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Governor's Discretionary Power under Article 200: Constitutional Safeguard or Political Instrument?

Kashish Raj^a

^aUniversity Institute of Legal Studies, Panjab University, Chandigarh, India

Received 04 July 2025; Accepted 04 August 2025; Published 08 August 2025

Article 200¹ of the Indian Constitution grants the Governor of a State the authority to assent to a bill, withhold assent, return it for reconsideration, or reserve it for the President's consideration. Although this provision was intended as a procedural safeguard to ensure the constitutionality of state legislation, the discretionary power given to the Governor has increasingly become a source of constitutional disputes and political controversy. This article critically examines the scope, application, and potential misuse of this provision, exploring whether it fulfils its intended role of maintaining federal balance and legal propriety, or if it functions instead as a hidden tool for political manoeuvring that undermines the democratic mandate of elected state legislatures. Utilising judicial decisions, including the Supreme Court's 2025 observations regarding Tamil Nadu, alongside comparative constitutional perspectives and contemporary case studies, the article analyses the conflict between constitutional morality and partisan interference in the exercise of gubernatorial discretion. It advocates for clearer constitutional conventions and judicial safeguards to ensure that the invocation of Article 200 aligns with the principles of transparency, accountability, and cooperative federalism.

Keywords: state, federal, governor, article 200.

INTRODUCTION & GENERAL BACKGROUND

The Constitution does not prescribe a specific timeline within which the Governor must act on a bill passed by the State Legislature; this silence has been tactically exploited in recent times. Between

¹ Constitution of India 1950, art 200

January 2020 and April 2025, the State Legislature sent 12 bills to Tamil Nadu's governor Ravi for consent, which included the appointment of vice chancellors for State Universities. The state government challenged this, citing constitutional violations and governance disruption. On April 8, 2025, the Supreme Court, exercising its extraordinary jurisdiction², resolved a prolonged constitutional standoff between the Tamil Nadu government and Governor R.N. Ravi over the inordinate delays in granting assent to state legislation. The Court, speaking through Justice J.B. Pardiwala and R. Mahadevan, held that Governors do not have discretionary powers under Article 200 of the Indian Constitution to indefinitely withhold assent³. Instead, it laid down a clear timeline for action and allowed states to approach the courts if these timelines were breached. The SC also prescribed the period for holding the bill up to 3 months for the governor to act on the bill under Article 200 and the President to consider the bill reserved for him under Article 201⁴.

ARTICLE 200 - ASSENT TO BILLS

When a Bill is passed by the Legislative Assembly of a State, or by both Houses in case the State has a Legislative Council, it is presented to the Governor for approval. The Governor then has three choices: to give assent to the Bill, to withhold assent, or to reserve the Bill for the President's consideration. If the Bill is not a Money Bill, the Governor also has the option to return it to the Legislature with a message suggesting reconsideration or specific amendments. If the Legislature passes the Bill again, with or without incorporating those suggestions, and sends it back, the Governor is constitutionally bound to give assent. Additionally, if in the Governor's view, the Bill threatens to diminish the powers or status of the High Court in a manner that undermines its constitutional role, the Governor is obligated to reserve it for the President's consideration and cannot assent to it directly. There is no fixed period during which the governor can hold the bill. The literal interpretation of Article 200 suggests that the phrase 'as soon as possible' in the first proviso applies solely to the reconsideration of bills⁵. Reconsideration of the bill happens independently of the withholding of assent to the bill. The Governor may return a Bill (provided it is not a Money Bill) to the Legislature, requesting reconsideration. However, if the Bill is passed again by the House or Houses either with or without amendments and is subsequently presented to the Governor, the Governor must accord assent and not withhold it. If a Governor refuses to give

² Constitution of India 1950, art 142

³ *The State of Tamil Nadu v The Governor of Tamil Nadu & Anr* (2025) INSC 481

⁴ Constitution of India 1950, art 201

⁵ *Purushothaman Nambudiri v The State of Kerala* (1962) 1 SCJ 477

assent to a bill with signs of bias or malicious intent, such a decision could be seen as unconstitutional. In such cases, the Governor is expected to give a clear and reasonable explanation for withholding assent, as this upholds the spirit of transparency and accountability in a democratic setup. The absence of a timeline in Article 200 is seen as a loophole that allows Centre-State friction.

