

Judicial Review of Governor's Discretionary Powers: A Political Analysis of Supreme Court Interventions in India

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ABSTRACT

India is constitutionally a federal democratic country designed to balance regional autonomy with national unity in a highly diverse society. The Constitution distributes powers between the Union and State governments with strong centralizing powers to the Union Government in order to maintain country's unity and integrity. Within this constitutional framework, the office of the Governor plays an important role in maintaining the balance between the Union government and State government while protecting federalism, democratic values and constitutional morality. However, the Governor's discretionary powers, along with the process of appointment by the President on the advice of the Prime Minister and the Union Council of Ministers have frequently become a source of political controversy. During periods of intense political rivalry between the Union government and the State governments, gubernatorial discretionary powers, particularly in matters of forming state governments, giving or delaying assent to bills, and reserving bills for the President, have often been seen as an instrument of the Union government to influence or control opposition-ruled states. Such actions have repeatedly invited Supreme Court scrutiny and judicial review.

This article examines the judicial review of gubernatorial discretion from a political angle. It emphasizes the Supreme Court's role in checking the political use of constitutional authority and resolving Centre-State tensions.

The article further highlights the judiciary's evolving role as an arbiter of federal conflicts. Special attention is given to recent landmark decisions on *the State of Tamil Nadu v. Governor of Tamil Nadu* (2025) of the Supreme Court in addressing delays and inaction by Governors in the legislative process. The paper argues that judicial review of the Governor's discretion is not merely a legal exercise but a political process through which the Supreme Court seeks to preserve federal balance and democratic accountability.

KEY WORDS: *Gubernatorial discretion, Judicial review, Centre-State relations, Federalism, Supreme Court of India*

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Received	Reviewed	Accepted	Published
28-Jan.-2026	26-Mar.-2026	15-May.-2026	01-June.-2026

Volume	Issue	June	ISSN
No. 8	No. 1	2026	2583-1852(P), 2584-0878(O)

How to Cite this Article: Meena, Sunita. Judicial Review of Governor's Discretionary Powers: A Political Analysis of Supreme Court Interventions in India. THE THIRD VOICE REALITY AND VISION. 2026. Vol No-8. Issue No-1. June. Pp: 7-12. DOI : <https://doi.org/10.5281/zenodo.20542829>

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DOI:

<https://doi.org/10.5281/zenodo.20542829>

Article No - TVRV00106

INTRODUCTION

Federalism is an integral feature of India's constitutional governance framework. Article 1(1) states that "*India, that is Bharat, shall be a Union of States.*" The Supreme Court has also recognized federalism as part of the basic structure of the Constitution. In this system, powers are divided between the Union and the States as specified in the Seventh Schedule. Considering India's vast cultural, social and political diversity, the framers of the Constitution, particularly Sardar Patel, favored a strong Union government to maintain unity, integrity and stability (Munusamy, 2025). Indian federalism therefore combines constitutional centralization with political decentralization. This structural complexity shapes the functioning of key constitutional offices especially the office of the Governor. The Governor is appointed by the President of India on the recommendation of the Prime Minister and Union Council of Ministers without consultation with the concerned state government. Article 155 of the Indian constitution states that the "*Governor of a state shall be appointed by the President by warrant under his hand and seal*". According to Article 156, "*the Governor shall hold office during the pleasure of the President*" but his normal term of office will be five years. According to Article 159 of the Indian Constitution, the Governor is required to take an oath to preserve, protect and defend the Constitution and the law. This highlights the constitutional duty of the Governor to function within the framework of legality and democratic accountability (Government of Telangana, n.d). In certain constitutionally specified situations, the Governor is allowed to use personal judgment known as discretionary power. Recognizing India's plural and multi-party system, Jawaharlal Nehru during the framing of the Constitution argued that the Governor should remain above party politics and act with constitutional neutrality (Encyclopaedia Britannica). In practice, however, the exercise of discretionary powers has often generated political controversy.

