



GOVERNERS POWERS TO WITH HOLD BILL WITH RESPECT TO INDIAN CONSTITUTION

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ABSTRACT

It is very important for the Governor to sign Bills that the State Legislature has passed in Indian States. This paper discusses the Governor's authority to decline signing bills as stipulated in Articles 200 and 201 of the Indian Constitution. Some people call this power a veto, but it's not clear what it can and can't do. The study looks into whether the Governor can make decisions on his or her own or has to follow the advice of the Council of Ministers. Lately, this issue has gotten a lot of attention because there have been times when decisions on Bills were put off, the reasons weren't clear, or it seemed like politics were getting in the way of what was happening. People worry about how well democracy works, how responsible people are, and how open things are when these things happen. Judicial decisions, particularly those from the Supreme Court, have endeavored to elucidate the appropriate use of this power, emphasizing the necessity for equity and adherence to the stipulations of the Constitution. There is still a lot of confusion about how to understand and use it, though. This study examines relevant constitutional provisions, pivotal judicial rulings, and current challenges concerning the Governor's role in the assent process. It also looks at how this power changes the relationship between the Center and the States and gives suggestions for how to use it in a way that is more clear, consistent, and accountable.

INTRODUCTION

India's Constitution sets up a system of government that tries to find a balance between democratic representation and constitutional control. The Governor is the official head of the State in this structure. They have many powers, but they mostly use them based on the advice of the Council of Ministers. But the Governor has some constitutional duties that make him or her very important, especially when it comes to making laws.

One of these functions happens at the end of the law-making process, when the Governor must sign every Bill that the State Legislature passes. The Constitution's Articles 200 and 201 give the Governor the power to grant assent, withhold assent, send the Bill back for more thought, or keep it for the President to think about. The power to withhold assent has garnered heightened scrutiny among these alternatives, owing to its capacity to obstruct legislation passed by elected officials.

This power is meant to protect the Constitution from unconstitutional or improper laws, but using it raises big questions about the legitimacy of democracy. Not having clear rules or deadlines has made it hard to know how to use it. In a number of recent cases, disagreements between Governors and State Governments have arisen because of delays in granting assent and the holding up of Bills without a good reason.

These events bring to light a more serious constitutional issue: how much power a non-elected body has to affect or block the will of an elected body. The problem is made worse by different views on what the Governor's discretionary powers mean, especially in relation to Article 163.

The courts have helped deal with some of these issues by clarifying the limits of the governor's powers and stressing the need for constitutional morality and accountability. There are still gaps between constitutional theory and how things really work.

This study aims to analyze the Governor's authority to withhold assent within the comprehensive context of Indian constitutional law. It looks at the relevant parts of the Constitution, how courts have interpreted them, and recent political events, as well as how they have affected federalism and governance. The paper also wants to find any unclear parts and suggest changes to make sure that the use of this power stays in line with democratic values and constitutional principles.

CONSTITUTIONAL PROVISIONS AND GOVERNOR'S POWERS:

INTRODUCTION

This chapter examines the constitutional framework that delineates the Governor's role in the legislative operations of a State. It concentrates on the Governor's authority concerning State Bills, especially under Articles 200 and 201 of the Constitution of India. It also looks at how important Article 163 is in deciding whether these powers should be used on their own or with the help of the Council of Ministers.

The Indian Constitution says that passing a Bill in the State Legislature does not mean that a law is fully passed. A Bill does not become law until the Governor sees it and approves it. This requirement adds another constitutional step to the process of making laws.

At this point, the Governor's job is not just ceremonial. The Governor is an important part of the legislative process because they decide whether to approve, return, withhold, or reserve a Bill. The act of assent effectively turns a proposal into law, which means that the Governor has a big say in what happens at the end of the legislative process.

CONSTITUTIONAL SCHEME UNDER ARTICLES 163, 200 AND 201

The Constitution of India, Articles 163, 200, and 201, mostly define the rules that the Governor must follow when giving assent to State laws. These rules together spell out the Governor's powers and the limits on how they can be used. Article 163 says that the Governor should generally get help and advice from the Council of Ministers, unless the Constitution says otherwise. This principle **strengthens** the parliamentary system, where the elected government has real executive power.

