
DIALOGIC FEDERALISM AND CONSTITUTIONAL DISCRETION: SUPREME COURT'S VERDICT ON GOVERNORS AND PRESIDENT'S POWERS OVER STATE LEGISLATION (SPECIAL REFERENCE NO. 1 OF 2025, 2025 INSC 1333)

Prathamesh Milind Khopkar, LL.B., New Law College, Mumbai

Abhijit Mahadeo Chavan, Assistant Professor, New Law College, Mumbai

ABSTRACT

This judgment by a Constitution Bench of the Supreme Court addresses one of contemporary India's thorniest constitutional conundrums: the powers and responsibilities of Governors and the President in the legislative process, especially regarding assenting to, withholding, or reserving bills under Articles 200 and article 201 of the Constitution. The opinion arose out of a Presidential Reference (No. 1 of 2025) under Article 143¹. It examines in detail the specific options available to Governors and the President, critically revisits recent and older precedents (most notably the 2025 "*State of Tamil Nadu v. Governor of Tamil Nadu*, (2025) 11 SCC 1501"), and resolves complex doubts regarding judicial timelines, the notion of deemed assent, and the justiciability of constitutional discretionary action. The advisory opinion cements several foundational principles regarding Indian federalism, separation of powers, and cooperative constitutional functioning. Importantly, it safeguards the independence and responsibility of constitutional functionaries while setting limits on both judicial and gubernatorial overreach. The verdict has wide-reaching implications for Centre-State relations, State legislative autonomy, and the broader evolution of Indian constitutional law.

Keywords: Governor's powers, Presidential assent, Articles 200 and 201, Judicial review and timelines, Indian federalism, and separation of powers.

¹ *Governor and President's Powers | Judgement Summary*, SUPREME COURT OBSERVER, <https://www.scobserver.in/reports/governor-and-presidents-powers-judgement-summary-special-reference-2025-advisory-opinion/> (last visited Nov. 23, 2025).

1.1.Introduction:

The role of the Governor in withholding or granting assent to bills has triggered frequent constitutional disputes in India, bringing into question the balance between democratic mandates and constitutional checks. The 2025 Presidential Reference comes amidst controversies in several States, where Governors' delays or refusals in acting on bills precipitated political stand-offs and litigation, particularly after the verdict in the "*State of Tamil Nadu v. Governor of Tamil Nadu*" case. The President referred 14 substantive questions regarding the scope and limits of gubernatorial and Presidential powers vis-à-vis State legislatures, raising doubts about timelines, discretion, justiciability, and the process of reservation of bills. The aim was to clarify the law and ensure stability and predictability in Centre-State interactions.

The constitutional position of the Governor within India's federal framework has historically been marked by a degree of ambiguity, particularly in relation to the exercise of discretion in the State legislative process. While the office was originally conceived as a constitutional link between the Union and the States, rather than as an active executive authority, the Governor's role in granting, withholding, or reserving assent to State legislation has, over time, become a recurrent source of tension. In recent years, this tension has intensified, with several instances of prolonged inaction or unexplained delays in dealing with Bills passed by State legislatures, resulting in governance disruptions, and raising concerns about the dilution of democratic accountability within the federal structure.

These developments draw attention to a deeper constitutional issue embedded in the design of "*Articles 200 and 201 of the Constitution of India.*" Although these provisions vest discretionary powers in the Governor and, subsequently, in the President, they do not prescribe any clear timelines, procedural standards, or substantive limits for the exercise of such discretion. This textual silence, which may have been intended to allow constitutional flexibility, has instead enabled discretion to be exercised in ways that impede the functioning of elected State legislatures. In practice, the absence of explicit constraints has facilitated a form of executive inaction that is difficult to challenge judicially, thereby placing stress on core constitutional principles such as federalism, responsible government, and constitutional morality.

