CASE LAW UPDATES

Case Brief: In Re Assent, Withholding or Reservation of Bills by the Governor and President of India

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Can courts fix a deadline for a Governor to act on a Bill? For years, this question sat unresolved, until a five judge Constitution Bench of the Supreme Court finally settled it in November 2025.

This case brief breaks down the Presidential Reference on the powers of the Governor and President under Articles 200 and 201, explaining the facts, the questions referred, and the final answers the Court gave.

Case Details

Case Name: In Re: Assent, Withholding or Reservation of Bills by the Governor and the President of India

Citation: 2025 INSC 1333

Court: Supreme Court of India, Constitution Bench

Decided On: November 20, 2025

Bench: Chief Justice B.R. Gavai, Justice Surya Kant, Justice Vikram Nath, Justice P.S. Narasimha, and Justice A.S. Chandurkar

Docket: Special Reference No. 1 of 2025

You can read the full text of the judgment on the Supreme Court's official website, and refer to Article 143, Article 200, and Article 201 of the Constitution on Indian Kanoon for the relevant bare text.

Background: How This Reference Came About

This case did not arise from an ordinary dispute between two parties. It came through a Presidential Reference, meaning the President of India directly asked the Supreme Court for its advisory opinion under Article 143 of the Constitution.

The trigger was the Supreme Court's earlier ruling in State of Tamil Nadu v Governor of Tamil Nadu, decided in April 2025. In that case, a two judge bench had held that the Tamil Nadu Governor's prolonged inaction on ten Bills was illegal, and went further by prescribing specific timelines, one month and three months, within which a Governor and President must act on Bills.

That ruling caused considerable controversy, since critics argued the Constitution itself sets no such deadlines, and that judicially inventing one intruded into executive territory. On May 13, 2025, President Droupadi Murmu invoked Article 143(1) and referred fourteen questions to the Supreme Court, seeking clarity on the true scope of gubernatorial and presidential powers under Articles 200 and 201.

Preliminary Objection: Was This Reference Even Valid?

Before reaching the substantive questions, the Court had to decide whether this Presidential Reference was itself maintainable. Several states and political parties argued that the reference was essentially an appeal in disguise, an improper attempt to reopen a binding judgment without using the proper channel of a review or curative petition.

The Constitution Bench rejected this objection. It held that exercising its advisory jurisdiction under Article 143 does not amount to judicial adjudication in the ordinary sense, and the President remains entitled to seek clarity on unsettled constitutional questions even after a prior judgment, so long as the reference genuinely raises questions of public importance.

The Core Issues Before the Court

The fourteen questions referred to the Court broadly clustered around four central issues.

1. **Scope of Article 200 and Article 201:** What are the exact options available to a Governor under Article 200, and to the President under Article 201, when a Bill is presented for assent?

2. **Justiciability and timelines:** Are these decisions justiciable, meaning can courts review them, and can courts impose fixed timelines for the Governor or President to act?

3. **Scope of Article 142:** Does Article 142, which allows the Supreme Court to pass orders for doing complete justice, permit the Court to deem a Bill as having received assent if a Governor sits on it indefinitely?

4. **Interplay with Article 361:** How does Article 361, which grants personal immunity to the President and Governors, interact with judicial review of their constitutional functions?

What the Supreme Court Held

The Constitution Bench answered all fourteen questions across a detailed 111 page opinion. Here are the key holdings that matter most, set out point by point.

1. No fixed timelines can be judicially imposed. The Court held that neither the Constitution nor any statute prescribes a specific time limit within which the Governor must act under Article 200, or the President must act under Article 201. Since the Constitution deliberately left this open, courts cannot step in and manufacture rigid deadlines like one month or three months, since doing so would amount to judicial legislation and violate the separation of powers.

2. Article 200 and Article 201 decisions are not justiciable at a stage before the Bill becomes law. The Court held that it is impermissible for courts to adjudicate on the contents of a Bill, or second guess the Governor's or President's substantive choice among assent, withholding, or reservation, before that Bill actually becomes law. The reasoning behind these decisions largely remains outside judicial scrutiny on the merits.

3. Deemed assent is not permissible. This was perhaps the most significant clarification. The Court explicitly rejected the idea that Article 142 could be used to treat a Bill as having received assent merely because a Governor delayed acting on it. The Bench held that deeming assent in this manner would amount to the judiciary performing the Governor's or President's constitutional function itself, which courts simply cannot do.

4. A limited mandamus remains available for indefinite delay. While the Court refused to impose fixed timelines or deem assent, it did preserve one important safeguard for genuinely

prolonged and unexplained inaction. Where a Governor or President sits on a Bill indefinitely, without any explanation and for an unreasonably long period, a court can issue what the Bench called a limited mandamus.

This limited mandamus does not tell the Governor or President which option to choose. It simply directs them to make a decision, meaning to exercise one of the available options under Article 200 or Article 201, within a reasonable time, without the court expressing any opinion on the merits of that eventual decision.

5. Article 361 protects the individual, not the constitutional office. The Court clarified that while Article 361 grants personal immunity from court proceedings to the individual holding the office of Governor or President, it does not place the constitutional office itself beyond the reach of judicial review altogether, particularly where the exercise of that office causes genuine constitutional paralysis.

6. A Presidential Reference under Article 143 is not judicial adjudication. The Bench also clarified, while addressing the maintainability objection, that answering a reference under Article 143 is a distinct constitutional function, not an appeal or review of an earlier judgment, even where the reference touches upon issues previously decided.

Ratio Decidendi

The core reasoning of this judgment can be summarised as follows. The Constitution deliberately gives the Governor and President broad, undefined discretion over the timing and substance of their decisions under Articles 200 and 201, and courts cannot supplement this silence with judicially invented rules, whether through fixed timelines or through deemed assent under Article 142.

At the same time, complete judicial silence would allow a constitutional functionary to indefinitely stall the legislative process, defeating the very idea of representative government. The limited mandamus exists precisely to resolve this tension, compelling action without dictating outcome.

Simplifying the Governor's Options Under Article 200

The judgment also clarified exactly what options a Governor has once a Bill reaches their desk under Article 200. These are:

1. **Assent to the Bill**, after which it becomes law.
2. **Withhold assent**, in which case the Bill falls through, subject to the proviso allowing the Governor to return it with a message for reconsideration.
3. **Reserve the Bill** for the consideration of the President under Article 201.

The Court examined arguments about whether withholding assent could also include returning the Bill for reconsideration, and clarified how these choices interact with the proviso to Article 200, which allows the Governor to send certain Bills back to the legislature with a message.

This stands as one of the most significant constitutional pronouncements on Governor and President assent powers in recent Indian legal history. By rejecting fixed timelines and deemed assent, while preserving the limited mandamus for genuine cases of prolonged inaction, the Supreme Court has drawn a careful and lasting line between judicial oversight and executive discretion under Articles 200 and 201.