Article 200 talks about the point at which a Bill is sent to the Governor after it has been passed by the State Legislature. At this point, the Governor doesn't have to do just one thing. They can respond in different ways, which shows that the role isn't just ceremonial but is part of the process of making laws.

When a Bill is set aside for the President's consideration, Article 201 becomes important. This provision establishes a mechanism through which the Union can look at some State laws, which shows how the Constitution is set up as a federal system.

These Articles work together to make a system that tries to balance the Governor's formal powers with the rules of democratic government. This makes sure that power is used in a way that is constitutional.

OPTIONS AVAILABLE TO THE GOVERNOR UNDER ARTICLE 200

Grant of Assent

One of the main things the Governor can do is sign a bill that the State Legislature has passed. After this kind of approval is given, the Bill becomes law and can be enforced.

This is usually what happens because the Governor follows the advice of the Council of Ministers. This practice is in line with established constitutional norms and supports the idea that the elected government ultimately makes legislative decisions.

Withholding of Assent

The Governor can also say no to a Bill that the Legislature has passed. People don't usually think of this power as an open-ended veto power, though. Instead, it works within the larger constitutional process, and that is how it should be understood.

The Constitution doesn't say exactly how this power should be used, which has led to different interpretations in practice. Even so, most people agree that this kind of power can't be used randomly and must follow the rules of constitutional propriety, fairness, and democratic governance.

Return of the Bill for Reconsideration

For bills that are not money bills, the Governor can send the bill back to the State Legislature for more discussion. This step lets the Legislature look over the Bill and make any changes that are needed based on the issues that were raised. If the Bill is passed again, either with changes or without, the Governor is usually expected to sign it. This process shows how important the elected Legislature is and confirms its power to make laws.

RESERVATION OF THE BILL FOR THE PRESIDENT

The Governor can also set aside some Bills for the President to look at. In some cases, this is not a choice but a constitutional requirement. This is especially true when the proposed law could affect the High Court's jurisdiction or authority or deals with issues that the Constitution says must be dealt with.

This mechanism lets the Union look over certain State laws, which adds another level of oversight. It shows the federal structure by making sure that, in some cases, State laws can be looked at by people outside of the State.

NATURE OF THE GOVERNOR'S POWER: DISCRETION OR AID AND ADVICE

A significant constitutional inquiry pertains to the degree of autonomy the Governor possesses in contrast to adhering to the directives of the Council of Ministers. The constitution makes it clear that the Governor should usually follow the advice of ministers.

There are some limited areas where people can use their own judgment, but these situations are very specific and must stay within the limits set by the Constitution. This power isn't absolute and can't be used in a random or unfair way. So, the Governor's main job is to be the official head of the State. The elected government has the real power to run things.

Article 201 and the Role of the President

Article 201 goes into effect when the President gets a Bill that has been passed by a State Legislature for consideration. The President can either approve the Bill, deny approval, or send it back to the Legislature for more review after it has been referred to him. This is only true if the Bill is not a Money Bill.

One important thing about this provision is that the President doesn't have to approve the Bill even if the Legislature passes it again after thinking about it again. This makes the President's job different from the Governor's and shows that the Union has more power.

In this situation, the Governor acts as a go-between for some State laws that are being looked at more closely at the national level.

Difference Between Governor's Assent and President's Assent

The Governor and the President have different roles in the process of giving assent, both in terms of what they do and how they do it. The President works for the Union, while the Governor only has power at the State level. Most of the time, the Governor does what the State Council of Ministers tells him to do, which is in line with the idea of responsible government. The President's role, on the other hand, is based on a broader view of the Constitution that goes beyond the needs of one State. The Governor can send some Bills back for more review, but the President makes the final decision in these cases.

These differences show how India's federal system is set up, with both regional self-governance and a way for the central government to keep an eye on things.

Conclusion

Articles 163, 200, and 201 together explain the laws that govern how the Governor takes part in the State legislative process. These rules give certain people certain duties, but they also make it clear what those people can't do to abuse their power.

