

CONSTITUTIONAL TYRANNY: ON RAJ BHAVAN'S USE OF THE VETO**The Hindu**Paper - II
(Indian Polity)

Tamil Nadu Governor R.N. Ravi's act of withholding assent to Bills concerning universities in the State is nothing but constitutional tyranny. It is gross abuse of the power granted by the Constitution to give or refuse assent to Bills passed by the legislature. The grant of assent is a routine function of the titular head of state, and the exceptional power to withhold it is not meant to be exercised unreasonably. Rather, incumbents in Raj Bhavan ought to use this veto rarely, and only in flagrant instances when basic constitutional values are at stake. The Bills for which Mr. Ravi has refused approval, seek mainly to take away the Governor's power to appoint Vice-Chancellors of universities and vest it in the State government. There is nothing in these Bills for the Governor to disapprove of, save a vested interest to retain the powers conferred on him in his capacity as Chancellor. The rejection of the Bills appears to be a cantankerous response after the Supreme Court made well-justified remarks on Governors delaying assent to Bills pending with them. On its part, the DMK government quickly convened a special session of the Assembly and adopted the same Bills again. The question arises whether it was under the belief that the Governor is bound to grant assent, if the same Bills were reconsidered and passed again by the House.

The statute position is that these Bills have failed to become law. There is no remedy in the Constitution for a House aggrieved by the rejection of its Bills. The proviso to Article 200, which makes the Governor's assent mandatory for Bills passed a second time, does not apply to Bills for which assent has been 'withheld', a term that essentially means 'rejected'. If the government was aware of this position and still ventured to adopt them again, it is possibly meant as a political message that it will not yield in the matter of pursuing its legislative measures. The effect of their fresh passage is that the Governor may treat them as fresh Bills. This means he is free to withhold assent yet again. In a sense, the Governor's action has helped highlight an undemocratic and anti-federal feature in the Constitution that creates an unguided power to reject pieces of legislation passed by elected representatives. In its observations in ongoing proceedings concerning the Governor's powers, the Court has drawn attention to the fact that Governors are not elected. The Court must examine whether vesting that office with a veto over legislation violates parliamentary democracy, a basic feature of the Constitution. An authoritative pronouncement is needed to end the scope for partisan mischief.

State Government Vs Governor : Current Issues

The accusations

- ❖ Tamil Nadu has accused Governor R.N. Ravi of toying with the citizens' mandate by sitting on the Bills by neither assenting nor returning them. It said the Governor has positioned himself as a "political rival" who has caused a "constitutional deadlock" by simply sitting on the Bills for months together. Kerala, in its separate petition, said that eight proposed laws passed by its Legislative Assembly were pending with the Governor, not for months, but years. Of the eight, three Bills were waiting for the Governor's word for over two years.
- ❖ Punjab complained that seven of its Bills were stuck with the Governor since June, threatening to bring the administration to a "grinding halt".
- ❖ The Supreme Court had to intervene in April for the Telangana Governor to clear Bills pending since September 2022, compelling advocate Dushyant Dave, appearing for the State, to submit that legislatures in Opposition-ruled States were at the mercy of the Governors, who had become a law unto themselves.

The process of granting assent

- ❖ Article 200 of the Constitution covers the options before the Governor when a Bill passed by both Houses of the Legislature is presented to him. The first proviso to the Article says the Governor could either declare his assent to the Bill or withhold the assent if it is not a Money Bill or reserve the law for the consideration of the President if he thinks the Bill derogates from or endangers the power of judicial review of the High Court.
- ❖ In case the Governor chooses to withhold assent, he should return the Bill "as soon as possible" with a message requesting the Legislative Assembly to reconsider the proposed law or any specified provisions or suggest amendments. The Assembly would reconsider and pass the Bill, and this time, the Governor should not withhold his assent. In short, the constitutional head of the State would bow to the considered decision of the elected representatives of the people.

By when should Bills be returned?

- ❖ The first provision of Article 200 says it should be "as soon as possible". The Constitution is silent on what exactly this phrase means. The Supreme Court has interpreted "as soon as possible" in the proviso to mean "as early as practicable without avoidable delay" in its 1972 judgment in *Durga Pada Ghosh versus State of West Bengal*. Justice (now retired) Rohinton F. Nariman, in his 2020 judgment in the *Keisham Megha Chandra Singh* case, said a 'reasonable time' would mean three months.
- ❖ The States have urged the court to interpret the phrase in the proviso and fix a time limit by which Governors should assent or return a Bill. The 1988 Sarkaria Commission report on Centre-State relations had suggested consultation with the Governor while drafting the Bill and fixing a deadline for its disposal.
- ❖ Kerala has asked the Supreme Court to form a seven-judge Bench to review a five-judge Bench judgment in the 1962 *Purushothaman Nambudiri versus State of Kerala* case which held the view that Article 200 did not provide "for a time limit within which the Governor..... should come to a decision on the Bill referred to him for his assent". The State said that, at the time, the court did not consider the possibility of Governors holding back Bills for an indefinite time.

Expected Question for Prelims

Que. Which of the following discretionary powers have been given to the Governor of a state?

1. Sending report to the President of India for imposing President's rule.
2. Appointment of ministers.
3. Reserving some bills passed by the State Legislature for the consideration of the President of India.
4. Making rules for the functioning of the state government.

Select the correct answer using the code given below:

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

Answer : B

Mains Expected Question & Format

Que.: Discuss the contradiction that exists between the powers of the Governor mentioned in the Indian Constitution and the powers currently exercised by them.

Answer's Approach:

- ❖ In the first part of the answer, discuss the powers of the Governor as described in the Indian Constitution.
- ❖ In the second part, discuss the powers currently being exercised by the Governors in the states and also discuss the contradictions arising from it.
- ❖ Finally give a conclusion giving suggestions.

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.