The persistence of disputes across multiple States eventually culminated in judicial

intervention, most notably in “*State of Tamil Nadu v. Governor of Tamil Nadu ((2025) 11 SCC 1501)*” and subsequently led to the invocation of the advisory jurisdiction of the Supreme Court through the 2025 Presidential Reference. The Reference presented the Court with fourteen substantive questions concerning the scope and limits of gubernatorial and Presidential authority over State legislation. These questions addressed issues such as the permissibility of indefinite delay, the obligation to furnish reasons for withholding assent, the circumstances under which Bills may be reserved for Presidential consideration, and the justiciability of executive inaction. Importantly, the Reference was not limited to procedural clarification; it sought broader constitutional guidance on maintaining an appropriate balance between executive discretion and the democratic mandate of State legislatures.

In responding to the Reference, the Supreme Court departed from a narrowly formal reading of constitutional discretion and adopted a more structured and purposive approach. Rather than viewing discretion as an insulated executive prerogative, the Court situated it within a constitutional framework that emphasises accountability, federal comity, and reasoned decision-making. This approach reflects an underlying expectation that discretionary powers exercised by the Governor and the President should contribute to institutional communication between the Union and the States, rather than operate as instruments capable of unilaterally obstructing the legislative process.

This paper argues that the Court’s treatment of the Presidential Reference signals the gradual emergence of dialogic federalism as a governing principle for constitutional discretion in the legislative sphere. By emphasising requirements such as timeliness, reason-giving, and fidelity to constitutional purpose, the Court has reoriented the roles of Governors and the President towards a more facilitative and participatory model. This development carries significant implications for the distribution of power within India’s asymmetrical federal system, particularly in a political context characterised by increasing Centre-State contestation.

Using a doctrinal and analytical methodology, this paper examines how the Supreme Court’s interpretation reshapes the contours of constitutional discretion and recalibrates the relationship between elected State legislatures and Union-level constitutional authorities. It further evaluates whether dialogic federalism offers a coherent and sustainable framework for reconciling executive discretion with democratic governance in India’s evolving constitutional order.

1.2.Facts of the Case:

- On 13 May 2025, the President of India referred critical questions to the Supreme Court concerning powers under Articles 200 (Governor's options upon being presented with a bill) and 201 (President's powers and process regarding bills reserved by the Governor).²
- The context was ongoing disputes where Governors withheld action on bills passed by State Assemblies or sent them for Presidential consideration, sometimes after the assembly reconsidered the bill on gubernatorial suggestion.
- Recent precedents, especially the “State of Tamil Nadu” ruling, had imposed a strict judicially determined timeline and even provided for “deemed assent” in case of Governor/President inaction prompting the need for clarity.
- Numerous State governments, the Union of India, the Attorney General, and prominent Senior Advocates participated, making arguments about discretion, timelines, federalism, and the implications of conflicting Supreme Court judgments.

1.3.Legal Issues:

The 14 questions referred broadly condensed into the following legal problems:

1. What are the Governor's options under Article 200 when a bill is presented?
2. Is the Governor bound by the Council of Ministers' advice at all stages, or can the Governor exercise independent discretion?
3. Can the courts impose timelines for gubernatorial/Presidential action, or recognize “deemed assent,” considering constitutional silence on timeframes?
4. Are the decisions and inaction of the Governor or President under Articles 200/201 justiciable, and to what extent?
5. Does Article 361 (immunity of constitutional office-holders) bar all judicial scrutiny?

² *Id.*

6. How to reconcile conflicting precedents on these points, especially post “State of Tamil Nadu”?

1.4.Arguments from Both Sides:

Advocates and Their Arguments

- 1.4.1. For the Union of India: The Solicitor General argued that the Governor has four distinct options: assent to the bill, reserve it for the President, withhold assent, or return it to the Legislature for reconsideration.
- 1.4.2. For various States: Senior Advocates such as Dr. Abhishek Manu Singhvi, Kapil Sibal, Gopal Subramaniam, Harish Salve, Anand Sharma, Arvind Datar, S. Niranjan Reddy, and others presented detailed submissions. States generally argued that the powers of the Governor should be limited typically to three options: assent, reserve, or withhold (but with the requirement to send it back for reconsideration). They argued the Governor is meant to act primarily on the aid and advice of the State Cabinet, with any outright discretion being very limited and exceptional.

