
Constitutional Silence and Judicial Intervention: Time Limits under Article 200 and 201

Rattan Singh^{1,2}, Simarpreet Kaur³, Tania Singh⁴

¹Vice-Chancellor, Jagat Guru Nanak Dev Punjab State Open University, Patiala-147001, Punjab, India

²Professor, University Institute of Legal Studies, Panjab University, Chandigarh-160014, India

³Research Scholar, University Institute of Legal Studies, Panjab University, Chandigarh-160014, India

⁴University Institute of Legal Studies, Panjab University, Chandigarh-160014, India

Email: rattan67in@yahoo.com, simararnejia51@gmail.com

Abstract

The constitutional silence surrounding the time limits for the exercise of powers by the Governor and the President under Articles 200 and 201 of the Constitution of India has generated significant constitutional and federal concerns. This paper critically examines the evolving jurisprudence concerning the assent of State Bills, with particular emphasis on the Supreme Court's decision in *State of Tamil Nadu v. Governor* and the subsequent Presidential Reference under Article 143. The study traces the constitutional and judicial developments in three stages: the pre-*State of Tamil Nadu v. Governor* phase, the jurisprudential shift introduced by the judgment, and the legal position emerging from the subsequent advisory opinion of the Supreme Court. It examines the constitutional framework under Articles 200, 201, 142, 143, 361 and 145(3), together with relevant judicial precedents and the recommendations of the Sarkaria and Punchhi Commissions. The paper analyses the Supreme Court's attempt to address prolonged gubernatorial inaction by prescribing timelines, rejecting the concept of a pocket veto, permitting limited judicial intervention, and invoking Article 142 to grant deemed assent in the particular circumstances of the case. It further evaluates the criticism that such judicially prescribed timelines and deemed assent amounted to judicial overreach and encroachment upon constitutionally assigned functions. The subsequent five-judge advisory opinion is examined for its clarification that courts cannot prescribe timelines for the Governor or President where the Constitution itself is silent, while recognizing limited judicial intervention in cases of prolonged and unexplained inaction. The paper argues that the constitutional silence concerning timelines creates a delicate balance between gubernatorial discretion, legislative supremacy, judicial review, and federalism. It concludes that although constitutional authorities cannot be permitted to indefinitely delay legislative action, judicial intervention must remain constitutionally restrained and consistent with the separation of powers, cooperative federalism, and the institutional boundaries established by the Constitution.

Keywords:

Constitutional Silence; Article 200; Article 201; Governor; President; Assent to Bills; Judicial Intervention; Judicial Review; Judicial Overreach; Article 142; Article 143; Federalism; Constitutional Discretion; Cooperative Federalism; Indian Constitution.

1. INTRODUCTION

The setting up of time limits for the high constitutional offices, the Governor and the President, by the two-judge bench of Supreme Court in *State of Tamil Naidu v Governor*¹ had sparked an intense debate leading to the advisory opinion of the Supreme Court in *re: Governor's Assent to State Bills*² (*Presidential Reference under Article 143*). Amidst the controversy of whether there should be judicially imposed time limits for the Governor and President to assent to the bills, there lies a bigger issue at stake of how India respond to the silence of its founding document. Although the advisory opinion clarifies the constitutional position, it has nevertheless attracted criticism from various legal scholars on the ground of lack of authority and lack of oversight of the court to some key points. The research article makes an attempt to underscore the constitutional provisions pertaining to the Governor's power and further divides the whole journey into three parts: Pre *State of Tamil Naidu v. Governor* Judgment phase, jurisprudential shift marked by the judgment, and subsequent thereto.

2. CONSTITUTIONAL PROVISIONS IN QUESTION

At the heart of the debate, Article 200, 201, 142, 143 and 361 of the Indian Constitution lie.

