

Kavita S.J.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12215 OF 2026

Shaileshbhai Patel & Anr.,

...Petitioners

Versus

Union of India & Ors.,

...Respondents

Mr. Rahul Walia a/w Mr. Puneet Pathak, Ms. Asmita Pendharkar for
the Petitioners.

Dr. Sanjay Jain a/w Mr. Harsh Dedhia for Respondent No.4.

CORAM : R.I. CHAGLA AND
FIRDOSH P. POONIWALLA, JJ.

RESERVED ON : 1st OCTOBER, 2026.

PRONOUNCED ON : 15th OCTOBER, 2026

JUDGMENT: (Per R.I. Chagla, J.)

1. Rule. Rule made returnable forthwith. Heard by consent
of the parties.

2. By this Writ Petition, the Petitioners are seeking quashing
and setting aside of the acts on the part of the Respondent No. 4 in
altering/blocking of Online Form of Petitioner No.2, viz., changing

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his status from Scheduled Tribe (ST) to Unreserved (UR) (altered Online Form) and treating him as a "Migrant" (Exhibit B to the Petition). Further, the Petitioners seek quashing and setting aside of the ST Merit List only to the extent of exclusion of Petitioner No. 2's name from the said list. Consequentially, a direction is sought against the Respondents to include and place the name of Petitioner No. 2 as per his marks at Serial No. 2 in the said Merit List of ST Candidates dated 10th September 2026 and to allot 1 (one) ST Seat to Petitioner No. 2 for MBBS Course in the Government Medical College viz. Respondent No. 4 - College for the Academic Year 2026–2027.

3. Petitioner No. 1 was appointed as Constable in Indian Reserve Battalion under ST quota under the Respondent - Union Territory. He and his family have, since 1996, been residing in the Union Territory of Dadra and Nagar Haveli and Daman and Diu, Silvassa ("the said Union Territory").

4. Petitioner No. 2 was born in the said Union Territory and has been residing there along with his family since his birth viz. 9th October 2008.

5. Petitioner No. 2, having completed his entire education

till 12th standard in the said Union Territory, has been recognized and treated as ST throughout his schooling.

6. Petitioner No. 2 has been issued a Caste Certificate as belonging to the ST Category, viz. Dhodia community, on 4th May 2026. Petitioner No. 2 is also domiciled in the said Union Territory and a Domicile Certificate had been issued by the Mamlatdar, Silvassa, on 17th July 2025, certifying Petitioner No. 2 as a domicile and permanent resident of the said Union Territory.

7. Petitioner No. 2 completed his 12th standard in the year 2026 and in the School Leaving Certificate issued to Petitioner No. 2, it has been stated that the Petitioner No. 2 belongs to ST.

8. Petitioner No. 2 appeared for his National Eligibility-cum-Entrance Test (NEET) (UG) exam on 21st June 2026 and has been declared as having scored 400 out of 720 marks. In the NEET Result, Petitioner No. 2 has been recognized as an ST candidate.

9. Respondent No. 4 - College published the Prospectus and Guidelines for admission for MBBS Course for the Academic Year 2026-2027. Accordingly, Petitioner No. 2 filled up the Online Form

for admission to the said course for the Academic Year 2026-2027 on 5th July 2026.

10. Thereafter, document verification message was received by the Petitioner No. 2 on 9th September 2026 stating that the same had to be completed since the document verification process was conducted Online. It is pertinent to note that there was no objection raised at that point of time with regard to the status of Petitioner No. 2 being ST.

11. In the Online Form of Petitioner No. 2, the Respondents altered the status of Petitioner No. 2 from ST to UR on or after 12:30 PM on 10th September 2026 and Petitioner No. 2 had to pay a further sum of Rs.250/- to access his Online Form, which according to the Petitioners, was illegally altered.

12. The first provisional Merit List was issued on 10th September 2026 by Respondent No.4 - College with regard to ST Candidates and Petitioner No. 2 would have found place at Serial No. 2 in the event the Online Form had not been altered.

13. The Petitioners, being aggrieved by the impugned acts of

the Respondents, have been constrained to file the present Petition.

