

# THE IMPORTANCE OF CONSTITUTIONAL PUNCTUALITY

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May 02, 2023 12:16 am | Updated 12:16 am IST

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'The time has come to evolve a new constitutional architecture that would deliver on the demands for a time-bound constitutional delivery mechanism' | Photo Credit: Getty Images/iStockphoto

Recently, the Tamil Nadu Legislative Assembly passed a resolution seeking to provide for a time frame for Governors to act on Bills passed by the State Legislature. The motivation was that the Governor of Tamil Nadu, R.N. Ravi, had withheld assent to as many as 13 Bills passed by the Tamil Nadu Legislative Assembly. Last week, the Supreme Court of India, while disposing of a case filed by the State of Telangana against its Governor Dr. Tamilisai Soundararajan, remarked that Governors should not sit over Bills indefinitely. Taking this sentiment farther, the idea of constitutional punctuality need not be restricted to gubernatorial offices alone. All constitutional high offices including those of the President of India and Speakers of Assemblies must suo motu evolve guidelines to discharge duties in a time-bound manner.

In the resolution passed on April 10, 2023, the Tamil Nadu Legislative Assembly urged the Union Government and President to advise the Governor to decide on the bills passed by the State Legislatures within a reasonable time period. The resolution, proposed by the Chief Minister, M.K. Stalin, argued that it was important to protect the sovereignty of the Legislatures and, ultimately, safeguard parliamentary democracy.

Subsequently, the Chief Minister of Tamil Nadu wrote to his counterparts in other Opposition-ruled States and encouraged them to pass similar resolutions in their Assemblies. So far, the Chief Ministers of Delhi, Kerala, and West Bengal have expressed their support for the resolution and its underlying principles. In the case of Telangana, the State had already filed a writ petition seeking direction from the Supreme Court to the Governor to decide on the Bills, passed by the Assembly, in a timely manner. Looking at these developments, it would be fair to say that the time has come to evolve a new constitutional architecture that would deliver on the demands for a time-bound constitutional delivery mechanism.

When the Constitution was adopted, in consequence of independence from British rule, some of the sovereign functions were retained for the sake of continuity in governance. As such, there was no time limit fixed for various authorities to discharge duties that arose out of the constitutional scheme. It may also be understood that the drafters of the Constitution, in their contemporaneous wisdom, expected Raj Bhavans to be nominated with those who would

discharge sovereign duties beyond the confines of political partisanship.

Article 200 of the Constitution, as it stands today, limits the options before the Governor to give assent to the Bill sent by the legislature, or withhold assent, or reserve a Bill for the consideration of the President. The nub of the issue is that Governors have wrongly understood the function to grant assent to have endowed them with some discretionary responsibility. However, the direct import of the words used in the Constitution as well as a composite reading of the debates in the Constituent Assembly (when this portion of the Constitution was deliberated and, subsequently, adopted) portrays an altogether different interpretation.

The original draft Article 175 moved for discussion in 1949 read as follows: "Provided that where there is only one House of the Legislature and the Bill has been passed by that House, the Governor may, in his discretion, return the Bill together with a message requesting that the House will reconsider the Bill."

While moving the amendment to this Article on July 30, 1949, B.R. Ambedkar said there "can be no room for a Governor acting on discretion" and recommended removing the phrase "the Governor, in his discretion". Therefore, the final Article, adopted by the Constituent Assembly and embedded in the Constitution explicitly negates any discretionary power.

This position has been fortified by a seven-Judge Bench of the Supreme Court in *Shamsher Singh & Anr vs State Of Punjab* (1974), wherein it was held that the discretion of the Governor is extremely limited and, even in such rare cases shall act in a manner that is not detrimental to the interest of the state. Furthermore, the Supreme Court has repeatedly held that the Governor shall only act on the aid and advice of the Council of Ministers.

Moreover, a simple and plain reading of the Article is sufficient to show how the meaning of the phrase "withholds assent therefrom" has been wilfully misinterpreted to mean holding back the Bill — an act which is colloquially referred to as pocket veto. There can be nothing further from constitutional reality and literary meaning. Any straightforward reading of withholding assent can only mean to return the Bill; and not to hold back. The problem is accentuated as there is no time-limit prescribed to return the Bill, and, as such, Governors have considered themselves to be unaccountable to the principles of time-bound governance.

Other jurisdictions where similar powers have been bestowed show a starkly different picture. In the United Kingdom, there has been no royal veto since 1708 when the assent to the Scottish Militia Bill was vetoed by Queen Anne. Whereas in the United States, there is a time limit of 10 days for the President to give assent or veto a bill. If the President does not sign or vetoes the Bill within this time, it automatically becomes an Act. If the President vetoes and returns the bill to the Congress or Senate, then both the chambers of the Congress must override the veto for it to become a law.

Over time, matters involving an inexplicable delay in exercising powers by various authorities have been brought under the ambit of judicial review by constitutional courts. The Supreme Court, in *Keisham Meghachandra Singh vs The Hon'ble Speaker Manipur* (2020), issued a writ of mandamus to the Speaker of the Meghalaya Legislative Assembly to decide on the disqualification petitions under the 10th Schedule of the Constitution within a period of four weeks.

In the case filed by the State of Telangana against the Governor, the Supreme Court found it fit to highlight the spirit of Article 200. While disposing of the case on April 24, 2023, the Court acknowledged that the words in Article 200, "as soon as possible after the presentation of the Bill", held significant constitutional content and that Governors should necessarily bear this in

mind.

As such, it would be appropriate for various constitutional authorities such as Governors exercising powers under Article 200 and Speakers acting as quasi-judicial tribunals under Tenth Schedule to evolve strict time frames and avoid unnecessary delays. Only such an approach will advance the constitutional scheme and safeguard the will of the people exercised through the legislatures.

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