

**THIS IS AN 'ADDRESS' OF GREAT  
CONSTITUTIONAL IMPORTANCE***The Hindu*Paper - II  
(Indian Polity)

**The mandatory address the Governor of a State gives under Article 176 contains only the policies and the programmes of the elected government, so wilfully not reading certain portions goes against the mandate of the said Article.**

The Governor of Tamil Nadu, in the customary Governor's address to Members of the Tamil Nadu Assembly (on January 9, the first session for 2023), skipped an important and politically significant paragraph, which has stirred up a hornet's nest of controversy in the State. The paragraph in question referred to the Dravidian model of governance which has great political and cultural significance especially in Tamil Nadu. The present Governor is known to have no emotional link with the concept of a Dravidian model



of governance or politics or its rich cultural past (evident in his speeches and observations), which is understandable. The issue here is not one of the Governor's personal likes or dislikes of a particular political ideology or a cultural tradition, but whether the constitutional authority can deviate from well-established and mandatory constitutional practices while performing a constitutional function.

**It Is A Complete Address**

Article 176 of the Constitution requires the Governor to mandatorily address the Members of legislature at the commencement of the first session of each year and to inform them of the causes of its summons. Clause two says that the legislature will discuss the matters referred to in such an address. The "address" here means the complete address and not a truncated or garbled version. Therefore, what the Governor

reads before the legislators is a complete address whose entire contents are to be mandatorily discussed by the legislators in the House. Here, the Constitution gives a specific direction to the House to find time to discuss the contents of the Governor's address. It is of special significance that the Constitution nowhere else says that the legislature must make rules for the allotment of time to discuss a particular matter other than the address by the Governor under Article 176. This underscores the importance the Constitution attaches to such an address by the Governor.

It will become more clear when we consider Article 175 which says that the Governor may address the legislature and for that purpose require the attendance of the members. The Governor's address under Article 175 is not a mandatory address unlike under Article 176. Article 175 does not speak about any discussion of the content of such an address; but Article 176 requires a discussion on the matters contained in the Governor's address. The reason behind the Constitution making such a distinction in two addresses by the same constitutional authority, namely the Governor, to the same Members of the legislature, is that the address under Article 176 contains the policies and programmes of the elected government of the State which is accountable to the legislature. Executive accountability to the elected representatives of the people is the essence of parliamentary democracy. So, through the address which the Governor is mandated to give at the commence-

## Governor

- The governor performs the same duties as the president, but for the state. The governor is the executive head of a state.
- There shall be a Governor for each State under Article 153 in Part VI of the Constitution of India. A person can be appointed as the governor of two or more states.
- The governor plays a 'dual role' as the constitutional head of the state and as the representative. Also acts as a bridge between the Union and State Governments.
- Article 87 requires the President to make a special address to both Houses of Parliament at the beginning of the first session of each year. The President has to inform the Parliament about the reasons for his summons. Similarly, Article 176 requires the Governor to make a special address to each State Legislative Assembly in its first session of each year and to both Houses wherever the State has a Legislative Council. The language of these provisions was borrowed from the rules of the House of Commons.

### Article 175 - Right of the Governor to address and send messages to the House or Houses

- (1) The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State or both Houses assembled together, and may for that purpose require the presence of members.
- (2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill pending in the Legislature or otherwise, and the House to which any message is sent shall consider it with all convenient dispatch. Any matter required by the message to be taken into account.

### Article 176 - Special address by the Governor

- (1) At the commencement of the first session after every general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the legislature of the reasons for its summons
- (2) Provision shall be made by the House or rules regulating the procedure of the House for the allotment of time for the discussion of the matters referred to in such address.

ment of the first session of each year, the government informs the legislature of its major legislative programmes for that year, its achievements in the previous year, and a clear outline of its developmental programmes for the future. These programmes and policies of the government are conveyed to the legislature through the Governor. Thus, the address under Article 176 assumes great importance.

