



Governor Inaction Over Bills

This editorial is based on [Pending Bills, the issue of gubernatorial inaction](#) which was published in The Hindu on 25/04/2023. It talks about issues with pending bills with the governor.

For Prelims: [Discretionary power of governor](#), [Supreme court](#), [Process of Passing of Bills](#), [President's rule](#), [Article 200](#), [Article 355](#)

For Mains: [Role of Governor](#), [Federalism](#), **issues with pending Bills.**

The recent controversy surrounding the Tamil Nadu [Governor's](#) actions regarding the passage of Bills in the [State Assembly](#) has **led to a resolution being passed** urging the **President** of India to intervene. **Several Bills passed by the Assembly** have been **pending as the Governor has not made** any decision.

The Assembly **passed a resolution urging the President** of India to **fix a timeline for assent** to be given to Bills passed by the Assembly.

This has raised questions over discretionary power of governor with respect to unlimited delay in giving assent to the bills which are duly passed by state legislature.

What are the Discretionary Powers of the Governor?

The Constitution makes it clear that if any question arises whether a matter falls within the governor's discretion or not, the decision of the governor is final and the validity of anything done by him cannot be called in question on the ground that he ought or ought not to have acted in his discretion.

▪ **Constitutional Discretion:**

- **Reservation of a bill** for the consideration of the **President** (Article 200).
- **Recommendation** for the **imposition of the [President's Rule \(Article 356\)](#)** in the state.
- While **exercising his functions** as the **administrator** of an **adjoining union territory** (in case of additional charge).
- Determining the **amount payable by the Government of Assam, Meghalaya, Tripura and Mizoram** to an [autonomous Tribal District Council](#) as royalty accruing from licenses for mineral exploration.
- Seeking **information from the chief minister** with regard to the administrative and legislative matters of the state.

▪ **Situational Discretion:**

- **Appointment of chief minister** when no party has a clear-cut majority in the state legislative assembly or when the chief minister in office dies suddenly and there is no obvious successor.
- **Dismissal of the council of ministers** when it cannot prove the confidence of the state

- legislative assembly.
- **Dissolution of the state legislative assembly** if the council of ministers has lost its majority.

Can the Governor withhold His Assent to a Bill in Exercise of His Discretionary Powers?

- While a plain reading of [Article 200](#) suggests that the **Governor can withhold his assent, experts question** whether he can do so only on the advice of the Council of Ministers.
- The **Constitution provides** that the **Governor can exercise** his executive powers only on the advice of the Council of Ministers **under Article 154**.
- The larger question is why a Governor should be allowed to withhold assent when the Bill is passed by the Assembly.
 - The [Supreme Court of India](#) recently **addressed the issue of Governors sitting on Bills** that they do not agree with, leading to an indefinite delay in State Legislative Assemblies. The Court **referred to the provision of Article 200** of the Constitution, which mandates that Governors should not delay over Bills sent to them for assent after they had been passed by Legislative Assemblies.

What are the Issues with Pending Bills?

- **Delay in Decision-Making:**
 - The Governor's failure to take a decision on the Bills passed by the legislature **leads to a delay in decision-making, which affects the effective functioning** of the state government.
- **Delay in Implementation of Policies and Laws:**
 - When the Governor fails to make a decision on a Bill passed by the assembly, it **delays the implementation of policies** and laws.
 - This delay can have **significant consequences**, especially when the Bill is related to **public welfare**.
- **Undermines the Democratic Process:**
 - The Governor, who is appointed by the Centre, can use his powers **to delay or reject Bills passed by state assemblies** for political reasons, which undermines the **democratic process**.
- **Public Perception:**
 - The public often views pending Bills with the Governor as a **sign of inefficiency or even corruption in the state government**, which can **damage the government's reputation**.
- **Constitutional Ambiguity:**
 - There is ambiguity in the Constitution regarding the Governor's power to withhold assent.
 - Although the Constitution grants the Governor the power to withhold his assent, it is **unclear whether he can do so only** on the advice of the Council of Ministers.
- **Lack of Accountability:**
 - When the Governor withholds assent, he **does not provide any reason** for his decision.
 - This lack of accountability **undermines the principles of transparency and accountability** in governance.

What Should be the Way Forward?

- **Timeframe for assent:**
 - The **Supreme Court can consider fixing a reasonable time frame** for Governors to take a decision on a Bill passed by the Assembly, **in the larger interest of federalism** in the country.

- This **can prevent undue delay** and ensure that governance of the state is carried out in accordance with constitutional provisions.
- **Dialogue between the Centre and States:**
 - There is a **need for a dialogue between the Centre and States** to address this issue and ensure that the constitutional provisions are upheld.
- **Public awareness and activism:**
 - It is **important to raise public awareness and activism** on this issue and demand that the constitutional provisions are **followed in a transparent, fair, and timely manner**.
- **Civil society groups, media, and citizen forums** can play a **crucial role** in this regard by highlighting the issue and **putting pressure on the authorities to act** in the public interest.
- **Drishti Mains Question:**

Discuss the issue of justiciability in the context of the Governor's role in giving assent to Bills passed by the legislature.

UPSC Civil Services Examination Previous Year's Question (PYQs)

Prelims

Which of the following are the discretionary powers given to the Governor of a State? (2014)

1. Sending a report to the President of India for imposing the President's rule
2. Appointing the Ministers
3. Reserving certain bills passed by the State Legislature for consideration of the President of India
4. Making the rules to conduct the business of the State Government

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 1 and 3 only
- (c) 2, 3 and 4 only
- (d) 1, 2, 3 and 4

Ans: (b)

Exp;

- **Article 163 of the Constitution says that the Governor shall exercise his functions with the aid and advice of the Council of Ministers except for functions which require his discretion.**
- **Under Article 356 of the Indian Constitution, the Governor of a State can send a report to the President of India recommending imposition of President Rule in the State. This is a discretionary power being conferred upon the Governor. Hence, 1 is correct.**
- **He appoints the Chief Minister (CM) and other ministers. They also hold office during his pleasure. The appointment of ministers in the State cabinet is not at the discretion of the Governor. He only formally approves the appointment. The discretion comes under CM. Hence, 2 is not correct.**
- **Governor can reserve certain bills passed by the State legislature for the consideration of the President. In one case such reservation is obligatory, that is, where the bill passed by the State legislature endangers the position of the State High Court. In addition, the**
- **The governor can also reserve the bill if it is against the provisions of the Constitution, opposed to the Directive Principles of State Policy, against the larger interest of the country, of grave national importance, etc. Hence, 3 is correct.**
- **He makes rules for the more convenient transaction of the business of a state government and for the allocation among the ministers of the said business. But this power is not under the Governor's discretion. He acts on the advice of the Council of Ministers. Hence, 4 is not correct.**

Therefore, option (b) is the correct answer

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