist after re-passage.
- Judicial review of the Governor's actions is permissible, especially when the decision appears to be arbitrary or mala fide.
- The judgment stressed the constitutional principle that the Governor's role is not that of an autonomous power center but of a constitutional functionary acting on ministerial advice.

VII. CRITICAL ANALYSIS

The judgment rightly reaffirms the principle of parliamentary democracy, where the Governor's discretion is limited and must align with the Council of Ministers' advice. The Court's interpretation of Article 200 ensures that the Governor does not become a power center independent of the elected government.

However, the decision also raises important questions about balancing the Governor's discretionary powers and the need for efficiency in legislative processes. By emphasizing that the Governor cannot indefinitely delay assent, the Court has significantly curtailed the misuse of gubernatorial discretion. This judgment is pivotal for federalism, as it ensures that elected state governments are not rendered powerless by gubernatorial delays. Nevertheless, the judgment stops short of laying down a specific time limit for the Governor's decision, which could have further strengthened legislative efficacy.

A. Was the Court's decision appropriate?

The Supreme Court's decision in this case is both appropriate and necessary, given the constitutional mandate and the democratic principles involved. The judgment rightly emphasizes the Governor's role as a constitutional head, bound by ministerial advice, rather than an autonomous decision-maker. Via reinforcing that the Governor cannot withhold assent indefinitely or reserve repassed bills for Presidential consideration, the Court has addressed a pressing constitutional issue that could have led to a legislative deadlock. The decision appropriately limits the misuse of gubernatorial discretion, thus upholding the principles of responsible government and federalism.

The judgment's insistence on prompt action by the Governor under Article 200 rightly balances executive accountability with legislative efficiency. The Court's interpretation also affirms that the Governor's function is to facilitate the legislative process, not to impede it. The decision rightly disallows a scenario where the Governor, under the guise of discretion, can undermine the State Legislature's democratic mandate.

B. Does this decision change/conform with existing law?

This decision conforms with the long-established jurisprudence regarding the limited discretionary powers of constitutional heads under the Indian Constitution. Previous rulings, such as *Samsher Singh v. State of Punjab*⁵ and *Nabam Rebia v. Deputy Speaker*,⁶ have consistently held that the Governor's role is largely ceremonial and that discretion must be exercised on the advice of the Council of Ministers. However, the decision also introduces a nuanced understanding of the Governor's role in dealing with repassed bills. By stating that the Governor's discretion to reserve a bill for Presidential consideration does not extend to bills repassed after being returned, the judgment has clarified a grey area in constitutional practice. This interpretation is in line with the democratic principles embedded in the Constitution, making the decision a reaffirmation rather than a departure from existing law.

C. Was the reasoning consistent with previous reasoning in similar cases?

⁵ (1974) 2 SCC 831

⁶ (2016) 8 SCC 1

Yes, the reasoning in this case aligns well with previous judicial pronouncements on gubernatorial powers and their constitutional limitations. The Court's reliance on *Samsher Singh* and *Nabam Rebia* demonstrates consistency with established principles that the Governor acts not at his discretion but on the advice of the Council of Ministers. Additionally, the Court's observation that withholding assent without reasons violates Article 14 echoes the precedent set in *State of Punjab v. Principal Secretary to the Governor of Punjab*.⁷ The emphasis on judicial review of arbitrary gubernatorial action also aligns with the principles laid down in *S.R. Bommai v. Union of India*.⁸ Therefore, the reasoning remains consistent and rooted in well-established constitutional jurisprudence.

D. Is it likely that the decision will significantly influence existing law?

Yes, the decision will significantly influence the practical application of gubernatorial powers under Article 200. Through clarifying that the Governor cannot reserve repassed bills for Presidential consideration, the judgment prevents potential misuse of discretionary powers. It also sets a critical precedent by mandating that the Governor act promptly and transparently, thereby preventing legislative standstills. This decision will likely act as a deterrent against arbitrary or politically motivated withholding of assent, especially in states where Governors may have differing political affiliations from the ruling government. Additionally, by recognizing the right of judicial review over gubernatorial inaction, the judgment safeguards against executive paralysis.

E. Did the Court adequately justify its reasoning?

The Court provided comprehensive justification for its conclusions, relying on constitutional provisions, historical context, and precedent. The judgment was grounded in the intent of the framers of the Constitution, as evidenced by references to the Constituent Assembly Debates. The Court's interpretation of Article 200 as mandating prompt action reflects a deep understanding of democratic governance. The reasoning is logically structured, beginning with the constitutional framework, moving to historical practices, and finally analysis of recent case

⁷ (2024) 1 SCC 384

⁸ (1994) 3 SCC 1

law to support the conclusion. Via addressing both the textual and purposive aspects of the constitutional provisions, the judgment leaves little room for ambiguity.

