Role of Governor in Giving Assent to the Bills

Why in news?

Recently, the Tamil Nadu government has challenged the actions of its Governor, R.N. Ravi, in the Supreme Court.

What is the issue?

- **Governor's inaction**- The Governor has stalled the administrative machinery by not cooperating with the State government.
- **Constitutional deadlock**- Governor is not granting approval to crucial order and bills like appointment of the Public Service Commission Chairman and Members and the prosecution of Ministers and MLAs involved in corruption cases.
- **Demand of the petition**- The petition seeks a declaration from the Supreme Court that the Governor's refusal to act on the advice of the Council of Ministers is illegal and arbitrary.
- It also appeals for a time limit within which the Governor must consider pending bills and orders for balance of power between the State legislatures and the Governor's office.

What is the role of Governor?

About	Description
Articles 153	There shall be a Governor for each State.
Executive authority	• Governor is a nominal executive head (titular or constitutional head)
7th Constitutional Amendment Act, 1956	It facilitated the appointment of the same person as a Governor for two or more States
Office of Governor	The Governor is appointed by the Centre (Canadian Model)
Appointment (Article 155)	By President under his seal and warrant
Oath of office	• Administered by the Chief Justice of the concerned State High Court • In his/her absence, the oath is administered by senior-most judge of that court available
Tenure	5 years, subject to the pleasure of the President
Resignation	Addressed to President of India
Legal immunity (Article 361)	Governor cannot be summoned for questioning except on his/her voluntary willingness to testify in the court in support of his/her controversial deeds.

What about the Governor's role in giving assent to Bills?

- **Article 200**- When a Bill passed by the legislature of a State is presented to the Governor, the Governor has 4 options.



- **Suspensive veto**- The return of any Bill to State Legislature for reconsideration is also to be done based on ministerial advice.
- If the bill returned by the Governor for reconsideration is passed by the House again *with or without amendments* and presented to the Governor, the Governor must assent.
- **Reserved for President-** Governor may exercise their discretion, where they *feel that* the provisions of the Bill will contravene the provisions of the Constitution.
    - Bills reducing the power of the High Court
    - Bills on concurrent list that are repulsive to a Union law based on ministerial advice.
- Governor will not have any further role when the bill is reserved for President's consideration.

Recommendations of Various Commissions
• **Sarkaria Commission**- Governor should reserve the bill only under rare cases of unconstitutionality and he should follow ministerial advice. • The President should act on the Bills with 6 months for withholding assents. • **Punchhi Commission**- Governor should decide on the Bills within 6 months. • The Chief Minister should be consulted before appointing the Governors and State Legislatures must be empowered to impeach the Governors.

- **Money Bill-** Governor cannot return the Bill for reconsideration, and gives his/her assent as it is introduced in the State Legislature with his/her previous permission.
- **Private Member's Bill**- The Council of Ministers may advise the Governor to withhold the assent to the Bill.
- **Power shift**- If the incumbent government whose Bill has been passed by the legislature falls or resigns before it is assented to by the Governor, the new Council may advise the Governor to withhold assent.
- **Pocket veto**- The Constitution *does not lay down any time limit* within which the Governor is required to make a decision.

Intervention of Judiciary in Governor's Role
• **Shamsher Singh Case-** The Governor does not exercise their discretionary powers while withholding assent or returning a Bill to the State Legislature. • **Rameshwar Prasad Case**- Governor's refusal to give assent to the bill is subjected to judicial scrutiny and can be struck down as unconstitutional. • **Nabam Rebia case**- The discretionary powers of the Governor to withhold assent are amenable to judicial review. • Supreme Court recently underlined that the power to take decisions affecting the governance of the State or the nation is essentially entrusted to the elected arm of the State. • Governor, as an appointee of the President, is *just a "titular head"* of the State.

What lies ahead?

- *Federalism* is a basic feature of our Constitution and the Governor's office should not undermine the powers of elected governments at the States.
- The Supreme Court need to fix a timeline for Governors to give assents to Bills.
- Constitution may be amended to provide for consultation of the Chief Ministers before appointment of the Governors and impeachment of the Governors by the State Legislature.

References

1. The Hindu- The role of governor in legislature
2. The Hindu- Delay in assent to bills
3. Indian Express- Governor's right to withhold assent