14. The Writ Petition had come up before this Court on 11th September 2026 when this Court had, upon considering the Application for ad-interim relief, granted the ad-interim relief by observing that this Court had allowed Writ Petition No. 11033 of 2025, which was an almost identical to the present Petition as in that case too the Petitioner's category had been changed from ST to UR. This Court was satisfied that Petitioner's family were permanent residents of the said Union Territory. In the present case as well as the Petitioners' family have been permanently residing in the said Union Territory since 30 years. Accordingly, the Respondents have been directed to reserve one Seat under DNH - ST Category in favour of the Petitioners for the MBBS Course in Respondent No. 4 - College for the Academic Year 2026-2027.

15. Mr. Rahul Walia, the learned Counsel appearing for the Petitioners, has submitted that Petitioner No. 1 and his family have been residing in the said Union Territory since 1996. Further, Petitioner No. 2 was born in the said Union Territory and has been residing there ever since his birth, viz. on 9th October 2008. He has

submitted that throughout the Petitioner No. 2's education viz. till 12th Standard, which has been in the said Union Territory, the Petitioner No. 2 has been treated as ST. The Petitioner No. 2 has also been issued a Caste Certificate on 4th May 2026, which clearly states that he belongs to the ST Category. He has submitted that even from the Domicile Certificate issued by the Mamlatdar on 17th July 2025, there is no doubt that the Petitioner No. 2 is domiciled in and a permanent resident of the said Union Territory.

16. Mr. Walia has further submitted that it is a well-settled position of law, as laid down by the Supreme Court as well as by this Court that the Presidential Notification issued for the Union Territory of Dadra and Nagar Haveli extends the benefit of reservation to the Scheduled Tribes mentioned therein on the basis of residence and not on the basis of origin. He has in this context placed reliance upon the Judgment of the Supreme Court in *Director Transport Department, UT Administration of Dadra & Nagar Haveli, Silvassa & Ors. v. Abhinav Dipakbhai Patel*,¹ at Paragraph 15.

17. Mr. Walia has also relied upon the Judgment of this

¹ (2019) 6 SCC 434

Court in *Dipak Kumar Jagubhai Patel & Anr. v. Union of India & Ors.*,², wherein this Court has taken a view following the Judgment of the Supreme Court in *Abhinav Dipakbhai Patel (supra)* that the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962 expressly uses the words "resident in that Union territory" and migrants accordingly cannot be granted the benefit. It has been held that residency in the said Union Territory, even if it is assumed to be a continuous one or for a certain or specified period, still there is no document which says that it should date back to 30th June 1962, namely, the date of the initial Constitutional Order.

18. The Union territory in its Affidavit had not disputed that it had on 10th July 1995 enunciated its policy by a Circular. The said policy says that the benefit of reservation to those SC/ST employees who have migrated from other States has been formulated, and it has now been ordered by the Administrator, Daman & Diu and D&NH that the migrant SC/ST employees who have already been appointed prior to 1st January 1990 will continue to enjoy all the benefits of reservations, as provided in the Rules. The Circular recognized persons appointed prior to 1st January 1990 as entitled employees.

2 Writ Petition No. 10868 of 2019, Judgment dated 18th November 2019

19. This Court had accordingly held that denial of admission to a meritorious student like Petitioner No. 2 who was a resident in the said Union Territory smacks of nothing but arbitrariness, unreasonableness, and unfairness in State action. It violates the mandate of Article 14 of the Constitution of India. Every Government or State action has to be fair, just, and non-discriminatory so also non-arbitrary. The State cannot discriminate between meritorious students nor can it prefer a lesser meritorious student by denying admission to the more meritorious student when he/she is otherwise eligible. The Writ Petition was accordingly made absolute by quashing the admission granted to the 4th Respondent.

