

- Respondents at migrant SC ent on a post pment of Government of being a Union services under e Pondicherry es are held to the selections legal infirmity

of Ministers act h any particular of Pondicherry) icle 239 of the

s extending the in the U.T. of

basis that being of posts/services the Pondicherry ognized as such the State/Union ognized as SCs/ nt, they are also . Consequently, eligible for posts , right from the y administration served posts in

y of the Central ' reservation, the g from any legal

o certain classes n for reservation tes respectively, made for Anglo- there will be a nmission for the uties. Clause (2) - 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. 5 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 precisely the population of the Scheduled Castes or 10 Scheduled Tribes in the State or Union territory. A fortiori, for the purpose of identification, it becomes equally important to know who would be deemed to be Scheduled Caste in relation to that State or Union territory. This exercise has to be done strictly in accordance with the Presidential Order and a migrant Scheduled Caste of another State cannot be taken into consideration otherwise it may affect the number of seats which have to be 15 reserved in the House of People or Legislative Assembly. Though, a migrant SC/ST person of another State may not be deemed to be so within the meaning of Art. 341 and 342 after migration to another State but it does not mean that he ceases to be an SC/ST altogether and becomes a member of forward caste. (Para 20).

(F) Article 16(4) is an enabling provision and confers a discretionary power on the State 20 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 25 the matter of appointment on posts may be made in a State or Union territory only 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. This Article does not say that only such Scheduled Castes and Scheduled Tribes which are mentioned in the Presidential Order issued for a particular State alone would be recognized as 30 backward classes of citizens and none else. If a State or Union territory makes a provision whereunder the benefit of reservation is extended only to such Scheduled Castes or Scheduled Tribes which are recognized as such, in relation to that State or Union territory then such a provision would be perfectly valid. However, there would be no infraction of clause (4) of Article 16 if a Union territory by virtue of its peculiar position being governed 35 by the President as 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 40 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. (Para 21).

(G) For the reasons discussed above, we are of the opinion that there has been no violation of any constitutional or any other legal provision in making selection and appointment of migrant Scheduled Caste candidates against the quota reserved for 45