The Union and States favouring broader gubernatorial discretion emphasized federal equilibrium and protection of constitutional values in cases affecting national integrity or judicial powers.

Opposing parties stressed that judicial imposition of timelines would artificially constrict constitutional flexibility and that the Governor’s power should reflect democratic mandate.

1.5. Court’s Judgment

1.5.1. Maintainability

The Court found the reference maintainable, noting that advisory opinions serve a vital institutional role, especially when conflicting precedents risk confusion or stagnation in constitutional functioning. Such references are justified even if recent judgments exist, when public importance and constitutional clarity are at stake.

1.5.2. Governor's Options Under Article 200³

The Court sided with the States in holding that the Governor has three options:

- i. Assent to the bill,
- ii. Withhold assent and return it with a message for reconsideration (except for Money Bills), or
- iii. Reserve the bill for the President.

The “withhold” power cannot be exercised in a vacuum the Governor must return it to the Legislature unless it is a Money Bill, thus fostering a dialogic process between constitutional institutions.

1.5.3. Discretion and Aids/Advice of Council of Ministers

The Court clarified that while the Governor normally acts on ministerial advice, certain constitutional duties (like reservation of bills affecting the judiciary or national interest) inherently involve discretion. Limiting this through binding advice would erode the constitutional balance and the Governor's role in safeguarding the Constitution.

1.5.4. Timelines and Deemed Assent

The Court categorically rejected judicially-imposed timelines on Governors and Presidents. The phrase “as soon as possible” in Article 200 creates an expectation of expeditious action but cannot be interpreted as a rigid deadline enforceable by courts.

The opinion also invalidated the doctrine of deemed assent the Constitution expressly provides for “deemed” consequences (such as with Money Bills), but Articles 200 and 201 do not, and courts cannot creatively supply one.

1.5.5. Justiciability

Decisions by the Governor and President under Articles 200/201 are generally not justiciable

³ Adv Tarun Choudhury & Legal Service India, *Supreme Court Verdict on Assent to Bills: No Timelines, No Deemed Assent – A Deep Dive*, LEGAL SERVICE INDIA - ARTICLES (Nov. 20, 2025), <https://www.legalserviceindia.com/Legal-Articles/supreme-court-verdict-on-assent-to-bills-no-timelines-no-deemed-assent-a-deep-dive/>.

before the bill has become law.⁴ Judicial review over such discretionary legislative steps would violate separation of powers.

However, the Court did carve out a very narrow area for judicial intervention: “Prolonged, unexplained, indefinite” gubernatorial inaction that frustrates the legislative process may invite a mandamus from a constitutional court directing the Governor to act, yet without directing which option to select (i.e., not deciding the merits of assent/reservation).

1.5.6. Article 361 Immunity

While Article 361 protects the actions of the Governor and President, it does not oust the jurisdiction of courts to the extent of assessing the validity of constitutional action itself.

1.5.7. Landmark Cases and Reasoning

- “*Nabam Rebia And Etc. Etc vs Deputy Speaker and Ors on 13 July, 2016*”⁵: Recognized limited discretionary power to Governors.
- “*State of Tamil Nadu v. Governor of Tamil Nadu, (2025) 11 SCC 1501*”⁶: The original judgment required deemed assent and time-bound action. The present bench clarified and limited its application.
- “*In Re: The Special Courts Bill, 1978 vs Unknown on 1 December, 1978*

Equivalent citations: AIR1979SC478, (1979)ISCC380, [1979]2SCR476”

Advisory opinions can clarify or even overrule prior non-advisory judgments if required for the constitutional good.

