

## PRESIDENTIAL REFERENCE – POLITY

NEWS: **The Supreme Court** has issued notices to the **Union Government and all States** on Presidential reference on the President and Governor's powers.

- The SC seeks opinion on whether the **President and Governors can be judicially compelled to act within prescribed timelines** on Bills passed by State legislatures.

### WHAT'S IN THE NEWS?

#### Background: Governor's Delay in Bill Assent

- Under Article 200 of the Constitution, a Governor may assent to, withhold assent from, or reserve a Bill passed by the state legislature for the President.
- However, **no time limit** is specified for the Governor to act, allowing **indefinite delay**.
- This inaction is informally known as a **"Pocket Veto"**, though the term is **not mentioned in the Constitution**.

#### Supreme Court's April 8 Ruling

- The SC clarified that **Governors cannot delay decisions on Bills indefinitely**.
- It held that **constitutional functionaries must act within a reasonable time** to uphold legislative accountability and democratic functioning.
- The court **set specific timelines** for gubernatorial action:
  - **One month** to decide on a Bill **re-passed** by the State Assembly.
  - **Three months** to act if **withholding assent** contrary to Cabinet advice.

#### Legal Significance of the Judgment

- The SC asserted its power to **enforce accountability** on constitutional authorities, including **Governors and the President**, under **Article 142** (which enables complete justice).
- The verdict emphasized that **Governors act as Constitutional heads** and must follow **Cabinet advice**, barring exceptions.

#### Presidential Reference under Article 143

- **President Droupadi Murmu** has referred the matter to the Supreme Court for its **advisory opinion** under **Article 143(1)**.
- This raises fundamental questions: **Do the President and Governors have to follow judicially prescribed timelines** for acting on state legislation?

#### What Article 143(1) Provides

- Allows the **President to seek SC's opinion** on any question of law or fact of **public importance**.
- The SC **may accept or refuse** to answer, but must **record reasons** if it declines.
- Though the opinion is **not binding**, it carries **great constitutional weight**.

### Scope and Nature of Article 143

- It evolved from the **Government of India Act, 1935**, expanding to cover questions of both **law and fact**, including **hypotheticals**.
- The matter must be heard by a **Constitution Bench (minimum five judges)** as per **Article 145(3)**.
- The court's response is in the form of a **majority opinion**, returned to the President.

### Relevance of Past Judicial Precedents

- In the **Cauvery Water Disputes Tribunal case (1991)**:
  - SC held that **Article 143 cannot be used to revisit or overturn settled rulings**.
  - It cautioned against references that **indirectly reopen decided cases**.
- In **Natural Resources Allocation case (2012)**:
  - The SC clarified that Article 143 allows **refinement or clarification** of earlier legal opinions, **without disturbing the core judgment**.

### Can the SC's April 8 Ruling Be Overturned via Reference?

- **No** – the judgment is considered **final and binding**.
- However, the Court **can elaborate or clarify** legal reasoning through the advisory process if it **does not affect parties' rights or alter core principles**.
- Thus, **refinements are possible**, but **reversal is constitutionally barred** via Article 143.

### Content of the Current Reference

- The Presidential Reference includes **14 questions of law**.
- These questions are broadly linked to the April 8 verdict but also raise **larger constitutional issues**.
- Key themes include:
  - **Limits of judicial review** over Governor and President's discretion.
  - Whether timelines can be **judicially enforced** on **executive authorities** under the Constitution.

### Importance of the Advisory Jurisdiction

- The advisory power under Article 143 is **an important constitutional mechanism** to resolve **gray areas** in the distribution of powers.
- It enables the **President to act with independent judicial insight**, separate from **executive advice**.
- It has been used **at least 15 times since 1950**, reflecting its continued relevance in **constitutional governance**.

Source: <https://www.thehindu.com/news/national/can-the-supreme-courts-opinion-on-a-presidential-reference-alter-its-prior-ruling/article69837501.ece>