The analysis indicates that the Governor's capacity to withhold assent is not intended to function as an unrestrained veto, but rather as a component of a systematic constitutional framework. The option to send a bill to the President for review is similar in that it adds an element of broader review, which helps keep the balance between State autonomy and Union oversight.

In general, this framework is an attempt to find a balance between the formal powers of the Constitution and the will of the elected Legislature. In this plan, the Governor plays a key role in the last step that makes a Bill legal.

SUGGESTIONS AND RECOMMENDATIONS

In recent years, the Governor's use of his powers to give assent under Articles 200 and 201 has drawn a lot of constitutional attention. The Constitution sets up a formal framework, but in practice, it has shown some holes and problems. People are worried because decisions are taking too long to make, it's not clear what discretionary authority means, there aren't clear procedural standards, and tensions are rising between the Governor and State Governments. One of the most important problems is that Bills stay in limbo for a long time after the Legislature passes them. When a decision isn't made quickly, it makes it harder to enforce laws and makes the administration work less well. These kinds of delays make government less efficient and raise important questions about accountability and openness in constitutional processes.

There is also a clear lack of clear rules about how to use powers like refusing to agree or sending bills to the President or review. Because of this lack of clarity, different people have taken different approaches, which has led to inconsistency and uncertainty in practice.

Even though judges have tried to explain these rules, they don't offer a full or long-term answer. To make sure that these constitutional powers are used in a consistent and predictable way, we need a more structured and practical approach. In this context, the current discourse presents a series of pragmatic and feasible recommendations intended to enhance the system's operation. The goal is to make sure encouraging quick decisions, making constitutional actions more open, strengthening accountability, and encouraging better communication between the Union and the States. These suggestions are meant to solve the problems that were mentioned earlier and to make both democracy and the federal balance stronger within the framework of the Constitution.

Fixing a Time Limit for Granting Assent

One important change that should be looked into is setting a clear time frame for the Governor to act on a Bill. Right now, the Constitution doesn't set any deadlines, so laws can stay undecided for an indefinite amount of time. In practice, there have been times when the Legislature has passed Bills and no one has responded for a long time. This kind of inaction makes the legislative process less effective and makes it harder for the government to make decisions

because laws meant for public administration and policy can't be put into effect. It also makes it harder for the elected government to do its job well.

To solve this problem, it would be best to set a reasonable deadline, like three months, for making a decision. This could be done by changing the Constitution, passing a law, or creating strong constitutional conventions.

Setting a fixed deadline would help people make decisions on time, stop unnecessary delays, and make people more responsible. It would also lower the chance that authority would be used in a way that stops legislation without taking formal steps.

Also, there may still be some room for flexibility in rare cases where more careful examination is really needed. But these kinds of exceptions need to be clearly spelled out so that they don't become a regular thing.

Clarifying the Scope of Discretionary Powers

A significant issue within the current framework is the ambiguity regarding the scope of the Governor's discretionary power. The Constitution acknowledges the potential for discretion in specific circumstances; however, it fails to delineate the parameters of such authority explicitly. Because of this lack of clarity, different practices have developed. Sometimes governors act on their own, and other times they follow the advice of ministers. Inconsistency like this can cause problems between institutions and make it harder for government to run smoothly.

Consequently, it is imperative to delineate between circumstances that allow for independent judgment and those that necessitate the Governor to adhere to the counsel of the Council of Ministers. There may be a good reason to limit discretion when it comes to constitutional issues, the choice to send a bill to the President for review, or issues that affect the whole country. In the absence of extraordinary circumstances, compliance with ministerial counsel should be the prevailing principle.

Judicial interpretation, legislative measures, or, if necessary, constitutional amendment may help make this clearer. Setting clear limits would help things stay the same and make it less likely that they will be used incorrectly.

Making Reasons Mandatory

A good constitutional system needs to be open and honest. Right now, the Governor doesn't have to give reasons when he or she refuses to sign a bill, holds it up, or takes action. Not having this kind of information can make things unclear and make people less sure about the decision-making process.

So, it is best to write down the reasons, especially when someone doesn't agree, when a Bill is sent to the President, or when there is an unusual delay. Giving explanations would make things more open, make people more responsible, and help the Legislature better understand why these decisions were made.

