

IN THE SUPREME COURT OF INDIA

ADVISORY JURISDICTION

**INTERLOCUTORY APPLICATION NO. OF 2025**

IN

**SPECIAL REFERENCE CASE NO. 1 OF 2025**

**IN THE MATTER OF:**

IN RE: ASSENT, WITHHOLDING POR RESERVATION OF BILLS BY THE  
GOVERNOR AND THE PRESIDENT OF INDIA

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**PAPER BOOK**

**ADVOCATE FOR THE GOVERNMENT OF TAMIL NADU: T. HARISH KUMAR**

Filed On: 28.07.2025

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IN RE:               ASSENT, WITHHOLDING OR RESERVATION OF BILLS BY THE  
GOVERNOR AND THE PRESIDENT OF INDIA

**APPLICATION FOR DIRECTIONS ON BEHALF OF GOVERNMENT OF  
TAMIL NADU TO DECLARE THAT THE REFERENCE IS NOT  
MAINTAINABLE AND TO RETURN THE REFERENCE UNANSWERED**

TO  
THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUDGES OF THE  
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF THE  
RESPONDENT ABOVE NAMED:-

**MOST RESPECTFULLY SHOWETH:**

1. The Applicant State of Tamil Nadu is filing the present application for directions from this Hon'ble Court to declare that the Presidential Reference dated 13.05.2025 issued by Her Excellency, The Hon'ble President of India is not maintainable and to return the said Reference **as unanswered in whole, without prejudice to the arguments advanced by the Appellant before this Hon'ble Court.**

2. Her Excellency the Hon'ble President of India has made the above Presidential Reference dated 13.05.2025 under the Article 143 of the Constitution of India seeking the opinion of this Hon'ble Court on 14 questions that include the interpretation of the powers of the Hon'ble Governor under the Article 200 of the Constitution and the powers of the Hon'ble President under the Article 201 of the Constitution alongwith ancillary issues. This Hon'ble Court vide order dt. 22.07.2025 was pleased to issue notice to all the States.

3. The Applicant reserves its right to take such additional grounds as may be advised at the time of hearing of the present Presidential Reference.

4. The Presidential Reference dated 13.05.2025 issued by Her Excellency, The Hon'ble President of India is not maintainable for the following reasons set out below:

a. The Presidential Reference dated 13.05.2025 raises questions of law pertaining to interpretation of the powers of the Hon'ble Governor under the Article 200 of the Constitution and the powers of the Hon'ble President under the Article 201 of the Constitution alongwith ancillary issues **which have been directly answered** by this Hon'ble Court recently in ***The State of Tamil Nadu vs. The Governor of Tamil Nadu 2025 SCC OnLine SC 770*** in an exhaustive manner.

b. The above Presidential Reference was issued by Her Excellency, The Hon'ble President of India on 13.05.2025 merely one month after 08.04.2025 i.e. the date of pronouncement of the judgement in ***The State of Tamil Nadu vs. The Governor of Tamil Nadu 2025 SCC OnLine SC 770*** by this Hon'ble Court.

c. A cursory view of the Whereas clauses forming the Presidential Reference would reflect that the above Reference has been issued to overrule the decision and directions of this Hon'ble Court in ***State of Tamil Nadu (supra)*** judgement and make it clear that the above Presidential Reference is nothing but an Appeal in disguise, which is impermissible in law as this Hon'ble Court has no power to overrule its own judgements by way of Article 143.

d. Furthermore, this Hon'ble Court in ***Ahmedabad St. Xavier's College Society v. State of Gujarat, (1974) 1 SCC 717 (Para-51)*** has opined that an opinion rendered by this Hon'ble Court in a Presidential

Reference under Article 143 of the Constitution is advisory in nature and not binding in subsequent cases, though it carries great persuasive value. Therefore, the present Presidential Reference is headless and devoid of merit.

e. The Questions 1 to 11 and 13 have already been decided in detail by this Hon'ble Court in ***The State of Tamil Nadu vs. The Governor of Tamil Nadu 2025 SCC OnLine SC 770***. The Chart highlighting the relevant phrases of the above judgement is hereunder:

<u>Q No.</u>	<b>Directly addressed in State of TN vs Governor of TN</b>	<b>Indirectly addressed in State of TN vs Governor of TN</b>
1.	<b>Para 434(I), 434(II) and 434(VII)</b> Reasoning @Para 180, 185-189, 194-198	
2.	<b>Para 434(XV)</b> Reasoning @Para 292-297, 303-306, 307-312, 315-318	
3.	<b>Para 434(XXII), 434(XXIII), Para 434(XXIV)</b> Reasoning @Para 332, 335, 338, 344, 348-350, 357,358, 363-367	
4.		<b>Para 333</b>
5.	<b>Para 434(XII), Para 434(XIII)</b> Reasoning @Para 223-224, 231, 236 to 250	
6.	<b>Para 368</b> Reasoning @Para 357-367	
7.	<b>Para 434(XIX)</b> Reasoning @Para 379-391	
8.	<b>Para 434(XX)</b> Reasoning @Para 410-412, 414-421	

9.	<b>Para 434(XIX)</b> Reasoning @Para 231-234, 250-251 & Para 411, 412, 414-417	
10.	<b>Para 432-433</b> Reasoning @Para 426, 430-433	
11.	<b>Para 239-241, 350, 428, 434 (IX), 435(c)</b> These findings have to be read with the perspective of invocation of Article 142 by this Hon'ble Court to do substantial justice.	
12.	The Article 145(3) of the Constitution is clear that reference of a case involving a substantial question of law as to the interpretation of this Constitution is not automatic.	
13.	<b>Para 432-433</b>	

f. Whereas the Question Nos.11; 12 and 14 are irrelevant in comparison with the Question Nos. 1-10 and 13 as they were not neither raised or dealt with by this Hon'ble Court in ***State of Tamil Nadu (supra)*** and furthermore, do not have any academic application with the substantive questions as well. The event of raising Question No.14 does not arise due to the fact that the dispute in ***State of Tamil Nadu (supra)*** was between the Hon'ble Governor and the State Government and not between the State Government and Union of India. However, the Question No.14 proceeds on the assumption that the Hon'ble Governor is an organ of the Union of India which is wholly illegal and erroneous.

g. That currently, no review or curative petition has been preferred by the Hon'ble Governor of Tamil Nadu against the judgement of this Hon'ble Court in ***The State of Tamil Nadu vs. The Governor of Tamil Nadu 2025 SCC OnLine SC 770.***

h. The above Presidential Reference is nothing but an attempt to disturb the settled law and overrule the findings already pronounced by this Hon'ble Court which is impermissible under Article 143 of the

Constitution. This Hon'ble Court in ***Cauvery Water Disputes Tribunal, Re, 1993 Supp (1) SCC 96 (2) (Para 83 to 85)*** has held that this Hon'ble Court cannot sit in appeal over a decision while exercising its adjudicatory jurisdiction nor is it competent for the Hon'ble President to invest the Hon'ble Supreme Court with an appellate jurisdiction over the said decision through a Reference under Article 143 of the Constitution.

i. Similar view was taken by this Hon'ble Court in ***Special Reference No. 1 of 2002 (Gujarat Assembly Elections) (2002) 8 SCC 237*** wherein it was held that this Hon'ble Court is well within its jurisdiction under Article 143(1) of the Constitution if the questions referred **are likely to arise in future** or **such questions are of public importance** or **there is no decision of this Court which has already decided the question referred.**

j. Further, this Hon'ble Court in ***Shrimanth Balasaheb Patil v. Karnataka Legislative Assembly, (2020) 2 SCC 595 Para 158 and 160*** has settled the law pertaining to invoking of Article 145(3) for referring the substantial questions of law as to the interpretation of the constitution to a larger bench of 5 judges only to the following two conditions:

- i. the case must involve a substantial question of constitutional interpretation, and
- ii. its determination must be necessary for disposal of the case incidental or ancillary legal questions, or those already conclusively settled, do not qualify as substantial questions of law.