2.1 Article 200: Assent to Bills

Article 200 States that when a bill is presented to Governor after it having been passed by the legislative assembly of a State or in case State has both houses then by both the houses of the legislature of the State, the Governor shall declare whether he assents to it or withholds its assent therefrom or whether he will be reserving the Bill for the consideration of the President.³

First Proviso to the above said article mentions that in case Bill other than Money Bill is presented to the Governor, he may as soon as possible return the Bill to the legislature of the State with a message to the House or Houses as the case may be to reconsider the Bill or any specific provision thereof. Once the Bill is returned the proviso obligates the Legislature to reconsider the Bill accordingly and in case the Bill is passed again by the Legislature with or without amendment and is sent to Governor for assent, then the Governor cannot withhold assent thereof.⁴

Second Proviso to the abovementioned article further casts a limitation on the Governor's power and States that in case a Bill is presented to him and as per the opinion of the Governor, the bill if becomes law would derogate the powers of High Court then he won't assent to it but would reserve it for the consideration of President.⁵

2.2 Article 201: Bills Reserved for Consideration

Article 201 covers the situation when a Bill is reserved by the Governor for the consideration of President. This provision States that when a Bill, having been reserved for the consideration of

¹ W.P. (C) No. 1239 of 2023.

² Special Reference No.1 of 2025; 2025 INSC 1333.

³ The Constitution of India, art. 200.

⁴ *Ibid.*

⁵ *Ibid.*

President, is presented to him, he needs to declare whether he assents to it or withholds his assent thereof.⁶

The proviso to the above article provides that where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the Legislature to reconsider the same and when a Bill is returned, the Legislature needs to reconsider it *within six months* from the receipt of such Bill and if it happens that the Legislature again passes the Bill with or without amendment then it will be again presented to the President for his consideration.⁷

It is noteworthy to mention here that the time limit is mentioned in this very Article only and not in Article 200.

2.3 Article 142(1): Enforcement of Orders and Decrees of Supreme Court

This Article empowers Supreme Court to pass any decree or order, necessary, to do complete justice in a case or matter pending before it. The decree or order so passed shall be enforceable throughout the territory of India in a manner as Parliament may by law prescribes and until the law is made by the Parliament then by the order of President.⁸

2.4 Article 143 (1): Power of President to consult Supreme Court

Clause 1 of Article 143 mentions that if at any point of time it appears to the President that there is a question of law or fact that has already arisen or may arise and if the nature of the question as well as its importance to the public makes it expedient to be decided by the Supreme Court then President may refer the same to the Supreme Court for consideration.⁹

The Court is not bound to consider it but it may after such hearing, consider and provide the opinion to the President.

2.5 Article 361: Protection of President and Governors and Rajpramukhs

Clause 1 of Article 361 provides legal immunity to the President, Governors and Rajpramukhs. It provides that these constitutional offices won't be answerable to any court of law for exercise of their powers and duties of their office or any act done by them in exercise of such powers and duties.¹⁰

2.6 Article 145 (3): Rules of Court

The minimum number of judges who sit to hear any case involving substantial question of law as to interpretation of constitution or any reference under Article 143 would be five.¹¹

3. PRE- STATE OF TAMIL NAIDU VERSUS GOVERNOR CASE

3.1 Emerging Conflicts: Friction between Elected Governments and Governors

The history of Indian constitutional journey is replete with instances wherein cooperative federalism has been converted to competitive federalism by the Governors when they act as agent of the Central government in States wherein some political party other than the party forming

⁶ The Constitution of India, art. 201.

⁷ *Ibid.*

⁸ The Constitution of India, art. 142(1).

⁹ The Constitution of India, art. 143(1).

¹⁰ The Constitution of India, art. 361(1).

