

The Constitutional Discipline of Assent: An Analysis of the Supreme Court's Recalibration of Article 200

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Abstract

This paper critically analyses the constitutional debate regarding the discretionary powers vested in the Governor of the State within the legislative framework as specified by Article 200 of the Constitution of India, a persistent challenge to India's federal structure. The paper examines the reasons this provision has become a contentious issue between elected state governments and centrally appointed governors, resulting in legislative impasse. It delves into the historical context by analysing what the Constituent Assembly meant by the provision. The main focus is a doctrinal analysis of the Supreme Court's important decision in *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr (2025)*, which clears up the confusion about what happens in gubernatorial inaction and the purported 'veto' powers. This paper argues that the judgment significantly curtails gubernatorial overreach by establishing judicially enforceable timelines, clarifying that withholding assent is not an absolute veto but a procedural step requiring legislative reconsideration, and affirming the general primacy of the aid and advice of the Council of Ministers. The paper concludes by proposing implementable suggestions, including constitutional amendments to codify the Court's directives and reforms in the appointment process of Governors, to ensure the enduring legacy of this judicial intervention in strengthening parliamentary democracy and cooperative federalism.

Introduction

The Constitution in Article 200 requires State Legislatures to get approval from the Governor for all passed bills. The provision allows the governor to take three different steps when receiving a bill by either approving it or denying assent or sending it to the president for assessment. The Constitution does not specify any time frame for the governor to take action on the bill. The Constitution does not explicitly permit gubernatorial delays so the practice of de facto "pocket veto" exists although it lacks constitutional authorization.¹

The absence of action in India's quasi-federal system produces dangerous power inequalities that simultaneously disregard democratic choices made by voters through their elected representatives. The Governor holds veto power against democratic government choices because the Union government requests this authority although they operate under different political leadership.

The Indian Constitution requires the Governor to act as a state government advisor and maintain federal-state authority relations.² The position of Chief Minister has encountered escalating political and legal conflicts during the previous few years. The main problem arises from public skepticism about political parties using this authority for their own purposes. The governors of Tamil Nadu and Punjab and Telangana and Kerala have employed their power to veto state legislative

¹The State of Tamil Nadu v The Governor of Tamil Nadu & Anr, 2025 INSC 481.

² National Commission to Review the Working of the Constitution, *The Institution of Governor under the Constitution: Consultation Paper* (11 May 2001).

bills without any defined time restrictions. The extended state legislative impasse has resulted in constitutional gridlocks which obstruct state functions and endanger the fundamental principles of representative democracy.³

The establishment of this situation revealed a significant gap in constitutional law research because the Constitution's creation led to discussions about Governor discretionary powers yet courts did not create enforceable legal rules for Article 200 decision timeframes and limits on withholding assent. The Supreme Court had previously handled assent cases through their rulings yet they did not create defined time limits and left open the question of whether withholding assent would result in a complete veto power.⁴

This gap is filled by the Supreme Court's ruling in *The State of Tamil Nadu v. The Governor of Tamil Nadu & Anr.*⁵ The Court exercised its authority under Article 200's first proviso because the Governor of Tamil Nadu failed to take timely action on twelve bills and vetoed ten of them before forwarding the re-passed bills to the President for approval. The Tamil Nadu ruling sets a crucial judicial precedent which establishes proper distribution of constitutional authority.

The Framers' Intent: Debunking Discretion in the Constituent Assembly

The research examines how Article 200 evolved from an executive authority instrument into a provision that requires judicial oversight of time constraints while maintaining the original constitutional framework and democratic principles. The paper begins by examining the Constituent Assembly Debates to establish the Governor's limited powers before it analyzes the Tamil Nadu case decision of the Court. The research will establish operational recommendations to strengthen Court principles while stopping future constitutional standoffs.⁶ The Constituent Assembly Debates demonstrate an intentional effort to limit the colonial-era Governor's power to take independent choices. The 1935 Act granted the Governor full authority to decide about bill reservations and withholdals and assents through Section 75.⁷ The Drafting Committee led by Dr. B.R. Ambedkar transformed this provision through Article 200 by removing the "in his discretion" language. Dr. Ambedkar explained during the introduction of Draft Article 175 that responsible government systems need Governors to follow established rules instead of making decisions based on personal choice.⁸ The framers created the governor position to serve as a constitutional leader who required direction from the Council of Ministers instead of making decisions autonomously.

