



DAILY EDITORIAL ANALYSIS

TOPIC

**STRENGTHENING FEDERALISM:
SC'S LANDMARK VERDICT ON TN
GOVERNOR'S ROLE**

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STRENGTHENING FEDERALISM: SC'S LANDMARK VERDICT ON TN GOVERNOR'S ROLE

Context

- In a landmark judgment, the Supreme Court of India has **redefined the constitutional role of Governors** in state legislative processes. It emphasizes the principles of cooperative federalism and accountability, ensuring that Governors act within the constitutional framework.

Background: Case in Focus

- The Tamil Nadu government had passed 10 Bills, including those aimed at transferring the authority to appoint Vice-Chancellors from the Governor to the State government.
- Governor RN Ravi delayed action on these Bills, eventually referring them to the President, which the Supreme Court deemed unconstitutional.

Supreme Court's Observations

- The Court ruled that the **Governor's inaction violated Article 200 of the Constitution**, which mandates Governors to act on Bills 'as soon as possible'.
- It described the Governor's conduct as 'arbitrary, non est (non-existent), and erroneous in law', setting a precedent for accountability.
- SC said **only 3 ways after a bill is passed**: Grant assent, Withhold assent or Consideration for the President of India.
- Under Article 200, the Governor has **to abide by the 'Aid and Advice of the Council of Ministers'**, except if it falls under his discretion.
 - There is **no 'absolute veto' or 'pocket veto'**.
- Timelines for Action**: The Court fixed a timeline of one to three months for Governors to act on Bills, preventing indefinite delays.
- Reaffirmation of Federal Principles**: The judgment underscores that Governors must act as 'friend, philosopher, and guide' to the State Cabinet, rather than as instruments of the Centre.

Implications

- Reinforces Governor's constitutional limitations.
- Protects legislative primacy and federal structure.
- Sets precedent for similar disputes in Kerala, WB, Telangana, Punjab, etc.

Constitutional Role of the Governor

- The Governor derives authority from **Part VI (Articles 153 to 167)** of the Constitution. Key features include:
 - Each state shall have a Governor, but one person can be appointed for multiple states (**Article 153**).
 - Appointed by the President of India by warrant under his hand and seal (**Article 155**).
 - The Governor holds office at the pleasure of the President (**Article 156**).
 - He can resign by addressing the President.
 - He has a five-year term, but can be removed earlier.
 - Qualifications (Article 157)**:
 - Must be a citizen of India
 - Must be 35 years or older

Governor's Powers

- **Executive Power of State (Article 154):** The Governor holds the **executive power** of the state and exercises it directly or through subordinates (**Article 154**).
 - ♦ **Article 163:** Council of Ministers to aid and advise Governor
 - ♦ **Article 164:** Appoints the Chief Minister, and on their advice, other ministers
 - ♦ Appoints Advocate General (Article 165), State Election Commissioner (Article 243K), etc.
- **Legislative:**
 - ♦ **Article 174:** Summons and dissolves the State Legislature
 - Addresses the first session of the Legislature each year
 - ♦ **Article 200:** Gives assent to bills, can withhold or reserve them for President's consideration
 - ♦ **Article 202:** Ensures the Annual Financial Statement (State Budget) is laid before the Legislature.
 - Can recommend the introduction of money bills
 - ♦ **Article 213:** Can promulgate ordinances when the Legislature is not in session
- **Judiciary:**
 - ♦ **Article 161:** Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.
- **Discretionary:**
 - ♦ Includes sending reports to the President under **Article 356, recommending President's Rule**, and **Reserving Bills for Presidential assent**.

Governor's Role in Assenting to Bills

- **Article 200:** Deals with the Governor's role in assenting to Bills. The Governor has four options:
 - ♦ **Grant Assent;**
 - ♦ **Withhold Assent;**
 - ♦ **Return the Bill** for reconsideration (except Money Bills);
 - The Legislature must reconsider the bill and, if passed again with or without changes, the Governor must give assent.
 - ♦ **Reserve the Bill** for the President's consideration.
 - The Governor must reserve a bill for the President's consideration if it affects the powers of the High Court in a way that could weaken its constitutional role.

Federalism in India: The Basic Structure

- The Indian federal system, enshrined in the Constitution, adopts a **quasi-federal structure with a strong unitary bias**, unlike classical federations like the USA.
- As per the Supreme Court's judgment in **S.R. Bommai v. Union of India (1994)**, federalism forms part of the '**Basic Structure**' of the Constitution.

Concerns Related to Governors in India

- While the Governor is expected to act as a bridge between the Union and State governments, in practice, the office has often become a flashpoint in federal disputes:
 - ♦ **Impartiality Issues:** Acts as a Centre's agent – e.g., Arunachal Pradesh (2016).
 - ♦ **President's Rule:** The power to recommend imposition of **Article 356** is perhaps the most controversial. Misuse has led to the dismissal of duly elected state governments.
 - ♦ **Reserving Bills:** Governors have **delayed or denied assent to bills** passed by state legislatures.
 - ♦ **Appointments:** Governors have bypassed Chief Ministers while appointing VCs of state universities, sparking tension in states like West Bengal and Tamil Nadu.

- ♦ **Lack of Accountability:** No impeachment; removal only by the President.
- ♦ **Administrative Overreach:** In 2023, the Delhi government accused the LG of bypassing the elected Cabinet.
- These acts **erode the federal balance**, with Governors often perceived as agents of the Union government rather than impartial constitutional functionaries.

Commission Insights

- **Sarkaria Commission (1988):** Recommended that Governors should be politically neutral, and their appointment should be based on the Chief Minister's consultation.
- **Punchhi Commission (2010):** Advocated limiting the Governor's role to a constitutional figurehead and proposed fixed tenure.

Other Judicial Interventions

- **Shamsher Singh Case (1974):** The Supreme Court ruled that the Governor must act on the advice of the Council of Ministers in most cases.
- **Rameshwar Prasad Case (2006):** The court held that a Governor's refusal to give assent can be challenged in court and overturned if found unconstitutional.
- **Nabam Rebia v. Deputy Speaker Case (2016):** Affirmed that the Governor's discretionary powers are subject to judicial review, preventing arbitrary decision-making.
- **Punjab Case (2023):** Governor is an unelected authority and cannot stall the legislative process.
 - ♦ Withholding assent requires following constitutional procedures.
- **Supreme Court Observation (2024):** The Governor's role is primarily ceremonial, and he should not obstruct the governance of an elected state government.

Case Studies of Federal Friction

- **Maharashtra (2019):** Midnight swearing-in of a minority government triggered questions about the Governor's conduct.
- **Tamil Nadu (2022–2023):** Governor's refusal to clear bills and public comments on state policy were criticized for overreach.
- **Kerala & West Bengal:** Frequent confrontations over policy decisions and university governance.

Way Forward

- Codification of Governor's powers, especially in discretionary areas.
- Transparent appointment process with consultation from states.
- Judicial oversight or parliamentary scrutiny of Article 356 usage.
- Clear guidelines on the role in legislative processes.
- Empowering States while ensuring national unity is the delicate balance India must achieve.

Conclusion

- The Supreme Court's judgment is not just a legal milestone but a reaffirmation of constitutional morality and cooperative federalism.
- By holding Governors accountable and ensuring timely action on Bills, the verdict restores dignity to the office of the Governor and strengthens India's federal structure. It will undoubtedly shape the future of Centre-State relations in India.

Source: TH

Mains Practice Question

- [Q]** How does the Supreme Court's recent ruling on the Tamil Nadu Governor's handling of state bills redefine the balance of power between the Governor and the state government, and what implications does it hold for India's federal structure?