

Part – I

INTRODUCTORY

A. APPOINTMENT OF ENQUIRY OFFICER :

1) By his decision incorporated in the letter No. CS/ PDKV/ 37106/ (6442)/ 1792, dated 28th May 2007 His Excellency, the Governor of Maharashtra and the Chancellor of Dr. Panjabrao Deshmukh Krishi Vidyapeeth, Akola, (for short, Dr. PDKV, Akola), in exercise of the powers conferred upon him under section 11 (1) of the Maharashtra Agricultural Universities (Krishi Vidyapeeth) Act 1983, (for short, the “University Act”) appointed me as the Enquiry Officer, hereinafter referred to as the “Enquiry Officer” to conduct a detailed enquiry into the illegalities and irregularities in recruitment to the posts of Senior Research Assistant and Junior Research Assistant (for short, SRA/JRA) and to determine whether the selection process was unfair. A true copy of the said letter dated 28.05.2007 is annexed as **Annexure- A** to this Enquiry Report. After receipt of the said letter of appointment dated 28.05.2007, the then Vice Chancellor, Dr. PDKV, Akola, Dr. S. A. Nimbalkar contacted the Enquiry Officer on 8th June, 2007 and informed him that one of the bungalows of the University would be used as office accommodation for the purpose of the enquiry. After necessary arrangements for its use as office accommodation were made and after the staff needed in the enquiry was provided, the enquiry case was fixed on 25th June, 2007 for preliminary hearing.

B. EXPLANATORY NOTE

1-A) The following words and expressions or their short-forms are used or understood in this Enquiry Report in the sense as given below:

- i) “The University Act” means the Maharashtra Agricultural Universities (Krishi Vidyapeeths) Act, 1983
- ii) “Statutes” means the Maharashtra Agricultural Universities (Krishi Vidyapeeths) Statutes, 1990
- iii) “The University” means Dr. Panjabrao Deshmukh Krishi Vidyapeeth, Akola, and its short form is “Dr. P. D. K. V.” Akola.
- iv) “SRA” is a short-form for “Senior Research Assistant” and JRA is a short-form for “Junior Research Assistant”.

Subject to context otherwise, the said expressions SRA and JRA are used in the sense of SRA (Agri.) and JRA (Agri.); otherwise, the said expression would include all categories of SRA/JRA such as SRA (Agril. Engg.), SRA (Computer), JRA (Computer) etc.

- v) AA is a short-form for Agricultural Assistant,
- vi) S.T.A. is a short-form for “Senior Technical Assistant”,
- vii) Y.C.M.O.U. is a short-form for “Yashwantrao Chavan Maharashtra Open University”.
- viii) K.V.K. is a short-form for Krishi Vigyan Kendra.
- ix) B.C.Cell means Backward class cell
- x) MCAER is a short-form for Maharashtra Council of Agricultural Education & Research constituted under section 12 (1) of the University Act.
- xi) The expression “favoured candidates” is understood in a wider sense in this Enquiry Report as per the Explanatory Note in para 1699 thereof in the topic “Selecting in the posts of SRA (Agri.) and JRA (Agri.) favoured candidates as understood in this Enquiry Report (See also para 2286 in the topic relating to findings).
- xii) The expression “Rahuri University” means “Mahatma Phule Krishi Vidyapith, Rahuri”.
- xiii) “Movement Register or the Staff Position Register” is the Register in which each step in the service career of employee such appointment, transfer, promotion, retirement, and termination etc. is noted.
- xiv) R. P. is a short form of Research Publication, P. A. is a short form of Popular Article and T. B. is a short form of Technical Bulletin.
- xv) N.S. is a short form of Not Selected.
- xvi) Ex. No. is a short form of Exhibit Number.

C. PROCEDURE OF ENQUIRY

2) Although this is a statutory enquiry under section 11 (1) of the University Act, no procedure of making such enquiry is laid down either under the said Act, or the statutes, or the regulations, if any, framed thereunder. There is no power to the Enquiry Officer to administer oath to the persons/ officers presenting documents and / or making statements in this enquiry. Therefore, in order to have sanctity to the material placed on record through the documents and/or statements made in this enquiry, the Enquiry Officer decided to collect the material through the affidavits of persons / officers filing documents or making or submitting statements in this enquiry. In other words, a person/officer filing documents was required to file affidavit in support of authenticity of the said documents. If he was filing his own written statement it had to be on affidavit and if he was making statements pursuant to his interrogation in this enquiry, he was required to file affidavit on the lines of his interrogation and statement in this enquiry.

