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CASE ANALYSIS ON STATE OF TAMIL NADU V. GOVERNOR OF TAMIL NADU & ANR

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Writ Petition (Civil) No. 1239 of 2023, Supreme Court of India, 2025 INSC 481; Decided on 08.04.2025, Coram: J.B. Pardiwala, J. and R. Mahadevan, J.

I. ABSTRACT

The judgment of the Supreme Court of India in State of Tamil Nadu v. Governor of Tamil Nadu & Anr. is a defining pronouncement on the powers of a Governor under Article 200 of the Constitution of India, and the decision of 8 April 2025 must now be read with the advisory opinion of the Constitution Bench in In re: Assent, Withholding or Reservation of Bills by the Governor and the President of India, delivered on 20 November 2025. The dispute arose when the Governor of Tamil Nadu kept twelve Bills pending for nearly three years after their passage by the State Legislature. He then withheld assent without returning the Bills with a message, as the first proviso to Article 200 requires. When the Bills were re-enacted without material change, he reserved them for the President instead of granting assent. The Court had to determine the scope of the Governor's powers under Article 200, whether he possesses independent discretion in discharging that function, whether prolonged inaction attracts judicially enforceable timelines, and the extent to which such action is amenable to judicial review. The Bench of Justices J.B. Pardiwala and R. Mahadevan held that Article 200 sanctions neither a pocket veto nor an absolute veto, and that a Governor who withholds assent must return the Bill to the Legislature with a message. It further held that the Governor is ordinarily bound by the aid and advice of the Council of Ministers, prescribed outer timelines under Articles 200 and 201, barred the reservation of a re-passed Bill, and deemed the ten Bills assented to under Article 142. The Constitution Bench has since disapproved each of those four propositions. This comment analyses the facts, the legal issues, the submissions of the parties, the Court's reasoning, and its standing after the Reference.

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II. KEYWORDS

Article 200, Pocket Veto, Cooperative Federalism, Gubernatorial Accountability, Judicial Review.

III. INTRODUCTION

The relationship between the Union and the States has often led to constitutional disputes in recent years, particularly regarding the role of Governors in dealing with Bills passed by the Legislatures of States. The judgment of 8 April 2025 in *State of Tamil Nadu v. Governor of Tamil Nadu & Anr.* must now be read with the advisory opinion of 20 November 2025 in *In re: Assent, Withholding or Reservation of Bills by the Governor and the President of India*, by which a five-Judge Constitution Bench disapproved several of its central propositions.³

Article 200 of the Constitution of India gives the Governor three courses of action when a Bill is presented after being passed by the Legislature for assent: he may grant assent, withhold assent, or reserve the Bill for the President's consideration. The provision prescribes no time limit within which the Governor must exercise any of these options. Over the years, several Governors have sat over Bills passed by the elected State Legislatures indefinitely, a practice described as a “pocket veto”. The present case arose out of such a situation, where the Governor kept Bills pending for nearly three years before acting.

Although the Bills were reconsidered and re-enacted by the State Legislature, the Governor chose to reserve them instead of granting assent. The State Government contended that this action was contrary to constitutional principle, undermined the authority of the elected State Legislature, and was inconsistent with the earlier decisions of the Supreme Court. The Bench comprising Justices J.B. Pardiwala and R. Mahadevan examined the constitutional powers of the Governor under Article 200

³ *State of Tamil Nadu v Governor of Tamil Nadu & Anr*, Writ Petition (Civil) No 1239 of 2023, 2025 INSC 481; *In re: Assent, Withholding or Reservation of Bills by the Governor and the President of India* (Special Reference No 1 of 2025) 2025 INSC 1333.

and, for the first time, prescribed outer timelines for the exercise of gubernatorial power, a course the Constitution Bench has since held to be impermissible.