Classic federalism, separation of powers, and the “dialogic constitutionalism” between Legislature and Governor were thoroughly invoked, reflecting cases like “*S. R. Bommai v.*

⁴ *Explained: Articles 200, 201 Central to Court View on Governor’s Powers on Bills*, <https://www.msn.com/en-in/money/topstories/explained-articles-200-201-central-to-court-view-on-governor-s-powers-on-bills/ar-AA1QOEEO> (last visited Nov. 23, 2025).

⁵ *Nabam Rebia And Etc. Etc vs Deputy Speaker and Ors on 13 July, 2016*, <https://indiankanoon.org/doc/192490620/> (last visited Nov. 23, 2025).

⁶ *In Re: The Special Courts Bill, 1978 vs Unknown on 1 December, 1978*, <https://indiankanoon.org/doc/1306191/> (last visited Nov. 23, 2025).

Union of India, 1994 SCC (3) 1⁷, State of West Bengal v. Union of India, and others, (1964) 1 SCR 371.”⁸

1.6. Critical Analysis

The judgment carefully balances the Governor’s constitutional independence against democratic principles and federalism. It restores the dialogic process between the Legislature and Governor and prevents arbitrary sabotage through indefinite withholding. By ruling out strict timelines, the Court respects constitutional silences and ensures adaptability for diverse legislative situations. Importantly, the verdict avoids enabling judicial overreach, respecting the separation of powers, while still recognizing that constitutional misuse resulting in outright paralysis can be checked.

Some critiques note that ambiguity remains about what precisely constitutes “prolonged, unexplained, indefinite” inaction future courts may be pressed to clarify further, risking “piecemeal” interventions. Nonetheless, the overall effect is to curb both excessive gubernatorial discretion and judicial usurpation, thus bolstering collaborative federalism.

The Supreme Court’s response to the Presidential Reference reflects a conscious attempt to strike a balance between preserving the constitutional autonomy of the Governor and safeguarding the democratic mandate of elected State legislatures. By rejecting the notion that gubernatorial discretion under Articles 200 and 201 may be exercised in an unfettered or opaque manner, the Court curbs the possibility of executive obstruction of the legislative process through silence or delay. At the same time, the Court avoids reducing constitutional discretion to a rigid, mechanically enforceable obligation, thereby maintaining fidelity to the constitutional text and its structural logic.

A key strength of the judgment lies in its reaffirmation that discretion does not imply immunity from constitutional discipline. The Court’s emphasis on reasoned decision-making and accountability draws directly from its settled arbitrariness jurisprudence. In “*E.P. Royappa v. State of Tamil Nadu (1974) 4 SCC 3*,” Bhagwati J. famously observed that “arbitrariness is the antithesis of equality” and that executive action must conform to standards of fairness and

⁷ Priya, *Case Summary: S.R. Bommai V. Union Of India*, (Sept. 16, 2024), <https://legalfly.in/s-r-bommai-v-union-of-india/>.

⁸ Live Law, *Read All Latest Updates on and about State of West Bengal v. Union of India*, <https://www.livelaw.in/tags/state-of-west-bengal-v-union-of-india> (last visited Nov. 23, 2025).

reason. By extending this logic to gubernatorial inaction, the Court implicitly recognises that unexplained delay though formally an omission may produce constitutional consequences equivalent to arbitrary action. This doctrinal move is significant, as it treats inaction as a justiciable constitutional wrong when it results in legislative paralysis.

The Court's refusal, however, to prescribe strict timelines for the exercise of gubernatorial or Presidential discretion reflects a deliberate respect for constitutional silence. Rather than judicially inserting fixed deadlines into Articles 200 and 201, the Court adopts a contextual standard by condemning "prolonged, unexplained, or indefinite" inaction. This calibrated approach mirrors the Court's institutional restraint in Supreme Court *"Advocates-on-Record Association v. Union of India (2016) 5 SCC 1,"* where the majority cautioned that constitutional interpretation must enforce constitutional values without transgressing into constitutional redesign. By resisting rigid timelines, the Court preserves flexibility while simultaneously subjecting discretion to constitutional scrutiny.

