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Premium

# Governor's assent to state laws

Kerala has moved the SC against the withholding of assent to Bills by the President and Governor. Over the past year, several Opposition-ruled states have approached the court over the same issue

Written by [Ajoy Sinha Karpuram](#)

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Kerala Governor Arif Mohammed Khan with Chief Minister Pinarayi Vijayan. (File Photo)

The Kerala government last week **approached the Supreme Court saying President Droupadi Murmu had withheld assent to four Bills passed by the state** “while disclosing no reason whatsoever”, and that Governor Arif Mohammed Khan had withheld assent to seven Bills — some for as long as two years — before referring them to the President. Kerala, which is ruled by the Left Democratic Front, urged the top court to declare the referring of state Bills to the President as “unconstitutional and lacking in good faith”.

This is the newest chapter in the conflict between states ruled by opposition parties, and their Governors, who are appointed by the President on the Centre’s advice. Over the past year, multiple states including Kerala, Tamil Nadu, Telangana and Punjab, have approached the SC about Governors withholding assent to Bills for long periods of time.

### Governor’s role in lawmaking

Article 200 of the Constitution states that after a Bill has been passed by the state legislature, “it shall be presented to the Governor”. The Governor, then, has three options: give assent to the Bill, withhold assent, or reserve the Bill for consideration by the President.

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For situations where assent is withheld, Article 200 states that “the Governor may, as soon as possible after the presentation to him...return the Bill...together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof...and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom.”

The latter part of the proviso clearly gives the state government the final say on enacting legislation. But it is the part saying “as soon as possible after the presentation to him”, which has led to states approaching the SC. Since the article does not provide a timeline, Governors have often withheld assent to Bills for extended periods, effectively leaving them, and the state legislature, in limbo.

### President's role in the process

A promotional banner for UPSC Express. On the left, there is a stack of books titled 'UPSC ESSENTIALS' and a smartphone displaying the UPSC Express app. The text 'Conditions Apply' is written vertically on the left. In the center, it says 'Get 25% Discount' in large red and black font. To the right of this, it says 'ON UPSC Express SUBSCRIPTION' in bold black font. On the far right, there is a dashed box containing the text 'USE CODE: STUDENT25' and a red button with the text 'BUY NOW' in white.

In situations where a Bill is sent to the President for consideration, the President can either give or withhold assent. This is dealt with in Article 201.

If assent is withheld, the President requests the Governor to return the Bill to the state legislature for reconsideration. The state government then has six months to reconsider the Bill — failing to do

so results in its lapsing.

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If the Bill is passed once again by the state legislature, it must be sent back to the President who, unlike the Governor, is under no obligation to give assent when assessing the reconsidered Bill. This is the only situation in which state governments do not have the final say in their own lawmaking process.

### Issues raised by Kerala

The Kerala government's petition terms the actions of Governor Khan and President Murmu as "manifestly arbitrary", i.e., an action that is unreasonable, irrational and which, as a result, violates the right to equality.

The petition argues that the decision to keep Bills pending violates Article 200 by not making a decision "as soon as possible". As such, the [Governor had "subverted the functioning" of the state legislature](#) and "rendered its existence itself ineffective and otiose" (serving no practical purpose), the government has said.

On President Murmu's decision to withhold assent to four of the Bills referred to her, the Kerala government has argued that this was done without giving "any reason whatsoever". This, it claims, is in violation of Article 201, which states that the President is required to return the Bill with a message containing "such amendments as he may recommend".

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### Situation in other states

In November last year, the Supreme Court expressed "serious concern" at Tamil Nadu Governor R N Ravi's decision to withhold assent to 10 Bills that had been enacted by the state legislature, some of which were pending since January 2020. Three days later, all 10 Bills were returned for reconsideration, with no reasons given for the decision.

Tamil Nadu's DMK government and Governor Ravi have been at loggerheads for a long time. Most recently, the Supreme Court criticised the Governor for refusing to appoint K Ponmudy as the state's Minister for Higher Education, despite the apex court staying his criminal conviction. In its petition to the apex court regarding the Governor's alleged overreach, the Tamil Nadu government claimed that Ravi "has positioned himself as a political rival" to the state government.

The Telangana government also approached the Supreme Court in March 2023 over former Governor Tamilisai Soundarajan's refusal to give assent to 10 Bills that were passed by its legislative assembly. She gave her assent shortly after.

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Nonetheless, Senior Advocate Dushyant Dave in April still pushed for the court to pass directions in the matter, telling the Bench that the "elected government is at the mercy of the Governor... Telangana is an opposition state and so this is happening".

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At the time, the court refused to pass a detailed order on the subject beyond saying that the expression "as soon as possible" in Article 200 "has a significant constitutional intent and must be borne into mind".

Soundarajan is now the [BJP](#) candidate for the upcoming Lok Sabha elections from [Chennai](#) South constituency.

### Question of timeline for assent

In November 2023, the [SC was to decide if a Governor could withhold assent to Bills](#) passed by the state legislature if he believed that the session where the Bills were passed were convened illegally. The Governor of Punjab, Banwarilal Purohit, had refused to give assent to four Bills passed by the Punjab Assembly, claiming that he had received legal advice that led him to believe that the Bills were passed in breach of law and procedure. However, the Bills were not remitted to the Assembly for reconsideration.

The court held that the Governor did not have the power to "thwart the normal course of lawmaking by the State Legislatures", and held that the phrase "as soon as possible" in Article 200 means that "the Governor cannot be at liberty to keep the Bill pending indefinitely without any action whatsoever."

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If the Governor decides to withhold assent, he is bound to follow the procedure provided in the first proviso of Article 200, and return it to the state legislature for reconsideration, the court said.

Though the court spelled out the obligations of the Governor in the lawmaking process, it stopped short of providing a definitive timeline for the Governor to make the decision. The Kerala government has now approached the Supreme Court to address the same issue.

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