The Bench also clarified the extent of the discretion available to the Governor. It declared the two-Judge Bench decision in *B.K. Pavitra v. Union of India* (2019) 16 SCC 129 per incuriam to the extent that it recognised a discretion in the Governor to reserve Bills for the consideration of the President beyond judicial review, because that decision did not follow the larger-Bench rulings in *Samsher Singh v. State of Punjab* and *M.P. Special Police Establishment v. State of M.P.*

It further invoked Article 142 to do complete justice and deemed the Bills to have received assent. This case commentary discusses the facts of the case, the issues involved, the rival contentions advanced by the parties, the reasoning of the Apex Court, and the ratio decidendi and obiter dicta of the judgment, concluding with an assessment of its standing after the Presidential Reference and of the combined effect of the two decisions on Indian federal jurisprudence.

IV. FACTUAL AND PROCEDURAL BACKGROUND OF THE CASE

1. Between 13.01.2020 and 28.04.2023, the Tamil Nadu Legislative Assembly passed twelve Bills and forwarded the same to the Governor for assent. The incumbent Governor assumed office on 18.09.2021 (the judgment records 18.11.2021 at para 3, although the Governor took the oath on 18.09.2021), but no action was taken on any of those Bills until October 2023, which prompted the State to approach the Supreme Court through the present writ petition, filed on 31.10.2023.⁴
2. Notice was issued by the Supreme Court on 10.11.2023. Two days later, on 13.11.2023, the Governor withheld assent to ten Bills without returning them with any message to the State Legislature, and reserved the remaining two Bills for the consideration of the President.⁵

⁴ *State of Tamil Nadu* (n 3) paras 3–4 and 17; Raj Bhavan, Chennai, Press Release No 85 (18 September 2021).

⁵ *State of Tamil Nadu* (n 3) para 4.

3. On 18.11.2023, the Legislature convened a special session and re-enacted the ten returned Bills without any change, and again forwarded them to the Governor for assent.⁶
4. The Governor, on 28.11.2023, rather than granting assent, reserved those ten re-enacted Bills for the President's consideration, thereby acting without the aid and advice of the Council of Ministers. The Governor cited repugnancy with Entry 66 of the Union List, even though the Bills were within the legislative competence of the State, as the Governor's own communication acknowledged.⁷
5. The petitioner has sought amendment of its prayers for challenging the reservation as unconstitutional, arbitrary, and made in bad faith with the intention to circumvent or undermine the proceedings pending before the Supreme Court.⁸
6. On 30.12.2023, a meeting was convened at the suggestion of the Court between the Governor and the Chief Minister of Tamil Nadu, which failed to resolve the dispute. Following the Governor's reservation of the ten re-enacted Bills, the President withheld assent to seven of them, granted assent to one, and had not considered the remaining two at the time of hearing.⁹
7. The present writ petition, in addition to the disputes concerning the Bills, complained of the Governor's prolonged inaction on four distinct categories of files. First, four files seeking sanction to prosecute public servants for offences under the Prevention of Corruption Act, 1988, submitted between 10.04.2022 and 15.05.2023. Secondly, 53 files relating to the premature release of prisoners, forwarded between June and August 2023 and still pending on 01.12.2023. Thirdly, files concerning appointments to the Tamil Nadu Public Service Commission, which the Governor returned on 27.09.2023 with queries and again on 27.10.2023 without assigning reasons. Fourthly, the Governor's recommendation of 29.06.2023, made suo motu and contrary to the aid and

⁶ *ibid* para 5.

⁷ *ibid* para 6.

⁸ *ibid* paras 8–9.

⁹ *ibid* paras 10–13.

advice of the Council of Ministers, for the dismissal of a Minister, which he kept in abeyance on the same day.¹⁰

8. The petitioner contended that only after the writ petition was filed and notice issued by the Court, action was taken on several of these files which underscored a pattern of inaction on the part of the Governor across multiple constitutional functions.¹¹

V. LEGAL ISSUES INVOLVED IN THE CASE

1. Whether Article 200 of the Constitution permits the Governor to exercise an absolute veto or a pocket veto while acting on Bills passed by the State Legislature?
2. Whether the Governor is constitutionally empowered to reserve a Bill for the consideration of the President after it has been reconsidered and reenacted by the State Legislature under the first proviso to Article 200?
3. Whether Article 200 envisages an implied or judicially enforceable time frame within which the Governor is required to discharge his constitutional functions?
4. Whether the Governor, while exercising powers under Article 200, is bound by the aid and advice of the Council of Ministers or is vested with any independent constitutional discretion?
5. Whether the Governor's exercise of powers under Article 200 is amenable to judicial review, and if so, the constitutional parameters governing such review?
6. Whether the exercise of powers by the President under Article 201, including any delay in acting upon a Bill reserved for consideration, is subject to judicial review?