The discussion about legislative approval timing developed into Draft Article 91 which became Article 111 of the Constitution. The established principles and wording from this section formed the basis for Article 200 which addresses State Governors. The first version of Draft Article 91 defined a particular period for presidential review of non-Money Bills which required him to send them back to the legislature for re-examination within six weeks after submission.⁹ Dr B.R. Ambedkar presented his amendment to the Constitution on 20 May 1949 which substituted the six-week period with 'as soon as possible'.¹⁰ The President under Article 111 and the Governor under the first proviso of Article 200 accepted this amendment as their standard. The assembly members rejected the proposed amendment which Dr Ambedkar presented to them. The assembly members feared that removing a specific deadline would allow governors to maintain their positions without end which later became a reality. Shri H.V. Kamath strongly opposed the amendment because he believed 'as soon

³ Second Administrative Reforms Commission, *Ethics in Governance* (Fourth Report, Government of India, January 2007) <<https://darpg.gov.in/sites/default/files/ethics4.pdf>> accessed 24 September 2025.

⁴ *Kaiser-I-Hind Pvt Ltd and Anr v National Textile Corporation (Maharashtra North) Ltd and Ors*, (2002) 8 SCC 182.

⁵ *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 5-25.

⁶ Shivam Rathore, 'Role of the Governor as Executive Head of the State and an Agent of the Centre' (2024) 5(6) *International Journal of Research Publication and Reviews* 2423–2429 <<https://ijrpr.com/uploads/V5ISSUE6/IJRPR29956.pdf>> accessed 24 September 2025.

⁷ The Government of India Act, 1935 (25 & 26 Geo. 5. c. 42) s 75.

⁸ B R Ambedkar, *Dr Babasaheb Ambedkar: Writings and Speeches*, vol 13 (Education Department, Government of Maharashtra 1994) <<https://www.mea.gov.in/Images/CPV/Volume13.pdf>> accessed 24 September 2025.

⁹ *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 1272.

¹⁰ Constituent Assembly of India, *Constituent Assembly Debates: Official Report*, vol 8 (16 May–16 June 1949) (Lok Sabha Secretariat, 6th reprint 2014) 6 June 1949, 619–659 <https://eparlib.sansad.in/bitstream/123456789/763239/1/cad_06-06-1949.pdf> accessed 24 September 2025.

as possible' lacked clarity and served no practical purpose. The Constitution requires a defined emergency timeline because people tend to postpone their actions until they encounter an absolute necessity.¹¹ Shri P.S. Deshmukh agreed to maintain the six-week period which the original bill had originally set. The six-week time limit provided clear boundaries for the President and Governor to act swiftly without disrupting ongoing legislative work.¹² Shri Naziruddin Ahmad suggested a middle path through his proposal to use 'as soon as may be' which he explained as 'reasonably practicable'. The phrase 'as soon as possible' appeared too stringent to him because it might push for rushed decisions before allowing sufficient time for complete evaluation of the new legislation.¹³

The Assembly adopted Dr Ambedkar's amendment despite his initial predictions about presidential and gubernatorial delays in taking action.¹⁴ The Supreme Court made this declaration in *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr* because Shri Kamath and other members had correctly anticipated the operational challenges of the Constitution.¹⁵ The Court established specific deadlines for constitutional implementation of 'as soon as possible' because past delays and inactions throughout history required such measures.¹⁶

Dissecting the Judgment: The State of Tamil Nadu v The Governor

The Supreme Court determined in *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr* that Article 200 establishes the complete range of powers which the Governor holds. The Court determined through methodical assessment that the Governor lacks complete authority to make decisions.¹⁷ The evaluation contains four main sections which analyze Article 200 interpretation and gubernatorial decision-making authority and judicial review mechanisms and Article 142 extraordinary power utilization.¹⁸