20. Mr. Walia has further placed reliance upon the Judgment of this Court in *Union Territory of Dadra and Nagar Haveli and Daman and Diu & Ors. v. Hemant Hiralal Chudasama*,³. He has submitted that this Court in the said order has also followed the decision of the Supreme Court in *Abhinav Dipakbhai Patel (Supra)*. In facts similar to the present case, where the Petitioner therein held a Caste Certificate issued by the competent authority from the State of Gujarat, though having domicile in the Union Territory and having

³ Writ Petition No. 3712 of 2021, Order dated 4th August 2021

shifted his residence from Gujarat to the Union Territory. This Court was called upon to consider the validity of the decision of the Central Administrative Tribunal, which was approached by the Respondent in view of the Mamlatdar having taken a view that the Respondent was a migrant to the Union Territory and did not belong to a category of being a Scheduled Caste from the Union Territory of Daman and Diu. The Central Administrative Tribunal had quashed and set aside the impugned communication issued by the Superintending Engineer, directing the Respondent to furnish a fresh caste certificate. It was held by this Court that the Tribunal had rightly allowed the application of the Respondent by directing the Petitioners to consider the appointment of the Respondent without insisting on a fresh Caste Certificate. The determinant factor being one of residency in the Union Territory which had been established by the Respondent.

21. Mr. Walia has also relied upon the recent orders passed by this Court viz. ***Vishwa Chandubhai Patel and Others versus Union of India and Others***,⁴ and ***Durgesh Kumar Lalubhai Patel and Others versus Union of India and Others***⁵, wherein this Court in educational matters has followed the Judgment of the Supreme Court in ***Abhinav***

⁴ Writ Petition No. 347 of 2022, Judgment dated 6th November 2025

⁵ Writ Petition No. 11033 of 2025, Order dated 12th August 2025

Dipakbhai Patel (Supra) and held that where the Petitioners are permanent residents of the said Union Territory of Dadra and Nagar Haveli, Silvassa, the issue would be covered by the said Judgment of the Supreme Court and the change effected by the Respondents in the status of Petitioner No. 2 in the Online Application Form from ST to UR is erroneous and requires to be set aside.

22. Mr. Walia has accordingly submitted that the present case is squarely covered by the aforesaid decisions. The Petitioners admittedly are permanent residents of the said Union Territory. Further, the status of Petitioner No. 2 could not have been changed from ST to UR in the Online Form as has unilaterally been done by the Respondents. Accordingly, the act of such alteration requires to be set aside and Petitioner No. 2's name be included in the ST Merit List, and as per his marks, placed at Serial No. 2, high in the said Merit List of ST candidates dated 10th September 2026 and one seat be allotted to Petitioner No.2 for the MBBS Course in Respondent No. 4 - College for the Academic Year 2026–2027.

23. Dr. Sanjay Jain, the learned Counsel appearing for Respondent No. 4 – College, has placed reliance upon the Affidavit-

in-Reply of the Dean of Respondent No. 4 - College dated 28th September 2026. He has submitted that the Caste Certificate uploaded by Petitioner No. 2 in the Online Application Form for admission to the MBBS Course in Respondent No. 4 - College carries an explicit endorsement / remark stating "Note: Scheduled Tribe of Gujarat". He has submitted that the Caste Certificate of Petitioner No. 1 (father of Petitioner No. 2) dated 16th October 1996 / 31st July 1991 reveals that it was issued on the strength of the Scheduled Tribe Certificate of his ancestors issued by the Mamlatdar, Umargam, District Valsad, State of Gujarat, certifying the family as belonging to the Dhodia community in the State of Gujarat.

24. Dr. Jain has submitted that Clause 7.3 of the Policy and Guidelines for admission to MBBS Course framed and published by the Society for the Academic Year 2026–2027, provides that seats (in this case for ST candidates) in the said Union Territory will be filled up only by candidates of the said Union Territory who are entitled to such reservations. Candidates who or whose parents have migrated from other States (in the present case, State of Gujarat) to the said Union Territory shall not be entitled to avail benefits of these reserved seats. He has submitted that in view of the Verification

Report confirming Petitioner No.2 to have migrant status from Gujarat, he was rightly categorized under the UR category within the DNH Domicile Pool and assigned Merit Rank No. 93 in the Provisional Merit List published on 10th September 2026. He has submitted that the Petitioner No.2 has not been denied admission to the MBBS Course and is fully eligible and entitled to compete on his own merit against the 21 UR seats of DNH.

25. Dr. Jain has further submitted that classification based on residence and institutional preference for undergraduate (MBBS) admissions is fully compliant with Article 14 of the Constitution. Establishing Medical Colleges imposes immense financial burdens on local administrations, and reserving seats for local inhabitants who are more likely to serve the local population satisfies a compelling state interest. Courts have consistently preserved origin and domicile preferences at the undergraduate MBBS entry level.

