

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11033 OF 2025

Durgeshkumar Lallubhai Patel
And Anr.

...Petitioners

VERSUS

Union of India Through Secretary,
Ministry of Health And Family Welfare
And Ors.

...Respondents

....

Mr. Rahul Walia i/by Adv. Puneet Pathak, Advocate for the
Petitioners.

Mr. Aayush Kedia a/w Mr. Shantanu Nakashe h/f Adv. H. S.
Venegavkar, Advocate for the Respondent Nos.2 to 4.

....

**CORAM : M. S. KARNIK &
N. R. BORKAR, JJ.**

DATE : 12th AUGUST, 2025

P.C.:

1. Heard the learned counsel for the petitioners.
2. The petitioner No.1, who is the father of the
petitioner No.2 is aggrieved by the denial of the admission to
the petitioner No.2 in MBBS Course in respondent No.4-
College against the seat reserved for candidates belonging to
Scheduled Tribe (ST) Category for the academic year 2025-

2026. It is the grievance of the petitioner No.1 that the respondents have unilaterally changed the status of the petitioner No.2 from the Scheduled Tribe Category to general category.

3. In the Caste-certificate issued by the Mamlatdar, Dadra and Nagar Haveli & Daman and Diu, Silvassa, it is certified that the petitioner No.2 of village Rakholi of the Union Territory of Dadra and Nagar Haveli belongs to the Hindu Dhodia which is recognized as Scheduled Tribe. The petitioner No.2 is issued the domicile certificate dated 13.09.2024 by the competent authority that she is domicile in Dadra Union Territory of Dadra and Nagar Haveli. The petitioner No.2 has all along resided in Dadra and Nagar Haveli. She has completed her schooling, 11th and 12th from Dadra and Nagar Haveli. When the petitioner filled up the online application form for admission to MBBS/BDS/BAMS/BHMS courses 2025-2026 the category was recorded as Scheduled Tribe. The provisional merit list of MBBS Dadra and Nagar Haveli "DNH" of the 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.

4. The learned counsel for the respondents invited our attention to the brochure to submit that it is only the candidate belonging to SC/ST/OBC/PWD in Dadra and Nagar Haveli & Daman and Diu are entitled to such reservations. It is submitted that those who migrated from the other states to UT of Dadra and Nagar Haveli & Daman and Diu are not entitled to avail benefits of the reservation. The learned counsel submitted that the petitioner No.1 migrated to UT of Dadra and Nagar Haveli from State of Gujarat.

5. In our opinion, the issue raised in the present petition is no longer res integra in view of the law laid down by the Hon'ble Supreme Court in *Director, Transport Department, Union Territory Administration of Dadra and Nagar Haveli, Silvassa and Others Vs. Abhinav Dipakbhai Patel*¹ of which the paragraph No.15 reads thus :

“15. There is no dispute that the respondent was a resident in the Union Territory of Dadra and Nagar Haveli for six years prior to the date of advertisement.

¹ (2019) 6 Supreme Court Cases 434

He stated in the writ petition that he owns an apartment in which he was residing and he married a woman from "Dhodia" tribe in the Union Territory. He further stated that his name is in the voter's list in the Union Territory. These facts have not been disputed by the appellants. The central issue raised by the appellants before the High Court was that a person should be a local in the Union Territory which meant that migrant Scheduled Tribes cannot be given the benefit of reservation. 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. We find no force in the point canvassed by the learned counsel for the appellants that the reservation for Scheduled Tribes in the Union Territory of Dadra and Nagar Haveli is not available to migrant Scheduled Tribes. A feeble attempt was made by the learned counsel for the appellant that the requirement of residence is for a period of 10 years for a person to claim the benefit of reservation. There is no material which was placed on record in the High Court in support of the said submission and there was no such averment in the counter-affidavit filed in the writ petition. This point was not raised before the High Court and no such ground is taken in the special leave petition for which reason the said contention does not merit any consideration. Other points canvassed by the learned Senior Counsel for the respondent need not be adverted to in view of the order we propose to pass. Gross injustice is caused to the respondent by the action of the appellants in not appointing him in spite of the advice of the Union of India and the direction issued by the National Commission for Scheduled Tribes. The appointment of the respondent as Assistant Motor Vehicle Inspector does not brook any further delay."

6. The law laid down by the Hon'ble Supreme Court in **Abhinav Dipakbhai Patel** was followed by this Court in **Dipak Kumar Jagubhai Patel** in Writ Petition No.10868 of 2019 decided on 18.11.2019. In the present case as well, the petitioners are the permanent resident of Dadra and Nagar

Haveli, Silvassa. In our view, the issue raised in the present petition is fully covered by the decision in Abhinav Dipakbhai Patel. We, therefore, do not have any hesitation in allowing the present Writ Petition and the same is allowed in terms of Prayer Clause (a) and (b).

7. The petition is allowed in aforesaid terms.

(N. R. BORKAR, J.)

(M. S. KARNIK, J.)