# Mercy Petition

## Why in news?

The Governor of Tamil Nadu (T.N.) has withheld the pardon application filed by prisoners convicted in the Rajiv Gandhi assassination case, despite a resolution being passed by the Council of Ministers in favour of releasing all seven prisoners.

## What are the Supreme Court's Past Judgments on this ?

- In **Maru Ram v. Union of India (1981) case**, Supreme Court held that the pardoning power can be exercised by the Central and the State Governments, not by the President or Governor on their own & the advice of the appropriate Government binds the Head of the State.
- The Supreme Court, in the case of **Shatrugan Chouhan v. Union of India** , laid down the principle of "presumption of dehumanising effect of such delay".
- i.e. The Supreme Court confirmed that the due process is guaranteed under Article 21 was available to each and every prisoner & it can commute the death sentence when there is an inordinate delay to perform a constitutional function.

## Are Constitutional functionaries are exempted from judicial scrutiny ?

- In case of **Keisham Meghachandra Singh v. Hon'ble Speaker (2020**) said that failure on the part of the Speaker to decide the application seeking a disqualification goes against the very constitutional scheme of adjudication contemplated by the Tenth Schedule.
- The court issued a judicial direction to the Speaker to decide the disqualification petitions within a period of four weeks.
- The Court also said it will issue directions in aid of a constitutional authority to arrive at a prompt decision.
- The apex court also recalled its earlier judgment in **Rajendra Singh Rana v. Swami Prasad Maurya (2007) .**
- In case of substantial delay at the hands of the Governor the immediate interference of the Supreme Court is necessary to make sure that words contained in Article 161 of the Constitution meaningful.

**Source: The Hindu**

## Quick Facts

## Defining the Pardoning Power of President and Governor

- **Article 72** provides that President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence-
  a) in all cases where the punishment or sentence is by a Court-martial;

  b) in all cases where the punishment or sentence for an offence against any law relating to a matter to which the executive power of the Union extends;

  c)in all cases where the sentence is a sentence of death.

- **Article 161** provides that the Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

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