Also, a well-thought-out record would be a useful reference if there were ever to be more scrutiny, such as a court review. This would help make things clearer and keep constitutional authorities from having to fight over things that don't need to be.

Preventing Indirect or Pocket Veto

A major worry in the current system is the rise of what is often called a "pocket veto," in which a Bill is not approved or formally rejected, but is instead left up in the air. The Constitution does not specifically acknowledge this practice; however, it has emerged due to the lack of a defined timeframe for action.

This way of keeping a Bill on hold stops the legislative process without a clear constitutional reason. It goes against democratic values by putting off the implementation of measures that the elected Legislature has already approved. To fix this problem, there needs to be a clear deadline for when a decision must be made. It may also be possible to use a mechanism like "deemed assent" after the set time has passed.

These kinds of changes would stop people from doing nothing forever, protect the integrity of the legislative process, and make sure that constitutional authority is used responsibly.

Strengthening Federal Balance

The constitutional system is based on keeping the right balance between the Union and the States. Recent events, on the other hand, show that this balance is not always kept in practice. Decisions regarding assent, especially when postponed, are occasionally regarded as infringing upon the way State governments work, which causes problems between different levels of authority.

To alleviate this concern, it is imperative that the Governor executes the role with impartiality and refrains from actions that may be perceived as politically motivated. Respect for the independence of State institutions must always be a guiding principle, and constitutional powers should only be used with care and responsibility. Promoting a spirit of cooperation between the Centre and the States can help lower tensions between institutions, make government work better, and build trust between the different parts of the federal system.

Reform in Appointment of Governors

How Governors are chosen has a direct effect on how well they do their constitutional duties. If the process isn't fair, it could affect how people see things and how well decisions are made. Because of this, it's important to make sure that the people who are chosen for this job have honesty, experience, and a reputation that people respect.

To boost trust in the institution, it might be a good idea to involve the State Government in the selection process in some way. This kind of approach can help build trust between people and ease fears of bias.

Better standards and procedures for appointments would make things more neutral, encourage positive interaction between constitutional authorities, and help the constitutional framework work better.

Strengthening Constitutional Conventions

In a constitutional system, written rules don't always make sure that everything goes smoothly. Established practices that have developed over time are very important for helping constitutional authorities do their jobs. In India, some unwritten rules have become more important. For example, the Governor should usually listen to the Council of Ministers and not put off making decisions about laws. These practices aren't required by law, but they do a lot to help keep the government stable.

If institutions follow these rules all the time, it can help them get along better, encourage consistent practices, and strengthen the Constitution's core values.

Limiting the Use of Article 201

The power to send bills to the President for consideration must be used carefully. Too much reliance on this system can slow down the process of making laws, make State decision-making less independent, and give the Union more power. To avoid these kinds of problems, it's important to set clear rules about when this kind of reference is appropriate and when it shouldn't be used.

Giving such clarity would help keep the right balance between the Union and the States and make it less likely that this power will be used in a way that is not consistent or necessary.

Reducing Dependence on the Judiciary

More and more cases about the use of constitutional powers are going to court. Judicial intervention is important for settling disputes, but relying too much on lawsuits is not a good long-term solution. Making the rules and procedures clearer can help reduce the need for courts to get involved often. These steps would help cut down on unnecessary arguments, which would save time and money and make administration run more smoothly.

Promoting Constitutional Morality

Not only do legal provisions need to be followed for a constitutional system to work, but so do the values and principles that the Constitution stands for. Constitutional morality says that people in power should act with responsibility, fairness, and respect for democratic values.

In this situation, the Governor should be fair, support democratic processes, and stay away from actions that could lead to unnecessary conflicts. Following these rules would help people use their power correctly and help good government.