26. Dr. Jain has placed reliance upon Article 341(1) and 342(1) of the Constitution of India, which mandate that the Presidential Notifications specifying Scheduled Castes and Scheduled Tribes operate strictly "in relation to that State or Union territory, as

the case may be". Clause (2) of both Articles vests exclusive jurisdiction in Parliament to alter or amend the list. A person recognized as an SC/ST in State "A" does not carry that status upon migration to State "B", even if the same caste nomenclature exists in both States. He has submitted that extending reservation to migrant SC/STs in a UT impermissibly alters the Presidential Order and amounts to discrimination against the indigenous disadvantaged groups of the UT. Thus, territorial non-portability doctrine applies with equal, unyielding vigour to UTs.

27. Dr. Jain has drawn a distinction between Article 15 and Article 16 of the Constitution. He has submitted that Article 15(1), prohibits discrimination on grounds of religion, race, caste, sex, or place of birth, but deliberately omits "residence". He has submitted that the State and autonomous educational institutions are constitutionally permitted to prescribe residence, institutional preference, and local origin criteria for admitting students to State quota MBBS seats. He has submitted that, in contradistinction to Article 15(1), in public employment, Article 16(2) expressly prohibits discrimination on grounds of "residence". The Parliament under Article 16(3) can enact residential requirements for employment. He

has submitted that precedents relied upon by the Petitioners arising under Article 16, cannot be mechanically imported into educational admissions under Article 15.

28. Dr. Jain has attempted to distinguish the Judgments of the Supreme Court in *Abhinav Dipakbhai Patel (Supra)* and *Hemant Hir Lal Chudasama (Supra)* as being concerned with public employment and thus falling under Article 16 of the Constitution of India. He has submitted that these Judgments are to be read in that context, and the reliance on residence of the Respondent in those cases as being the determinative factor is required to be read in the context of Article 16(2) of the Constitution which expressly prohibits discrimination on grounds of "residence". He submitted that these Judgments are not applicable in the present case, which pertains to an educational institution and admission to the educational institution viz. Respondent No. 4 - College, which is an autonomous educational institution. Here, Article 15 of the Constitution would apply and the word "residence" has been deliberately omitted from the Article in so far as discrimination is concerned.

29. Dr. Jain has further submitted that in the Judgment of

this Court in *Dipak Kumar Jagubhai Patel (Supra)*, the factual averments in the Writ Petition were not denied by the Respondent - Union Territory. Further, the ST Certificate issued by the Mamlatdar was not challenged by the Respondent - UT. He has submitted that in the present case, Respondent No. 4 has contended that the Caste Certificate of Petitioner No. 2 carries an explicit endorsement or remark stating "Note: Scheduled Tribe of Gujarat". That Petitioner No.1 was issued Caste Certificate on the strength of the Scheduled Tribe Certificate of his ancestors issued by Mamlatdar, Umargam, District Valsad, State of Gujarat, certifying the family as belonging to the Dhodia Community in the State of Gujarat. Accordingly, it is the contention of Respondent No.4 that the Verification Report had rightly confirmed the migrant status of the Petitioners to be from Gujarat and thus under UR Category.

30. Dr. Jain has further submitted that the cut-off date of June 30, 1962, represents the exact promulgation date of the Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962. He has submitted that Presidential Orders were final and conclusive. Further, the Government of India Circulars dated 22nd March 1977, 6th August 1984, and 22nd February 1985 clarified that

"resident" in Presidential Orders strictly means the permanent abode of the persons/parents on the date of notification of the Presidential Order.

31. Dr. Jain has accordingly submitted that the impugned action of the Respondents in altering the status of Petitioner No. 2 from ST to UR is fully justified, considering that the Petitioners were not residents on the date of notification of the Presidential Order, viz. the Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962. Further, Respondent No. 4, being an autonomous educational institution, had the right to impose a restriction on "residence" under Article 15(1) of the Constitution. The Petitioners, being migrants from the State of Gujarat, cannot take the benefit or are not entitled to avail of benefit of ST reserved seat. This is as per Clause 7.3 of the Policy and Guidelines for Admission to MBBS Course framed and published by the Society for the Academic Year 2026-2027. He has accordingly submitted that the Petition deserves dismissal and ought to be dismissed with costs.

