

ITEM NO.16

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 1239/2023

THE STATE OF TAMIL NADU

Petitioner(s)

VERSUS

THE GOVERNOR OF TAMILNADU & ANR.

Respondent(s)

(FOR ADMISSION)

Date : 10-11-2023 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Abhishek Manu Singhvi, Sr. Adv.
 Mr. Mukul Rohatgi, Sr. Adv.
 Mr. P Wilson, Sr. Adv.
 Mr. Sabarish Subramanian, AOR
 Mr. C Kranthi Kumar, Adv.
 Mr. Vishnu Unnikrishnan, Adv.
 Mr. Apoorv Malhotra, Adv.
 Mr. Naman Dwivedi, Adv.
 Mr. Danish Saifi, Adv.
 Ms. Keerthana Vijaykumar, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 The State of Tamil Nadu has moved this Court in the exercise of the jurisdiction under Article 32 of the Constitution.
- 2 Article 200 of the Constitution requires that when a Bill has been passed by the

Legislative Assembly of a State or where a State has a bicameral legislature, by both the Houses, it shall be presented to the Governor, who shall declare (I) assents to the bill; or (ii) withholds assent therefrom; or (iii) reserves the Bill for the consideration of the President.

3 The proviso to Article 200 stipulates that the Governor may “as soon as possible” after the presentation of the Bill for assent, return the Bill, if it is not a Money Bill, together with a message requesting that the House or Houses may reconsider the Bill or any specific provisions. If the Bill is passed again by the House or Houses, the Governor, it is provided, shall not withhold it.

4 The State of Tamil Nadu has highlighted four categories of cases :

(i) Cases where the Bills which have been passed by the Tamil Nadu Legislative Assembly between 2020 and 2023 are pending though they were submitted for the assent of the Governor between 13 January 2020 and 28 April 2023. A tabulated statement of the 12 Bills, as contained in the Writ Petition, is set out below :

“Sl. No.	Bill No.	Subject	Present Stage
1.	2/2020	A Bill further to amend the Tamil Nadu Fisheries University Act, 2012. To confer the Government with the power of inspection and inquiry instead of the Chancello and to include a Government Nominee in the panel for selection for	Sent to the office of the Hon’ble Governor for his assent on 13.01.2020 (A True Copy of the Bill No 2/2020 forwarded by the Petitioner is annexed and marked as

		<p>appointment as Vice-Chancellors</p> <p>(The Bill was passed in the Tamil Nadu Legislative Assembly on 9th January, 2020)</p>	<p><u>ANNEXURE P-1</u> (pg. 71-74)</p>
2.	12/2020	<p>A Bill further to amend the Tamil Nadu Veterinary and Animal Sciences University Act, 1989.</p> <p>To confer the Government with the power of inspection and inquiry instead of the Chancellor.</p> <p>(The Bill was passed in the Tamil Nadu Legislative Assembly on 9th January, 2020)</p>	<p>Sent to the office of the Hon'ble Governor for his assent on 18.10.2020</p> <p>(A True Copy of the Bill No 12/2020 forwarded by the Petitioner is annexed and marked as <u>ANNEXURE P-2</u> (pg. 75-76)</p>
3.	24/2022	<p>The bill to amend the Universities laws. The Vice-Chancellors of all Universities (except University of Madras) to be appointed by the Government instead of Governor.</p> <p>To empower the State Government to appoint the Vice-Chancellor of the state universities under the administrative control of the Higher Education Department</p> <p>(The Bill was passed in the Tamil Nadu Legislative Assembly on 25th April, 2022)</p>	<p>Sent to the office of the Hon'ble Governor for his assent on 28.04.2022</p> <p>(A True Copy of the Bill No 24/2022 forwarded by the Petitioner is annexed and marked as <u>ANNEXURE P-3</u> (pg. 77-85)</p>
4.	25/2022	<p>A bill further to amend the Chennai University Act, 1923. The Vice-Chancellor, University of Madras to be appointed by the Government instead of Governor and inclusion of Finance Secretary as a member in the Syndicate of University of Madras.</p> <p>(The Bill was passed in the</p>	<p>Sent to the office of the Hon'ble Governor for his assent on 28.04.2022</p> <p>(A True Copy of the Bill No 25/2022 forwarded by the Petitioner is annexed and marked as</p>