ARTICLE 201: BILL RESERVED FOR CONSIDERATION

Article 176 of the Draft Constitution, 1948, and its refined counterpart, Article 201, delineate the procedure when a Bill passed by a State Legislature is reserved by the Governor for the consideration of the President. In both formulations, it is provided that the President shall either assent to the bill or withhold such assent. Notably, a significant proviso applies where the bill in question is not a Money Bill. The President may direct the Governor to return the Bill to the State Legislature either to the House or both Houses, accompanied by a message highlighting the grounds for reconsideration. Upon receipt of such a message, the legislature is obligated to reconsider the bill within six months. If the bill is once again passed, with or without amendments, it must be presented afresh to the President for his final consideration. This provision underscores a system of constitutional dialogue between the Union and State, aiming to ensure legislative scrutiny while preserving federal comity.

SCOPE OF THE GOVERNOR'S DISCRETION

The Court undertook a meticulous examination of the historical evolution of the constitutional provision on gubernatorial assent. Under Section 75 of the Government of India Act, 1935⁶, the Governor was expressly granted discretionary authority to assent to a bill, withhold assent, or reserve it for the consideration of the Governor-General. However, this landscape shifted significantly during the framing of the Indian Constitution. In the draft prepared by Constitutional Advisor B.N. Rau, the phrase 'in his discretion' was deliberately omitted from the main body of the provision, although it was initially retained in the proviso. The Drafting Committee, led by Dr. B.R. Ambedkar, preserved the core of Rau's draft. Rau's Article 147 was incorporated as Article 175 in the Committee's draft. When Article 175 came up for deliberation in the Constituent Assembly, Dr. Ambedkar moved an amendment to

⁶ Government of India Act 1935, s 75

eliminate the phrase 'in his discretion' from the proviso as well. He firmly argued that such language had no place in a responsible government. The Court, in its judgment, emphasised that this deletion must be understood in the broader context of the gradual curtailment of the Governor's discretionary powers as India transitioned towards full self-governance.

To assess the extent of the Governor's authority to act independently of the Council of Ministers, the Court turned to the Constituent Assembly Debates⁷ on Article 163(1)⁸, which outlines the Governor's discretionary powers. Reinforcing its interpretation with landmark precedents such as *Samsher Singh v State of Punjab* (1974)⁹, the Court reiterated that any action taken by the Governor without the advice and concurrence of the Council of Ministers lacks constitutional validity. The Supreme Court clarified that the Governor is constitutionally obliged to act on the advice of the Council of Ministers, with any discretionary powers under Article 200 being narrowly defined and not absolute. While the use of the word 'may' in Article 200 suggests a degree of discretion, particularly when reserving a bill for the President's consideration, this discretion is not unfettered. The Sarkaria Commission¹⁰ emphasised that such discretion should be exercised sparingly and strictly within constitutional bounds. It is recommended that Governors refrain from acting contrary to ministerial advice or from unnecessarily reserving bills, underscoring the importance of respecting the democratic mandate and avoiding overreach. The Supreme Court has consistently reiterated that although the Governor holds certain discretionary powers, these must be exercised within the framework of constitutional morality and democratic propriety. In *S.R. Bommai v Union of India* (1994)¹¹, while the primary issue concerned Article 356¹², the Court laid down guiding principles regarding the Governor's role, stressing the imperative of neutrality and fidelity to federal values. These principles are directly relevant to Article 200, particularly in contexts involving assent or reservation of state bills. Further reinforcing this, in *Kaiser-i-Hind Pvt. Ltd. v National Textile Corporation* (2002)¹³, the Court held that the Governor's assent-related decisions are not immune from judicial scrutiny, especially where constitutional obligations are at stake. Consequently, the Court held that the ruling in *B.K. Pavitra v Union of India* (2019)¹⁴, which allowed the Governor to reserve a bill for the President even against ministerial advice, was rendered *per incuriam*, as it disregarded established precedents like the *Shamsher Singh* case. The Court underscored that the framers of the Constitution had intentionally

⁷ 'Constituent Assembly Debates: Constituent Assembly Debates On 30 July, 1949 Part II' (*Indian Kanoon*) <<https://indiankanoon.org/doc/708184/>> accessed 01 July 2025

⁸ Constitution of India 1950, art 163(1)

⁹ *Shamsher Singh & Anr v State of Punjab* (1974) 1 SCR 814

¹⁰ Sarkaria Commission, *Report* (1988)

¹¹ *S.R. Bommai v Union of India* (1994) 2 SCALE 37

¹² Constitution of India 1950, art 356

¹³ *Kaiser-I-Hind Pvt. Ltd. v National Textile Corporation Ltd.* (2002) 8 SCC 182

¹⁴ *B.K. Pavitra v Union of India* (2019) 8 SCALE 205

removed the phrase ‘in his discretion’ from Article 200, signifying their clear intent to limit the Governor’s independent authority. Through a thorough reading of drafting history, Constituent Assembly Debates, and binding judicial pronouncements, the Court reaffirmed that the Governor’s discretionary powers are narrow and must be exercised within strict constitutional confines.

