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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11565 OF 2025

1. Dipakbhai Premabhai Patel
(son of Premabhai Chimanbhai Patel),
date of birth: 08/05/1979, age 45 years,
occupation : Service,
working as : Bailiff District and Sessions
Court Silvassa, DNH-396230 and residing
at : H.No.15/107, Sr. No.69611, Baldevi
School Faliya, Near Naresh Delkar
House, Sayli Road, Silvassa, Dadra Nagar
Haveli 396230, Cell :9925320565,
9512701986 email id: pateldp3010@gmail.com
2. Jiya Patel
(daughter of Dipakbhai Premabhai Patel),
date of birth: 30.10.2006, age 18 years,
and residing at : H.No.15/107, Sr. No.69611,
Baldevi School Faliya, Near Naresh Delkar
House, Sayli Road, Silvassa, Dadra Nagar
Haveli 396230, Cell :9925320565, 9512701986
email id: pateldp3010@gmail.com ...Petitioners

Versus

1. Union of India
Through : Secretary,
Ministry of Health and Family Welfare
(Department of Health & Family Welfare)
Ministry of Health and Family Welfare,
Government of India, Nirman Bhavan,
New Delhi – 110011.
Email id: secyhw@gmail.in

2. Administrator
Union Territory of Dadra and Nagar Haveli,
Office of the Administrator, Dadra & Nagar
Haveli & Daman & Diu, Silvassa 396230.
Email id: administrator-dd-dnh@nic.in
3. Director of Education,
Union Territory of Dadra and
Nagar Haveli, Directorate of Education,
PWD Complex, 1st & 2nd Floor,
Block-5, Silvassa, Dadra and Nagar
Haveli (U.T.) 396230
Email id: supcol-dnh@nic.in
4. NAMO Medical Education and
Research Institute, Silvassa
Through : its Dean Dr. Ramchandra
Goyal, UT Administration of Dadra
and Nagar Haveli and Daman & Diu,
Department of Health and Family Welfare,
having address at : Sayli Road, Silvassa,
UT of DNH & DD, Pin Code 396230.
Email id: medicalcollege.dnh@gmail.com/
drgoyal45@gmail.com
5. Janvi Anil Bhasra
Through Respondent No.4 ...Respondents

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

Ms. Leena Patil a/w Ms. Priyanka Chavan, Advocate for Respondent
No.1/UI.

Mr. Sanjay Jain a/w Ms. Harsh Dedhia, Advocate for Respondent Nos.2 to 4.

CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.

DATE : 29th SEPTEMBER, 2025

ORAL JUDGMENT (PER : RAVINDRA V. GHUGE, J.)

1. **Rule.** Rule made returnable forthwith and heard finally by the consent of the parties.

2. Petitioner no.1 is the father of Petitioner no.2, who is his biological daughter, Jiya Patel. The Petitioners have put forth Prayer Clauses (a), (b) and (c), as under :-

“a) This Hon'ble Court will be pleased to issue a Writ Of Certiorari or a Writ or direction in the nature of Certiorari to call for the records and proceedings of the case which led to the issuance of provisional merit list dated 05/08/2025 and Revised list on dtd 29/08/2025 to deny Petitioner No.2 ADMISSION for MBBS Course in Respondent No.4 Government Medical College i.e. NAMO Medical Education and Research Institute, Silvassa for the Academic year: 2025-2026 against (ST) candidates seats and after going through its propriety, legality and constitutional validity be pleased to quash and set aside the same only to the extent of exclusion of Petitioner No.2's name from the said List and accordingly order and direct the Respondents to

*include and place the name of the Petitioner No.2 as per her NEET Marks at Sr. No.4 i.e. in the said Merit List of ST candidates and to allot **1(One) ST Seat to the Petitioner No.2 herein** for MBBS Course in in Government Medical College i.e. NAMO Medical Education and Research Institution, Silvassa for the Academic year : 2025-2025.*

