

(2025) 11 BOM CK 1773
In the Bombay High Court
Case No : Writ Petition No. 347 Of 2022

Vishwa Chandubhai Patel

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 06-11-2025

Acts Referred:

Citation : (2025) 11 BOM CK 1773

Hon'ble Judges : Ashwin D. Bhobe, J; Ravindra V. Ghuge, J

Bench : Division Bench

Advocate : Rahul Walia, Priyanka Chavan, Sanjay Jain, Harsh Dedhia

Final Decision : Allowed

Judgement

Ravindra V. Ghuge, J

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

2. On 8th October, 2025, we had passed the following order :

1. We have perused the extensive order dated 15th January 2021, passed at an interim stage by this Court [Coram: Dipankar Datta, CJ (as his Lordship then was) and G.S.Kulkarni, J]. One of us (Ravindra V. Ghuge, J) is a party to Abhinav Dipakbhai Patel vs. Director, Transport Dept. & Ors. (Writ Petition No.3889 of 2017) which was carried to the Hon'ble Supreme Court in Director, Transport Department, Union Territory Administration of Dadra and Nagar Haveli, Silvassa and others vs. Abhinav Dipakbhai Patel (2019) 6 SCC 434. It was concluded that, a migrant will be entitled to the ST reservation benefits in the Union Territory of DNA, as were available to him in the State of Gujarat, his birth place. Thereafter, there are several judgments delivered in various matters involving the same Union Territory, which have been referred to, by this Court in the order dated 15th January, 2021 passed in this matter.

2. On 29th January, 2021, this Court passed a further order, granting

provisional admission to the Petitioner students in the first year of MBBS from 2nd February, 2021. There were further orders passed by this Court and by virtue of the same, all these Petitioners have now passed out from their MBBS course. Their internship programmes are underway. They intend to apply for post-graduation or diploma courses and for which purpose, they require the degree certificates.

3. The learned Advocate appearing on behalf of the Union Territory submits that he has recently been engaged by the Union Territory in view of the earlier Advocate having been elevated as Hon'ble Judge of this Court. He has limited instructions. He has gone through this brief and will be ready for a final hearing on the next date.

4. In view of the above, we are listing this Petition on 6th November, 2025 at 3.00 p.m. This matter would not be adjourned for any reason cited by either of the Parties.

5. In the meanwhile, until the next date, to ensure that there is no further loss of time, we direct the Respondents to process and complete the formalities as are necessary on their parts, for issuance of Degree Certificates of hearing. If the Degree Certificates are made ready, we would permit the same to be handed over to the Petitioners, on the condition that each of the Petitioners would file their Affidavit undertaking in this Court as well as before the Respondent Medical College, stating that if their admissions are eventually held to be unsustainable by the Court of law, they would surrender their degree certificates, marks memos and would dis-associate themselves from the medical profession in view of the dictum in Chairman & Managing Director FCI & Ors. vs. Jagdish Balaram Bahira & Ors. 2017 AIR SC 3271.

3. The learned Advocate appearing on behalf of the Respondent Union Territory, submits on instructions that all these Petitioners have completed their 4 and half years of the MBBS Course. Presently, they are undergoing Compulsory Rotatory Medical Internship (CRMI), which is for one year. Once the internship is successfully completed, Degree Certificates have to be issued. Hence, the stage for issuance of Degree Certificates has still not arrived.

4. He further submits that yesterday, these Petitioners have paid their entire fees for the 4 and half years of the MBBS Course. Their marks memo will be issued to them shortly.

5. It is noteworthy that, after the filing of this Petition, the Mamalatdar cancelled the Scheduled Tribe Certificates of these Petitioners. This was brought to the notice of this Court on 8th February, 2021. Hence, this Court passed the following order on the said date :

"1. Mr. Vashi, learned senior advocate appearing for the petitioners submits that quite unusually, the petitioners' tribe status has been invalidated on 14th January, 2021 without even putting the petitioners on notice. Also, although such

order of invalidation has not been brought on record by the official respondents, it is the private respondents who have annexed such order to their reply affidavit. It is also submitted by him that the order of invalidation has since been challenged in separate writ proceedings.

2. Having regard to the allegation that the tribe status has been invalidated without granting the petitioners an opportunity to present their version, and also having regard to the fact that such order of invalidation is under challenge in separate proceedings, we allow the petitioners to continue in the first year MBBS course for a period of 10 (ten) days from date. In the meanwhile, the petitioners shall be at liberty to obtain appropriate orders on the other proceedings referred to above. If by the returnable date, the petitioners do not obtain favourable orders, we may have to reluctantly direct discontinuation of the petitioners' study in the course for which they have been admitted.