The M.M. Punchhi Commission Report (2010)¹⁵ underscores that the Governor cannot act in a purely personal capacity when exercising functions of the executive power of the State. The authority to reserve bills, situated under Chapter III of Part VI of the Constitution, which deals with the ‘State Legislature,’ has often been the subject of debate regarding the scope of gubernatorial discretion. While the Commission acknowledges that Article 163, falling under Chapter II, ‘The Executive,’ confers discretionary powers upon the Governor in specific constitutional contexts, it aligns with the Sarkaria Commission’s view that such discretion must be explicitly conferred by the Constitution or be implied through expressions such as ‘as he thinks fit,’ which, in their interpretation, should reflect the advice of the Council of Ministers. It asserts that in the context of reserving bills for the President’s consideration, the Governor ought to exercise genuine discretion, independent of ministerial advice, to preserve the intended constitutional balance between the Union and the States. The power to reserve bills, being legislative, must not be conflated with executive functions, and therefore should not be subsumed under Article 163’s provision for ministerial aid and advice.

JUDICIAL REVIEW OF ASSENT POWERS: EXAMINING ARTICLES 200 AND 201

Article 361¹⁶ grants the Governor’s immunity from judicial proceedings for actions performed in the exercise of their official duties. However, this constitutional shield is not absolute. In *Rameshwar Prasad v Union of India*¹⁷, the Supreme Court clarified that Article 361(2) does not bar judicial scrutiny of the validity of a governor’s actions. The court asserted that gubernatorial decisions must be bona fide and in consonance with democratic principles; failure to uphold these standards may attract judicial censure. While judicial intervention in cases involving the withholding of assent has traditionally been restrained due to the discretionary and political nature of the office, such discretion is not unfettered¹⁸. The Governor cannot indefinitely withhold assent to a bill, and if reservations exist, they must be formally communicated to the legislature with specific observations or recommendations. There should be a clear constitutional limitation on the governor’s discretion to reinforce the principle of accountable governance.

¹⁵ MM Punchhi, *Report of the Commission on Centre-state Relations* (2010)

¹⁶ Constitution of India 1950, art 361

¹⁷ *Rameshwar Prasad and Ors v Union of India and Anr* (2006) 2 SCC 1

¹⁸ *Nabam Rebia and Bamang Felix v Deputy Speaker* (2016) 11 SCC 673

It is important to distinguish between judicial review and justiciability. Justiciability refers to whether a specific issue falls within this power. While assent by the Governor or President on ministerial advice may not be justiciable, discretionary acts like withholding assent or reserving a bill are subject to judicial scrutiny based on constitutional limits. When a Governor reserves a bill for the President's consideration against the advice of the State Council of Ministers, the State Government can challenge this move in court. If the Governor claims the bill affects the powers of the High Court under Article 200 (2), they must clearly state which provisions are in question and why. Courts can review such decisions and, if found arbitrary or unconstitutional, may issue a writ of mandamus directing the Governor to act appropriately. Similarly, if the Governor reserves a bill under Articles like 31-A¹⁹ or 254 (2)²⁰ for immunity or to resolve conflicts with central laws, this too can be contested if the reasons are vague, irrelevant, or politically motivated. Any reservation based on personal views or political motives is unconstitutional and can be struck down. Courts may also intervene if the Governor or President delays action on a bill beyond a reasonable time unless justified. Even the President's refusal to assent to a bill can be legally challenged if it appears arbitrary or mala fide, particularly when the bill concerns democratic principles. In such sensitive cases, seeking the Supreme Court's opinion under Article 143²¹ is advisable.