*b) This Hon'ble High Court of Bombay may graciously be pleased to issue a Writ of Mandamus or an order in the nature of Mandamus directing the Respondents to include and allot **1(One) ST Seat to the Petitioner No.2 herein** for MBBS Course in Respondent No.4 Government Medical College i.e. NAMO Medical Education and Research Institute, Silvassa for the Academic year: 2025-2026.*

*(c) This Hon'ble High Court of Bombay may graciously be pleased to hold and declare that as the Petitioner No.2 and her parent are "**Resident**" of Union Territory of Dadra and Nagar Haveli & Daman & Diu, SILVASSA, Petitioner No.2 is entitled to be treated as **ST Candidate** as *she* belongs to **DHODIA** Community and accordingly order and direct the Respondents to grant her all consequential benefits of being considered as **ST candidate for ADMISSION etc. in Respondent No.4 NAMO Medical Education and Research Institute, Silvassa.**"*

3. We have heard the learned Advocates for the appearing parties at length and have gone through the Petition paper book with their assistance. Respondent No.4 has entered an affidavit in reply dated 19th September, 2025 through the DEAN of the Medical College. Respondent No.5 is a candidate, who has scored lesser than

Petitioner No.2 in the National Eligibility Cum Entrance Test (UG) ('NEET'). However, since the Petitioners are not seeking any relief as against Respondent No.5, we have not issued notice to her.

CASE HISTORY – 1989 TO 2024

4. The grandmother of Petitioner No.2 migrated to the Union Territory of Dadra & Nagar Haveli, in 1989. She was a widow and after re-marriage to a person belonging to Silvassa, she came to her marital home in Silvassa. The father of Petitioner No.2 was born in Gujarat and migrated along with his mother to the Union Territory, when he was only 10 years of age. He is presently working as a Bailiff in the District and Sessions Court at Silvassa.

5. Since Petitioner No.1 migrated to the Union Territory along with his mother after the demise of his father on account of her marriage to a person in the Union Territory, the Government granted her some land in 1992. Petitioner No.1 and 2 have taken their education in Silvassa. They belong to the 'Dhodia' community, which is considered as a 'Scheduled Tribe' ('ST') in the State of Gujarat, as well as, in the UT of Silvassa, Dadra and Nagar Haveli and Daman and Diu.

CASE HISTORY – 2024

6. Petitioner No.2, Jiya Patel, appeared for the NEET-(UG) examination-2024, for securing admission to the Medical Course, in 2024. She scored 316 marks out of 720 and stood at Serial No.7 in the merit list of the Scheduled Tribe Category students. Though she got admission to the Medical College, the State Government denied her an admission to the Bachelor of Medicine and Bachelor of Surgery (**'MBBS'**) Course, which she could have easily secured by virtue of her NEET score and her Serial No.7 in the merit list, in 2024. Respondent No.4 is the Lone Medical Institution (A Medical College and Hospital) at Silvassa, which is common for the Union Territory Administration of Dadra & Nagar Haveli and Daman & Diu. The students from Dadra & Nagar Haveli, as well as Daman & Diu, seek admission to the Medical Course in this college. Daman & Diu were merged with Dadra & Nagar Haveli on 26th January, 2020 to form a Single New Union Territory, known as the **'Union Territory of Dadra & Nagar Haveli and Daman & Diu'**, after the Merger of Union Territories Bill 2019 was passed by the Parliament in December, 2019.