¹¹ The Constitution of India, art. 145(3).

majority at the Centre comes to power. The Governor has even been termed as “the Trojan Horse of the Centre”¹² by Justice K Chandru. Some notable incidents of the friction between Governors and State Governments are as follows:

3.1.1 Reservation of Bills in North-Eastern States (1980's -2010)

The Governors of North-Eastern States like Nagaland and Assam in order to pose hindrance to the implementation of Bills passed by State Legislature adopted delaying tactics. The Bills pertaining to reforms in land laws, customary practices and security related matters, which could provide an upper edge to the anti-political party governing the State, were reserved by the Governors for the consideration of the President. This way for a long time the bills were kept in dormant stage.¹³

3.1.2 Friction between Kerala Government and Governor of Kerala

In 2024, Kerala Government was forced to knock the doors of Supreme Court over the inaction of Governor of Kerala, Arif Mohammed Khan, who had delayed assent to seven bills from the last two years before referring them to President. The Kerala Government also raised their concern against the President who had withheld her assent to the four Bills from the last four years without disclosing any reasons.¹⁴

3.1.3 Friction between Punjab Government and Governor of Punjab

In 2023, dispute arose in case of Punjab as well. The Governor, Banwarilal Purohit, was questioned on his alleged unreasonable delay in assenting to the Bills as well as causing problems in legislative functioning.¹⁵

3.2 Judicial Background

The Indian Judiciary has time and again warned the Governors over their acting as agents of Central government and going against the structure of cooperative federalism.

In the landmark judgment titled *Shamsher Singh v. State of Punjab*¹⁶, held that Governor has to act on the aid and advice of Council of Ministers except in the cases wherein Constitution explicitly grants discretionary powers. Same was held in the case of *Abam Rebia v. Deputy Speaker, Arunachal Pradesh*¹⁷. In *B.P. Singhal v. Union of India*¹⁸, the court held that though Governor holds office during the pleasure of President, still they needs to act subject to constitutional morality and his actions are open to judicial review.

¹² K. Chandru, “Tamil Nadu Governor perfecting Trojan horse art,” *The New Indian Express*, Feb. 22, 2025.

¹³ Punchhi Commission, “Report of the Punchhi Commission on Centre–State Relations” 45–50 (2010).

¹⁴ Express News Service, “Kerala govt moves Supreme Court against Governor over pending assent to Bills”, *The Indian Express*, November 2, 2023, available at https://indianexpress.com/article/india/kerala-govt-moves-supreme-court-against-Governor-over-pending-assent-to-bills-9011244/?utm_source=chatgpt.com (last visted on 04th April, 2026).

¹⁵ The Economic Times, “Row over Bills: What is happening in Punjab is a matter of serious concern, says SC” *The Economic Times*, November 10, 2023, available at <https://economictimes.indiatimes.com/news/india/row-over-bills-what-is-happening-in-punjab-is-matter-of-serious-concern-says-sc/articleshow/105119404.cms> (last visited on April 4, 2026).

¹⁶ AIR 1974 SC 2192.

¹⁷ (2017) 13 SCC 332.

¹⁸ 2010 AIR SCW 3330.

3.3 Reports of Committees

The deliberate inordinate delay caused by the Governors in assenting to the bills has found its mention in the reports of the Committees established by the government on Centre-State Relations. These Committees acknowledge the need of setting up time limits for the Governor to assent to the bills.

3.3.1 Punchhi Commission

In order to prevent in-ordinate delays posed by the Governors in granting assent, withholding assent or reserving the Bill for consideration of President, the commission suggested setting up of time limit of about six months within which the Governor needs to act upon. The commission also recommended the Governors to act within reasonable time frame.¹⁹

3.3.2 Sarkaria Commission

Though the Commission hasn't provided time limits but it was strongly emphasized that Governors should not sit over the bills passed by the State legislature for an indefinite period. Further, it provided that the powers under Article 200 should be used without any unnecessary delay.²⁰

4. JURISPRUDENTIAL SHIFT MARKED BY STATE OF TAMIL NAIDU VERSUS GOVERNOR CASE

The judgment in *State of Tamil Naidu v. Governor*²¹ marked a watershed movement in Indian Constitutional jurisprudence wherein for the first time, timelines were set for high constitutional offices, President and Governor, in matters wherein Constitution was silent. The detailed analysis of the case is as follows:

4.1 Facts of the Case

The writ petition was filed by Tamil Naidu government under Article 32 against the Governor of Tamil Naidu, R.N. Ravi. The row erupted owing to the prolonged inaction of Tamil Naidu Governor on 10 Bills passed by State Legislature between January 13, 2020 and April 28, 2023. The delay in assenting to the Bills or referring the same to President for consideration had curbed State autonomy and compromised the legislative procedure. The details of the Bills are as follow:

