



Research Paper

# Judicial Stance on Governor's Assent Powers in India: Constitutional Design, Doctrinal Evolution, and Emerging Norms (c. 2025)

Mrs. Swati Yadav

Assistant Professor

Hitkarini Law College, Jabalpur

## Abstract

The Governor's role in the State legislative process—especially the power to grant, withhold, or reserve assent to Bills under Articles 200–201—has long been a site of constitutional friction. Historically, courts acknowledged the absence of hard timelines and were cautious about reviewing “assent” functions. Recent developments culminated in a watershed Supreme Court decision on April 8, 2025, in *State of Tamil Nadu v. Governor of Tamil Nadu*, which repudiated the idea of a gubernatorial “pocket veto,” clarified that inaction is unconstitutional, prescribed workable timelines, and held that once a Bill is re-enacted after reconsideration, the Governor must assent. In parallel, the Court reaffirmed the foundational principle of responsible government from Shamsher Singh and built on interim and final orders in the Punjab, Kerala, and Tamil Nadu disputes that insisted the Governor “shall declare” a decision and, when withholding assent, must return the Bill “as soon as possible.” This article situates the 2025 ruling in the longer arc of constitutional practice, explores the interface with presidential consideration under Article 201 and with Article 254(2) assent jurisprudence, and assesses implications for federalism, legislative efficacy, and judicial review going forward. *Sci API Supreme Court Observer* *Live Law Indian Kanoon*

**Keywords:** Article 200; Article 201; gubernatorial assent; pocket veto; presidential reservation; judicial review; federalism; responsible government.

## I. Introduction

In the constitutional architecture of India, legislative supremacy at the State level is mediated by a series of checks—bicameral passage (where applicable), the Governor's assent under Article 200, and, in certain cases, Presidential consideration under Article 201. For decades, constitutional actors navigated these checkpoints through convention as much as text, and courts tended to read the assent function with deference, emphasizing that the Governor is a constitutional head acting on ministerial advice except in limited spheres. Yet, a growing pattern of gubernatorial inaction or prolonged pendency of Bills in several States triggered litigation and doctrinal clarification.

The Supreme Court's interventions since late 2023 (notably in the Punjab and Kerala matters) and especially its comprehensive judgment in April 2025 in the Tamil Nadu case, have brought much-needed clarity. The Court declared that the Constitution provides no shelter for a “pocket veto,” that the phrases “shall declare” and “as soon as possible” carry mandatory content, and that re-passed Bills must be assented to. Together, these holdings reshape the operative norms of State law-making and recalibrate centre–State dynamics. *Supreme Court Observer* *Supreme Court Observer* *Sci API*

## II. The Constitutional Scheme: Articles 200 and 201

### A. Text and structure

Article 200 provides that when a Bill is presented to the Governor, the Governor shall declare either (i) assent, (ii) withholding of assent (with the power, in the case of non-Money Bills, to return the Bill to the legislature for reconsideration), or (iii) reservation of the Bill for the consideration of the President. Article 201 then governs the President's options when a Bill is so reserved. The Governor is part of the State Legislature (Art. 168), but is not a parallel political executive: except for limited areas, the office functions on the aid and advice of the Council of Ministers (Art. 163). *The Hindu Centre*

### **B. Traditional understandings: Silence, timelines, and lapsing**

In *Purushothaman Nambudiri v. State of Kerala* (1962), the Supreme Court observed that Articles 200–201 placed no express time limits for gubernatorial or presidential decisions and clarified that a Bill awaiting assent does not lapse upon dissolution of the Assembly (unlike the UK convention). This older posture tolerated open-ended pendency—an understanding later destabilized by mounting evidence of legislative paralysis through inaction. Indian Kanoonlatestlaws.com

## **III. From Responsible Government to Active Judicial Supervision**

### **A. Responsible government as the baseline**

The seven-judge decision in *Shamsher Singh v. State of Punjab* (1974) held that the Governor ordinarily acts on the aid and advice of the Council of Ministers. Although *Shamsher Singh* addressed executive functions more broadly, its core principle—responsible government—has anchored later readings of Article 200, limiting claims to autonomous gubernatorial discretion. Indian Kanoon

### **B. The Punjab and Kerala disputes (2023): repudiating inaction**

Litigation from Punjab and Kerala confronted a wave of gubernatorial sitting on Bills and delays in money-bill recommendations. In *State of Punjab v. Principal Secretary to the Governor of Punjab* (2023), the Supreme Court stressed the mandatory tenor of “shall declare” and required that if assent is withheld, the Bill must be returned “as soon as possible,” thereby foreclosing non-decisions as a tool to stall law-making. Kerala’s challenge to gubernatorial inaction further underscored the systemic stakes. These matters laid the runway for the 2025 Constitution Bench to generalize and entrench these propositions. Supreme Court Observer+1 Indian Kanoon

## **IV. The 2025 Tamil Nadu Judgment: No Pocket Veto, Timelines, and the Duty to Assent After Re-Passage**

On April 8, 2025, the Supreme Court delivered a path-breaking judgment in *State of Tamil Nadu v. Governor of Tamil Nadu*. The Court held:

1. **No “pocket” or “absolute” veto under Article 200.** Inaction is not a constitutionally permissible response; the Governor must choose one of the three courses indicated in Article 200. The Court explicitly rejected any notion that the Governor could bury a Bill by silence. Sci APISCC OnlineLive Law
2. **Timelines rooted in the text.** Reading “shall declare” and “as soon as possible” together, the Court crafted workable timelines for gubernatorial action, recognizing that, although the Constitution is silent on an outer limit, the scheme cannot be subverted by delay. Sci APILive Law
3. **Re-enacted Bills must receive assent.** Once a Bill is returned and then re-passed by the State Legislature (with or without amendments), the Governor is obliged to grant assent and cannot at that stage reserve the Bill for the President; permitting reservation after re-passage would defeat the reconsideration mechanism. icanectblog.comSupreme Court Observer
4. **Judicial review lies.** The decision clarified that the Governor’s exercise of functions under Article 200 is subject to judicial review on traditional public-law grounds, disapproving prior dicta that had suggested otherwise, and explaining how this review coexists with the distinct position of Presidential assent under Article 201. Sci API

Collectively, these holdings constitutionalize expedition, cabin discretion within the text, and fortify the State legislature’s primacy in ordinary law-making.

## **V. Interfacing with Article 201 and Article 254(2): What the Court Did—and Did Not—Change**

### **A. Reservation to the President (Art. 201)**

The 2025 Court recognized that reservation is a constitutionally contemplated route at the **initial** stage of assent, especially where repugnancy or constitutional sensitivity is implicated. But it refused to let reservation become a tool of obstruction after re-passage; doing so would nullify the first proviso to Article 200, which is designed to give the legislature a meaningful opportunity to insist on its Bill. This avoids reducing reconsideration to a ritual while still preserving Article 201’s federal check. icanectblog.com

### **B. Presidential assent and repugnancy (Art. 254(2))**

The jurisprudence under Article 254(2)—*Kaiser-i-Hind v. National Textile Corporation*—treats Presidential assent as neither automatic nor an empty formality. It is tied to the specific proposal communicated and is confined to the field of repugnancy identified. The 2025 decision does not dilute *Kaiser-i-Hind*; rather, it ensures that State Bills reach the President, where appropriate, through constitutional channels and without gubernatorial stonewalling. Indian Kanoon+1AdvocateKhoj

## VI. The Operative Rules After 2025: A Doctrinal Synthesis

From the April 2025 judgment, read with the 2023 interventions:

1. **Trichotomy of choices at the initial stage:** assent; withhold and return with a message (non-Money Bills); or reserve for Presidential consideration. Inaction is not an option. Sci API
2. **Temporal discipline:** "As soon as possible" has enforceable content; timelines were set to ensure expedition and avoid legislative paralysis. Live Law
3. **Re-passage rule:** After the legislature re-passes the Bill, the Governor must assent; reservation at this stage is impermissible. ickenetblog.com
4. **Aid and advice:** Consistent with *Shamsher Singh*, the Governor ordinarily acts on ministerial advice, including in the Article 200 pathway, save constitutionally narrow exceptions. Indian Kanoon
5. **Judicial review:** Courts may review Article 200 action/inaction on grounds such as illegality, irrationality, mala fides, or constitutional failure of duty. Sci API

## VII. Federalism and Separation of Powers: What Has Shifted?

### A. Strengthening State legislative autonomy

By foreclosing inaction and late-stage reservation, the Court buttresses the State legislature's capacity to translate democratic will into law, while still enabling Presidential scrutiny at the appropriate time. This narrows the space for partisan deadlock via Raj Bhavan. Scroll.in

### B. Judicial role and institutional comity

Critics raised concerns about "judicial overreach" in prescribing timelines in a text without explicit limits. However, the Court grounded its approach in constitutional purpose (to expedite decision-making) and in the mandatory phrasing of Article 200. The pending Presidential Reference in 2025 about whether the Supreme Court can fix such timelines illustrates the dialogue between institutions; the Court's Tamil Nadu holding has already answered many of the reference's questions in substance. Supreme Court ObserverThe Times of India

## VIII. Practical Consequences and Compliance Pathways

### A. For Governors and Raj Bhavans

- **Decision protocols:** Establish internal standard operating procedures to ensure decisions on Bills within the judicially indicated windows, with written reasons when withholding assent, and prompt communication to legislatures.
- **Legal vetting:** Early constitutional vetting to decide, at the **initial** stage, whether reservation to the President is warranted. Delayed reservation risks invalidation post re-passage.
- **Ministerial advice record:** Maintain clear records evidencing consideration of ministerial advice, in line with *Shamsher Singh*. Indian Kanoon

### B. For State Legislatures and Law Departments

- **Message-responsive redrafting:** When a Bill is returned, address the Governor's message substantively; if policy disagreement persists, re-pass deliberately to trigger the duty to assent.
- **Concurrent List diligence:** Where repugnancy is foreseeable, prepare comprehensive Article 254(2) justifications to accompany any potential reservation, keyed to *Kaiser-i-Hind*'s specificity requirement. Indian Kanoon

### C. For Courts

- **Remedial menu:** Mandamus to decide within time, directions to return Bills with reasons, and, where a Bill was re-passed, orders declaring a duty to assent.
- **Review standard:** Focused, purposive review—neither rubber stamp nor substitution of policy judgment—guarding against mala fides and constitutional dereliction. Sci API

## IX. Open Questions After Tamil Nadu

1. **Exact contours of "as soon as possible."** The 2025 Court provided timelines to operationalize expedition. How these benchmarks interact with Bill complexity and inter-governmental consultation will evolve in future cases. Live Law
2. **Scope of judicial review over Presidential action under Article 201.** The judgment clarifies that gubernatorial action is reviewable and discusses the relationship with Article 201; the precise intensity of review over Presidential withholding may be refined later. Sci API
3. **Money Bills and recommendations.** The Punjab dispute highlighted friction over the Governor's role in allowing the introduction of Money Bills; granular standards for recommendation denials may invite further clarification. Supreme Court Observer

4. **Interaction with future advisory opinions.** A Presidential Reference on timelines and related issues is before a Constitution Bench; while many questions have been effectively answered, the advisory opinion may still shape doctrinal articulation and inter-branch comity. Supreme Court ObserverThe Times of India

## X. Normative Assessment

### A. Why repudiating the pocket veto is constitutionally sound

The repudiation of pocket veto coheres with the text's command ("shall declare"), the purpose of the return-and-reconsider mechanism, and the principle of responsible government. Inaction skews the balance of powers by enabling an indirectly accountable office to stymie the directly elected legislature. The Court's approach restores constitutional symmetry. Sci APIScroll.in

### B. Timelines as constitutional prophylaxis, not policy-making

While the Constitution is silent on outer limits, silence cannot be a license for paralysis. Reading "as soon as possible" as enforceable and attaching indicative timelines is a judicial technique long used to effectuate constitutional purposes where administrative indifference threatens core structures. In the Article 200 context, this ensures laws are not hostage to political stand-offs. Live Law

### C. Protecting federalism without disabling national checks

The decision preserves Article 201's federal check by affirming reservation at the initial stage, while preventing tactical reservation after re-passage. This balances State autonomy in ordinary law-making with national oversight in fields where repugnancy or constitutional sensitivities arise. The pairing with *Kaiser-i-Hind*'s insistence on specificity in Article 254(2) ensures that Presidential assent remains a substantive, not ceremonial, safeguard. iconnectblog.comIndian Kanoon

## XI. Conclusion

The Supreme Court's 2025 articulation of gubernatorial assent powers marks a decisive shift from permissive ambiguity to enforceable constitutional discipline. By outlawing inaction, prescribing timelines, and obliging assent after re-passage, the Court re-centres the State legislature's role in democratic governance, reaffirms responsible government, and curbs the potential for extra-textual vetoes. Its careful interface with Article 201 and Article 254(2) doctrine preserves necessary federal checks without condoning procedural obstruction.

As constitutional practice adapts, Raj Bhavans must institutionalize timely, reasoned decision-making aligned with ministerial advice and the Court's directives; State legislatures must respond earnestly to messages accompanying withheld assent and be prepared to re-pass where policy consensus is strong; and courts must continue to exercise calibrated review to prevent constitutional derelictions while respecting the political branches' policy domain. The net effect is a constitutional order in which laws rise or fall on the merits through constitutionally designated channels—not on the vagaries of silence.

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