3. Put up the writ petition for further consideration on 22nd February 2021."

6. There is no dispute that these Petitioners approached this Court in Writ Petition (St.) No. 3176 of 2021 for challenging the cancellation of their Tribe Certificates. By an order dated 12/02/2021, the impugned orders of cancellation of the Tribe Certificates were set aside by this Court. For clarity, the order dated 12/02/2021 (wherein it is wrongly mentioned as Validity Certificates instead of Tribe Certificates) reads as under :

" The subject matter of challenge in the present petition concerns caste validity certificates of the Petitioners being cancelled without giving any show cause notice or hearing.

2 Learned Counsel for the Respondent-Union Territory produces a communication issued by Union Territory of Dadra and Nagar Haveli and Daman and Diu to their standing counsel that the administration was ready to give hearing to the Petitioners and their representatives.

3 Accordingly, we quash and set aside the impugned order dated 14 January 2021 with liberty to the Respondent administration to issue a proper show cause notice and give hearing to the Petitioners, either through themselves or their representatives, and pass an appropriate speaking order after hearing them. In the event of their being an adverse order to the Petitioners or any of them, the same shall not be acted upon for a period of two weeks from the date of its communication to the Petitioners.

4 The petition is disposed of accordingly."

7. In view of the above, as the Petitioners were not given any opportunity of hearing before the cancellation of their Certificates, such highhanded action of the Mamlatdar cannot be sustained. As such, the Petitioners' Tribe Certificates stand restored in view of the above reproduced order.

8. This Court [Coram: Dipankar Datta, CJ (as his Lordship then was) and

G.S.Kulkarni, JJ] passed an extensive order on 15/1/2021 (10 pages). We do not wish to enlarge the size of this Judgment by reproducing the said order. Considering the said order, we have adverted to the Judgments delivered in Abhinav Dipakbhai Patel (supra), Director, Transport Department, Union Territory Administration of Dadra and Nagar Haveli, Silvassa and others (supra) and the Judgment delivered by this Court dated 18/11/2019 in Writ Petition No. 10868 of 2019 (Dipak Kumar Jagubhai Patel and Mihir Dipak Patel V/s. Union of India & Ors.) and Writ Petition No. 11033 of 2025 dated 12/08/2025 (Durgeshkumar Lallubhai Patel And Anr. v/s. Union of India & Ors.), vide which this Court followed the earlier Judgment in Abhinav Dipakbhai Patel (supra) and declared such candidates to be entitled to the benefit of reservation available to the Dodhia Scheduled Tribe Category, as in the State of Gujarat, when they have become a domicile of the Union Territory of D & NH & DD.

9. The learned Advocate for the Petitioners has also drawn our attention to the recent Judgment delivered by us in Writ Petition No. 11565 of 2025 (Dipakbhai Premabhai Patel & Anr. v/s. Union of India & Ors.). The learned Advocate for the Union Territory informs us that this Judgment of the Court has been assailed before the Hon'ble Supreme Court.

10. The learned Advocate for the Union Territory of Dadra and Nagar Haveli has vehemently opposed this Petition. He adverts to the affidavit in reply filed, as well as the stand taken by the Union Territory in the various citations referred to herein above and prays that this Petition deserves to be dismissed.

11. In view of the above, considering that all these Petitioners belong to the Dodhia Scheduled Tribe Category, they are squarely covered by the law laid down in Abhinav Dipakbhai Patel(supra), Deepak Kumar Patel and Anr.(supra), and Durgeshkumar Lallubhai Patel & Anr. (supra), this Petition is allowed in terms of prayer clauses (a), (b) and (c) which read as under :

(a) This Hon'ble Court may be pleased to issue a Writ Of Certiorari or a Writ or direction in the nature of Certiorari to call for records and proceedings which led to the passing of impugned Revised Merit List as notified on 25.12.2020 (Exhibit "A") and after going through its propriety, legality and constitutional validity be pleased to quash and set aside the same to the extent it denies ST STATUS ADMISSION to Petitioners against 1(one) ST Seat for each Petitioner in Respondent Medical College.

(b) This Hon'ble High Court may be pleased to issue a Writ of Mandamus or any other order or direction in the nature of Mandamus directing the Respondents to Grant Admission to Petitioners against 1(One) ST Seat for each Petitioner out of 25 (ST) Seats for MBBS in the Respondent No.4 Medical College Silvassa for the year 2020-2021.

(c) This Hon'ble High Court may be pleased to hold and declare that denial of ST Status to the Petitioners AND the impugned act of now treating the Petitioners as "MIGRANT" only to deny MBBS Seat by the Respondents is absolutely illegal,

arbitrary, against the Policy dated 08.08.2020 and accordingly be pleased to quash and set aside the same with further direction to grant ADMISSION to Petitioners by treating them as ST Candidates for the purpose of ADMISSION to MBBS course in Respondent No.4 Medical College for the Academic Year: 2020-2021.

12. Rule is made absolute in the above terms.

13. No order as to costs.