At the same time, this restraint is not without difficulty. The absence of precise temporal benchmarks leaves future courts with the task of determining, on a case-by-case basis, what constitutes unreasonable delay. This may invite fragmented judicial interventions, potentially leading to uncertainty in Centre-State relations. As H.M. Seervai cautioned in his Constitutional Law of India, constitutional discretion that is insufficiently structured risks becoming "a source of political controversy rather than constitutional stability." From this perspective, the Court's reliance on open-ended standards may generate incremental litigation rather than comprehensive resolution.

From a federal standpoint, the judgment performs an important corrective by reaffirming that Governors are not parallel veto-holders over State legislation. This understanding is firmly grounded in precedent. In *"Shamsher Singh v. State of Punjab (1974) 2 SCC 831,"* a seven-judge Bench clarified that the Governor is ordinarily bound by the aid and advice of the Council of Ministers, and that discretion constitutes an exception rather than the norm. Ray C.J. explicitly warned against reading discretionary powers so broadly as to undermine the parliamentary character of the Constitution. By situating gubernatorial discretion within a framework of constitutional dialogue and accountability, the present judgment reinforces this foundational principle while adapting it to contemporary federal disputes.

The Court's reasoning also reflects a deeper concern with democratic legitimacy. Unelected

constitutional authorities exercising de facto veto power over legislation enacted by elected representatives raises serious normative concerns in a democratic polity. The insistence on reason-giving operates as a minimal democratic safeguard, ensuring that disagreement with legislative policy is articulated in constitutional terms rather than concealed through inaction. This concern finds resonance in “*Nabam Rebia v. Deputy Speaker (2016) 8 SCC 1*,” where the Court cautioned that constitutional offices must not be used in ways that destabilise elected governments or subvert democratic processes. The present judgment extends this logic from executive stability to legislative functioning.

Equally significant is the Court’s conscious effort to avoid transforming judicial review into continuous supervision of the legislative process. By confining judicial intervention to cases of clear constitutional misuse resulting in governance paralysis, the Court resists the charge of judicial overreach. This approach aligns with the Court’s observations in “*State of Rajasthan v. Union of India (1977) 3 SCC 592*,” where Justice Beg C.J. emphasised that federal disputes often involve political questions requiring judicial restraint, even while remaining subject to constitutional limits. The present ruling reflects a similar awareness of institutional competence and constitutional boundaries.

Overall, while the judgment does not eliminate all ambiguity surrounding the scope of gubernatorial and Presidential discretion, it establishes a workable constitutional equilibrium. It narrows the scope for arbitrary executive obstruction without authorising excessive judicial intrusion, thereby reinforcing a model of collaborative and dialogic federalism. In doing so, the Court advances what the Sarkaria Commission described as the “spirit of constitutional partnership” between the Union and the States, strengthening the normative foundations of India’s federal democracy.

1.7. My Findings and Suggestions:

1.7.1. Findings

- According to my opinion, the Supreme Court judgment in this case is fundamentally incorrect in its reasoning and conclusions.
- The only correct aspect of the judgment is the recognition that the Supreme Court has the authority to intervene in matters concerning the Governor's and President's

constitutional powers.