32. Having considered the submissions, the present case appears to be covered by the decisions of the Supreme Court as well

as this Court relied upon by the Petitioners. The fact that the Petitioner No.1 and his family having resided in the said Union Territory from the Year 1996, is not disputed. Further, Petitioner No. 2 was born in the said Union Territory and resided there since his birth viz. on 9th October 2008. Petitioner No. 2 has also completed his entire education till 12th Standard in the said Union Territory and has been recognized and treated as ST throughout his education. This is further borne out from the documents on record.

33. Respondent No. 4 has contended that Petitioner No. 2 was issued a Caste Certificate which carries an explicit endorsement / remark stating “Note: Scheduled Tribe of Gujarat”. It is further contended that the Petitioner No. 1 was issued a Caste Certificate on the strength of the Scheduled Tribe Certificate of his ancestors issued by the Mamlatdar, Umargam, District Valsad, State of Gujarat, certifying the family as belonging to the Dhodia community in the State of Gujarat. Reliance is placed on Articles 341 (1) and 342 (1) of the Constitution, which mandates that the Presidential Notifications specifying Scheduled Castes and Scheduled Tribes operate strictly “in relation to that State or Union Territory, as the case may be”. We are of the view that these contentions are misconceived. As aforesaid, the

Petitioner No. 2 is domiciled and permanent resident of the said Union Territory as borne out from the Domicile Certificate issued by the Mamlatdar (Exhibit G to the petition). Further, the Caste Certificate of Petitioner No. 2 has been issued on 4th May 2026 by the Mamlatdar of the said Union Territory. It certifies that Petitioner No. 2, residing in the said Union Territory, belongs to Hindu-Dhodia Tribe, which is recognized as a Scheduled Tribe under the said Union Territory.

34. The Judgment of the Supreme Court in ***Abhinav Dipakbhai Patel (Supra)*** has considered the case of the Respondent who belonged to "Dhodia" Caste, recognized as Scheduled Tribe (ST) in the State of Gujarat, migrating to the Union Territory of Dadra and Nagar Haveli, where also the said Caste was notified as Scheduled Tribe. It was observed that the central issue raised by the Appellant before the High Court was that a person should be a local in the said Union Territory, which meant that migrant STs cannot be given the benefit of reservation. The Supreme Court in determining the issue held that the Presidential Notification issued for the Union Territory of Dadra and Nagar Haveli extends the benefit of reservation to Scheduled Tribes mentioned therein on the basis of residence and not

on the basis of origin. This Judgment clearly covers the present case, as here also the Petitioners are residents of the said Union Territory. Further, the contention of the Respondents that the Petitioners are migrants from the State of Gujarat and cannot be given the benefit of reservation, runs counter to the said Judgment.

35. Dr. Jain, appearing for Respondent No.4, has sought to distinguish the Judgment of the Supreme Court as well as the Judgment of this Court in ***Hemant Hiralal Chudasama (Supra)*** by contending that those cases were of public employment, and under Article 16(2), there was an express prohibition of discrimination on grounds of "residence". Whereas the present case is one of admission to a medical educational institution and for which Article 15 would apply which deliberately omits "residence" from the prohibition of discrimination. We find such attempt on the part of Respondent No. 4 to be thoroughly misconceived, particularly in view of the said Judgments holding that the Presidential Notification issued for the Union Territory of Dadra and Nagar Haveli, extends the benefit of reservation to the Scheduled Tribes mentioned therein on the basis of residence and not on the basis of origin. This would be irrespective of whether the case is of public employment or education.

36. This is further made evident from the Judgment of this Court in *Dipak Kumar Jagubhai Patel (Supra)*, which was a case of admission to an educational institution. This Court observed that in the Presidential Notification, the words "resident in that Union Territory" have been inserted. The migrants cannot be granted the benefit. Thus, in the event the person seeking benefit of the reservation is a resident in that Union Territory, the benefit of the said Presidential Notification is required to be extended to such person.

