AIR 1968 SC 367. In *New Delhi Municipal Council* v. *State of Punjab*, 1997 (7) SCC 339, the majority has approved the ratio of T.M. Kanniyan and has held that the Union territories are not States for the purposes of Part XI of the Constitution (para 145). The Tribunal has, therefore, clearly erred in applying the ratio of Marri Chandra Shekhar Rao in setting aside the selection and appointment of migrant SC candidates.

18. The contesting respondents (applicants before the Tribunal, who challenged the selection) can derive no benefit from the decision in *Marri Chandra Shekhar Rao* (*supra*). In this case the writ petitioner Marri Chandra was born in Gouda community in the State of Andhra Pradesh, which is recognized as a Scheduled Tribe in the Presidential Order issued for the said State. For getting admission in a medical college in the State of Maharashtra, he claimed benefit of reservation being an ST. Gouda community was not recognized as Scheduled Tribe in the Presidential Order issued for the State of Maharashtra and on this ground he was denied the benefit of reservation. He then filed the writ petition claiming that he is entitled for benefit of reservation being a member of ST. It was in these circumstances that it was held that his community having not been included as an ST in the Presidential Order issued for the State of Maharashtra, he had no legal right to claim benefit of reservation in the State of Maharashtra. The U.T. of Pondicherry having consistently followed the policy of the Central Government where all Scheduled Caste candidates were given benefit of reservation, the selection made following the said policy could not be held to be suffering from any legal infirmity on the principle laid down in *Marri Chandra Shekhar 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 castes as are mentioned in the schedule appended to the Constitution (Pondicherry) Scheduled Castes Order 1964 issued by the President can be deemed to be Scheduled Castes in relation to the U.T. of Pondicherry and none 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 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 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.

21. Clauses (1) and (2) of Article 16 guarantee equality of opportunity to all citizens in the matter of appointment to any office or of any other employment under the State. Clauses (3) to (5), however, 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 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 Articles 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 backward classes of citizens and non 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 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 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.