### **Content By The Government**

When the Constitution has accorded such importance to this address, can the Governor ignore it and skip certain paragraphs of the address or add anything of his own? Skipping paragraphs of the address would simply mean that the Governor does not approve or agree with those ideas. Anyone who is familiar with the constitutional system in India knows that the address the Governor gives under Article 176 is the address prepared by the government. It does not contain any of the personal views of the Governor but only the policies and the programmes of the elected government. The government alone is responsible for the content of the address and not the Governor. The Governor cannot change a word on his own. So, by wilfully not reading certain portions of the address the Governor has gone against the mandate of Article 176. It is another matter if the Governor is not able to read the whole speech because of a ruckus created by Members of the Assembly. But the Governor cannot wilfully skip paragraphs of the address because the Constitution does not permit him to disagree with the matters contained in the address or interpose his own views therein.

The actions by Governors in some of the Opposition-ruled States have often come under critical scrutiny. Sitting on a Bill passed by the Assembly without exercising any of the options given by the Constitution, and thus frustrating the entire legislative exercise, is clearly against the mandate of the Constitution. The Constitution does not give the Governor the option to sit on a Bill passed by the Assembly. But the Governors seem to assume that since it does not lay down any time frame for assent to a Bill they can sit on it without exercising any of the options contained in Article 200. This is a gross misreading of the constitutional provision. Article 200 requires the Governor to either give assent or withhold assent or send the Bill back to the Assembly for reconsideration, in which case if the Assembly passes it again in the same form without any change the Governor has to give assent to it. He can also send the Bill for the consideration of the President in some rare cases. Thus, Article 200 clearly shows that the Governor cannot sit on a Bill and thus frustrate the legislative exercise done by the Assembly. In Britain it is unconstitutional for the King to withhold assent to a Bill passed by Parliament.

### **An open challenge now**

All these problems arise now because of an inexplicable effort to question and challenge long-established constitutional positions. Governors have suddenly become pro active and have begun to openly challenge and criticise Chief Ministers and State governments. Some Governors are even holding press conferences



to attack Chief Ministers. Gubernatorial displeasure is being openly expressed. Bills pile up in Raj Bhavans without any decision being taken. From Shamsher Singh (1974) to Nabam Rebia (2016), the Supreme Court has consistently held that Governors can act only on the aid and advice of the Council of Ministers and cannot exercise any executive powers independently ignoring the elected government.

### **How can this problem be solved**

- In the Nabam Rebia case, the Court has said “such a nominee, cannot have an overriding authority, over the representatives of the people, who constitute the House or Houses of the State Legislature (on being duly elected from their respective constituencies) and/or even the executive Government functioning under the Council of Ministers with the Chief Minister as the head.”
- B.R. Ambedkar said in the Constituent Assembly: “If the Constitution remains in principle the same, as we intend that it should be, that the Governor should be a purely constitutional Governor, with no power of interference in the administration of the province”
- The Supreme Court had in Shamsher Singh said, “The Constitution does not aim at providing a parallel administration within the State by allowing the Governor to go against the advice of the Council of Ministers.”
- These are voices of wisdom which should be heeded to if we want to preserve the integrity of the system. If constitutional authorities wilfully cross the line and over strain the system, democracy will be in peril.

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### Expected Question

**Que. With reference to the governor consider the following statements-**

1. Under Article 175, the Governor has the right to address the House or Houses and send messages.
2. Under Article 176, there is a special address of the Governor on which compulsory discussion is held in the House or Houses.

Which of the statements given above is/are correct?

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Answer : C**

### Mains Expected Question & Format

**Que.: State the reasons for the recent debate between the Governor of Tamil Nadu and the State Government and throw light on the power of constitutional governance of the Governor under Article 176 of the Constitution.**

**Answer Format :**

- ❖ Mention the recent disputes between the governor and the government.
- ❖ What is the constitutional importance of the Governor's address? Explain.
- ❖ Give a balanced conclusion.

**Note:** - The question of the main examination given for practice is designed keeping in mind the upcoming UPSC mains examination. Therefore, to get an answer to this question, you can take the help of this source as well as other sources related to this topic.