37. This Court had, by placing reliance upon the Judgment of the Supreme Court in *Abhinav Dipakbhai Patel (Supra)*, held that denial of admission to a meritorious student like Petitioner No.2 smacks of nothing but arbitrariness, unreasonableness and unfairness in State action. Petitioners in that case had proved that they had residence in the Union Territory. The State cannot discriminate between meritorious students, nor can it prefer a less meritorious student by denying admission to the more meritorious student when he or she is otherwise eligible. Accordingly, the admission of Respondent No. 4 in the educational institution had been cancelled and the Respondent - UT was directed to admit Petitioner No. 2.

38. A further attempt was made by Dr. Jain to distinguish the Judgment of this Court in ***Dipak Kumar Jagubhai Patel (Supra)*** on the ground that the factual averments in that Writ Petition were not denied by the Respondent - Union Territory. However, this overlooks the fact that in the present case also there is no dispute on the Petitioners being permanent residents in the Union Territory from the year 1996.

39. The subsequent Judgments of this Court, in particular ***Durgeshkumar Lallubhai Patel (Supra)***, is directly on the issue involved in the present Petition, as it concerns an almost identical case. In that case also, the Petitioner No. 2 had been denied admission to the MBBS course in Respondent No. 4 College against the seat reserved for candidates belonging to ST category for the previous Academic Year 2025–26. The grievance of Petitioner No. 1 in that case is identical to the grievance here viz. that the Respondents had unilaterally changed the status of Petitioner No. 2 from Scheduled Tribe Category to General Category. There also, the Petitioner No. 2 was issued a Caste Certificate by the Mamlatdar of the said Union Territory. It certified that Petitioner No.2 of village Rakholi, belonged to Hindu Dhodia, which is recognized as

Scheduled Tribe in the said Union Territory. The Provisional Merit List of MBBS Dadra and Nagar Haveli ("DNH") of Scheduled Tribe Candidates included the Petitioner No. 2's name. However, in the Online Application Form, the category of the Petitioner No. 2 was changed from ST to UR. This Court held that the Petition was no longer *res integra* in light of the law laid down by the Supreme Court in ***Abhinav Dipakbhai Patel (Supra)***. The Writ Petition filed by the Petitioners, who were the permanent residents of the said Union Territory, was accordingly allowed.

40. In view of the aforesaid decisions, squarely covering the present Petition, we find no merit in the opposition to the Petition. The determinative factor in extending reservation to candidates irrespective of whether they are applying for public employment or for admission to educational institutions, is the residence of such candidates and not on the basis of origin. The contention of the Respondent No. 4 – College that “resident” in Presidential orders, such as the present Presidential Notification, with which we are concerned, means permanent abode of the persons/parents on the date of Notification of the Presidential Order, viz. 30th June 1962, is misconceived. The Supreme Court as well as this Court have held

that the residence of the candidate in the said Union Territory, and not the permanent abode of the persons/parents on the date of Notification of the said Presidential Notification/Order, which determines extending reservation to such candidate.

41. Accordingly, the Writ Petition is allowed and following order is passed:

(i) The blocking/alteration in the Online Form of Petitioner No. 2 viz. his status changed from ST to UR and his being treated as “migrant”, is quashed and set aside.

(ii) The ST Merit List, to the extent of exclusion of Petitioner No. 2's name in the said list, is also quashed and set aside.

(iii) The Respondents are directed to include and place the name of Petitioner No. 2 as per his marks in the said Merit List of ST Candidates dated 10th September 2026.

(iv) The Respondents shall allot one ST Seat to Petitioner No. 2 for MBBS Course in Respondent No. 4 - College for the Academic Year 2026-2027.

(v) The Writ Petition is disposed of in the above terms. There shall be no order as to costs.

[FIRDOSH P. POONIWALLA, J.]

[R.I. CHAGLA, J.]

42. After the Judgment and Order was pronounced in the Court, the learned Advocate appearing for Respondent No.4 has sought for stay of the Judgment and Order.

43. Having held that Petitioner No.2 has been wrongly treated as migrant and his status changed from ST to UR, inspite of the Petitioner No.2 being permanent resident of the said Union Territory, we directed allotment of one ST Seat to Petitioner No.2 in Respondent No.4 - College for the Academic Year 2026-2027.

44. We accordingly reject the Application for stay of Judgment and Order.

[FIRDOSH P. POONIWALLA, J.]

[R.I. CHAGLA, J.]