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# Constitutional Crisis In Tamil Nadu

## The Tussle Between Governor & DMK Government

### Why In The News?

- The Ongoing Confrontation Between **Tamil Nadu Governor RN Ravi And The DMK Government Led By MK Stalin** Intensified With The Governor First Dismissing Arrested DMK Minister **V Senthil Balaji** From The Council Of Ministers, Only To Back Down Hours Later.
- Later Governor Wrote To Stalin , Conveying That The Decision To Dismiss Balaji “May Be Kept In Abeyance Until Further Communication” Since He Is **Approaching The Attorney General For Legal Opinion Following Union Home Minister Amit Shah’s Advice.**



### Why Is It A Matter Of Concern?

- The Unprecedented, And More Importantly, Unilateral Decision By A Governor To Sack A Minister Appointed On Aid And Advice Of The Chief Minister, Has Raised Questions On The **Legality Of Such A Move By The Figurative Head Of A State, Nominated By The Union Government.**

## Let's Understand The Story Behind

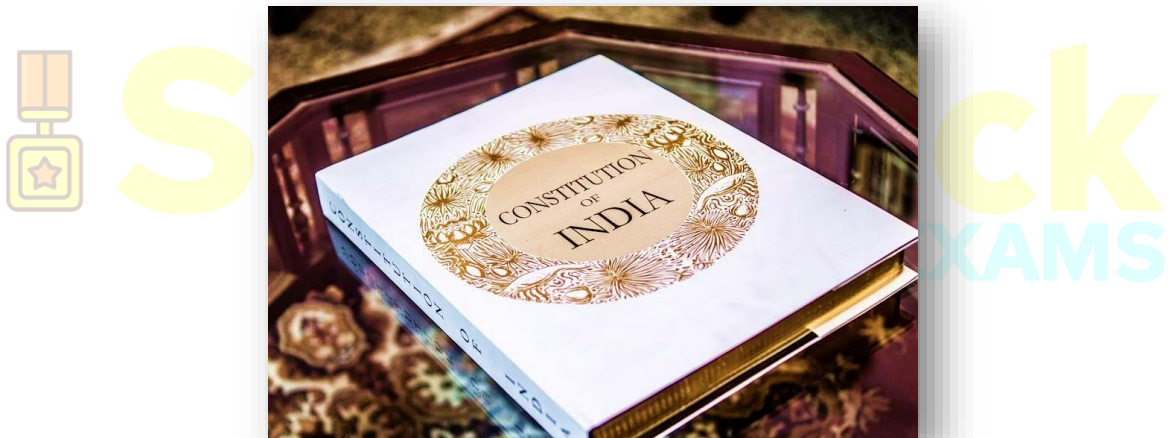
- **Balaji**, Who Held The Electricity, Excise And Prohibition Portfolios, Was Arrested By The **Enforcement Directorate (ED) On June 14** For Allegations That Date Back To 2014 When He Was Transport Minister In The Then AIADMK Government. **He Joined The DMK In 2018.**
- On The Day Of His Arrest, Balaji Dramatically Collapsed, And Later Underwent A **Beating Heart Coronary Artery Bypass Surgery** In A Chennai Hospital On June 21 And Has Been Hospitalized Since.



- On Wednesday, **His Judicial Custody Was Extended** By A Trial Court Until July 12 Even As The Madras High Court Is Dealing With ED's Demand For Balaji's Custodial Interrogation.
- On Thursday, The Governor Sent A Message To The CM Dismissing Balaji Who Has Been **Retained By Stalin As A Minister Without A Portfolio After The Arrest**. Ravi's Letter Claimed That Balaji's Continuance As A Minister Would "Obstruct The Due Process Of Law And Disrupt The Course Of Justice".
- It Added: "Under Such Circumstances And The Powers Conferred To Me Under **Articles 154, 163 And 164** Of The Constitution Of India, I Hereby Dismiss Thiru V Senthil Balaji From The Council Of Ministers With Immediate Effect."
- Even As The Letter Drew Sharp Criticism From The State Government That Said The Governor Had No Authority To Do This, Ravi Wrote A Second An Hour Later. This Time, **Ravi Said His Decision To Dismiss Balaji May Not Be Acted Upon Until He Obtains A Legal Opinion From Attorney General R Venkataramani.**

## What Constitution Says?

- **Article 163** Provides There Shall Be A Council Of Ministers With The Chief Minister At The Head To Aid And Advise The Governor In The Exercise Of His Functions, “Except In So Far As He Is By Or Under This Constitution Required To Exercise His Functions Or Any Of Them In His Discretion.”
- **Article 163 (2)** Clothes A Governor With Authority To Use His Discretion In Deciding Whether He Needs To Act On Any Specific Matter. “The Decision Of The Governor In His Discretion Shall Be Final, And The Validity Of Anything Done By The Governor Shall Not Be Called In Question On The Ground That He Ought Or Ought Not To Have Acted In His Discretion,” Adds This Provision.
- **Article 164 (1)** Provides That The “Ministers Shall Hold Office During The Pleasure Of The Governor”, Apart From The Fact The Chief Minister Shall Be Appointed By The Governor And The Other Ministers Shall Be Appointed By The Governor On The Advice Of The Chief Minister.



## What Ambedkar Said?

- The Architect Of The Constitution, BR Ambedkar, Elucidated The Scope Of Such Discretionary Powers In Unequivocal Terms. “It Is Not A General Clause Giving Governor Power To Disregard The Advice Of His Ministers In Any Matter In Which He Finds He Ought To Disregard,” Said Ambedkar.
- He Further Clarified: “Governor Under The Constitution Has No Functions Which He Can Discharge By Himself; No Functions At All. While He Has No Functions, He Has Certain Duties To Perform.”



- Ambedkar Added That The Provision On Governor's Discretionary Powers Must Be Read In Conjunction With Such Other Articles Which Specifically Reserve The Power To Governor.



## What Supreme Court Said?

- The **2016 Constitution Bench** Overruled The Judgments Delivered By The Respective High Courts Affirming The Governors' Actions. Accepting The Above Position Will Convert The Governor Into An All-Pervading Super-Constitutional Authority, Said The Court.
- "An Examination Of The Executive And Legislative Functions Of The Governor, From The Surrounding Provisions Of The Constitution Clearly Brings Out, That The Governor Has Not Been Assigned Any Significant Role Either In The Executive Or The Legislative Functioning Of The State," Said The 2016 Judgment.
- The Top Court Rejected The Contention That The Governor Has The Freedom To Determine When And In Which Situation He Should Take A Decision Without Aid And Advice Of The CM And His Council Of Ministers.
- If A Governor Chooses To "Withdraw His Pleasure" In Respect Of A Minister, The 2016 Judgment Held, He Must Exercise His Discretion With The Knowledge Of The CM And Not By Keeping Him In The Dark Or Unilaterally.

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