

## STATE OF PUNJAB/ CM OF PUNJAB V PRINCIPAL SECRETARY TO THE GOVERNOR OF PUNJAB

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### INTRODUCTION

The case of State of Punjab v. Chief Secretary to the Governor of Punjab (2023)<sup>1</sup> raises significant constitutional and political questions regarding the powers and duties of the Governor in the legislative processes of the state<sup>2</sup>. On 22 February 2023, the Governor of Punjab received a recommendation from the Council of Ministers to convene the Vidhan Sabha of Punjab for a budget session beginning on 3 March 2023 by Article 174(1) of the Constitution of India.<sup>3</sup> However, the governor was reluctant to act on this advice, citing the need for legal counsel. This led to a petition being filed in the Supreme Court on 25 February 2023 challenging the Governor's reluctance. In its judgment, the Supreme Court emphasized the importance of mature political governance. The court ruled that the Governor need not seek legal advice to convene the budget session of the Legislative Assembly and must follow the advice of the Council of Ministers. Despite this decision, the governor later expressed concern about the validity and legality of bills passed during the session, considering asking the attorney general for an opinion or reserving the bills for presidential assent. This created a conflict where the governor questioned the legitimacy of the session and asked for a new session citing procedural issues. The case dealt with the fundamental questions of whether the governor can delay the passage of laws passed by the state legislature and the legality of the speaker's conduct in conducting a session of the assembly. The petitioners argued that the Governor exceeded his constitutional powers by treating the sine die adjournment as a prorogation and that the Speaker had the right to reconvene the Assembly under the Vidhan Sabha Rules of Procedure. The respondents argued that proceeding without formal prorogation violated procedural norms, calling into question the legitimacy of the approved bills. The Supreme Court's decision clarified the constitutional roles of the governor and the speaker and emphasized that the real authority in a parliamentary system rests with elected officials. He outlined the discretionary

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<sup>1</sup> [https://main.sci.gov.in/supremecourt/2023/44896/44896\\_2023\\_1\\_19\\_48220\\_Judgement\\_10-Nov-2023.pdf](https://main.sci.gov.in/supremecourt/2023/44896/44896_2023_1_19_48220_Judgement_10-Nov-2023.pdf)

<sup>2</sup> <https://upgovernor.gov.in/en/page/constitutional-role-of-the-governor>

<sup>3</sup> <https://rajbhavan-maharashtra.gov.in/en/constitutional-roles-in-brief/>

powers of the Governor under Article 200 and the power of the Speaker<sup>4</sup> to direct legislative proceedings. The court warned against interpretations that could allow the governor to subvert the legislative process and reaffirmed the principles of constitutional democracy and parliamentary rule. This landmark case serves as a crucial precedent in defining the constitutional duties and limitations of civil servants under the Indian parliamentary system.

## FACTS OF THE CASE

On 22 February 2023, the Governor of Punjab received a request from the Council of Ministers to convene the Punjab Vidhan Sabha for the Budget Session, scheduled to begin on 3 March 2023 under Article 174(1) of the Constitution. The Governor hesitated, citing the need for legal counsel, leading to the lawsuit filed in court on February 25, 2023. In the case of *State of Punjab v. Chief Secretary to the Governor of Punjab (2023)*, the Supreme Court emphasized the importance of mature political governance.<sup>5</sup> The court ruled that the Governor does not need legal counsel to convene the budget session of the Legislative Assembly and must follow the advice of the Council of Ministers. Following the court's decision, the Speaker opened a session of the Assembly during which several bills were passed and sent to the Governor for assent. However, the governor questioned the validity and legality of these bills and considered seeking the attorney general's opinion or reserving them for presidential assent. The governor then asked the chief minister to convene a new monsoon or winter session, alleging that the session in which the bills were passed was illegitimate. This refusal to sign the bills without formal notice led to another petition<sup>6</sup> in the case of *the State of Punjab v. Chief Secretary to the Governor of Punjab and others (2023)*.

## LEGAL ISSUES

The issues in the case of *State of Punjab v. Chief Secretary to the Governor of Punjab and others* were:

1. Whether the governor has the power to delay approval of bills passed by the state legislature.

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<sup>4</sup> [https://www.livelaw.in/pdf\\_upload/356-state-of-telangana-v-governor-24-apr-2023-470355.pdf](https://www.livelaw.in/pdf_upload/356-state-of-telangana-v-governor-24-apr-2023-470355.pdf)

<sup>5</sup> <https://frontline.thehindu.com/columns/supreme-court-ruling-on-state-governor-powers-a-game-changer-for-federal-disputes/article67569425.ece>

<sup>6</sup> <https://www.thehindu.com/news/national/governors-cant-sit-on-bills-claiming-assembly-session-was-invalid-supreme-court/article67522151.ece>

2. Whether it is lawful for the Speaker of the Vidhan Sabha to reconvene a session that has been adjourned but not formally adjourned.