¹⁰ *ibid* paras 14, 16–18, 19–23 and 24.

¹¹ *ibid* para 15.

VI. ARGUMENTS ADVANCED BY THE PARTIES

A. Submissions On Behalf of The Petitioner (State of Tamil Nadu)

1. The concept of pocket veto in the constitutional scheme finds no place. The use of the “shall declare” expression in the substantive part of Article 200 of the Constitution renders the Governor’s function mandatory. The underlying object of this provision is to enable a Bill to mature into an Act. A prolonged inaction defeats this purpose.
2. The Governor of Tamil Nadu has disregarded the binding precedent in *State of Punjab v. Principal Secretary to the Governor of Punjab*, which clarified that once the Governor opts to withhold assent, the first proviso of Article 200 must necessarily be followed. Withholding of assent without a message to the Legislature was violative of Article 14 for transparency and want of reason.
3. Once a Bill without material change has been reconsidered and reenacted and presented afresh, the Governor has no option but to grant assent. The reservation for the President’s consideration at that stage was impermissible and legally vitiated any subsequent action taken by the President.
4. The withholding of assent by the President under Article 201 of the Constitution was assailed as a non-speaking exercise of power which was inconsistent with the constitutional mandate of reasoned decision-making.

B. Submissions On Behalf of The Respondents (Governor and Union of India)

1. The learned Attorney General for India has submitted that while exercising power under Article 200, the Governor discharges a constitutional responsibility rather than discretion. When genuine constitutional concerns arise, he may withhold assent even in the absence of individual discretion.
2. To understand legislative intent, the Governor may seek the advice of the Council of Ministers. He may apply his own mind during the time of constitutional contraventions or serious constitutional questions with or without such aid, and such exercise cannot be reduced to a strict formula.

3. The Governor's reliance on the precedent "Union of India vs. Valluri Basavaiah Chowdhary", that a Bill 'falls through' upon withholding of assent, was said to justify his action. Nothing in Article 200 deprives the Governor of the power to reserve a Bill for Presidential consideration for the reason that he had earlier withheld assent to it.
4. It was further submitted that the concern of the Governor was to prevent a repugnant enactment which concentrates the power in the State Government at the expense of the Chancellor from taking effect, thereby endangering the standards of higher education, which falls within Entry 66 of the Union List.

VII. RESEARCH AND ANALYSIS OF THE HON'BLE COURT

A. The three courses of action under Article 200 and the impermissibility of a pocket or absolute veto

The Court held that Article 200 provides the Governor with only three courses of action: to assent, to withhold assent, or to reserve the Bill for the President's consideration.¹² The deliberate use of the mandatory expression "shall declare" was read as excluding any possibility of inaction.¹³

The first proviso, the Court clarified, is not an independent fourth course of action but stands intrinsically attached to the option of withholding assent; whenever the Governor withholds assent, he is obliged to return the Bill "as soon as possible" with a message under the first proviso.¹⁴

Reading the scheme as a whole, the Court concluded that neither an absolute veto nor a pocket veto finds sanction within Article 200, since both would allow the Governor to indefinitely stall the legislative process, defeating the constitutional design that treats the passage of a Bill into law as a matter requiring expedition.¹⁵

¹² *State of Tamil Nadu* (n 3) paras 233-244.

¹³ *State of Tamil Nadu* (n 3) paras 245-252.

¹⁴ *State of Tamil Nadu* (n 3) paras 246-250.

¹⁵ *State of Tamil Nadu* (n 3) paras 253-266.