- The Reference Bench holds that Article 200 carves an exception to Article 163's binding aid-and-advice rule. However, in "*Samsher Singh v. State of Punjab (1974)*," which held that "the Governor is a constitutional functionary who has to act in accordance with the advice of the Council of Ministers."
- Based on this judgment, there is now a potential pathway to declare the legislature is supreme, in place of suspected imminent state emergencies, within a few days. However, this pathway is not established as binding law by the Supreme Court, but rather reflects the Court's advisory opinion.
- It is important to clarify that this is not a binding judgment per se but an advisory opinion rendered under Article 143 of the Constitution. The Constitution draws a clear distinction between advisory opinions and binding adjudications. Article 143 empowers the Supreme Court to tender its opinion to the President, whereas Article 141 accords binding force only to "law declared" by the Court in adjudicatory proceedings.
- In *Re: Special Courts Bill (1978)*: The Supreme Court clarified that its advisory opinions under Article 143 are not legally binding laws like those under Article 141, but they hold immense persuasive value and are generally followed due to their institutional authority, distinguishing authoritative advice from enforceable precedent.
- The decisions made by smaller benches (two judges) remain effective and valid, and are not invalidated by this opinion. The binding character of prior decisions remains unless explicitly overruled by a larger bench.
- Article 142 empowers the Supreme Court to pass orders necessary for doing complete justice in any cause or matter before it, but this Article does not make the advisory opinion a binding judgment.
- Therefore, even though the Supreme Court's opinion is authoritative and carries great institutional weight, courts, legislators, and constitutional authorities are not legally bound to follow it in the same way as a binding judgment.

- In practice, this means the opinion serves as guidance rather than mandatory precedent, and the scope for judicial intervention under Article 142 remains distinct and limited.

1.7.2. Suggestions:

1.7.2.1. Legal Clarification on the Binding Nature of Advisory Opinions:

There is a pressing need for authoritative clarification regarding the legal status of advisory opinions rendered by the Supreme Court under Article 143 of the Constitution, particularly in comparison to binding judgments delivered under Articles 141 and 142. While advisory opinions have traditionally been treated as possessing high persuasive value, their precise binding force remains contested. In *In re: "Special Courts Bill, 1978 (1979) 1 SCC 380,"* the Supreme Court observed that although advisory opinions are entitled to "great weight," they do not possess the same binding character as judgments rendered in adversarial proceedings. Similarly, in *Cauvery Water Disputes Tribunal, in Re (1993) Supp (1) SCC 96*, the Court reiterated that Article 143 opinions are advisory in nature and derive authority from constitutional respect rather than coercive enforceability. Legislative clarification or authoritative reaffirmation by a Constitution Bench would reduce ambiguity and prevent inconsistent reliance on advisory opinions as binding precedent.

1.7.2.2. Respect for Precedent and Smaller Bench Decisions:

To preserve legal certainty, constitutional authorities and courts must continue to adhere strictly to the doctrine of precedent, particularly the binding nature of decisions rendered by coordinate and smaller benches. The Supreme Court has consistently held that judicial discipline requires benches of equal strength to follow earlier decisions unless referred to a larger bench. In *"Central Board of Dawoodi Bohra Community v. State of Maharashtra (2005) 2 SCC 673,"* the Court unequivocally held that a bench of equal strength cannot overrule or disregard a prior decision and must instead refer the matter to a larger bench. Ensuring adherence to this principle is particularly important in federal disputes, where inconsistent judicial signals can exacerbate Centre-State tensions.

1.7.2.3. Judicial Intervention under Article 142 with Institutional Restraint:

While Article 142 empowers the Supreme Court to do "complete justice," its use must remain exceptional and principled, particularly in matters implicating the legislative process and

executive discretion. In “*Supreme Court Bar Association v. Union of India (1998) 4 SCC 409*,” the Court clarified that Article 142 cannot be exercised in a manner that supplants substantive law or constitutional provisions. More recently, in “*Union of India v. Association for Democratic Reforms (2002) 5 SCC 294*,” the Court acknowledged that extraordinary powers must be exercised sparingly to avoid institutional overreach. A restrained approach would prevent advisory opinions from indirectly acquiring binding force through the expansive use of Article 142.

1.7.2.4. Clear Normative Guidelines on the Governor’s Powers:

The absence of clear procedural standards governing the Governor’s discretion under Articles 200 and 201 has been repeatedly identified as a source of constitutional friction. The Sarkaria Commission on Centre-State Relations (1988) explicitly recommended that Governors should not delay assent to Bills without compelling constitutional reasons and must act within a reasonable time. These recommendations were reaffirmed by the Punchhi Commission (2010), which emphasised that discretionary powers should be narrowly construed and exercised transparently. Judicial elaboration drawing upon these reports or legislative codification of procedural safeguards would significantly reduce ambiguity and scope for misuse.