		Tamil Nadu Legislative Assembly on 25 th April, 2022)	<u>ANNEXURE P-4</u> (pg. 86-87)
5	26/2022	A Bill to provide for the Establishment and Incorporation of a University for Siddha Ayurveda, Unani, Yoga & Naturopathy and Homeopathy in the State (The Bill was passed in the Tamil Nadu Legislative Assembly on 28 th April, 2022)	Sent to the office of the Hon'ble Governor for his assent on 05.05.2022 (A True Copy of the Bill No 26/2022 forwarded by the Petitioner is annexed and marked as <u>ANNEXURE P-5</u> (pg. 88-127)
6	29/2022	A Bill further to amend the Tamil Nadu Dr. Ambedkar Law University Act, 1996. To empower the State Government instead of Governor to appoint the Vice-Chancellor of the University. (The Bill was passed in the Tamil Nadu Legislative Assembly on 10 th May, 2022)	Sent to the office of the Hon'ble Governor for his assent on 16.05.2022 (A True Copy of the Bill No 29/2022 forwarded by the Petitioner is annexed and marked as <u>ANNEXURE P-6</u> (pg. 128-130)
7	39/2022	A Bill further to amend the Tamil Nadu Dr. M.G.R. Medical University, Chennai Act, 1987 To empower the State Government instead of Governor to appoint the Vice-Chancellor of the University. (The Bill was passed in the Tamil Nadu Legislative Assembly on 10 th May, 2022)	Sent to the office of the Hon'ble Governor for his assent on 16.05.2022 (A True Copy of the Bill No 39/2022 forwarded by the Petitioner is annexed and marked as <u>ANNEXURE P-7</u> (pg. 131-132)
8	40/2022	A Bill further to amend the Tamil Nadu Agricultural University Act, 1971. To empower the State Government instead of Governor to appoint the	Sent to the office of the Hon'ble Governor for his assent on 16.05.2022 (A True Copy of the

		Vice-Chancellor of the University. (The Bill was passed in the Tamil Nadu Legislative Assembly on the 10 th May 2022)	Bill No 40/2022 forwarded by the Petitioner is annexed and marked as <u>ANNEXURE P-8</u> (pg. 133-135)
9	48/2022	A bill further to amend the Tamil Nadu Universities Laws. Inclusion of Finance Secretary as a member in the Syndicate of all Universities (except University of Madras, Mother Teresa Women's University and Tamil Nadu Teachers Education University) (The Bill was passed in the Tamil Nadu Legislative Assembly on 19 th October 2022)	Sent to the office of the Hon'ble Governor for his assent on 27.10.2022 (A True Copy of the Bill No 48/2022 forwarded by the Petitioner is annexed and marked as <u>ANNEXURE P-9</u> (pg. 136-142)
10	55/2022	A Bill further to amend the Tamil University Act, 1982. To empower the State Government instead of Governor to appoint the Vice-Chancellor of the University. (The Bill was passed in the Tamil Nadu Legislative Assembly on 19 th October, 2022)	Sent to the office of the Hon'ble Governor for his assent on 27.10.2022 (A True Copy of the Bill No 55/2022 forwarded by the Petitioner is annexed and marked as <u>ANNEXURE P-10</u> (pg. 143-144)
11	15/2023	A Bill further to amends the Tamil Fisheries University Act, 2012. To empower the State Government instead of Governor to appoint the Vice-Chancellor of the University. (The Bill was passed in the Tamil Nadu Leglsative Assembly on the 21 st April, 2023)	Sent to the office of the Hon'ble Governor for his assent on 28.04.2023 (A True Copy of the Bill No 15/2023 forwarded by the Petitioner is annexed and marked as <u>ANNEXURE P-11</u> (pg. 145-146)
12	18/2023	A Bill further to amend the Tamil	Sent to the office of the

		Nadu Veterinary and Animal Sciences University Act, 1989. To empower the State Government instead of Governor to appoint the Vice-Chancellor of the University (The Bill was passed in the Tamil Nadu Legislative Assembly on the 21 st April, 2023.	Hon'ble Governor for his assent on 28.04.2023 (A True Copy of the Bill No 18/2023 forwarded by the Petitioner is annexed and marked as <u>ANNEXURE P-12</u> (pg. 147-149)
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- (ii) The second category consists of four files which have been submitted to the Governor between 10 April 2022 and 15 May 2023 for according sanction for prosecution of various crimes involving alleged acts of moral turpitude on the part of public servants under the Prevention of Corruption Act 1988;
- (iii) The third category consists of 54 files for the premature release of prisoners submitted to the Governor between 24 August 2023 and 28 June 2023; and
- (iv) The fourth category consists of proposals submitted to the Governor for appointment of members to the Tamil Nadu Pubic Service Commission under Article 316 of the Constitution. In this regard, it has been submitted that the Tamil Nadu Public Service Commission is functioning with a strength of four members out of a total of fourteen resulting in the dislocation of the Public Service Commission.
- 5 The issues which have been raised in the Writ Petition, raise a matter of serious

concern. From the tabulated statements which have been submitted before this court, it appears that as many as 12 Bills which have been submitted to the Governor under Article 200 have not elicited any further action. Other matters such as proposals for the grant of sanction for prosecution; proposals for the premature release of prisoners; and for the appointment of the members of the Public Service Commission are pending.

- 6 Bearing in mind the above situation, we issue notice to the second respondent, namely, the Union of India represented by the Secretary to the Government in the Ministry of Home Affairs.
- 7 We request the Attorney General for India or, in his absence, the Solicitor General of India to assist the Court.
- 8 Service may also be effected dasti on the office of the Central Agency.
- 9 List the Writ Petition on 20 November 2023.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR