



# HISTORY By Manikant Singh



## Article 142 and Acquittal of Convicts

### Why in News?

Recently, the Supreme Court, using the power of article 142, acquitted six convicts serving life imprisonment for the assassination of former Prime Minister Rajiv Gandhi in 1991.

### Why did the Supreme Court set free the convicts?

The Supreme Court overruled the judgement of TADA court because the prosecution failed to convince the court of charges under the Terrorist and Disruptive Activities (Prevention) Act. However, the court agreed that it was “horrific” crime, carried out through a planned conspiracy. But there is absolutely no evidence that any one of the conspirators ever desired the death of any Indian other than Rajiv Gandhi.

### Involved Issues

1. Constitutional Duties of Governor
2. Power of Supreme Court under article 142
3. Delayed in Justice under Article 21

### Constitutional Duties of Governor

- Article 161 of Indian Constitution-The Governor of state possesses the power to grant pardons, suspend, remit or commute sentences in the cases which lie under the state jurisdiction.
- But here we can see that the Governor took politically motivated decision and ignored the advice of elected state government. It is also perceived that the Governors give priorities to Centre’s directions.
- It also effects Centre-State relations. In the federal structure, the states have autonomy in their respective jurisdiction which should be regarded.
- Discretionary powers of the Governor also create a situation of dispute. The Governor can reserve a bill for the consideration of the President of India without the advice of the Council of Ministers.
- Similar to the President of India, The Governors of the states must be remain non-political figure and perform their duties constitutionally and morally.

## Power of Supreme Court under article 142 for 'Complete Justice'

- Article 142 provisions that the Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing 'Complete Justice' in any cause or matter pending before it. Yet Indian Constitution does not define 'Complete Justice'.
- Positive sides of 'Complete Justice'
  - Empowers common man to get justice like Union Carbide Case ( Bhopal gas tragedy 1985)
  - Checks on corrupt practices like Coal Block Allocation case
  - Give discretionary power to the judiciary like verdict for ban on liquor sale on highways case in 2016
  - Ensure environment protection and efficiency in the government machinery like issue guidelines to the government to check poor air quality in Delhi
  - It favours democratic ruling and empowered citizenship

But sometimes the apex court violates the principle of 'separation of power' and Judicial Activism hampers the functioning of democratic elected legislature and government.

So it is important to be right constitutionally and intentionally.

## Delayed in Justice under Article 21

Getting justice on time is a fundamental right under article 21. The convicts served almost 30 years in prison but their plea for pardon or release is still under consideration. It is like another death. The apex court also underlines this issue.

**Q. Article 142 of the Constitution is related to which of the following?**

- (a) To the decrees and orders of the Supreme Court.
- (b) Taking advice from the Supreme Court by the President.
- (c) Executive power of the Chief Minister.
- (d) Duties and powers of the Comptroller and Auditor-General.

**Q. The Supreme Court supersedes the executive and the legislature by its jurisdiction under Article 142. Critically examine. (150 words)**

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