D. NATURE AND SCOPE OF ENQUIRY

3) On 25th June, 2007 Shri S. S. Suradkar, Registrar, Dr. PDKV, Akola and Shri P. H. Deshpande, Section Officer, Incharge Legal Branch, Dr. PDKV, Akola were present in person. Shri D. P. Deshmukh, Section Assistant, Dr. PDKV, Akola was also present in person. He filed his authorisation letter dated 22.06.2007 to submit documents in this enquiry on behalf of the University. As per discussion with the Registrar, Dr. PDKV, Akola, time was granted to him to file affidavit and relevant documents and the enquiry case was fixed on 03.07.2007 for the said purpose. On 26.06.2007 notice was issued to the Secretary to His Excellency, the Governor of Maharashtra to produce in this enquiry on or before 10.07.2007 the report of the Director General, MCAER, Pune dated 8th November, 2006 and also the letters dated 7, 24 and 31st October, 2006 received from the Registrar, Dr. PDKV, Akola, regarding the representation dated 07th July, 2006 of Dr. B. G. Bathkal and four others referred to in the aforesaid letter of appointment of the Enquiry Officer dated 28th May, 2007 issued by His Excellency, the Governor of Maharashtra. He was also directed by notice dated 29.06.2007 to produce the aforesaid representation dated 7th July, 2007 made by Dr. B. G. Bathkal and four others to His Excellency, the Governor of Maharashtra and the Chancellor, Dr. PDKV, Akola with all its enclosures, on or before the said date i.e. 10th July, 2007.

4) In pursuance to the notice dated 25.06.2007 Shri G. G. Tonde, Assistant Registrar, (Estt.) submitted affidavit dated 02.07.2007 and filed certain documents as per the index given therein. As the said affidavit dated 02.07.2007 with which certain documents were filed was not proper, Shri G. G. Tonde, Assistant Registrar (Estt) was directed to file a fresh affidavit, which he filed on 19.07.2007. The said affidavit dated 18.07.2007 (Ex. No. 1) included in its list (Ex. A) the documents already filed by him with his earlier affidavit dated 02.07.2007 and also some additional documents. The true copies of the documents taken on record as per his fresh affidavit dated 18.07.2007 (Ex. 1) and marked as Ex. Nos. 2 to 33 and the original files/records filed therewith and marked as Ex.Nos. 34 (O) to 47 (O) are follows:

Sr. No	Description	Date of document	Page No.	Exhibit No.
1.	i) University Advertisement ii) Addendum to Advertisement	14.08.2004 06.09.2004	01-04 05	2
2.	Chart showing the Total No. of category wise applications received for the posts of SRA	-	06	3
3.	Chart showing the Total No. of category wise applications received for the posts of JRA	-	07	4
4.	Orders of appointments in 55 posts of SRAs with category, their posting including their addresses	16-09-2005	08-63	5

5.	Orders of appointments in 76 posts of JRAs with category, their posting including their addresses	17.09.2005	64-140	6
6.	Notification showing the Names of Members of Selection Committee including their address	24.05.2004	141	7
7.	Notification regarding extension of tenure of Selection Committee as per provisions under Statute-76(2)	23.05.2005	142	8
8.	Criteria for Academic evaluation of SRA/JRA.	31.05.2005	143	9
09.	Proforma of Common Interview Call for both the posts of SRA & JRA and for all categories.	24.05.2005	144	10
10.	Copy of date wise attendance sheet duly signed by Members of Selection Committee		145	11
11.	Interview Programme 13.06.05 to 17.06.05 & 20.06.05 to 25.06.05		147	12
12.	Datewise chart of candidates called for interview with statement showing qualification of candidates with their addresses and other information		148-492	13
13.	The Copy of Writ Petition No. 342/06 filed by Shri Himmatrao Sukhdevrao Bache		493-497	14
14.	The Reply of the University in WP No.342/06 (Bache)		498-518	15
15.	The copy of W.P.No.905/06 filed by Miss Archana Bipte and other		519-560	16
16.	The copy of University Reply in W. P. No. 905/06 (Bipte)		561-576	17
17.	The copy of W. P. No. 4771/of 2006 filed by Dr. Balvant G. Bathkal & 3 others		577-634	18
18.	The copy of University Reply in Writ Petition No. 4771/06		635-654	19
19.	Copy of Representation of Dr. B.G. Bathkal to His Excellency the Governor & Chancellor	07.07.2006	655-675	20
20.	Copy of Para wise reply submitted to His Excellency the Governor & Chancellor by the University regarding the representation of Dr.B.G. Bathkal & Others		676-682	21
21.	The list showing the names of all QUALIFIED and Non-QUALIFIED applicants applying for posts of JRA, category wise, showing qualifications and other information.		683- 1532	22
22.	The list showing the names of all QUALIFIED and Non-QUALIFIED applicants applying for the posts of SRA, category wise, showing qualifications and other information.		1533-1972	23