The Constitution of India vests the Governor with certain discretionary powers, such as granting or withholding assent to bills passed by the state legislature, determining the time frame for proving a legislative majority and deciding which party should be invited to form the government in a hung assembly. However, the Constitution remains largely silent on how disagreements between the Governor and the elected state government should be resolved. Governors have been accused of siding with the Union government by abandoning their constitutional

obligation of neutrality. This is most evident in opposition governed states where many perceive Governors to be representatives of the Centre. The Supreme Court in *Shamsher Singh v. State of Punjab (1974)* held that as constitutional heads, Presidents and Governors must not engage with party politics and must act with neutrality. Keeping all such factors in mind, this article analyses judicial review of gubernatorial discretion from a political angle which has evolved beyond purely legal checks and now also helps maintain the political balance between the central and state governments in India. Supreme Court interventions are increasingly being used to manage conflicts between the Centre and the States, prevent the partisan misuse of constitutional powers and protect democratic accountability in a politically competitive environment.

CONSTITUTIONAL BASIS OF GUBERNATORIAL POWERS

The powers and functions of the Governor are derived from various provisions of the Indian Constitution. The Constitution of India deals with State executive under Part VI Chapter II which includes Articles 153 to 167 (Gore et al., 2020). Under the parliamentary system, "the Governor acts as the constitutional head of the state and normally functions on the aid and advice of the Chief Minister with the Council of Ministers as provided under Article 163". In the legislative sphere, the Governor has significant powers such as summoning, proroguing and dissolving the state legislature under Article 174. The Governor plays an important role in the executive functioning of the state, including the appointment of the Chief Minister and other ministers under Article 164 (Government of Telangana, n.d). The Governor further holds an important position in the law-making process. Article 200 stated "when a Bill is passed by the State Legislature, the Governor may give assent, withhold assent, return the Bill for reconsideration or reserve it for the consideration of the President". The power to withhold assent is usually used only in exceptional situations, mainly when the legislature passes a Private Member's Bill without support from the State Government. In such cases, the Council of Ministers may advise the Governor to withhold assent. Similarly, if a Bill is returned to the legislature for reconsideration, it is normally done based on ministerial advice. So even though the Governor holds an important constitutional office, the role still remains closely linked to the advice of the Council of Ministers. Further, if a Bill is reserved for the President under Article 201, the matter moves beyond

the State government and the final decision then rests with the President. The President may either give assent, withhold assent or return the Bill to the State Legislature for reconsideration, provided it is not a Money Bill. If the Bill is passed again by the Legislature and sent back to the President, the President is not bound to give assent and may still approve or reject the Bill. Thus, Article 201 gives the final authority to the President in respect of certain State Bills and ensures constitutional and federal balance between the Centre and the States (Indian Kanoon, n.d.). Former Chief Election Commissioner V.S. Ramadevi highlighted the importance of constitutional morality in the functioning of the Governor's office. She referred to Surjit Singh Barnala's decision not to recommend President's Rule in Tamil Nadu despite pressure from the Centre and emphasized that Governors are expected to remain impartial and act according to constitutional values, particularly during times of political uncertainty (Raj, 2022).

