

Supreme Court Opinion on the Presidential Reference

1. Context

- On **20 November 2025**, the Supreme Court delivered its detailed opinion on **14 constitutional questions** referred by the President under **Article 143 (Presidential Reference)**.
- The reference arose from constitutional conflicts surrounding the **Tamil Nadu Governor's prolonged inaction** on several State Bills.
- Some States criticized the reference as an “**appeal in disguise**” against the Supreme Court’s earlier April 2025 judgment, which had introduced the concept of **‘deemed assent’**.
- The Supreme Court rejected this argument and clarified the scope and nature of Presidential References.

2. Background of the Case

2.1 The April 8, 2025 SC Judgement

- A two-judge bench addressed delays by Governors/President in granting assent to Bills.
- The Court:
 - Stated that constitutional authorities must act within a **reasonable time**.
 - Introduced the doctrine of **‘deemed assent’** (automatic approval if no action within a reasonable time).
- Central Government did not seek review**, but instead sought **Presidential Reference**.

2.2 Reason for the Presidential Reference

- To clarify:
 - Limits of Governor/President’s powers under **Articles 200 & 201**.
 - Whether the Court can prescribe a time limit.
 - Whether the doctrine of ‘deemed assent’ is constitutional.

- Some States argued this was a **back-door appeal** of the Tamil Nadu case, which SC rejected.

3. Meaning of a Presidential Reference (Article 143)

- The **President can seek the Supreme Court's advice** on:
 - Questions of law
 - Constitutional interpretation
 - Matters of public importance
- It is an **advisory jurisdiction**:
 - **Not binding**, but carries very high persuasive value.
- Purpose: **Resolve constitutional ambiguities** and guide the government.

4. Key Findings of the Recent Supreme Court Opinion

4.1 Limits on Judicial Power

- Court cannot:
 - Set **time limits** for Governors/President.
 - Interfere with **pre-enactment** decisions.
 - Introduce '**deemed assent**'.

4.2 Limits on Governor/President

- Governor/President **cannot remain inactive indefinitely**.
- In extreme cases of inaction, Court may issue a **mandamus** to ensure a decision is taken.

4.3 Impact of Article 143 Advice

- Advice under Article 143 can, **if necessary**, influence or reshape earlier SC decisions.

4.4 Procedural Clarifications

- Governor cannot be made a party to court proceedings (**Article 361**).
- Decisions under Articles 200/201 are **not subject to judicial review** before the bill becomes law.

5. “Appeal in Disguise” Criticism

States’ Arguments

- The reference was essentially:
 - An indirect appeal against the April 2025 ruling.
 - A misuse of Article 143 instead of a **review** or **curative** petition.

Supreme Court’s Response

- Rejected the argument.
- Cited precedents:
 - **1978 Presidential Reference**
 - **2G Spectrum Presidential Reference**
- Held that:
 - Article 143 is a **constitutional tool**, not an appeal mechanism.
 - Its advice **may overrule previous reasoning**, but that still does **not make it an appeal**.

6. SC’s Answers to the 14 Questions of the Presidential Reference

Below is a clean, **UPSC-ready pointwise summary**:

Question 1: Constitutional options for Governor under Article 200

Answer:

- He may:

1. **Grant assent**, OR
2. **Withhold assent** and **return the Bill** (if not a Money Bill), OR
3. **Reserve the Bill for the President's consideration.**

Question 2: Is Governor bound by ministerial advice?

Answer:

- Governor has **discretion** under Article 200.
- **Not fully bound** by the Council of Ministers.

Question 3: Is Governor's discretion under Article 200 justiciable?

Answer:

- Generally **not justiciable**.
- Exception: Court can order the Governor to **take a decision** (not what decision) if there is **indefinite inaction**.

Question 4: Does Article 361 bar judicial review of Governor's actions?

Answer:

- **Complete bar on personal judicial proceedings** against Governor.
- Governor cannot be summoned or questioned personally.

Question 5: Can Court set a time limit for actions under Article 200?

Answer:

- **No.** Constitution is silent → Court cannot prescribe a deadline.

Question 6: Is President's discretion under Article 201 justiciable?

Answer:

- Same principle as Governor: **Not justiciable**.

Question 7: Can President be bound by time limits for Article 201?

Answer:

- **No.** Judiciary cannot set deadlines for President.

Question 8: Must President consult SC when a Bill is reserved?

Answer:

- **Not required.**
- President's **subjective satisfaction** is enough.

Question 9: Are decisions under Articles 200/201 justiciable before enactment?

Answer:

- **No.**
- Court cannot examine **pre-enactment** stages. Only post-enactment judicial review.

Question 10: Can Article 142 substitute constitutional powers or create 'deemed assent'?

Answer:

- **No.**
- Article 142 **cannot override** constitutional procedures.
- '**Deemed assent**' is **unconstitutional**.

Question 11: Can State laws operate without Governor's assent?

Answer:

- **Impossible.**
- No law can take effect without assent under Article 200.

Question 12: Must Courts first decide whether a case needs a Constitution Bench (Art 145(3))?

Answer:

- **Returned unanswered**—irrelevant to the reference.

Question 13: Are SC's powers under Article 142 limited to procedural matters?

Answer:

- No definite answer.
- Already addressed partly in Q.10.

Question 14: Does the Constitution bar SC from resolving Centre-State disputes through means other than Article 131?

Answer:

- **Irrelevant** to the reference → unanswered.

7. Significance of the Judgment (UPSC-Important)

7.1 Strengthening Federalism

- Clarifies boundaries of Governor/President in the lawmaking process.
- Prevents misuse of constitutional offices.

7.2 Greater Constitutional Clarity

- Offers a detailed interpretation of Articles **143, 200, 201, 361, 142**.
- Removes ambiguity on:
 - Assent process
 - Pre-enactment judicial review
 - ‘Deemed assent’

7.3 Democratic Governance Strengthened

- Court condemns **prolonged inaction**, promoting accountability.
- Mandamus option ensures **timely decisions**.

7.4 Centre-State Relations

- States now know:
 - When they can seek judicial remedy.
 - What powers Governors actually have.
 - That assents cannot be delayed indefinitely.

7.5 Judicial Review Clarified

- Courts stay out of **pre-legislative** stages.
- Ensures proper separation of powers.

8. Why This is Important for UPSC (Prelims + Mains)

Prelims

- Articles 143, 200, 201, 361, 142
- Presidential Reference
- Powers of Governor/President
- Judicial Review limits

Mains (GS-II)

- Federalism
- Separation of Powers
- Role of Governor
- Constitutional morality
- Judicial activism vs restraint

Essay

- Cooperative federalism
- Constitutional design and functioning

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