B. Reservation of a Bill for Presidential consideration after reconsideration by the Legislature

On the question whether the Governor could, at the second stage, reserve for the President a Bill that had already been reconsidered and repassed without material change, the Court held that the expression in the first proviso barring the Governor from withholding assent thereafter places a clear constitutional embargo. As a general rule, the Governor must assent to such a Bill; reservation is permissible only in the exceptional situation where the Bill, upon reconsideration, has been materially altered from the version originally presented to him.¹⁶

Applying this principle to the facts, the Court found that the ten Bills before it had been repassed without material change.¹⁷ It accordingly held the Governor's reservation of these Bills for Presidential consideration on 28.11.2023 to be illegal and liable to be set aside, along with any consequential action taken by the President upon them.¹⁸

C. Absence of an express time-limit and the prescription of judicially determinable timelines.

The Court acknowledged that Article 200 does not prescribe any express time-limit for the Governor's action, but held that this silence cannot be read as licence for indefinite inaction.¹⁹ Relying on the settled principle that a power conferred without a specified time-limit must nevertheless be exercised within a reasonable time, and drawing support from its own precedents on prescribing timelines for constitutional functionaries, the Court laid down specific outer limits: a maximum of one month where the Governor acts on the aid and advice of the Council of Ministers, and a maximum of three months where he acts contrary to such advice, whether in withholding assent or in reserving a Bill for the President.²⁰

¹⁶ *State of Tamil Nadu* (n 3) paras 281–287.

¹⁷ *State of Tamil Nadu* (n 3) paras 288–292.

¹⁸ *State of Tamil Nadu* (n 3) paras 293–296 and 428–432.

¹⁹ *State of Tamil Nadu* (n 3) paras 253–259.

²⁰ *State of Tamil Nadu* (n 3) paras 391–397.

Similarly, once a Bill is presented afresh after reconsideration, assent must ordinarily follow within one month. The Court clarified that prescribing such timelines does not amount to judicially amending the constitutional text, but merely furnishes a determinable standard against which arbitrary inaction may be tested and remedied through judicial review.²¹

D. Discretion of the Governor and its relationship with the aid and advice of the Council of Ministers

The Court undertook a detailed historical and doctrinal exercise, tracing the deliberate removal of the expression “in his discretion” from Section 75 of the Government of India Act, 1935 when it was adopted into Article 200, and situating this against the seven-Judge Bench decision in *Samsher Singh v. State of Punjab*, which had recognised the second proviso to Article 200 as the principal instance of express gubernatorial discretion.²²

On this basis, the Court held that the general rule is that the Governor must act on the aid and advice of the Council of Ministers, subject only to limited exceptions: where the second proviso to Article 200 is attracted; where Presidential assent is a constitutional condition precedent under provisions such as Articles 31A, 31C, 254(2), 288(2) or 360(4)(a)(ii); and in exceptional circumstances where a Bill, if allowed to operate, would imperil the fundamental principles of representative democracy.²³

Measured against this constitutional framework, the Court declared the two-Judge Bench decision in *B.K. Pavitra v. Union of India* (2019) 16 SCC 129 per incuriam to the extent that it recognised an independent discretionary power in the Governor to reserve Bills for the consideration of the President without being subject to judicial review. According to the Court, that decision failed to consider the binding larger-Bench precedents in *Samsher Singh v. State of Punjab* and *M.P. Special Police*

²¹ *State of Tamil Nadu* (n 3) paras 394–397.

²² *Samsher Singh v State of Punjab* (1974) 2 SCC 831; *State of Tamil Nadu* (n 3) paras 206–232.

²³ *State of Tamil Nadu* (n 3) paras 221–232.

Establishment v. State of M.P., which govern the constitutional position regarding the Governor's exercise of executive functions.²⁴

E. Justiciability and judicial review of gubernatorial and Presidential action

The Court drew a careful distinction between judicial review, which it described as implicit in a written constitution and available in respect of every constitutional power unless a provision expressly excludes it, and justiciability, which concerns whether a particular exercise of power is suitable for adjudication on judicially manageable standards.²⁵ It held that while the grant of assent or the reservation of Bills in the Governor's discretion is amenable to judicial review, such exercise is subject to constitutional limits.²⁶

The Court laid down a structured framework of grounds on which a State Government may challenge such a reservation, including the absence of reasons, irrelevant, extraneous or mala fide reasons, and unexplained delay beyond the prescribed timelines.²⁷ A similar, though comparatively restrained, standard of review was extended to the withholding of assent by the President under Article 201. Where the Governor reserves a Bill on the ground that it is patently unconstitutional and places the principles of representative democracy in peril, the Court observed that it would be prudent, though not obligatory, for the President to obtain the advisory opinion of the Supreme Court under Article 143, so as to dispel any apprehension of arbitrariness.²⁸