POLITICAL CONTROVERSIES AND FEDERAL TENSIONS

Article 200 plays a crucial role in shaping Indian federalism. It was originally envisioned as a constitutional check, allowing the Governor to act in rare and exceptional circumstances to uphold constitutional values. However, over time, its misuse has strained Centre-State relations and undermined the authority of democratically elected state legislatures. A major concern lies in the Constitution's silence on the timeline within which a Governor must grant assent to bills passed by the State Legislature. This ambiguity has often been exploited, particularly in opposition-ruled states, where Governors have indefinitely delayed assent, thereby obstructing the legislative mandate of elected governments. The Constitution does not prescribe a specific timeline within which the Governor must act on a bill passed by the State Legislature; this silence has been tactically exploited. A critical constitutional question arises: Can a Governor indefinitely withhold assent to bills passed by the State Legislature? Constitutional expert Granville Austin, in his seminal work *The Indian Constitution: Cornerstone of a Nation* (1966)²², warned against such tendencies. In the chapter titled 'Strength with Democracy,' he emphasised that the Constituent Assembly intended the office of the

¹⁹ Constitution of India 1950, art 31 A

²⁰ Constitution of India 1950, art 254 (2)

²¹ Constitution of India, art 143

²² Austin Granville, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press 1999)

Governor to be symbolic and ceremonial, a constitutional head who intervenes only in rare emergencies. Austin cautioned that discretionary powers must not be allowed to become ‘tools of political manipulation.’ Yet, the growing trend of using these powers for partisan advantage reveals a troubling deviation from this foundational vision.

In West Bengal during the 1980s, the Governor withheld assent to several Bills passed by the State Legislature, igniting federal tensions and inviting scrutiny of the Governor’s role within a parliamentary framework. Similarly, the 2016 Arunachal Pradesh constitutional crisis saw the Governor reserving multiple Bills and facilitating the premature dissolution of the Legislative Assembly amidst political turbulence, raising serious concerns about the arbitrary use of discretionary powers. In 2019, the Governor of Maharashtra’s delay in facilitating government formation and in granting assent to certain bills drew widespread criticism for alleged partisan behaviour. Most recently, in 2023, the Tamil Nadu government, led by the DMK, challenged the actions of Governor R.N. Ravi, who had withheld assent to multiple Bills, some pending since early 2023, by filing a writ petition before the Supreme Court, seeking judicial interpretation of the constitutional limits of gubernatorial discretion. Collectively, these incidents highlight the increasingly tenuous line between constitutional duty and political interference, posing serious concerns about the erosion of democratic principles and the undermining of cooperative federalism.

CONCLUSION

The Indian Constitution grants the Governor of a State the authority to assent to a bill, withhold assent, return it for reconsideration, or reserve it for the President’s consideration. When this provision was introduced, it was envisaged that an independent Governor would function as a vital check and balance on the powers of the State Government. The Constitution vested the Governor with certain discretionary powers to prevent the enactment of redundant or conflicting laws and to function as a safeguard against hasty or ill-considered legislation. Acting as a constitutional sentinel, the Governor was expected to ensure that state laws align with national interests, constitutional provisions, and democratic values. However, in practice, this discretionary power has increasingly become a source of constitutional tension and political controversy. The provision, originally designed as a procedural safeguard, has been misused in several instances to delay or obstruct the legislative mandate of democratically elected state legislatures, particularly in opposition-ruled states. The Governor should exercise utmost caution and constitutional propriety while dealing with bills passed by the state legislature. Unwarranted delays in granting assent not

only violate the principle of the rule of law, which mandates the timely execution of duly enacted legislation, but also result in policy paralysis. Critical public welfare measures and administrative reforms get stalled, causing a breakdown in governance. Moreover, such delays aggravate Centre-State tensions, particularly when the ruling party at the Centre is different from that in the State, leading to accusations of political bias and misuse of constitutional office. Most importantly, repeated deferrals erode the public's faith in democratic institutions. To address these concerns, Article 200 must be strictly interpreted. A clear time frame, through amendment, can ensure transparency and accountability. Additionally, the governor's action should be subject to parliamentary or judicial review. The Governor must remain mindful that their constitutional role is to represent the collective interests of the people of the State, not to act as an agent of the Union government. While the Governor must uphold national integrity, especially in sensitive contexts, this role must not compromise the autonomy of State Legislatures, an essential pillar of India's federal structure. This constitutional tension was brought into sharp relief in the recent Tamil Nadu case, wherein the Governor delayed assent to multiple bills duly passed by the State Legislature. The Supreme Court's unequivocal intervention reaffirmed that the Governor's discretion under Article 200 is not unfettered; it must be exercised reasonably, within the constitutional framework, and in good faith. The Court's timely and cogent ruling served to reinforce the federal spirit, uphold the rule of law, and restore the sanctity of the legislative process. The legitimacy of the Governor's discretion lies in its faithful service to constitutionalism, not in its exploitation for political manoeuvring.