7. The learned Advocate for the Petitioners point out that the Division Bench of this Court, to which one of us (Ravindra V. Ghuge, J.) is a party, delivered a Judgment on 21st April, 2017, reported at 2017 SCC OnLine Bom 1457, concluding that a person belonging to the SC/ST category notified by the President for Union Territory, is entitled to be considered as a reserved category candidate, provided he was the resident of the said Union Territory for a prescribed time period. The said Judgment was carried to the Hon'ble Supreme Court and vide Judgment dated 7th May, 2019 in *Director, Transport Department, Union Territory Administration of Dadra And Nagar Haveli, Silvassa and Others V/s. Abhinav Dipakbhai Patel, (2019) 6 SCC 434*, the Judgment of the Division Bench of this Court was sustained. The Hon'ble Supreme Court concluding that if the person was a resident of the Union Territory of Dadra & Nagar Haveli, for six years prior to the date of the advertisement, he would be treated as a person who was entitled for the reservation for ST category in the Union Territory of Dadra & Nagar Haveli, notwithstanding that he was a migrant.

8. He, therefore, submits that had Petitioner No.2, Jiya Patel approached this Court in 2024, the injustice caused to her by the Union Territory in refusing admission to the Medical Course despite being at Serial No.7 in the merit list for the ST category, could have been undone. However, she decided to make a second attempt in the NEET-(UG) 2025 examination.

CASE HISTORY – 2025

9. It is contended in the Petition that Jiya Patel was compelled by the Administration to fill in her form for the NEET-(UG) 2025 examination, from the open category. Because of such coercion, she was left with no option. Having taken her NEET-(UG) 2025 examination, which was her second attempt, she again came out with flying colours and scored 315 marks out of 720. This year she would have been in the merit list at Serial No.4 in the ST category. However, because she was compelled to apply from the Open category, she could not get admission.

10. Respondent No.4 has entered the affidavit in reply and has contended that the Petitioner No.2 was not compelled by the

Administration to fill in the form from the Open category. She herself opted for the same. Now she cannot be granted an admission since the available post for ST category has been filled in by Respondent No.5, who has scored 240 marks (as compared to the score of Jiya Patel, which is 315). It is further averred that had the Petitioner No.2 filled in her form from the reserve category, she could have had an arguable case. Since she did not lay such a claim with the Competent Authority, another candidate was selected and now there is no seat available.

ANALYSIS AND CONCLUSIONS

11. We can visualize the trauma and the hardships that have been undergone by this girl student. In 2024, when she was at Serial No.7 in the merit list for the ST category, the Authorities refused to give her admission on the ground that she cannot claim the reservation. She should have been granted admission then, and her claim for reservation should have been tested in law. Considering the law laid down by the Hon'ble Supreme Court in *Abhinav Dipakbhai Patel (Supra)*, this girl student, who admittedly belongs to the Dhodia community, which is in the ST category and who is

born and brought up in Silvassa, should have been legally granted the admission. The State Government was aware of the said judicial pronouncement. However, this girl student was destined to suffer the rigours of the high handedness of the Administration.

12. Even if Respondent No.4, Medical College denies that Petitioner No.2 was compelled to fill in a form from the Open category, the fact remains that if this is to be taken as the truth, this act of the girl student has its roots in the trauma and injustice that she suffered in 2024, when she could walk into the MBBS Course with a merit ranking. She was refused the admission on the ground that she cannot claim reservation. This was done by ignoring the law laid down by the Hon'ble Supreme Court in *Abhinav Dipakbhai Patel (Supra)*, and without even testing the case of the Petitioner as to whether she would be entitled to the reservation. This can indeed be presumed to be a compulsive factor which led her to apply from the open category. The traumatic experience suffered by the Petitioner when she was illegally refused admission in 2024, must have surely weighed on her mind and she may not be prepared to take a second chance with destiny.

13. The fact, however, remains that on the point of reservation, her case is better than *Abhinav Dipakbhai Patel (Supra)*. In the said case, though Abhinav belonged to the Dhodia caste, which is recognized as a ST category in the State of Gujarat as well as in Union Territory of Dadra & Nagar Haveli, he shifted residence from Gujarat to the Union Territory, after he married a girl belonging to Silvassa and who belonged to the same caste. The Hon'ble Supreme Court upheld the view of this Court that Abhinav was entitled for the reservation available to him in Gujarat, in the Union Territory of Dadra & Nagar Haveli since he had migrated to the Union Territory after his marriage to the woman from the Dhodia Tribe, six years prior to the advertisement published for recruitment as an Assistant Motor Vehicle Inspector in the Transport Department. He fulfilled the criteria and the Hon'ble Supreme Court concluded that he was entitled for the benefit of reservation available to the Dhodia caste in the ST category in the Union Territory.