1.7.2.5. Institutionalisation of Federal Dialogue Mechanisms:

Strengthening cooperative federalism requires the creation of structured, non-adversarial mechanisms for resolving Centre-State disputes. The Supreme Court itself has emphasised dialogue over confrontation in “*State (NCT of Delhi) v. Union of India (2018) 8 SCC 501*,” where it observed that constitutional functionaries must engage in “constitutional trust” and collaborative governance. Institutional mechanisms such as empowered inter-governmental councils under Article 263 can operationalise this principle, reducing reliance on prolonged constitutional litigation.

1.7.2.6. Transparency and Reason-Giving as a Constitutional Obligation:

Mandating transparency and public disclosure of reasons for withholding or reserving Bills would align gubernatorial conduct with established constitutional norms of accountability. In “*Kranti Associates v. Masood Ahmed Khan (2010) 9 SCC 496*,” the Supreme Court held that reasoned decisions are a fundamental component of natural justice and good governance.

Extending this principle to constitutional functionaries would enhance democratic oversight and public confidence, particularly where executive discretion directly impacts legislative functioning.

1.7.2.7. Monitoring and Oversight Mechanisms for Executive Inaction:

To prevent governance paralysis resulting from unexplained delay, State legislatures or parliamentary oversight bodies may institute internal monitoring mechanisms to track the progress of Bills requiring assent. Such oversight finds conceptual support in “*E.P. Royappa v. State of Tamil Nadu (1974) 4 SCC 3*,” where the Court recognised arbitrariness including inaction as constitutionally suspect. Formal escalation mechanisms, coupled with reasoning requirements, would operationalise judicial standards without necessitating routine court intervention.

1.8. Conclusions:

The Supreme Court of India delivered an important advisory opinion in 2025 on the constitutional powers of Governors and the President in relation to bills passed by State legislatures. This opinion arose from a Presidential Reference following earlier controversies over how far Governors can use their discretion under Article 200 of the Constitution when presented with a bill.

The Court addressed several significant legal questions, focusing especially on whether Governors have unlimited discretion, what options they can exercise on bills, whether courts can impose timelines for their action, and whether “deemed assent” can be applied if Governor’s delay indefinitely.

The judgment clarified that the Governor has strictly three options when a bill is presented: grant assent, return the bill to the Legislature with a message requesting reconsideration (except in the case of Money Bills), or reserve the bill for the President’s consideration. The Court rejected interpretations that allowed Governors a separate power to withhold assent indefinitely. This framework fosters dialogue between the Governor and Legislature, respecting constitutional federalism.

Importantly, the Court recognized that while the Governor usually acts on the aid and advice of the Council of Ministers, discretion exists especially in cases involving bills that impact

constitutional integrity or judicial powers. This ensures that the Governor and President serve as guardians of the Constitution, preventing misuse of the legislative process.

The Court was firm in ruling out judicial imposition of strict time limits on constitutional functionaries and rejected the concept of “deemed assent” by courts. However, it stated that courts may intervene and issue limited directions if a Governor or President engages in prolonged, unjustified inaction that stalls law-making, but without questioning the merits of their discretion.

The judgment distinguished its advisory opinion under Article 143 from binding judgments under Article 142, noting that it does not override decisions from smaller benches or have the status of binding precedent, though it carries authoritative institutional weight.

Critically, Article 361’s immunity provision protects individual Governors and the President but does not exempt their constitutional validity from judicial review, maintaining a balance between immunity and accountability.