A. Reinterpreting 'Withholding Assent': The End of the Absolute Veto

The Court needed to establish the precise limits of the Governor's authority to reject his approval for the bill. The Tamil Nadu governor believed his veto power under Article 200 would prevent the Bill from becoming law. The Supreme Court rejected this interpretation by upholding its previous ruling from *State of Punjab v. Principal Secretary to the Governor of Punjab*.¹⁹ The court determined Article 200 grants the governor three separate methods to handle bills through presidential reservation and assent and veto power.²⁰ The court determined that the first proviso exists only when the governor chooses to withhold his assent because it remains permanently linked to this particular action.²¹ The governor who declines to sign a bill needs to send it back the document to the legislature for immediate review. The Court determined that the last part of the first proviso "the Governor shall not withhold assent therefrom" (referring to a re-passed Bill) demonstrates that the entire proviso originates from the initial act of withholding assent.

The new interpretation eliminates the governor's ability to exercise absolute veto power which transforms the entire system. The governor's refusal to approve a bill now functions as a legislative step which initiates the bill reconsideration process

¹¹ B R Ambedkar, *Dr Babasaheb Ambedkar: Writings and Speeches*, vol 15 (Education Department, Government of Maharashtra 1997) <<https://www.mea.gov.in/Images/CPV/Volume15.pdf>> accessed 24 September 2025.

¹² *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 1289-1292.

¹³ Constituent Assembly of India, *Constituent Assembly Debates: Official Report*, vol 8 (16 May–16 June 1949) (Lok Sabha Secretariat, 6th reprint 2014) 19 May 1949 <https://sansad.in/uploads/const_Assmbly_Debates_Volume8_19_May1949_cec16bb28a.pdf> accessed 24 September 2025.

¹⁴ *CAD*, vol 8 (2 June 1949) 474–75.

¹⁵ B R Ambedkar, *Dr Babasaheb Ambedkar: Writings and Speeches*, vol 15 (Education Department, Government of Maharashtra 1997) <<https://www.mea.gov.in/Images/CPV/Volume15.pdf>> accessed 24 September 2025.

¹⁶ *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 1054.

The State of Tamil Nadu v The Governor of Tamil Nadu & Anr, 2025 INSC 1207.

¹⁷ *id* at n 1.

¹⁸ *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 2740, 2741.

¹⁹ *State of Punjab v Principal Secretary to the Governor of Punjab*, (2024) 1 SCC 384.

²⁰ *id* at n 16.

²¹ *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 1091.

instead of ending the legislative process. The elected representatives who represent the people retain full authority to create laws because they can overcome the governor's objections by passing the bill again. The Court ruled that any different understanding of the provision would create legislative breakdowns and grant the Governor complete authority to block parliamentary operations.²²

B. Delineating Discretion: Aid and Advice as the Norm

The respondents supported Article 200 as a constitutional duty which the Governor could perform independently through personal judgment but the petitioners maintained the Governor required Council of Ministers' help for every decision. The Court resolved the ongoing dispute through its *B.K. Pavitra v. Union of India* decision which declared the ruling per incuriam because it granted the Governor excessive freedom under Article 200.²³ The Court determined *B.K. Pavitra* failed to recognize the binding legal decision from *Samsher Singh v. State of Punjab* which established the Governor must perform all duties under Council of Ministers' guidance. The Court defined specific conditions for Article 200 gubernatorial discretion through its evaluation of *Samsher Singh* and *Nabam Rebia v. Deputy Speaker*. The Governor must execute all decisions based on recommendations provided by the Council of Ministers.²⁴

The exceptions to this rule include:

1. The Governor must step in according to Article 200's second proviso when a bill threatens to encroach on High Court authority.²⁵
2. The president must sign bills that require his approval to become law or gain constitutional protection under Articles 31A, 254(2) and 288(2).²⁶
3. The Governor maintains authority to disregard Council of Ministers' advice when their recommendations demonstrate obvious prejudice or endanger democratic principles and rule of law as established in *M.P. Special Police Establishment v. State of M.P.*²⁷

The Court established ministerial responsibility through its ruling which limited the Governor's power to act independently. The president cannot accept bills from the governor based on political or policy-related motivations. The exercise of discretion needs constitutional backing that fulfills these specific limitations.

