

428 AIR 1968 SC 347. In *Nate Dalu v. Municipal Council v. State of Punjab*,

1977 71 SCC 329, the majority has approved the ratio in *T.M. Kannivan* and has held that the Union territories are not States for the purposes of Part VI of the Constitution (para 145). The Tribunal has, therefore, rightly stated that the ratio in *Matti Chandra Shekar Rao* is binding upon the Tribunal in the appointment of migrant SC candidates.

It is also to be noted that the Tribunal in *Matti Chandra Shekar Rao* has held that the Union territories are not States for the purposes of Part VI of the Constitution. In this regard, the Tribunal in *Matti Chandra Shekar Rao* has held that the Union territories are not States for the purposes of Part VI of the Constitution. This is in accordance with the ratio in *Nate Dalu v. Municipal Council v. State of Punjab*, 1977 71 SCC 329, where the majority has approved the ratio in *T.M. Kannivan* and has held that the Union territories are not States for the purposes of Part VI of the Constitution. The Tribunal has, therefore, rightly stated that the ratio in *Matti Chandra Shekar Rao* is binding upon the Tribunal in the appointment of migrant SC candidates.

shown in *Matti Chandra Shekar Rao* (supra).

19. Much emphasis has been laid by learned counsel for contesting respondents upon the expression "in relation to that State or Union territory, as the case may be" occurring in clause (1) of Article 341 of the Constitution, and it has been urged that only such of the States as are mentioned in the schedule appended to the Constitution (Pondicherry) Scheduled Castes Order 1954 issued by the President can be deemed to be Scheduled Castes in relation to the U.T. of Pondicherry and no one else and consequently migrant SC candidates would not be eligible at all.

20. Part XVI of the Constitution deals with special provisions relating to certain classes and contains Articles 330 to 341. Articles 330 and 332 make provision for reservation of seats in the House of People and Legislative Assemblies of the States respectively, for Scheduled Castes and Scheduled Tribes. Similar provisions have been made for Anglo-Indian community in Articles 331 and 333. Article 338 provides that there will be a Commission for the Scheduled Castes to be known as National Commission for the Scheduled Castes and it also provides for its composition, powers and duties. Clause (2) of Article 330 provides that the number of seats reserved in the States or Union territories for Scheduled Castes or Scheduled Tribes shall bear, as nearly as may be, the same proportion to the number of seats allotted to that State or Union territory in the House of the People as the population of the Scheduled Castes in the State or Union territory or of the Scheduled Tribes in the State or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total

population of the State or Union territory. Similar provision for reservation of seats in favour of SC/ST in the Legislative Assembly of any State is contained in clause (3) of Article 332 of the Constitution. Therefore, in order to ascertain the number of seats which have to be reserved for Scheduled Castes or Scheduled Tribes in the House of the People or in the Legislative Assembly, it is absolutely essential to ascertain previously the population of the Scheduled Castes or Scheduled Tribes in a State or Union territory. It is, in the context of the present case, of great importance to know who would be deemed to be Scheduled Castes in relation to Pondicherry Union territory. The answer to this question strictly in accordance with the Presidential Order and a number of cases cited above, is that the number of seats reserved in the House of the People or Legislative Assembly for migrant SC/ST persons of another State may not be deemed to be so within the meaning of Art. 341 and 342 after reference to another State, but it does not mean that it cannot be an SC/ST person and constitute a member of the House.

21. Clauses (1) and (2) of Article 16 guarantee equality of opportunity to all citizens in the matter of appointment to an office or of another employment under the State. Clauses (3) to (5) thereof lay down several exceptions to the above rule of equal opportunity. Article 16(4) is an enabling provision and confers a discretionary power on the State to make reservation in the matter of appointments in favour of "backward classes of citizens" which in its opinion are not adequately represented either

numerically or qualitatively in services of the State. But it confers no constitutional right upon the members of the backward classes to claim reservation. Article 16(4) is not controlled by a Presidential Order issued under Article 341(1) or Article 342(1) of the Constitution in the sense that reservation in the matter of appointment in posts may be made in a State or Union territory for such Scheduled Castes and Scheduled Tribes which are mentioned in the schedule appended to the Presidential Order for that particular State or Union territory. The Articles does not lay down any condition for such Scheduled Castes and Scheduled Tribes which are mentioned in the Presidential Order issued for a particular State there would be recognized as backward classes of citizens and non-discrimination between such a provision would be perfectly valid. However there would be no infraction of clause 4 of Article 16 if a Union territory or State or its peculiar position being governed by the President is laid down in Article 239 extends the benefit of reservation even to such migrant Scheduled Castes or Scheduled Tribes who are not mentioned in the schedule to the Presidential Order issued for such Union territory. The U.T. of Pondicherry having adopted a policy of Central Government whereunder all Scheduled Castes or Scheduled Tribes irrespective of their State are eligible for posts which are reserved for SC/ST candidates, no legal infirmity can be ascribed to such a policy and the same cannot be held to be contrary to any provision of law.