A total of 12 Bills were passed by State Legislature between the above-mentioned dates. Out of these 12 Bills, the Governor had withheld the assent from 10 Bills and reserved 2 Bills for the consideration of President. On 18th November, 2023, the above Stated 10 Bills were again passed by the State Legislature. The Governor in response reserved all 10 Bills for the consideration of President. The President withheld the assent from 7 Bills, gave assent to 1 Bill and 2 were pending. The Bills primarily dealt with higher education reforms including transfer of power from Governor to State Government in matters relating to appointment of Vice-Chancellor.²²

The problem further escalated because Governor even delayed and denied assent to certain executive actions like sanction for prosecution of corrupt officers, prisoner release cases,

¹⁹ Punchhi Commission, "Report of the Punchhi Commission on Centre-State Relations", (2010).

²⁰ Sarkaria Commission, "Report of the Commission on Centre-State Relations" 112-120 (1988).

²¹ W.P. (C) No. 1239 of 2023.

²² *Ibid*.

confirmation of appointment to Tamil Naidu Public Service Commission. All these events together made State Government to approach Supreme Court. The matter was heard by two judge bench of Supreme Court comprising J.B. Pardiwala and R. Mahadevan.

4.2 Issues Framed in the present case

The following issues were framed by the court in the pertinent case:

1. Can a Governor exercise a 'pocket veto' and indefinitely delay assent to the Bills?
2. What is the reasonable time-line for the Governor to act on the Bills?
3. Can a Bill reconsidered by State Legislature be reserved for President's consideration?
4. Is there the need for the Governor to disclose reasons while withholding the assent to the Bills?
5. Can Judicial review be exercised over the acts of Governor and writ of mandamus be issued against the Governor directing action?

4.3 Observation of the Court

4.3.1. Rejection of 'pocket veto'

Once the bill is presented to the Governor, he has to choose one option from the three provided by Article 200- assent to bill, withhold assent, or reserve bill for President's consideration. If he withholds the assent then first proviso to Article 200 steps in. He needs to send Bill back to the legislature, the legislature may accept or reject the recommendations but once the bill is sent again to Governor for assent, he has to grant assent. The Governor has no discretion to withhold the bill and sit on the bill without sending it back to the legislature. Thus, The Court held that there's no concept of 'pocket veto' or 'absolute veto' enshrined under the Indian Constitution. The delaying tactics opted by the Governor by withholding assent to the bills for indefinite period attack federal structure of India.²³

4.3.2 Setting up of timelines

The court imposed certain time limits for the Governor and the President.

4.3.2.1 Timeline for Governors

1. If the Governor, on the aid and advice of Council of Ministers, withholds assent, then he must send the Bill back to Legislature in one month.
2. If the Governor withholds assent to the Bill, without aid and advice of Council of Ministers, then he must send the Bill back to Legislature within three months.
3. If Governor wants to reserve the Bill for the consideration of President against the advice of Council of Ministers, then he needs to reserve bill within 3 months.
4. If the Bill is again passed by the legislature and presented to him, then he needs to assent to the Bill within one month.²⁴

4.3.2.2 Timeline for President

²³ *Ibid.*

²⁴ *Ibid.*

When the Bill is presented to President for consideration, then he needs to act within three months from the receipt of the Bill. If the President fails to act, then State Government may seek remedy through writ of mandamus from the court.²⁵

4.3.3 Bill reconsidered by the State Legislature cannot be reserved for consideration of President

The court held that as a general rule once the bill is again presented to the Governor, then he has no option to reserve the same for the consideration of President. This is because he has already availed his one of the three options, i.e. to withhold the bill and send back to the legislature. However, only in one case the bill can be reserved for President's consideration, i.e., if State Legislature introduces any new amendment which affects the power of High Courts.

