



## Governor's Powers Over State Bills

**For Prelims:** [Governor's Powers Over State Bills](#), [Supreme Court \(SC\)](#), [Article 200](#) of the Constitution, Article 201, Article 31A of the Constitution.

**For Mains:** Governor's Powers Over State Bills, Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

[Source: TH](#)

### Why in News?

Recently, the [Supreme Court \(SC\)](#) of India has stated when the Governor chooses to withhold assent to a Bill, it is mandatory for them to follow a specific course of action outlined in **Article 200 of the Constitution**.

- The key aspect of Article 200 is that it mandates the Governor to communicate their reasons for withholding assent and prompt the Legislature to reconsider the Bill.

### What is the Ruling of the Supreme Court?

- If a Governor refuses to approve a Bill, they **have to follow Article 200**.
- The SC has held that **if a Governor decides to withhold assent to a Bill**, then he has to return the bill to the legislature for reconsideration.
- The Governor's withholding of assent without the necessary step of communicating the need for the Legislature to reassess the **Bill violates constitutional principles**.
- The elected Legislature has the final say on the Bill, and the Governor's message doesn't force them to agree. That is, **once the House re-passes the returned Bill**, with or without amendments, **the Governor has no choice but to grant consent**.
- The ultimate authority to **accept or reject a Bill lies with the elected Legislature**, and the Governor's message **does not bind the legislative body**.

### What are the Governor's Powers over Bills?

- **Article 200:**
  - Article 200 of the Indian Constitution **outlines the process for a Bill passed by the Legislative Assembly** of a State to be presented to the Governor for assent, who may either assent, withhold assent or reserve the Bill for consideration by the President.
  - The Governor **may also return the Bill** with a message requesting reconsideration by the House or Houses.
- **Article 201:**
  - It states that when a Bill is reserved for the consideration of the President, the **President may assent to or withhold assent** from the Bill.
  - The President may also direct the Governor to return the Bill to the House or Houses of the Legislature of the State for reconsideration.

#### ▪ **Options Available with the Governor:**

- He may give assent, or he **can send** it back to the Assembly requesting it to reconsider some provisions of the Bill, or the Bill itself.
- He may reserve the bill for the consideration of the president. The reservation is obligatory where the bill passed by the state legislature endangers the position of the state high court. However, the governor can also reserve the bill if it is of the following nature:
  - Against the provisions of the Constitution
  - Opposed to the [Directive Principles of State Policy \(DPSP\)](#).
  - Against the larger interest of the country
  - Of grave national importance
  - Deals with compulsory acquisition of property under Article 31A of the Constitution.
- Another option is to withhold the assent, but this is not normally done by any Governor because it would be an extremely unpopular action.

### **Can the Governor withhold His Assent to a Bill in Exercise of His Discretionary Powers?**

- While a **plain reading of [Article 200](#) suggests** that the Governor can withhold his assent, experts question whether he can do so only on the advice of the Council of Ministers.
- The Constitution provides that the Governor can exercise his executive powers only on the **advice of the Council of Ministers under Article 154**.
- The larger question is why a Governor should be allowed to withhold assent when the Bill is passed by the Assembly.

### **What are the Issues with Pending Bills?**

#### ▪ **Delay in Decision-Making:**

- The Governor's failure to take a decision on the Bills passed by the legislature **leads to a delay in decision-making**, which affects the effective functioning of the state government.
- When the Governor fails to make a decision on a Bill passed by the assembly, it **delays the implementation of policies** and laws.

#### ▪ **Undermines the Democratic Process:**

- The Governor, who is appointed by the Centre, can use his powers to delay or reject Bills passed by state assemblies for political reasons, which undermines the democratic process.

#### ▪ **Public Perception:**

- The public often views pending Bills with the Governor as a sign of inefficiency or even corruption in the state government, which can damage the government's reputation.

#### ▪ **Lack of Accountability:**

- When the Governor withholds assent, he does not provide any reason for his decision.
- This lack of accountability undermines the principles of transparency and accountability in governance.

# Governor

## Eligibility Criteria

- Must be a **citizen of India**
- At least **35 years** of age
- Must **not be a member of (either) house** of Parliament/State Legislature
- Must not hold any **office of profit**

## 'Dual Capacity'

- **Constitutional head of the state** and **Representative of the Union government**

## Appointment and Tenure (Part VI)

- Appointed by President (**Article 153**)
- One person can be appointed as Governor for **2+ States (7th Const. Amendment in 1956)**
- Holds the office at the **Pleasure of the President** (maximum **5 years**)

## Ending Tenure before 5 Years

- **Dismissal by President** (on advice of the Council of Ministers headed by PM)
  - Dismissal of governors without a valid reason is not permitted
- On grounds of **acts upheld by courts as unconstitutional** and malafide
- **Resignation** by the governor

## Powers (Part VI)

- Article 161: **Pardoning powers**
- Article 164: Power to **appoint the CM and other Ministers**
- Article 176: **Special Address** by Governor
- Article 200: Power to **(withhold) assent/reserve a bill** (Legislative Assembly)
- Article 213: Power to **promulgate Ordinances**

## Responsibilities

- **Appoints** – CM, other Ministers, Advocate General of State, Members of State PSC, judges of HC and districts
- Act as **ex-officio chancellor** of state Universities

## Way Forward

- Governors should adhere to the **guidelines of Article 200**, promptly communicating their concerns about Bills and sending them back to the State Legislature for reconsideration. This ensures a proper process and respects the Legislature's authority.
- Clear guidelines and transparent processes **can help avoid misunderstandings. Governors should provide transparent reasoning** when withholding assent to a Bill, ensuring accountability for their decisions.
- Continuous discussions and legal clarity on the role of Governors in the legislative process might further streamline the procedures and avoid potential conflicts.

## UPSC Civil Services Examination Previous Year's Question (PYQs)

### Prelims

**Q. Which of the following are the discretionary powers given to the Governor of a State? (2014)**

1. Sending a report to the President of India for imposing the President's rule
2. Appointing the Ministers
3. Reserving certain bills passed by the State Legislature for consideration of the President of India
4. Making the rules to conduct the business of the State Government

**Select the correct answer using the code given below:**

- (a) 1 and 2 only  
(b) 1 and 3 only  
(c) 2, 3 and 4 only  
(d) 1, 2, 3 and 4

**Ans: (b)**

**Exp;**

- Article 163 of the Constitution says that the Governor shall exercise his functions with the aid and advice of the Council of Ministers except for functions which require his discretion.
- Under Article 356 of the Indian Constitution, the Governor of a State can send a report to the President of India recommending imposition of President Rule in the State. This is a discretionary power being conferred upon the Governor. Hence, 1 is correct.
- He appoints the Chief Minister (CM) and other ministers. They also hold office during his pleasure. The appointment of ministers in the State cabinet is not at the discretion of the Governor. He only formally approves the appointment. The discretion comes under CM. Hence, 2 is not correct.
- Governor can reserve certain bills passed by the State legislature for the consideration of the President. In one case such reservation is obligatory, that is, where the bill passed by the State legislature endangers the position of the State High Court. In addition, the
- The governor can also reserve the bill if it is against the provisions of the Constitution, opposed to the Directive Principles of State Policy, against the larger interest of the country, of grave national importance, etc. Hence, 3 is correct.
- He makes rules for the more convenient transaction of the business of a state government and for the allocation among the ministers of the said business. But this power is not under the Governor's discretion. He acts on the advice of the Council of Ministers. Hence, 4 is not correct.
- Therefore, option (b) is the correct answer