### **OBSERVATION OF SUPREME COURT**

In the case of *State of Punjab v. Chief Secretary to the Governor of Punjab and others* (2023), the Supreme Court examined key constitutional issues relating to the powers and responsibilities of the Governor and the Chairman of the Vidhan Sabha. The court concluded that the governor must follow the advice of the Council of Ministers and does not require additional legal counsel to convene the budget session. It confirmed the budget session held on March 3, 2023, arguing that a sine die adjournment did not amount to a prorogation, which the governor had no power to interpret otherwise. The Supreme Court further strengthened the power of the Speaker to convene and preside over the proceedings of the House, including convening a special meeting of the Assembly in June 2023 under Article 16 of the Rules of Procedure of the Vidhan Sabha.<sup>7</sup> The speaker's role in enforcing procedural rules and conducting House business was upheld, and the court found that the governor's unilateral declaration of the June session's unconstitutionality was beyond its constitutional bounds, potentially invalidating legislative action taken during that period. The court also looked at the historical context, noting the Governor's immediate prior assent to 185 bills, barring recent concerns over sine die adjournment that led to the rejection of four bills. The opponents emphasized the need for prorogation under Article 14A<sup>8</sup> and questioned the legitimacy of the June session, while the petitioners maintained its legitimacy and sought redress under Article 32 of the Constitution<sup>9</sup>. In its concluding remarks, the Supreme Court clarified that the governor cannot withhold assent to bills indefinitely and must act within the constitutional parameters set by Article 200, which allows bills to be returned for fresh consideration but not postponed indefinitely. The judgment emphasized the importance of parliamentary democracy and responsible political governance and argued that the Governor's actions must be consistent with constitutional obligations and limitations. This case underscored the importance of upholding constitutional principles and the effective functioning of democratic institutions within the Indian Parliament.

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<sup>7</sup> [https://uplegisassembly.gov.in/Niyamavali/pdf/Rules\\_english/1\\_niyamavali\\_1958\\_english.pdf](https://uplegisassembly.gov.in/Niyamavali/pdf/Rules_english/1_niyamavali_1958_english.pdf)

<sup>8</sup> <https://www.indiacode.nic.in/show>

<sup>9</sup> <https://www.jstor.org/stable/4408327>

## DECISION

In the case of *State of Punjab v. Chief Secretary to the Governor of Punjab and others* (2023), the Supreme Court delivered a landmark judgment after hearing arguments from both sides. The Court provided clear guidance on the roles and powers of the Governor and Speaker of the Legislature, particularly focusing on the interpretation of Article 200 of the Constitution in the context of a parliamentary democracy. The court emphasized that in a parliamentary system the governor, as the symbolic head of state, acts based on the "aid and advice" of the Council of Ministers headed by the chief minister. This underlines the democratic principle that elected representatives have essential legislative and executive powers, while the role of the governor is ceremonial and advisory in nature. Regarding Article 200, the Court clarified that the Governor has the power under its first provision to return non-money bills to the Assembly for reconsideration, along with recommendations for changes. The court emphasized, however, that this power did not extend to the indefinite detention of bills and emphasized the governor's constitutional duty to promptly return bills to the Assembly for further consideration. The court also upheld the power of the Speaker of the Vidhan Sabha to reconvene the Assembly after a sine die adjournment without prorogation. This power, which is vested in the Speaker under Article 178 of the Constitution, enables effective management of the proceedings of the House, including decisions on adjournment and reconvening.<sup>10</sup> In upholding the legality of the sessions of the Assembly convened on 19 and 20 June 2023 in the Speaker's jurisdiction, the court allowed the governor to proceed with his decisions on bills introduced during those sessions. However, the court warned against interpretations of Article 200 that could potentially impede the legislative process and emphasized the need to uphold the basic principles of constitutional democracy in all government actions. Overall, the Supreme Court judgment underscored the pivotal roles of elected representatives and the constitutional boundaries within which both the Governor and the Speaker must operate to ensure the smooth functioning of democratic governance.

## CONCLUSION

In the case of *State of Punjab v. Chief Secretary to the Governor of Punjab* (2023), the Supreme Court of India delivered a landmark decision that underscored the basic principles of parliamentary democracy and constitutional governance. The Court unequivocally affirmed

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<sup>10</sup> <https://ltdashboard.legislative.gov.in/sites/default/files/COI...pdf>

that the Governor must follow the "aid and advice" of the Council of Ministers, thereby reinforcing the primacy of elected representatives in legislative matters. This decision reaffirmed the ceremonial role of the Governor and the advisory nature of his authority vis-à-vis the Executive Council headed by the Chief Minister. Additionally, the Court clarified the Governor's powers under Article 200 of the Constitution regarding the return of bills and emphasized that these powers should not be used to indefinitely delay legislative approval. This interpretation aimed to ensure the smooth functioning of legislative processes without unnecessary obstructions. In addition, the Court upheld the Speaker's prerogative to reconvene the Assembly after sine die adjournment, thereby supporting the Speaker's role as guardian of procedural integrity in the legislative framework. By confirming the legitimacy of meetings convened under these circumstances, the Court supported the effective functioning of democratic institutions. In this case, the Supreme Court's judgment establishes an important precedent, underscoring its role in protecting constitutional principles, democratic norms, and the fragile balance of power. It emphasizes the necessity of upholding the rule of law to preserve the integrity and effectiveness of India's parliamentary democracy.