4.3.4 Need of disclosing reasons

The court mandated the Governor to disclose the reasons as well as mention the specific provision that attracts the second proviso to Article 200, i.e., provisions that derogate the powers of the High Court, when he reserves bill for consideration of President. This action is justiciable.

4.3.5 Power of Judicial Review and scope of writ of mandamus

The court held that actions of the Governor are open to judicial review. The Governor's reservation may be adjudicated by the competent court and the court may approve or disapprove the Governor's act. The court further held that a writ of mandamus can also be issued directing the Governor to take suitable action. Similarly, judicial review also extends to the bills that require assent of the President.²⁶

Also, the State government can seek a writ of mandamus from the court if Governor doesn't act within the settled time limits.

4.3.6 Article 142 and deemed assent

The Court, taking into account the facts of the case regarded the act of the Governor, wherein he first withheld the assent without the message and then reserved it for consideration of President, full of malice. In order to do proper justice in the present case, the court invoked Article 142 and granted deemed assent to all the 10 bills from the date they were presented to the Governor in the second instance.²⁷

5. POST- STATE OF TAMIL NAIDU V. GOVERNOR CASE

5.1 Wide spread criticism of the judgment

Though the judgment has strengthened federalism by setting up timelines for the Governor to act upon the bills but at the same time has attracted criticism from law scholars, political commentators and constitutional experts. The main points of criticism are as under:

5.1.1 Judicial Overreach

It is noteworthy that Constitution doesn't mention any time-limit under Article 200 and 201. The gaps in the Constitution could be filled by amendments which is the sphere of legislature. Setting up of time-lines by the judiciary has been seen as judicial overreach.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*

5.1.2 Concerns regarding appropriateness of Bench Strength

The case involved interpretation of constitution and as per Article 145(3), the cases that involve substantial question of law as to interpretation of Constitution needs to be heard by minimum judge bench of 5 judges. The case at hand was heard by two judge bench and major constitutional questions were involved.

5.1.3 Problem with 'deemed assent' doctrine

The 'deemed assent' doctrine nowhere finds its mention in the constitution. It's an outcome of judicial legislation. The court by providing deemed assent to the 10 bills not only intruded into the ambit of legislature but also executive.²⁸

5.1.4 Mandamus lies against public authorities and not constitutional heads

The Governor and the President are constitutional heads not public authorities, also Article 361 provides immunity to President and Governor from being answerable in any court of law for exercise of their powers in the capacity of constitutional heads. Amidst this background, enlargement of the scope of mandamus so as to include President and Governor within it seems faulty.²⁹

5.2 Presidential Reference under Article 143

The President of India on 13th May, 2025, referred 14 questions to Supreme Court for advisory opinion under Article 143 of the Constitution pertaining to powers of Governor under Article 200 and 201 along with some other ancillary questions. The Supreme Court in order to iron out the constitutional creases and to clarify the roles of constitutional institutions as mentioned in the reference provided the advisory opinion on November 23, 2025. The court provided following opinion to the questions put up in the reference.

5.2.1 Reference Question-1: The Constitutional opinions before a Governor when a bill is presented to him under Article 200.

The court opined that when the Bill is presented to the Governor, he has three options with him. He may assent to the bill, reserve bill for the consideration of President, or withhold the assent and return the bill to the legislature with a message. It is noteworthy to mention that the first proviso doesn't provide an extra fourth option but perhaps restricts the third option. It forms the substantive part of the provision is to be read with third option only. However, the third option is only applicable in case of non-money bills.³⁰

5.2.2 Reference Question-2: Whether the Governor is bound by the aid and advice of Council of Ministers in order to proceed with under Article 200?

²⁸ Amit Anand Choudhary, "SC sets timeline for State Governors to decide on bills sent to them", *The Times of India*, April 9, 2025, available at https://timesofindia.indiatimes.com/india/sc-sets-timeline-for-State-Governors-to-decide-on-bills-sent-to-them/articleshow/120107361.cms?utm_source=chatgpt.com (last visited on April 4, 2026).