C. Judicial Review and Enforceable Timelines: A New Constitutional Mandate

The judgment grants courts the power to review Article 200 Governor actions while establishing enforceable deadlines which represent its most important effect. The court established judicial review power for all constitutional authorities after dismissing the argument that political matters under governor authority should stay outside judicial review.²⁸ The Court established specific deadlines for the Governor to act after determining Article 200's "as soon as possible" requirement establishes a constitutional duty for speediness according to Sarkaria and Punchhi Commissions' recommendations. The court declared it would use mandamus writs to enforce the Governor's decision-making authority through reviews of his non-compliance.²⁹

The court established three time constraints which follow:

- a. The Governor needs to decide on bills through ministerial advice within one month at most or he can deny assent.

²² *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 1205.

²³ *B.K. Pavitra v Union of India*, (2019) 6 SCC 129.

²⁴ *Samsher Singh v State of Punjab*, (1974) 2 SCC 831

²⁵ Sarkaria Commission, *Report of the Commission on Centre–State Relations*, ch 5 'Reservation of Bills by Governors for President's Consideration and Promulgation of Ordinances' (Government of India 1988) <<https://interstatecouncil.gov.in/wp-content/uploads/2015/06/CHAPTERV.pdf>> accessed 24 September 2025.

²⁶ *ibid*.

²⁷ *M.P. Special Police Establishment v State of M.P.*, (2004) 8 SCC 788

²⁸ *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 2100.

²⁹ *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 2744.

- b. The Governor holds a three-month window to exercise discretion by either reserving a bill against ministerial advice or by returning a bill with a message.
- c. The Governor needs to approve bills within one month after they pass through re-passage.³⁰

The court-established time limits introduced a revolutionary change to the legal framework. The established timeframes help courts determine whether the governor's decisions are reasonable because they create a clear standard for evaluation. The Court established this tool functions to prevent power abuse while safeguarding constitutional structures instead of making constitutional changes.³¹

D. Invoking Article 142: The Remedy of 'Deemed Assent'

The Court exercised its Article 142 powers to achieve "complete justice" through an extraordinary decision. The Court chose to take action instead of sending the case back because the Governor's persistent inaction and his practice of withholding assent and reserving re-passed bills for the President violated constitutional procedures and lacked genuine purpose.³² The court determined that the governor's approval of the ten bills occurred when they received reconsideration on the specified date.³³ Through its "deemed assent" solution the judiciary demonstrated its ability to fix constitutional violations effectively. The Court based its decision on the Governor's poor compliance with the Punjab case ruling and the need to prevent additional delays. The ruling demonstrates to constitutional officials that they must respect court decisions and follow proper constitutional procedures. The Tamil Nadu ruling presents a superior approach to handle the disputed constitutional provision through its well-designed modifications. The decision strengthens legislative power through three main elements which include reduced governor responsibilities and time-based accountability and judicial oversight and a strong tool to stop executive abuse of power.

The Way Forward: Cementing Judicial Wisdom into Constitutional Practice

The Supreme Court established Article 200 abuse prevention through its decision in the Tamil Nadu case which created a solid legal basis. Judicial pronouncements alone cannot guarantee constitutional propriety. The Court's principles need to become part of established operational procedures to achieve lasting impact.

Constitutional Amendment to Codify Timelines

The court-established timeline functions as an essential requirement which judges developed through their review processes at the judiciary level. The constitutional clause maintains greater importance than the review standards which judges developed for their purposes. The Sarkaria and Punchhi Commissions advocate for a lasting solution by supporting formal constitutional changes to Articles 200 and 201. The proposed constitutional change would introduce defined time limits for presidential and gubernatorial decisions regarding bills.³⁴ The proposed amendment would require the president and governor to decide on bills within three or six months because their failure to act would result in automatic bill approval. The proposed constitutional change would bring clarity to legislative procedures because it removes all potential delays and minimizes the requirement for continuous judicial disputes.