14. The Petitioner girl student before us, not only had her grandmother migrate to Silvassa in 1989, her father came to

Silvassa at the age of ten years in 1989. She was born in Silvassa on 30th October, 2006. She grew up in Silvassa and had taken her entire education in the Union Territory. Considering the law laid down in *Abhinav Dipakbhai Patel (Supra)*, both the Petitioners (Father and Daughter), are entitled for the reservation benefits of the ST category.

15. It is in the above peculiar facts and circumstances that we are required to deal with the case of a girl student, who has undergone a traumatic one year and has reappeared for her NEET-(UG) 2025 examination, with grit and resilience. To deprive her of admission on account of the high handed act of the Administration of the Union Territory, in refusing admission to her in 2024, ought not to be repeated this year. We are fearful that this girl student is likely to suffer further trauma, if this time her admission is refused on the ground that she had applied from the Open category when she was refused admission last year, after she had applied from the reserved category.

16. A Coordinate Bench of this Court has delivered an order on 12th August, 2025 in Writ Petition No.11033 of 2025

(Durgeshkumar Lallubhai Patel & Twisha D. Patel V/s. Union of India Through Secretary, Ministry of Health and Family Welfare And Ors.), wherein the law laid down in *Abhinav Dipakbhai Patel (Supra)* was followed and though the Petitioner was compelled to apply for MBBS Course admission from the open category in the same NEET-(UG) 2025 examination, he was granted admission from the ST category to which he belonged. Reliance was also placed by the Coordinate Bench on *Dipak Kumar Jagubhai Patel & Mihir Dipak Patel V/s. Union of India & Ors.*, Writ Petition No.10868 of 2019, when another Coordinate Bench of this Court delivered a Judgment on 18th November, 2019 following *Abhinav Dipakbhai Patel (Supra)* and concluding in Paragraph Nos.63, 64, 65 and 66, as under :-

“63. To our mind, therefore, this is a case fully covered by the Judgment of the Hon’ble Supreme Court rendered in the case of *Abhinav Dipakbhai Patel*. The denial of admission to a meritorious student like petitioner no.2 smacks of nothing but arbitrariness, unreasonableness and unfairness in State action. It violates the mandate of Article 14 of the Constitution of India. Every Governmental 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. This being the position

before us, we have no alternative but to proceed and quash the admission granted to the 4th respondent/Ms. Shraddha P. Rathod. We proceed to do so and allow the petition accordingly. We, therefore, make the Rule absolute in terms of prayers (a) to (c) of the writ petition.

64. *At this stage, Mr. Medandkar seeks a stay of our Judgment and Order cancelling the admission of the 4th respondent and directing the UT to admit petitioner No.2.*

65. *We find that in the case at hand an interim order was already passed in favour of the petitioners. However, that was challenged by the Union of India and the Administrator in Special Leave to Appeal © No.21912 of 2019. The Order of the Hon'ble Supreme Court dated 20-9-2019 quashed the interim order by consent but directed that the writ petition should be decided within six weeks as the matter concerns the admission in the medical college.*

66. *Given the gravity and seriousness of the issue so also admission being denied to a meritorious candidate erroneously and illegally, we do not think that we can accede to the request of Mr. Mendadkar and that request is refused.”*

17. We are intrigued by the fact that when so many orders and Judgments have been delivered by this Court, as well as, by the Hon'ble Supreme Court in matters pertaining to the same Union Territory of Dadra & Nagar Haveli, yet the Administration continues to repeat its conduct (rather wrong conduct), which was branded as being unfair and unjust in the earlier Judgments. Even in *Dipak*

Kumar Jagubhai Patel (Supra), the same Union Territory was faulted for refusing admission to a student from the SC category. In the said case, an already admitted student in the place of the Petitioner had to suffer cancellation of the admission with a direction to the Union Territory to admit the Petitioner Mihir Dipak Patel. Fortunately, in the case in hands, we are not required to cancel the admission of Respondent No.5 for accommodating Jiya Patel, for the reasons, which we would set out in the Paragraphs to follow.

