

A MANDATE FOR GOVERNORS: ON NEET EXEMPTION BILL

Relevant for: Indian Polity | Topic: State Legislatures - structure, functioning, conduct of business, powers & privileges and issues arising out of these

Banwarilal Purohit. File

The demand to constitutionally mandate Governors to act within a time frame on files including legislations sent to Raj Bhavan by an elected government is being given a consistent push by Tamil Nadu in recent months. Flagging the issue at the 82nd All India Presiding Officers Conference in Shimla last November, Legislative Assembly Speaker M. Appavu, pointed out that Governors sometimes sit on Bills without giving assent or returning it “for an indefinite period”.

The underlying context was clear. The ruling DMK has been unable to fulfil its electoral promise of abolishing NEET. The T.N. Admission to Undergraduate Medical Degree Courses Bill, adopted by the Assembly in September 2021 to dispense with NEET and facilitate admissions based on Plus Two marks, remains under the consideration of Governor R.N. Ravi. As NEET comes under the Centre’s purview, it is required that the Governor forward the Bill for Presidential assent. This delay has upset Chief Minister M.K. Stalin, who has argued that it was the basic principle of a democracy that when the Assembly invoked its right and enacted a law, the Governor “should respect it and give it his approval”. Governors, though heads of the State Executive, are appointed by the Union Government. “Therefore, when they stall the assent to a Bill, they are virtually overruling the will of the people of the State,” Mr. Appavu said. He called for setting a “binding time frame” within which Bills must receive assent, be returned, or reserved for the consideration of the President by the Governors.

The issue echoed in the Rajya Sabha last month when DMK MP P. Wilson called for amending the Constitution to fix time limits for Governors to act on Bills. He said it should be inferred that the Constitution places a “fiduciary duty” on the Governor “to act within a reasonable time frame”. Undue delay in performance of constitutional functions is ex-facie unconstitutional. “The Governor ultimately owes a responsibility to the people on whose behalf, and for whose welfare, the Legislatures, which carry the people’s mandate, enact laws.”

The NEET exemption Bill being held up is not an isolated one. The previous AIADMK government, despite being a BJP ally, could not get then Governor Banwarilal Purohit to do its bidding. For nearly 45 days, he did not grant assent to a 2020 Bill providing for 7.5% horizontal reservation for NEET-qualified government school students in medical colleges. Pushed to a corner by the DMK, the erstwhile Edappadi K. Palaniswami government hastily took the executive route to issue a G.O. giving effect to its decision. Mr. Purohit granted assent to the Bill the next day but justified the delay saying he was awaiting the Solicitor General’s opinion.

Curiously, Mr. Purohit did not adopt the same legal yardstick for another legislation of a sensitive nature. He almost instantly granted assent to a Bill providing for 10.5% internal reservation for Vanniakula Kshatriyas within the quota for the MBCs, which was adopted by the House hours before the Election Commission notified the Assembly election schedule. The quota has been quashed by the Madras High Court and is under appeal before the Supreme Court. A related aspect of this conundrum flagged by Mr. Appavu is of significance. If the President withholds the assent and returns any Bill, should he not give reasons, Mr. Appavu asked. This would enable the Assembly to enact another Bill, correcting the shortcomings. In 2017, the President had withheld consent for two NEET exemption Bills passed by the Assembly, the reasons for which

remain unknown. There is a need to take T.N.'s demand forward to ensure Governors and Presidents act on legislative actions.

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A new form of 'Gandhian' democratic socialism powered by cooperative economic enterprises is required

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