F. Exercise of power under Article 142 and the deeming of assent

Having found that the reservation of the ten Bills was illegal, and taking note of the unusually protracted period for which the Bills had remained pending, coupled with what it characterised as the Governor's lack of bona fides in reserving them for Presidential consideration soon after the pronouncement in State of Punjab, the Court

²⁴ *B.K. Pavitra v Union of India* (2019) 16 SCC 129; *State of Tamil Nadu* (n 3) paras 360–369.

²⁵ *State of Tamil Nadu* (n 3) paras 308–318.

²⁶ *State of Tamil Nadu* (n 3) paras 319–327.

²⁷ *State of Tamil Nadu* (n 3) paras 328–334.

²⁸ *State of Tamil Nadu* (n 3) paras 335–359.

invoked its plenary power under Article 142 to do complete justice.²⁹ Rather than remitting the Bills to the Governor for a fresh decision, the Court deemed the ten Bills to have received assent on the date on which they were presented to the Governor after reconsideration, namely 18.11.2023, thereby directly resolving the impasse rather than perpetuating it through a remand.³⁰

VIII. JUDGMENT

A. Ratio Decidendi

1. Article 200 confines the Governor to three courses of action, namely to assent to a Bill, to withhold assent, or to reserve the Bill for the President's consideration; there is no scope for inaction, and the concepts of pocket veto and absolute veto are alien to the constitutional scheme. This proposition is unaffected by the Presidential Reference, which likewise holds that the Governor cannot withhold a Bill simpliciter.³¹
2. The first proviso to Article 200 is not an independent course of action but is mandatorily and intrinsically linked to the exercise of the option of withholding assent; the decision in *State of Punjab* correctly states the law on this point and is not per incuriam. The Presidential Reference affirms that the first proviso qualifies the withholding of assent, but has criticised *State of Punjab* for not following larger-Bench precedent.³²
3. As a general rule, once a Bill is reconsidered and repassed without material change and presented afresh, the Governor is obliged to grant assent; reservation for Presidential consideration at that stage is permissible only where the Bill has undergone material alteration.³³ This proposition has since been disapproved. The Constitution Bench holds that the first proviso bars only the withholding of assent at that stage, so that the Governor may still reserve a repassed Bill for the President.³⁴

²⁹ *State of Tamil Nadu* (n 3) paras 398–406.

³⁰ *State of Tamil Nadu* (n 3) paras 407–415 and 428–432.

³¹ Presidential Reference (n 3) paras 45, 48 and 64.

³² Presidential Reference (n 3) paras 40 and 45.

³³ *State of Tamil Nadu* (n 3) paras 281–296.

³⁴ Presidential Reference (n 3) para 100.

4. There is no express time limit under Article 200, but the constitutional scheme is infused with a sense of urgency through the expression “as soon as possible”; accordingly, the Court prescribed outer timelines of one month and three months, as the case may be, for the discharge of gubernatorial functions, non-compliance with which renders the inaction amenable to judicial review. The Constitution Bench has since held these timelines to be erroneous and has ruled that courts cannot prescribe them.³⁵
5. The Governor is ordinarily bound by the aid and advice of the Council of Ministers while discharging functions under Article 200. The exceptions are the second proviso to Article 200; Bills for which Presidential assent is a constitutional condition precedent, as under Articles 31A, 31C, 254(2), 288(2) and 360(4)(a)(ii); and exceptional circumstances in which a Bill, if allowed to operate, would imperil the fundamental principles of representative democracy. The Governor's exercise of discretion in these cases remains amenable to judicial review. The decision in *B.K. Pavitra v. Union of India* is per incuriam to the extent that it held otherwise, having failed to follow the larger-Bench rulings in *Samsher Singh* and *M.P. Special Police Establishment*.³⁶ The aid and advice limb of this proposition, and the premise of the per incuriam declaration, have since been disapproved: the Constitution Bench holds that Article 200 confers discretion on the Governor and declines to read *Samsher Singh* as confining that discretion to the second proviso.³⁷
6. Judicial review is distinct from justiciability; the withholding of assent or the reservation of a Bill by the Governor in his discretion is subject to judicial review on defined grounds, including the absence or irrelevance of reasons, mala fides, and unexplained delay. The Constitution Bench has since confined review to cases of prolonged, unexplained and indefinite inaction,

³⁵ Presidential Reference (n 3) para 165.

