

Presidential Reference and Timelines for Assent

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Presidential Reference and Timelines for Assent: A Constitutional Dilemma

Introduction

On **July 22, 2025**, the **Supreme Court** issued notices to the **Union Government** and all **State Governments** in response to a **Presidential Reference**. The matter seeks the Court's opinion on whether **the President and Governors can be judicially compelled to act within defined timelines** on Bills passed by State legislatures. A **five-judge Constitution Bench**, led by Chief Justice **B.R. Gavai**, is set to begin detailed hearings in **mid-August**.

What is the Presidential Reference?

- The Reference originates from **President Droupadi Murmu's submission of 14 legal questions**, following the **Supreme Court's April 8 verdict**.
 - The verdict responded to a petition by the **Tamil Nadu Government**, challenging the **Governor's delay** in assenting to **10 State Bills**.
 - The Court held that the **Governor's inaction was unconstitutional** and imposed **judicially enforceable timelines** for both **Governors and the President**.
 - The Presidential Reference now seeks clarity on whether **courts can prescribe the manner and timeframe** within which these constitutional authorities must act.
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Can the Supreme Court Provide an Opinion?

- **Article 143(1)** empowers the **President** to seek the Supreme Court's **advisory opinion** on

matters of **public importance**.

- The **Court may choose to answer or decline** the Reference based on its discretion.
 - The Supreme Court must **confine itself to the specific legal questions referred** and cannot go beyond the scope of the Reference.
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Can the Court Decline a Reference?

- The Court has previously declined to entertain certain References. In **Re: Special Courts Bill (1978)**, it held that the term “may” in Article 143(1) implies **discretion**.
 - In **1993**, it refused to respond to the **Ayodhya-Babri Masjid Reference**, declaring it **unconstitutional** as it violated **secular principles** and had **ongoing civil litigation**.
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Are Advisory Opinions Binding?

- **Advisory opinions are not binding precedents** under **Article 141**, which governs binding law.
 - However, such opinions hold **persuasive value** and have influenced future rulings.
 - In **R.K. Garg v. Union of India (1981)**, the Court treated an advisory opinion as **effectively binding**, despite earlier caveats against doing so.
 - Nonetheless, the **April 8 judgment**, issued under adjudicatory jurisdiction, remains **legally binding** and prevails regardless of any advisory opinion.
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Can the April 8 Ruling Be Overturned via the Reference?

- The Supreme Court in the **Cauvery Water Dispute Reference** held that Article 143 **cannot be used to review or reverse settled decisions**.
- Judicial review of the April 8 verdict can only be sought through **review or curative petitions**.

- However, in **Natural Resources Allocation (2012)**, the Court acknowledged that Article 143 can be used to **clarify or restate legal principles**, as long as the **core judgment remains untouched**.
 - A 1998 Reference also led to **modifications in the functioning of the collegium system**, without overruling the **1993 judgment** on judicial appointments.
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Conclusion

The ongoing Presidential Reference marks a significant constitutional moment, focusing on the **separation of powers** and the **functional accountability of constitutional heads**. While the **Supreme Court's April 8 ruling remains binding**, the Constitution Bench now has an opportunity to **refine, elaborate, or clarify** the law regarding the **timely functioning of the President and Governors**. However, any advisory opinion issued in this matter will **not carry binding legal force**, ensuring that the **existing judgment continues to guide State-Centre legislative interactions**.



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