JUDICIAL REVIEW AND THE SUPREME COURT'S ROLE

Article 356 has been one of the most controversial provisions of the Constitution, as it has at times posed a serious threat to democracy and federalism. It deals with the imposition of President's Rule in a state on the basis of the Governor's report claiming a "failure of constitutional machinery." The first case of political misuse of the gubernatorial power happened in 1959 when the Governor dismissed the elected Communist government headed by E.M.S. Namboodiripad and recommended the President's Rule (Basheer, 2025). The use of Article 356 became highly politicized during the 1970s and 1980s. After the Janata Party came to power in 1977, several Congress-ruled state governments were dismissed. For example, within just two days (April 29 and 30, 1977) a total of eight Congress governments were removed from Madhya Pradesh, Rajasthan, Bihar, Haryana, Himachal Pradesh, Odisha, Punjab and Uttar Pradesh. A similar pattern was repeated in 1980 after the Congress returned to power at the Centre and dismissed a number of opposition-ruled state governments (in nine states such as Rajasthan, Bihar, Uttar Pradesh, Maharashtra, Odisha, Punjab, Tamil Nadu, Gujarat and Madhya Pradesh) (India Today, 2016). During this period, some states experienced it more frequently than others. In particular, Manipur and Uttar Pradesh have witnessed the highest number of instances of President's Rule (India Today, 2016). In recent years, several politically contentious situations in states such as Arunachal Pradesh (2015), Uttarakhand (2016), Goa

(2017), Karnataka (2018), Maharashtra (2019), and Madhya Pradesh and Rajasthan (2020) have once again brought the Governor's discretionary role into political and judicial scrutiny.

The dismissal of the Bommai government became a major constitutional controversy and eventually led to the landmark judgment in *S.R. Bommai v. Union of India* (1994). In this case, the Supreme Court said that "the imposition of President's Rule under Article 356 is subject to judicial review and cannot be exercised arbitrarily for political reasons". The judgment played an important role in strengthening federalism and restricting the misuse of constitutional powers by the Centre. There was another significant case in Arunachal Pradesh when the Governor called upon an advanced Assembly session without the consent of the elected government. This caused a political crisis and brought about President's Rule and the formation of a new government. A five-judge Constitution Bench of the Supreme Court heard the case and delivered a landmark judgment to restore status quo ante December 15, 2015. The Court held that the actions of the Governor were illegal and unconstitutional. With the resignation of Chief Minister Kalikho Pul, Chief Minister Nabam Tuki was reinstated. This ruling was important, as it was one of the first cases wherein the judiciary reinstated a state administration that had been dismissed under President's Rule. (The Times of India, 2016).

Over the years, the scope of judicial review regarding gubernatorial discretion extended to issues beyond the misuse of Article 356 and the dissolution of state governments. More and more, constitutional conflicts have arisen concerning the Governor's involvement in the legislature, especially regarding the delays in providing the Governor's assent to State Legislature Bills. For instance, in 2023, while hearing the Telangana government's petition against the Governor's delay in giving assent to laws, the Supreme Court judges D.Y. Chandrachud and Justice P.S. Narasimha made references to Article 200 of the Constitution. According to Article 200, the Governor can return a Bill for reconsideration to the State Legislature, as long as it is not a money Bill, only after a Bill is presented to him for assent. The Court emphasized that the phrase "as soon as practicable" carries significant constitutional importance and requires timely action (Thomas, 2023). The State of Kerala filed a writ petition in the Supreme Court on November 1, 2023, challenging Governor Arif Mohammad Khan's delay in granting assent to a number of Bills awaiting approval. Later, Kerala decided to withdraw the case,

saying that the Supreme Court's April 8, 2025 judgment which directed Governors and the President to decide on Bills within a maximum of three months had already settled the issue. However, the Central government opposed the withdrawal and argued that Kerala's case was different from the Tamil Nadu case and should still be heard. (Supreme Court Observer, 2023). Similar concerns were raised in *State of Punjab v. Principal Secretary to the Governor* (2023) and West Bengal (2024) where the Supreme Court observed that Governors cannot indefinitely delay Bills passed by elected legislatures. (Joshi, 2023, Sethi, 2024).

