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EDITORIAL ANALYSIS

Governor's Discretion and Constitutional Morality: Tamil Nadu's Government Formation Crisis

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Governor's Discretion and Constitutional Morality: Tamil Nadu's Government Formation Crisis

The Indian Express 9 May 2026 **GS2**

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INTERVIEW ANGLE

"Should India abolish the office of Governor and replace it with a directly elected state head, or is the current office salvageable through binding constitutional conventions?"

EDITORIAL SUMMARY:

Indian Express examines Tamil Nadu's post-election gubernatorial delay in inviting the single largest party to form a government, arguing that gubernatorial discretion must be bounded by constitutional conventions and democratic morality — and that a Governor who refuses or delays invitation to the majority party violates the essential logic of representative democracy.

THE TAMIL NADU CONTEXT

Following Tamil Nadu Legislative Assembly elections in 2026, the state witnessed a contested government formation. Governor **Rajendra Vishwanath Arlekar** delayed inviting the leader of the single largest party — **Tamilaga Vettri Kazhagam (TVK)** leader **C. Joseph Vijay** — to prove majority, prompting allegations of political interference and constitutional deviation.

CONSTITUTIONAL FRAMEWORK: ARTICLES 163 AND 164

Article 163: Governor acts on aid and advice of the Council of Ministers, except where the Constitution requires him to act in his own discretion.

Article 164(1): Chief Minister shall be appointed by the Governor; other ministers on the advice of the CM.

The Constitution does not specify procedures for government formation — it relies on **constitutional conventions** developed through judicial interpretation.

THE ESTABLISHED CONVENTION

Sarkaria Commission (1983-87)

- Governor should normally invite the **leader of the single largest party** to form a government
- Floor test is the constitutionally correct method to determine majority — not the Governor's judgment

SR Bommai v. Union of India (1994)

Nine-judge SC bench held:

- **Floor of the House is the only legitimate majority test** — not the Governor's subjective assessment
- President's Rule without giving the majority party a chance to prove majority is constitutionally improper

Nabam Rebia v. Deputy Speaker (2016)

SC reaffirmed the Governor cannot act independently to destabilise a duly constituted government.

WHAT CONSTITUTIONAL MORALITY DEMANDS

Constitutional morality — derived from Dr. B.R. Ambedkar's Constituent Assembly speeches — requires:

- 1 Governor **must** invite the party with the clear **mandate** within a reasonable timeframe
- 2 Delay itself is unconstitutional interference — it effectively overrides the electorate's verdict
- 3 The test of majority is the **floor of the House**
- 4 Governor's discretion is a **narrow exception**, not a general political authority

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GS Paper 2 — Constitution and Governance

Keywords: Article 163, Article 164, Sarkaria Commission, SR Bommai case, constitutional morality, floor test, gubernatorial discretion, federalism

Mains Angles:

- 1 “The governor’s role in government formation is conventionally constrained but legally ambiguous.”
Examine with reference to SR Bommai and recent instances.
- 2 Critically assess whether the governor’s office is compatible with India’s federal structure and democratic values.

Indian Express argues: The Governor’s role in government formation is not discretionary when the largest party’s mandate is clear. SR Bommai and Sarkaria norms leave no room for delay. Governors who delay invitations are committing constitutional violations, not exercising constitutional discretion. The fix requires judicial enforcement of timelines or legislative specification of the government formation process.

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