³⁶ *State of Tamil Nadu* (n 3) paras 188–232.

³⁷ Presidential Reference (n 3) paras 73–78, 81 and 87.

holding that the substantive choices under Article 200 are not justiciable before a Bill becomes law.³⁸

7. The President, while acting under Article 201, cannot exercise a pocket veto or an absolute veto, and must ordinarily decide within three months; in appropriate cases involving constitutional peril, the President should consider an advisory reference under Article 143. The Constitution Bench has since treated these observations as obiter, the President's action not having been before the Court, and has held that no timeline can be prescribed under Article 201.³⁹
8. The reservation of the ten Bills for Presidential consideration on 28.11.2023 was illegal and was set aside, along with the consequential Presidential action; in exercise of powers under Article 142, the Bills were deemed to have received assent on 18.11.2023.⁴⁰ The relief granted to the parties stands, but the Constitution Bench has rejected the concept of deemed assent and has held that Article 142 cannot supply it.⁴¹

B. Obiter Dicta

1. The Court reflected extensively on the constitutional character of the office of the Governor as that of a friend, philosopher and guide, who must act with sagacity and in deference to the will of the elected Government, rather than as an instrument of political expediency.
2. Reference was made to Dr B.R. Ambedkar's concluding address to the Constituent Assembly on the proposition that the success of a constitution ultimately depends upon those interested in working it, rather than on the text alone.
3. The Court recounted a historical episode involving India's first President, Dr Rajendra Prasad, and the Hindu Code Bill, where the Attorney General had clarified that the President, like the Governor, functions as a

³⁸ Presidential Reference (n 3) para 165.

³⁹ Presidential Reference (n 3) para 165.

⁴⁰ *State of Tamil Nadu* (n 3) paras 398–415.

⁴¹ Presidential Reference (n 3) paras 118 and 165.

constitutional head bound to act on ministerial advice; the anecdote was invoked to reinforce the constitutional propriety expected of high constitutional functionaries.

4. The Court expressed the hope that the Governor and the State Government would function harmoniously in the interest of the people, and directed that copies of the judgment be circulated to all High Courts and to the Principal Secretaries of the Governors of all States.

IX. CONCLUSION AND COMMENTS

State of Tamil Nadu v. Governor of Tamil Nadu & Anr. stands as a landmark addition to India's federal jurisprudence, addressing a recurring constitutional friction point that had also surfaced in Punjab and Kerala in the preceding years.⁴² The judgment is significant for several reasons, although the account that follows must be read with the advisory opinion of 20 November 2025.

1. **Closing a Constitutional Vacuum:** By prescribing definite outer timelines for the exercise of power under Articles 200 and 201, the Court sought to convert what had been an open-ended discretion into a structured, judicially enforceable obligation, so as to foreclose the indefinite pocket veto that had, in practice, allowed Governors to stall State legislation without accountability.⁴³ The Constitution Bench has since held that no such timeline may be prescribed, so that the vacuum is now addressed not by a deadline but by the narrower remedy of a limited mandamus against prolonged, unexplained and indefinite inaction.⁴⁴
2. **Reaffirming the Primacy of Aid and Advice:** The decision reinforced the constitutional position, traceable to *Samsher Singh*, that the Governor is ordinarily bound by ministerial advice, and confined gubernatorial discretion to a narrow, textually and doctrinally justified set of exceptions. This proposition has not survived. The Constitution Bench holds that Article 200

⁴² *State of Punjab v Principal Secretary to the Governor of Punjab* (2024) 1 SCC 384; *State of Kerala v Governor for State of Kerala*, Writ Petition (Civil) No 1264 of 2023 (SC).

⁴³ *State of Tamil Nadu* (n 3) paras 439–442.

