



Governor's Role in State Legislature

For Prelims: [Governor](#), [Article 153](#), [Punchhi Commission](#), [Judicial review](#), [President](#), [Supreme Court](#), Nabam Rebia and Bamang Felix v Dy.Speaker Case, Purushothaman Nambudiri v State of Kerala.

For Mains: Constitutional Provisions Related to the Governor, SC's stance and Recommendations of Commissions regarding the Governor's Power to Withhold Assent to Bills.

Why in News?

Issues have recently emerged in several Indian states **regarding the interaction between [Chief Ministers](#) and [Governors](#) concerning the passing of bills**. Chief Ministers have expressed concerns that **Governors have delayed acting on bills presented for their assent**.

- This situation raises important questions about the **functioning of a democracy** and the **potential consequences of hindering the legislative process**.

What are Constitutional Provisions Related to the Governor?

- [Article 153](#) says that there **shall be a Governor for each State**. One person can be appointed as Governor for two or more States.
 - The **Governor is appointed by the [President](#) by warrant under his hand and seal and holds office under the pleasure of the President ([Article 155 and 156](#))**.
- [Article 161](#) states that the **governor has the power to grant pardons, reprieves, etc.**
 - The [Supreme Court](#) stated that the **sovereign power of a Governor to pardon a prisoner is actually exercised in consensus with the State government** and not the Governor on his own.
 - The advice of the government binds the Head of the State.
- [Article 163](#) states that **there is a council of ministers headed by the Chief Minister to aid and advise the Governor** in the exercise of his functions, except some conditions for discretion.
 - Discretionary powers include:
 - Appointment of a chief minister when no party has a clear majority in the state legislative assembly
 - In times of no-confidence motions
 - **In case of [failure of constitutional machinery in the State](#)([Article 356](#))**
- **Article 200:**
 - Article 200 of the Indian Constitution outlines the process for a Bill passed by the Legislative Assembly of a State to be presented to the Governor for assent, who may either **assent, withhold assent or reserve the Bill for consideration** by the President.
 - The Governor may also return the Bill with a message **requesting reconsideration by the House** or Houses.
 - In the case of ***Purushothaman Nambudiri v State of Kerala***, the Supreme Court ruled that a **bill pending the Governor's assent does not lapse upon the dissolution of the House**.
 - The Court inferred from the **absence of a time limit in Articles 200 and**

201 that the framers did not intend for bills awaiting the Governor's assent to be at risk of lapsing.

- The **second provision** of Article 200 **grants the Governor the discretion to refer a bill to the President** if they believe its passage would infringe upon the powers of the High Court. The procedure for presidential assent is outlined in Article 201.
 - In the **Shamsher Singh case**, the Court held that the Governor's power to reserve bills for the President's consideration is an instance of discretionary authority.
- **Article 201:**
 - It states that when a **Bill is reserved for the consideration** of the President, the President may assent to or withhold assent from the Bill.
 - The President may also **direct the Governor to return the Bill to the House** or Houses of the Legislature of the State for reconsideration.
- **Article 361:**
 - Under **Article 361 of the Constitution**, the **Governor has complete immunity from court proceedings** for any act done in the exercise of their powers.

What are the Recent Instances of Governor Withholding Assent to Bills in India?

- In **April 2020**, the **Chhattisgarh Governor withheld assent to a Bill passed by the State Assembly in 2019** that sought to amend **Section 8(5) of Chhattisgarh Lokayukta Act, 2001**.
- In **September 2021**, the Tamil Nadu Assembly passed a Bill seeking exemption for students from the state from the **National Eligibility cum Entrance Test (NEET)** required for undergraduate medical college admissions. The Governor reserved the Bill for the assent of the President after considerable delay.
- In **February 2023**, the Kerala Governor signed into law five bills passed by the Assembly, but **withheld assent to the remaining six bills**, including the **Kerala Lokayukta (Amendment) Bill, the Kerala University (Amendment) Bill etc.**
 - The Governor said he had reservations about the constitutionality and legality of these bills.

What is the SC's Stance and Recommendations of Commissions regarding the Governor's Power to Withhold Assent to Bills?

- **SC Stance:** The Supreme Court's judgement in **Nabam Rebia and Bamang Felix vs Dy.Speaker** clarified that the **Governor's discretion under Article 200 is limited** to deciding whether a bill should be reserved for the President's consideration.
 - The Court also underscored that **Article 163(2) must be read in conjunction with Article 163(1)**, suggesting that **only matters expressly permitting the Governor to act autonomously are beyond the purview of judicial challenge**.
 - Therefore, **withholding assent to a bill indefinitely is unconstitutional**, and a Governor's action or inaction in this regard can be subject to **judicial review**.
- **Punchhi Commission (2010):** It recommended that it is **necessary to prescribe a time limit within which the Governor should take the decision whether to grant assent or to reserve it for consideration of the President**.
- **National Commission to Review the Working of the Constitution (NCRWC):** It laid down a **time-limit of four months within which the Governor should take a decision whether to grant assent or reserve it for the consideration of the President**.
 - It had also suggested the removal of the power of Governor, as provided in Article 200, to withhold assent for a piece of legislation and reserve a Bill for the consideration of the President **except in cases as stipulated in the Constitution**.

UPSC Civil Services Examination, Previous Year Questions (PYQ)

Prelims

Q. 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)

Mains

Q. Whether the Supreme Court Judgment (July 2018) can settle the political tussle between the Lt. Governor and elected government of Delhi? Examine. **(2018)**

Q. Discuss the essential conditions for exercise of the legislative powers by the Governor. Discuss the legality of re-promulgation of ordinances by the Governor without placing them before the Legislature. **(2022)**

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