F. Was its interpretation of the law appropriate?

Yes, the interpretation of the law was both appropriate and contextually relevant. The Court balanced the literal reading of Article 200 with its purposive interpretation, ensuring that the Governor's discretion is not misused to delay legislative processes. The Court rightly observed that the phrase "shall declare" in Article 200 implies an obligation to act without undue delay. By limiting the Governor's discretion after a bill is repassed, the interpretation maintains the sanctity of legislative supremacy. Further, the judgment's interpretation respects the spirit of cooperative federalism and democratic accountability, making it a model for interpreting constitutional functions.

G. Was the reasoning logical/consistent?

The Court's reasoning is both logical and consistent with the principles of constitutional law. It logically follows that if the Governor is bound to act on the aid and advice of the Council of Ministers, he cannot independently reserve a bill for Presidential assent after the Legislature has reconsidered and repassed it. Ahead, the Court's insistence on judicial review aligns with the basic structure doctrine, which mandates accountability of all constitutional functionaries. Through delineation of the limits of gubernatorial discretion, the judgment logically prevents any misuse that could destabilize state governance.

H. Did the Court consider all/omit some issues and arguments?

The Court considered most of the pertinent issues, including the nature of gubernatorial discretion, judicial review, and the time frame for action. However, the judgment could have further elaborated on the practical consequences of delayed assent and provided a more concrete guideline regarding the maximum permissible time frame for the Governor to act. While the judgment addressed the constitutional legality of the Governor's actions, it did not

delve into potential reforms to minimize such conflicts in the future. Including a more structured framework for time-bound action could have been beneficial.

I. And, if there was omission, does this weaken the merit of the decision?

The omission of a clear time frame for gubernatorial action does not significantly weaken the decision, as the Court did emphasize that indefinite withholding is unconstitutional. However, a specific directive regarding the maximum delay permissible could have enhanced the judgment's practical applicability.

J. What are the policy implications of the decision?

The decision reinforces democratic accountability by ensuring that Governors do not function as parallel power centers. It mandates that Governors act as facilitators of the legislative process rather than obstructors. This decision may prompt states to seek clearer legislative guidelines on the Governor's functions, thereby reducing future conflicts.

K. Are there alternative approaches which could lead to more appropriate public policy in this area?

One alternative could be to legislate a fixed time frame within which the Governor must act on a bill, similar to the President's assent under Article 111. This would further reduce the scope for arbitrary delays. Additionally, requiring the Governor to provide a written reason for withholding assent or reserving a bill could ensure greater transparency and accountability.

VIII. CONCLUSION

The Supreme Court's judgment in *State of Tamil Nadu vs. Governor of Tamil Nadu & Anr.* is a landmark ruling that upholds the democratic principle of ministerial responsibility and limits the discretionary powers of the Governor. Putting focus on that the Governor cannot act

independently of the Council of Ministers, the judgment safeguards the legislative mandate of state governments. The decision sets a critical precedent, reinforcing that the Governor's role is to facilitate rather than impede the functioning of the democratic process.

The decision balances the constitutional mandate of gubernatorial discretion with the democratic principle that elected governments must not be hindered by executive inaction. The judgment effectively curtails the Governor's ability to exercise a "pocket veto" by stressing on the need for prompt and reasoned decision-making. This interpretation not only aligns with constitutional morality but also serves as a safeguard against political manipulation of gubernatorial powers. The Court's reaffirmation that the Governor's role is not that of an autonomous power center but of a constitutional functionary acting on ministerial advice underscores the importance of responsible government. The judgment, by allowing judicial review of arbitrary or mala fide gubernatorial actions, ensures that executive accountability remains intact even at the state level.

Despite the judgment's clarity, it leaves some practical aspects unresolved. The absence of a fixed time frame for the Governor's decision-making could lead to future ambiguities. Additionally, while the judgment focuses on the obligation to act without undue delay, it does not concretely address the consequences of non-compliance. A more structured guideline could have provided a clearer roadmap for implementing the Court's directives.

In essence, this judgment represents a strong reaffirmation of the supremacy of the legislature within a democratic framework, while also preserving the Governor's constitutional role as a facilitator rather than a barrier to legislative enactments. It not only curbs potential misuse of gubernatorial discretion but also strengthens the constitutional ethos of cooperative governance between the state and its constitutional head.

The ruling is likely to have a significant impact on similar disputes arising across states, particularly in politically contentious situations where the Governor's role becomes a point of friction. Restoring the balance between legislative autonomy and gubernatorial oversight, the judgment paves the way for a more harmonious functioning of state governments within the constitutional scheme. This decision will undoubtedly serve as a critical precedent, guiding future interpretations of the Governor's powers under Article 200. It is a vital step toward ensuring that constitutional functionaries do not undermine the democratic mandate of the people and that the legislative process remains resilient against unwarranted executive obstruction.