1. Fostering Constitutional Conventions

The promotion of constitutional conventions should occur simultaneously with legal reform programs. The Tamil Nadu case court determined that the governor needs to fulfill his advisory function by consulting with the Cabinet before

³⁰ Sarkaria Commission, *Report of the Commission on Centre-State Relations*, ch 5 'Reservation of Bills by Governors for President's Consideration and Promulgation of Ordinances' (Government of India 1988) <<https://interstatecouncil.gov.in/wp-content/uploads/2015/06/CHAPTERV.pdf>> accessed 24 September 2025.

³¹ Aziz Z Huq and Jon D Michaels, 'The Cycles of Separation-of-Powers Jurisprudence' (2016) 126 *Yale Law Journal* 346 <<https://www.yalelawjournal.org/article/the-cycles-of-separation-of-powers-jurisprudence>> accessed 24 September 2025.

³² *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 2697.

³³ *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 2702, 2838.

³⁴ *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr*, 2025 INSC 1262, 2474.

legislative actions according to the Tamil Nadu Government Business Rules.³⁵ The governor should use this chance to offer guidance as a "friend philosopher and guide" instead of waiting until the bill becomes law to take action. The process demands a transition from opposing each other to collaborative work. The Supreme Court should reactivate the Inter-State Council to create a "Code of Conduct" which will establish proper standards for governor discretion and state government relations.

2. Prudent Use of Presidential Reference under Article 143

The President should consult the Supreme Court under Article 143 for guidance regarding Governor vetoes of bills that show clear unconstitutionality according to the proposed decision. The established process removes political interference from decisions about constitutional and legal matters.³⁶ The Union executive should implement this procedure as their standard operating procedure. The President would receive both authoritative and transparent assessment of the Bill's constitutionality through Supreme Court review before making his final decision about presidential assent. The process allows state laws to receive their validity assessment through legal reasoning instead of political expediency.

Conclusion

The State of Tamil Nadu v The Governor of Tamil Nadu & Anr represents a pivotal Supreme Court decision which transformed all aspects of Indian constitutional law. The Court determines the appropriate method for governors to intervene in state legislative operations. The Court established a permanent framework for Article 200 through its thorough assessment which eliminated absolute veto power and unrestricted discretion and judicial safeguards. The decision presents fundamental governance principles and democratic parliamentary systems through its strong evidence base. The ruling confirms that elected representatives hold legislative power because democratic power belongs to the people. The Court uses Constituent Assembly Debates to establish its legal basis for uncovering the intentions behind the framers' work. The Court developed an enforceable time-based solution which protects the Constitution from procedural delays used as weapons and ensures constitutional authority accountability.

The political executive needs to grasp the fundamental implications of this historic ruling to achieve sustainable achievements. The decision serves as both a preventive measure and a solution to handle the current situation. The Court has created vital legal mechanisms to restrict gubernatorial power but politicians need to show statesmanship to establish a permanent solution. The future requires three essential measures which involve constitutional modifications to establish time constraints under judicial supervision and governor selection reforms to choose unbiased candidates and develop positive relations between the Union and States. The institution will achieve its correct position as an impartial constitutional protector of the people when these conditions become a reality. The institution will achieve its proper role as an unbiased defender of the Constitution which serves the people of the state.

³⁵ Tamil Nadu Governor case: analysis on the role of the president and governor in the process of passing a bill.' (*The Amikus Qriae*,) <<https://theamikusqriae.com/tamil-nadu-governor-case-analysis-on-the-role-of-the-president-and-governor-in-the-process-of-passing-a-bill/>> accessed 24 September 2025.

³⁶ The State of Tamil Nadu v The Governor of Tamil Nadu & Anr, 2025 INSC 2617.