Among these disputes, the conflict between the Tamil Nadu government and Governor R.N. Ravi became one of the most constitutional controversies about gubernatorial discretion and legislative assent. The political controversy erupted when the Governor returned the Online Gambling Prohibition Bill. The Tamil Nadu Government challenged Governor R.N. Ravi in the Supreme Court for misusing his powers and argued that the Governor was failing to discharge his constitutional responsibilities by not approving 10 bills. Then the Supreme Court gave landmark judgement on 8 April 2025 and strongly criticised governor for not approving these bills. The Court said that keeping Bills pending or refusing them without proper constitutional reason is "illegal and arbitrary". It also cleared that Governors cannot delay decisions forever, they must act within a reasonable time when a Bill is sent to them. The Governor cannot use powers like an absolute veto or "pocket veto" (NDTV (2025)). Through these judgements, the judiciary has been reminding the constitutional authorities that unnecessary delays, even silent one, can disturb the balance of parliamentary democracy. Exercising its special powers under Article 142 to ensure complete justice, the Court treated certain pending Bills as having received "deemed assent". (Banerjee, 2025). This means the Bills were treated as approved because of the long and unjustified delay. The judgment also laid down general timelines for Governors while dealing with Bills passed by State Legislatures. The Court said that if the Governor wants to withhold assent and send the Bill to the President based on the advice of the Council of Ministers, it should be done within one month. If the Governor wants to withhold assent without the advice of the Council of Ministers, then the Bill must be returned to the Assembly within three months. Also, if the Assembly passes the Bill again after reconsideration, then the Governor must give assent within one month (NDTV, 2025). The main aim of this decision was to ensure Governor's act within

a reasonable time and do not unnecessarily delay the law-making process.

The Court cautioned that constitutional governance cannot function with two parallel centres of executive authority operating within the same state (Pai, 2025). This reflected the judiciary's role in preventing executive deadlock and ensuring functional accountability within the states. Later, the judiciary overturned its own rulings on 20 November 2025, following an advisory opinion sought by the President under Article 143. The Court clarified that it cannot impose rigid or strict timelines on the President or the Governor to approving bills and a bill could not simply be treated as having received automatic assent. At the same time, it warned that "prolonged, unexplained, indefinite inaction will invite limited judicial scrutiny" (Banerjee, 2025). Since the MLAs are elected by the people and laws reflect the will of the public. If the Governor delays or refuses to approve bills without valid constitutional reasons, it means they are blocking people's mandate that poses a serious challenge to democracy and federalism. This shows that judiciary maintains and respects the separation of powers between judicial intervention and executive discretion. (The Economic Times, 2025).

CONCLUSION

In a federal state, the office of the Governor occupies a significant constitutional position in India. Constitutionally, the Governor is the head of the state and an apolitical post therefore, he/she must function as an impartial, independent and political neutral authority. As per constitution norms, he/she acts on the aid and advice of the Chief Minister and Council of Ministers. However, in reality, the office is perceived as a representative and agent of the Union government that triggered political controversy and invited judicial scrutiny as well. In India's quasi-federal structure, the debate around the Governor's discretionary powers shows how closely constitutional law and politics remain connected, almost impossible to separate completely. Over time, the role of judiciary in this area has gradually expanded beyond merely addressing the dismissal of elected state governments under Article 356. But now, judicial review entered in increasingly day to day matters such as delays in granting assent to bills, questions regarding the limits of gubernatorial discretion and questions of constitutional morality. This reflects the growing responsibility of the Supreme Court in managing the Center-State disputes especially when political institutions fail to resolve them on their own. Landmark judgments such as *Shamsher*

Singh v. State of Punjab, *S. R. Bommai v. Union of India* and the more recent *State of Tamil Nadu v. Governor of Tamil Nadu* have played a major role in defining and limiting the powers of the Governor. In an era of intense party competition and politics, the judicial review remains a strong mechanism for maintain federal balance and democratic accountability. At the same time, the judiciary cleared that court intervention alone cannot resolve every constitutional or political dispute. The effective functioning of Indian federalism therefore requires stronger constitutional conventions and greater political neutrality in the office of the Governor.

Acknowledgements

Not applicable

Declarations

Ethics approval and consent to participate

Not applicable.

Consent for publication

Not applicable.

Competing interests

The author declare no competing interests.

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