References:

1. Saadhya Mohan, *Explained: The Char Dham Project, Its Ecological Impact & the SC Judgment*, TheQuint (Dec. 15, 2021), <https://www.thequint.com/explainers/explained-the-char-dham-project-its-ecological-impact-the-supreme-court-judgement>.
2. Priyadarshini Patel, *When the Himalayas Lose: Assessing Char Dham Pariyojana Judgment, Down To Earth* (Dec. 20, 2021), <https://www.downtoearth.org.in/environment/when-the-himalayas-lose-assessing-char-dham-pariyojana-judgment-80755>.
3. *The Leaflet*, The Leaflet (Nov. 21, 2025), <https://theleaflet.in/>.
4. *Nabam Rebia And Etc. Etc vs Deputy Speaker And Ors on 13 July, 2016*, <https://indiankanoon.org/doc/192490620/> (last visited Nov. 23, 2025).
5. *In Re: The Special Courts Bill, 1978 vs Unknown on 1 December, 1978*, <https://indiankanoon.org/doc/1306191/> (last visited Nov. 23, 2025).
6. *Governor and President's Powers | Judgement Summary*, Supreme Court Observer, <https://www.scobserver.in/reports/governor-and-presidents-powers-judgement-summary-special-reference-2025-advisory-opinion/> (last visited Nov. 23, 2025).
7. *Explained: Articles 200, 201 Central to Court View on Governor's Powers on Bills*, <https://www.msn.com/en-in/money/topstories/explained-articles-200-201-central-to-court-view-on-governor-s-powers-on-bills/ar-AA1QOEEO> (last visited Nov. 23, 2025).
8. Verdictum, *Supreme Court of India | High Court Judgments | Latest Indian Legal News*, Verdictum, <https://www.verdictum.in/> (last visited Nov. 23, 2025).
9. Priya, *Case Summary: S.R. Bommai V. Union Of India*, (Sept. 16, 2024), <https://legalfly.in/s-r-bommai-v-union-of-india/>.
10. Law Notes,  *Landmark Constitutional Law Case: State of Tamil Nadu v. Governor of Tamil Nadu (April 8, 2025)*, LAW Notes (July 31, 2025), <https://lawnotes.co/%f0%9f%8f%9b%ef%b8%8f-landmark-constitutional-law-case-state-of-tamil-nadu-v-governor-of-tamil-nadu-april-8-2025/>.
11. Live Law, *Read All Latest Updates on and about State of West Bengal v. Union of India*, <https://www.livelaw.in/tags/state-of-west-bengal-v-union-of-india> (last visited Nov. 23, 2025).

Case Name:

1. Special Reference No. 1 of 2025 (2025 INSC 1333)
2. State of Tamil Nadu v. Governor of Tamil Nadu ((2025) 11 SCC 1501)
3. Nabam Rebia et. v. Deputy Speaker and Ors (13 July 2016)
4. In Re: The Special Courts Bill, 1978 v. Unknown (1 December 1978; AIR 1979 SC 478)
5. S.R. Bommai v. Union of India (1994 SCC (3) 1)
6. State of West Bengal v. Union of India ((1964) 1 SCR 371)
7. E.P. Royappa v. State of Tamil Nadu ((1974) 4 SCC 3)
8. Shamsher Singh v. State of Punjab ((1974) 2 SCC 831)
9. Supreme Court Advocates-on-Record Association v. Union of India ((2016) 5 SCC 1)
10. State of Rajasthan v. Union of India ((1977) 3 SCC 592)
11. Samsher Singh v. State of Punjab (1974)
12. Central Board of Dawoodi Bohra Community v. State of Maharashtra ((2005) 2 SCC 673)
13. Supreme Court Bar Association v. Union of India ((1998) 4 SCC 409)
14. Union of India v. Association for Democratic Reforms ((2002) 5 SCC 294)
15. State (NCT of Delhi) v. Union of India ((2018) 8 SCC 501)
16. Kranti Associates v. Masood Ahmed Khan ((2010) 9 SCC 496)
17. Cauvery Water Disputes Tribunal, In Re ((1993) Supp (1) SCC 96)