⁴⁴ Presidential Reference (n 3) para 165.

confers discretion on the Governor, who must have due regard to ministerial advice without being bound by it, and it declines to read *Samsher Singh* as limiting that discretion to the second proviso.⁴⁵

3. **Expanding the Scope of Judicial Review:** By distinguishing judicial review from justiciability, the Court sought to ensure that even discretionary gubernatorial action remained open to scrutiny on defined constitutional standards. The Constitution Bench has narrowed this considerably, holding that the choices made under Articles 200 and 201 are not justiciable before a Bill becomes law, and that only prolonged, unexplained and indefinite inaction attracts review.⁴⁶
4. **Invocation of Article 142 for Complete Justice:** The decision to deem the Bills assented to, rather than remitting the matter for fresh gubernatorial consideration, reflected a pragmatic use of the Court's plenary power to prevent further prolongation of a deadlock that had already persisted for years. The Constitution Bench has rejected the concept of deemed assent and has held that Article 142 cannot supply it, so that the remedy, while it continues to govern the parties, is no longer an available course in future disputes.⁴⁷
5. **Strengthening Cooperative Federalism:** The judgment situated the Governor's role within the broader scheme of constitutional functionaries and cautioned against allowing political considerations to override the mandate of elected legislatures, while preserving a residual, narrowly defined space for gubernatorial discretion in cases genuinely imperilling constitutional democracy. The Constitution Bench has enlarged that space and recast the relationship as a dialogic one, in which reconciliation between the Governor,

⁴⁵ Presidential Reference (n 3) paras 73–78, 81 and 87.

⁴⁶ Presidential Reference (n 3) para 165.

⁴⁷ Presidential Reference (n 3) paras 118 and 165; see also John Simte, 'Clarifying Gubernatorial Powers in the Legislative Process' (I·CONnect, 22 May 2025); Rajyavardhan Singh, 'Presidential Reference No 1 of 2025 and the New Afterlife of Judgements' (Indian Constitutional Law and Philosophy, 26 January 2026).

the Legislature and the President, rather than judicial direction, is the primary mechanism; the room left for judicial control is correspondingly narrow.⁴⁸

X. THE 2025 PRESIDENTIAL REFERENCE AND THE STANDING OF THE JUDGMENT

On 20 November 2025, a five-Judge Constitution Bench delivered its advisory opinion in *In re: Assent, Withholding or Reservation of Bills by the Governor and the President of India* on a Reference under Article 143 of the Constitution. The opinion holds that neither Article 200 nor Article 201 admits of a judicially prescribed timeline, that the words “as soon as possible” in the first proviso do not translate into fixed deadlines, and that executive instructions such as the Ministry of Home Affairs Office Memorandum of 2016 cannot be used to create a constitutional fetter.⁴⁹ The timelines prescribed in *State of Tamil Nadu* therefore no longer state the law.

The opinion further holds that there is no concept of deemed assent and that Article 142 cannot be employed to supply it, describing such a course as virtually a takeover of the role and function of a separate constitutional authority.⁵⁰ This displaces the principal remedial innovation of the judgment, which Section VII.F above treats as a pragmatic resolution of the impasse. Where inaction is prolonged, unexplained and indefinite, the remedy now available is a limited mandamus directing the Governor to discharge his function within a reasonable time, issued without any observation on the merits of his choice.⁵¹

On discretion, the Constitution Bench holds that Article 200 confers discretionary power on the Governor, who is accordingly not bound by the aid and advice of the Council of Ministers in discharging that function, although he must have due regard to it. It declines to read *Samsher Singh* as confining gubernatorial discretion to the second proviso and treats *B.K. Pavitra* as consistent with the line of authority

⁴⁸ Presidential Reference (n 3) paras 64 and 71; Punchhi Commission Report on Centre-State Relations (2010).

⁴⁹ Presidential Reference (n 3) para 165; Ministry of Home Affairs, Office Memorandum on timelines for the disposal of State Bills reserved for the consideration of the President (4 February 2016).

⁵⁰ Presidential Reference (n 3) para 118.