²⁹ Surendra Kumar, "Supreme Court verdict on TN Governor is a double-edged sword", *Scroll.in*, April 23, 2025, available at <https://scroll.in/article/1081458/why-the-supreme-court-verdict-on-tn-governor-is-a-double-edged-sword> (last visited on April 4, 2026).

³⁰ Special Reference No.1 of 2025; 2025 INSC 1333.

In choosing from these options, the Governor is not bound by the advice of Council of Ministers and he has to act according to his discretion. The rationale behind this viewpoint is that the council of ministers will never recommend to the Governor to withhold assent or to reserve bill for assent of President, thereby defeating the very purpose of the provision.³¹

5.2.3 Reference Question-3: Whether the exercise of constitutional discretion under Article 200 by the Governor subject to judicial review?

The court opined that as a general rule the discharge of Governor's function under Article 200 is not subject to judicial review. The court can neither intervene nor review the merits of the decision made by the Governor. However, in exceptional circumstances wherein the Governor for a long period doesn't act without any reason, the court can then without commenting on the merits of the exercise of his discretion, issue limited mandamus for the Governor to fulfill his duty within a reasonable time.³²

5.2.4 Reference Question-4: Does Article 361 work as an absolute bar to judicial review for the acts of the Governor under Article 200?

As far as scope of Article 361 is concerned, it does impose an absolute bar when it comes to subjecting Governor personally to judicial review. But at the same time this provision cannot be used to nullify the limited judicial review that court can exercise in case of prolonged and unexplained inaction of the Governor under Article 200. The court has clarified that the Governor himself enjoys personal immunity under Article 361 but the office of Governor is subject to judicial review.³³

5.2.5 Reference Question-5: When the Constitution is silent on the timelines, can timelines be imposed by the judiciary for the Governor to act upon under Article 200?

The court clearly Stated that in absence of the constitutionally prescribed timelines and manner in which the power under Article 200 is to be exercised, the courts have no power to impose the same.

5.2.6 Reference Question-6: Whether exercise of Constitutional discretion by the President under Article 201 of the Constitution open to judicial review?

The merits of the decision made by the President in exercising his discretion under Article 201 are not open to judicial review.

5.2.7 Reference Question-7: When the Constitution is silent on the time limit and manner in which the constitutional power under Article 201 is to be exercised by the President, can judiciary fill the above said gaps?

Just as in the case of Governor, judiciary cannot step in and prescribe time limit or manner in which President has to work while exercising power under Article 201.

5.2.8 Reference Question-8: When a Bill is reserved by the Governor for the consideration of President, is the President required to take advisory opinion of Supreme Court under Article 143?

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*

As per the provisions of the Constitution, President is not required to take the advisory opinion of Supreme Court on a Bill reserved by the Governor for his consideration in every case. However, if there is ambiguity in the Bill or President requires the advice of the court, then he may refer the same under Article 143 to Supreme Court.³⁴

5.2.9 Do the decisions of Governor and President under Article 200 and 201 respectively subject to judicial review at a stage prior to law coming into effect? Can court take judicial review of the contents of the Bill before it has become law?

Neither the decisions of the Governor or the President under Article 200 and 201 nor the contents of the Bill is subject to judicial review before it has become law. Moreover, advisory opinion tendered by the Court under Article 143 doesn't constitute judicial adjudication.

5.2.10 Can the constitutional powers of the Governor or President be performed by the Supreme Court in wake of powers conferred by Article 142 of the Constitution?

The court clearly mentioned that Supreme Court can in no case substitute Governor or President and perform the constitutional powers or order which fall under their domain. This cannot be done even under the guise of Article 142. Also, Constitution doesn't recognize concept of deemed consent.³⁵

5.2.11 Can a Bill passed by the State Legislature become law without assent of the Governor under Article 200?

No Bill can become law unless it attains assent of Governor under Article 200. The legislative functions of the Governor cannot be supplanted by any other constitutional body.³⁶

5.2.12 Isn't it mandatory for the court to first decide whether the matter involves substantial question as to interpretation of Constitution and accordingly refer the same to a bench of minimum 5 judges in light of rule laid down under Article 145(3)?