18. We are assigning reasons, why we are issuing a direction to the Union Territory to admit Petitioner No.2 Jiya Patel, on an available seat of the ST category from Daman & Diu, which is also under the same Medical College, Respondent No.4 herein. The relevant factors are as under :-

a] By the passing of The Union Territories Bill 2019, in December, 2019 by the Parliament, Daman & Diu have been merged with Dadra & Nagar Haveli to constitute a Single Union Territory known as UT of Dadra & Nagar Haveli and Daman & Diu.

b] Respondent No.4, Medical College is the only and common Medical College available for all these Territories falling under the Single Union Territory.

c] Admittedly, four seats for the ST category are vacant today with the Daman & Diu Area, as there is no candidate available.

d] There were six seats available for the ST category with Daman & Diu. Only two candidates from the ST category were available. The first candidate scored 200 marks and the second candidate scored 128 marks, as against the 315 scored of Jiya Patel (the Petitioner before us).

e] For the SC category, two seats were available and the two selected candidates have scored 272 and 251 marks. For the OBC category, there were 17 seats. The first candidate scored 321. The second candidate scored 312 marks, which is less than the Petitioner, Jiya Patel. The last candidate scored 218 marks.

f] The second candidate from the ST category from Daman has actually scored about 17% marks to secure admission to the MBBS Course. He scored 128 marks out of 720, as against

315 scored by the Petitioner, Jiya Patel. Four seats are now vacant.

19. The learned Advocate representing Respondent Nos.2 to 4, has assisted us in conveying that the four seats of the ST category for Daman would now be allocated for the SC category. Both the two candidates from Daman, who have occupied the available two seats in the SC category have scored 272 and 251 marks. Therefore, any more candidates, if accommodated in Daman from the SC category, would be those with even lower marks. He further submits that the vacant ST seats would be transferred to the SC category and then to the open category.

20. We are faced with peculiar facts as discussed herein above, coupled with the grave injustice cause to the Petitioner, Jiya Patel by the Union Territory Administration in cancelling her admission in 2024. The loss to her is of one year. We have to take a decision to ensure that her career is not ruined. As it is, out of the six seats available for the ST category for Daman, only two candidates were available and both of them have scored 50 to 100 marks lesser

than the Petitioner, Jiya Patel. Four seats are now available.

21. We are, therefore, exercising our extra-ordinary jurisdiction and directing the UT Administration, for the afore stated reasons, that the Petitioner, Jiya Patel shall be accommodated on one seat from the four vacant seats of ST category, which fall under the common Single Union Territory with the common Respondent No.4, Medical College. Instead of cancelling the admission of Respondent No.5, Janvi Anil Bhasra, who has scored marks lesser than the Petitioner Jiya Patel, as this would amount to making the said candidate suffer, granting one seat from the available four vacant ST category seats, to the Petitioner, Jiya Patel, would not only advance the ends of justice, but, would also save Respondent No.5 from facing a cancellation of her MBBS seat, which is already allotted to her.

22. In view of the above, this **Writ Petition is allowed**. For the reasons set out herein above, Petitioner No.2, Jiya Patel shall be admitted to Respondent No.4, Medical College by borrowing one vacant seat out of the vacant four for the ST category from the

Daman quota ,for the academic year 2025-2026. **Rule is made absolute in the above terms.**

23. It be noted by all concerned, that this order has been passed in the peculiar and unusual circumstances as discussed hereinabove.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)