CONCLUSION

The problems talked about in the previous chapters make it clear that changes are needed. Governance has been hurt by delays, lack of clarity, and disagreements. This chapter has concentrated on proposing pragmatic reforms to enhance the efficacy of the Governor's authority to grant or deny assent pursuant to Articles 200 and 201 of the Constitution of India. The previous chapters show that the Constitution gives a good legal framework, but putting it into practice has been hard in recent years. One of the most important problems that has been found is the delay in giving permission to bills that the State Legislature has passed. This delay not only slows down the process of making laws, but it also makes it hard to run the government. Without consent, laws that are necessary for the public good, growth, and administration cannot be put into effect. Because of this, the elected government has a hard time meeting its duties to the people. This shows that not having a time limit is a big problem with the system. Another big worry is that it's not clear what the Governor's discretionary powers are. The Constitution gives the Governor some leeway in certain situations, but it doesn't say exactly what that leeway is. Because of this, people have been confused and have come to different conclusions in practice. The Governor sometimes makes decisions on his or her own, and other times he or she listens to the Council of Ministers. This inconsistency causes problems and makes it harder for the constitutional system to work properly. The problem of transparency is also very important. The Governor is not required to give reasons for not giving assent or delaying decisions at this time. This lack of explanation makes it harder to hold people accountable and makes people question how fair the process is. In a democracy, all constitutional authorities must be open about what they do so that the public can understand and trust their choices. This study also talks about the serious problem of indirect or "pocket veto." When a Bill is left unresolved, it stops the Bill from becoming law in a good way. Even though the Constitution doesn't say anything about this practice, it has grown because the Constitution doesn't say anything about it. This kind of thing goes against democratic values because it lets an unelected authority block the decisions of an elected Legislature. The study also shows that these problems have changed the balance of power between the federal government and the states. Because the Central Government chooses the Governor, things like delaying approval are often seen as meddling in State affairs. This makes the relationship between the Center and the States tense and weakens the idea of cooperative federalism. Constitutional authorities are at odds with each other instead of working together, which makes it harder to govern and run the government. Another important thing is that people are relying more and more on the courts to settle arguments about the Governor's powers. The courts have helped make constitutional provisions clearer, but they can't be relied on for everything all the time. It makes things take longer and puts more stress on the legal system. This shows

that we need clearer rules and better ways of doing things to stop these kinds of arguments from happening in the first place. Because of these problems, this chapter has made a number of important suggestions. One of the most important suggestions is to set a clear deadline for giving consent. A set time frame will make sure that decisions are made quickly and will stop delays that aren't needed. It will also make the process more open and hold people more accountable. Another important suggestion is to make it clear what the Governor can and can't do with his or her discretionary powers. It is possible to reduce confusion and make sure that the Governor always follows the advice of the Council of Ministers by making it clear when he or she can act on his or her own and when he or she must. This will help keep the constitutional system running smoothly and avoid conflicts. It's also very important to make it a rule that people have to give reasons for important choices. For the public to trust you and hold you accountable, you need to be open and honest. It is easier for the Legislature and the public to understand how decisions are made when reasons are clearly stated. Another important suggestion is to stop the misuse of indirect veto. Setting a time limit for decisions or allowing deemed assent will make sure that Bills can't be stopped without a good reason. This will make the legislative process stronger and protect democratic values. There have also been calls for changes to the way Governors are chosen to make sure they are fair and unbiased. Putting people in charge who have integrity and experience and aren't involved in politics can help reduce bias and build trust between the Governor and the State Government. It has also been stressed how important it is to strengthen constitutional conventions. Even if there aren't strict legal rules, established practices can still tell constitutional authorities how to act. Following rules like taking ministerial advice and not putting things off for no reason can help make governance better. Another important suggestion is to limit the President's ability to reserve Bills. This power should only be used in rare situations and not all the time. Clear rules can help make sure that this power is used correctly. It is also important to promote constitutional morality. Constitutional authorities should follow the Constitution's spirit and act in a fair, reasonable, and responsible way. The Governor should make sure that what he or she does helps the democratic process instead of getting in the way of it. In conclusion, the study makes it clear that the constitutional rules about the Governor's powers are good in theory, but they need to be better put into practice. Problems like delays, lack of clarity, and rising conflicts have made it harder for the government to work and for the federal government to work with the states. The suggestions in this chapter are meant to help with these problems by making changes that need to be made and making current practices better. If these suggestions are followed correctly, they can make sure that the Governor does his or her job in a fair, open, and accountable way. In the end, the constitutional system will only work if the written rules are followed in real life. By making these changes and following the rules of the constitution, India can make its democracy stronger, keep the balance between states, and make sure that government works well.

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