The court didn't answer this question as it found the question irrelevant to the functional nature of the reference.

5.2.13 Whether the scope of Article 142 extends only to procedural matters or to issuing directions contrary to existing substantive provisions of the Constitution?

The court regarded this question as to scope of Article 142 to be overly broad and found it to be impossible to answer the same in a clear manner.

5.2.14 Is there any bar imposed by the Constitution on any other jurisdiction of Supreme Court other than under Article 131 to resolve disputes between Central and State Governments?

This question has also been returned unanswered as it didn't bear any relation to the reference.³⁷

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

5.3 Critical Analysis of the opinion

The advisory opinion has been criticized on various aspects, including maintainability and departure from Westminster Principles.

5.3.1 Maintainability of Reference

Article 143 permits Presidential reference only when question of law or fact has not been already decided by the court. In *Cauvery Water Disputes Tribunal Reference case*³⁸, it was held that when legal position is clear then question of reference becomes unnecessary. In the pertinent case, the questions that were raised had already been decided by the court in previous cases. Therefore, the entertainment of the reference by the court raises questions. Further, while tendering advisory opinion the court doesn't sit in adjudicatory jurisdiction and viewed from this point of view the overruling or departure from the previous precedents while dealing with the present advisory opinion amounts to *gratis dicta* and doesn't stand right in the law.³⁹

5.3.2 Interpretation of Article 200

Further, the court has opined that Governor in exercising discretion under Article 200 is not bound by the advice of Council of Ministers. This goes against the established constitutional principle that Governor acts on the aid and advice of Council of Ministers that fitted well within the Westminster model of parliamentary democracy.⁴⁰ Thus, the interpretation grants Governor a parallel set of power as given to elected government of the State which is harmful for Indian democratic and federal structure.

5.4 Effect of the Advisory Opinion and Present position

Noteworthy, to mention that the advisory opinions provided by the Supreme Court under Article 143 are not strictly binding as in case of judgments delivered by court in adversarial litigation. This has even been clarified by the Supreme Court in re: The Kerala Education Bill, 1957⁴¹ wherein it held that advisory opinions though have high constitutional value but are not enforceable decrees.

The *State of Tamil Nadu v. Governor*⁴² judgment has set up the time lines to prevent delay but the provision has been diluted by the advisory opinion tendered wherein the five-judge bench opined that court cannot prescribe such timelines. In wake of all this, what remains certain is that the Governor cannot sit over the bills for indefinite period and unreasonable delay invites limited judicial scrutiny.

³⁸ AIR 1992 SC 522

³⁹ V. Sudhish Pai, "Presidential Reference Opinion Turns The Constitution on its Head", *LiveLaw*, November 26, 2025 available at <https://www.livelaw.in/articles/supreme-court-judgment-presidential-reference-opinion-and-constitutional-crisis-311211> (last visited on April 4, 2026).

⁴⁰ *Ibid.*

⁴¹ [1959] 1SCR 995.

⁴² W.P. (C) No. 1239 of 2023.

CONCLUSION

Indian Constitution has visioned cooperative federalist structure but when the Governors act as agent of Central Government cooperative federalism changes to competitive federalism. The inordinate delay caused by them in exercising their discretion under Article 200 hampers the legislative procedure. In order to solve the problem two judge bench of Supreme Court on the petition filed by Tamil Nadu government has set timelines for the Governor and President. This has been a watershed moment in the Indian constitutional journey wherein silence of the constitution has been given words by the judiciary. However, it had been regarded as judicial overreach wherein judiciary intervened in the domain of legislature. Following this, President sent a 14-question reference to the Supreme Court. The Supreme Court entertained the same and, in its opinion, mentioned that court has no power to impose time-line on the Governor and President for exercise of their functions under Article 200 and 201. Thus, creating ambiguity regarding the present situation. However, one thing has been clear that the Governors have to exercise their function under Article 200 within reasonable time and limited judicial review lies if there is prolonged and unexplained delay by the Governor.