

Should TN governor be removed for his over-reach?

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The [Dravida Munnetra Kazhagam](#) (DMK) has repeatedly questioned the utility of a Governor who comes from a political party in opposition to the one running the state. If the Governor is a person who can function as bridge between the State and the Union of India, then such a person must be one who is above politics and trusted by both governments. On both counts, the tenure of Banwarilal Purohit thus far must be seen as a failure.

The Governor of a state, being the nominal executive head, exercises certain functions in accordance with the Constitution. Article 163 of the Constitution says the Governor will normally be aided and advised by the Council of Ministers except in those functions which require his discretion. Besides this, the Governor also enjoys statutory powers under any other laws made by the state. For example, the Governor functions as ex-officio Chancellor of universities because of the various laws passed by the state government. For example, the Anna University Act 1978 appoints the Governor as Chancellor of the university.

According to academics Haridwar Rai and Rup Narain Jha, the reason for the appointment of Governors as Chancellors is to ensure that the universities are run in “conformity with broad Government policy and also that their finances are under strict supervision”. There are no special powers given to Governors beyond what is enacted by the state legislature. The Governor is, therefore, duty bound to abide by the particular university laws when he performs the functions of a Chancellor. The university laws are subject to amendments by the state legislature and therefore, it implies that the Governor, when he is functioning in the capacity of a Chancellor, is still bound by the aid and advice of the Council of Ministers.

This view is expounded in the landmark case *Samsher Singh vs Punjab* 1974, which was decided by a seven-judge bench of the Supreme Court. Such a view makes the recent appointment of Vice-Chancellor to Anna University, without the consultation of the state government, wholly unlawful and unsustainable. The Governor has also been conducting “review meetings” which is an over-reach of his Constitutional duties.

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On the other hand, the Governor is also embroiled in a controversy after calling for a media interaction to discuss allegations of the trafficking of girls by Assistant Professor Nirmala Devi. It was expected that the focus on the press meet would be on what authority did the Governor suo moto initiate an inquiry under a retired official, R. Santhanam, and whether any law or precedent practices permitted this. However, it became obvious that the Governor was ill-equipped and ill-prepared for such an interaction and his mainstay argument was that he was a “grandfather”.

The Governor was not advised that there is no legal immunity to older men from being investigated on criminal charges and such a defence only seemed to weaken the credibility of the Santhanam Committee.

Moreover, towards the end of the interaction, the Governor acted in an inappropriate manner with a woman journalist prompting immediate outrage. The irony that such an incident took place during a press meet called to discuss allegations of sexual misconduct and crimes against women is not lost on anyone. In fact, it further affirms the risks, hurdles, challenges and threats faced by working women across the country. The Governor's apology written to the journalist today makes the lame excuse that he considered her to be his “granddaughter”. The entire incident is a

textbook example of how powerful men can get away with inappropriate behaviour.

It is amidst these developments that the DMK has called for the resignation or removal of the Governor. It is expected that the Governor will now brazen it out and refuse to step down. It is important to recall here that the Supreme Court, speaking through a five-judge bench, in *B P Singhal vs Union of India*, 2010, has reaffirmed the grounds in which a Governor may be removed by the President. One such ground is “behaviour unbecoming of a Governor”. It is now up to the President to decide whether this would be attracted in the present case.

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