⁵¹ Presidential Reference (n 3) para 165.

recognising such discretion.⁵² It also holds that the Governor may reserve for the President a Bill that has been returned and passed again by the Legislature, since the first proviso bars only the withholding of assent at that stage.⁵³ The observations in *State of Tamil Nadu* on the Article 201 timeline are treated as obiter, the President's action not having been before that Court.⁵⁴

What survives of the judgment is nevertheless substantial. The rejection of the pocket veto and of the absolute veto stands, as does the holding that a Governor who declines assent must return the Bill to the Legislature with a message under the first proviso rather than withhold it simpliciter.⁵⁵ The relief granted to the parties also stands: the Constitution Bench stated that the questions referred did not require it to vacate, amend or modify the final relief, and that Article 143 cannot be invoked to overturn a concluded adjudication inter se the parties.⁵⁶ An opinion under Article 143 does not operate as a decree and is advisory in form, but it is the considered view of a larger Bench and will guide courts and constitutional functionaries on the questions it answers. The practical result is that the ten Tamil Nadu Bills remain assented to, while several of the propositions on which that relief rested no longer hold.

The judgment was not free from contestation at the time, and the objections then anticipated have since largely prevailed. It was argued that judicially prescribed timelines, however well intentioned, came close to supplementing the constitutional text where the framers had chosen to remain silent, and that the invocation of Article 142 to deem assent, rather than to mandate a fresh decision within a stipulated period, marked an unusually direct form of judicial intervention in the legislative process. The Constitution Bench accepted both objections, holding that Articles 200 and 201 were framed with deliberate flexibility and that deeming assent amounts to a takeover of the function of a separate constitutional authority.⁵⁷

⁵² Presidential Reference (n 3) paras 73–78, 81, 87 and 97.

⁵³ Presidential Reference (n 3) para 100.

⁵⁴ *ibid* para 165.

⁵⁵ Presidential Reference (n 3) paras 45, 48 and 64.

⁵⁶ Presidential Reference (n 3) paras 26–27.

⁵⁷ Presidential Reference (n 3) paras 118 and 165.

Assessed together, the two decisions leave gubernatorial accountability on a narrower but still real footing. *State of Tamil Nadu* settled that a Governor cannot defeat a Bill by silence and must return it to the Legislature with a message if he declines assent, and the Constitution Bench has confirmed that much while withdrawing the machinery of timelines, deemed assent and general justiciability through which the earlier Bench sought to enforce it. Accountability now rests on the duty to act within a reasonable time, enforceable by a limited mandamus, and on the dialogic structure of Articles 200 and 201 themselves. The combined effect is to return the primary responsibility for resolving these disputes to the constitutional functionaries, with the courts retaining a residual supervisory role. The trajectory set by *Samsher Singh*, *Nabam Rebia* and *State of Punjab* is thus refined rather than abandoned, and the two decisions will together form the starting point for future disputes concerning the exercise of discretionary power by Governors across India.⁵⁸

XI. REFERENCES

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2. Government of India Act, 1935, s. 75.
3. Prevention of Corruption Act, 1988.

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2. *In re: Assent, Withholding or Reservation of Bills by the Governor and the President of India*, Special Reference No. 1 of 2025, 2025 INSC 1333.
3. *State of Punjab v. Principal Secretary to the Governor of Punjab*, (2024) 1 SCC 384.

⁵⁸ *Samsher Singh* (n 22); *Nabam Rebia v Deputy Speaker, Arunachal Pradesh Legislative Assembly* (2016) 8 SCC 1; *State of Punjab* (n 42).

4. State of Kerala v. Governor for State of Kerala, Writ Petition (Civil) No. 1264 of 2023 (Supreme Court of India).
5. Samsher Singh v. State of Punjab, (1974) 2 SCC 831.
6. B.K. Pavitra v. Union of India, (2019) 16 SCC 129.
7. Nabam Rebia v. Deputy Speaker, Arunachal Pradesh Legislative Assembly, (2016) 8 SCC 1.
8. Union of India v. Valluri Basavaiah Chowdhary, (1979) 3 SCC 324.
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2. Rajyavardhan Singh, "Presidential Reference No. 1 of 2025 and the New Afterlife of Judgements", Indian Constitutional Law and Philosophy (26 January 2026).