Therefore, the issue raised under Question No.12 is no longer unanswered as this Hon'ble Court has already answered the questions of law pertaining to interpretation of the powers of the Hon'ble Governor under the Article 200 of the Constitution and the powers of the Hon'ble President under the Article 201 of the Constitution in (a) ***State of Punjab vs. Principal Secretary to***

***the Governor and Anr. (2024) 1 SCC 384, (b) The State of Telangana vs. Secretary to her Excellency the Hon'ble Governor of the State of Telangana WP(C) No. 1224 of 2023 (c) The State of Tamil Nadu vs. The Governor of Tamil Nadu 2025 SCC OnLine SC 770.***

5. It is prima-facie evident that the present Presidential Reference is nothing but an appeal in disguise to disturb the settled law and overrule the findings already pronounced by this Hon'ble Court due to which the present Presidential Reference ceases to raise any such legitimate substantial questions of law leading to an expediency in obtaining the opinion of this Hon'ble Court. Therefore, the Presidential Reference dated 13.05.2025 deserves to be unanswered as a whole and liable to be returned.

#### **PRAYER**

It is therefore humbly prayed that in the facts and circumstances of the present case, this Hon'ble Court may be pleased to:

- a. Declare that the Presidential Reference dated 13.05.2025 issued by Her Excellency Hon'ble President is not maintainable;
- b. Return the Presidential Reference dated 13.05.2025 to Her Excellency Hon'ble President of India unanswered;
- c. Pass any such other order or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS THE HUMBLE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY

SETTLED BY:

**Mr. P. Wilson, Sr. Advocate**

DRAWN BY:

Mr. Richardson Wilson, Adv  
Mr. Apoorv Malhotra, Adv

FILED BY

*T. Harish Kumar*

**T HARISH KUMAR**  
**Advocate for the Applicant/**  
**Government of Tamil Nadu**

IN THE SUPREME COURT OF INDIA  
ADVISORY JURISDICTION  
SPECIAL REFERENCE NO.1 OF 2025

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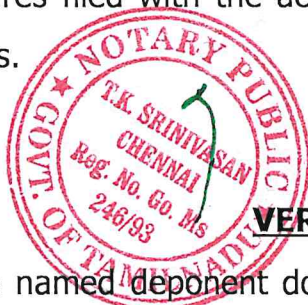
IN THE MATTER OF:

IN RE: Assent, Withholding or Reservation of Bills by the Governor  
and the President of India

**AFFIDAVIT**

I, Reeta Harish Thakkar, D/o. Harish Thakkar, aged about 58, years, working as the Secretary to Government of Tamil Nadu, Public and Rehabilitation Department, having office at Secretariat, Fort Saint George, Chennai – 600 009, Tamil Nadu, do hereby solemnly affirm and declare as under:-

1. I am the Secretary to Government, Public Department, Government of Tamil Nadu, in the above noted matter and as such competent to swear this Affidavit. I am well acquainted with the facts of the case. I file this affidavit on behalf of the Chief Secretary to Government of Tamil Nadu.
2. I have read and understood the contents of Interlocutory Application (Application for Direction) and I say that the contents thereof are true and correct to the best of my knowledge and belief.
3. The annexures filed with the accompanying application are true copies of their respective originals.



**VERIFICATION**

I, the above named deponent do hereby verify that the contents made in para Nos.1 to 3 of the above affidavit are true and correct to the best of my knowledge and belief. Nothing material has been concealed there from.

Verified by me on this the 28<sup>th</sup> day of July, 2025 at  
Chennai

*Habit*  
DEPONENT  
Secretary to Government  
Public and Rehabilitation Department  
Secretariat, Chennai-600 009.

*Habit*  
DEPONENT

Before me:  
Notary Public

**ATTESTED BY ME**

*28/07/2025*  
**T.K. SRINIVASAN, B.A., B.L.**  
ADVOCATE & NOTARY PUBLIC  
# 12, SUNDARA VINAYAGAR KOIL ST.,  
CHENNAI - 600 021.  
Mob : 9840657838



Secretary to Government  
Public and Rehabilitation Department  
Secretariat, Chennai-600 009.