

Landmark Judgement on the Legislative Powers of the Governor

JUDGEMENT IN LIGHT

The State of Tamil Nadu v. The Governor of Tamil Nadu and Anr., 2023 & The State of Tamil Nadu v. The Vice Chancellor and Ors., 2023

- The Governor of Tamil Nadu withheld assent for 10 Bills the oldest of which was pending since January 2020. When the Bills were re-enacted, the Bills were reserved by the Governor for the consideration of the President. This decision was held by the Supreme Court to be illegal and erroneous.
- The judgement held that there is no concept of “absolute veto” or “pocket veto” under the Constitutional Scheme. The Governor, when presented with the Bill has three options – grant assent to the Bill, withhold assent to the Bill, or reserve the Bill for consideration of the President. ***The Court also held that the Bill can be reserved for the President only at the first instance. The only exception is when the Bill presented in the second round is different from the first version.***
- Further, the Supreme Court held that ***if the Governor declares that he withholds assent to the Bill, it must be sent to the Legislative Assembly for reconsideration.***
- **TIMELINES:** In this landmark judgement, for the first time, the Supreme Court laid timelines for the Governor, failing which, his action shall be subject to judicial review -
 - **If the Governor withholds his assent to the Bill or reserves it for the consideration of the President upon the advice of the Council of Ministers of the state, such actions shall be taken within a maximum period of 1 month.**
 - **If the Governor withholds his assent contrary to the advice of the Council of Ministers of the state, the Bill must be returned by the Governor with a message within a maximum period of 3 months.**
 - **If the Governor reserves the Bill for the consideration of the President contrary to the advice of the Council of Ministers of the state, such reservation shall be made by the Governor within a maximum period of 3 months.**
 - **The Bills which were sent back by the Governor to the Assembly and re-enacted by it, must be assented to by the Governor within a period of 1 month.**

While stating that the Governor must accord due consideration to the will of the people and be conscious enough, not to create roadblocks for the state legislature to expedite political ends, in this landmark decision, for the first time, the Supreme Court prescribed timelines for the Governor while considering the Bills duly enacted by the state legislature.

▪ **JUDGEMENT:**

- The reservation of Bills for the consideration of the President or withholding of assent by the Governor after a Bill has been re-enacted by a State Legislature after due consideration after it was sent back by the Governor for reconsideration, is illegal and erroneous.

- Setting aside any consequential steps due to reservation of the Bills for consideration of the President in the second journey, the Supreme Court exercising its power under Article 142 to enforce its decision in *The State of Punjab*, declared the Bills as assented to, and enacted.