23.	The charts and tabular statements of all the candidates, separately for the post of SRA / JRA including selected and non-selected candidates showing their names, category, marks obtained out of 40, and out of 60 and also the total number of marks obtained by them.		1973-2077	24
24.	Separate categorywise lists of selected candidates, for the posts of SRA & JRA showing their qualifications, category, sex, Biodata, marks obtained out of 40, interview marks out of 60 and their total marks.		2078-2094	25
25.	List of the duties and responsibilities of SRA/JRA.		2095-2097	26
26.	Copy of Notice of meeting of the Selection Committee.	26.05.2005	2098	27
27.	The Copy of Proceedings of the meeting of the Selection Committee held from 13.06.2005 to 25.06.2005.		2099-2112	28
28.	List of total number of applicants applying for the posts of JRA (Agri.) & SRA(Agri.) (Categorywise)		2113-2174	29
29.	Lists of SELECTED candidates in the posts of JRA (Agri.) & SRA (Agri.) (Categorywise)		2175-2192	30
30.	List of Non-selected candidates for the posts of JRA (Agri.) & SRA (Agri.) (Categorywise)		2193-2247	31
31.	Academic Regulation for the Award of Post Graduate Degree. "REGULATION NO. AC/8"		2248-2276	32
32.	Names and addresses of the Chairman and the Members of Selection Committee.		2277	33

LIST OF ORIGINAL FILES/RECORD SUBMITTED WITH THE AFFIDAVIT DATED 18.7.2007

Sr. No	Description	File No.	Page No.	Exhibit No.
1.	File about proceedings of meeting of the Selection Committee for selection of SRA(Agri.) and JRA(Agri.) by Nomination/Promotion / Time bond promotion held from 13.06.2005 to 25.06.2005	1	As per Index 1 to 77/1-92	34 (O)
2.	File No.BDT/Apptt./SRA/JRA/0196 about Interview for the post of SRA / JRA / AA / LSS	2	N/1 to N/19 Annexure-I to XI C/1 to C/33 Criteria of academic Evaluation of SRA and JRA C/35	35 (O)
3.	File relating to the List of Candidates for interview for the posts of SRA/JRA under all categories.	3	C/1 to C/151	36 (O)

4.	File No.BDA/02/2005 about equivalence of degree of Yashwantrao Chavan Maharashtra Mukta Vidyapeeth, Nasik.	4	N/1 to N/3 C/1 to C/59	37 (O)
5.	File about Marks of Ph.D, Thesis, Research papers/popular articles, Significant contribution awarded to the candidates at the time of interview.	5	C/1 to C/49	38 (O)
6.	File No.BDE/NOM/SRA/05 – Cancellation of appointment order and extension of joining time.	6	N/1 to N/5 C/1 to C/23	39 (O)
7.	File No.BDG/Advt./2004 – Advertisement for the post of SRA / JRA / AA / LSS	7	N/1 to N/15 C/1 to C/39	40 (O)
8.	File No.BDG/Advt./01/04 about issuing corrigendum to the Advertisement dt. 14.08.2004 for Engineering graduates.	8	N/1 to N/1 C/1 to C/35	41 (O)
9.	File No.BDE/Apptt./SRA/JRA/123/ 2005– showing vacancy position for filling the posts of SRA / JRA	9	N/1 to N/9 C/1 to C/537	42 (O)
10.	File No.BDE/JRA/NOM/0197 – Corrigendum for change of the category of two candidates selected as JRA.	10	N/1, C/1 to C/9	43 (O)
11.	File No.BDG/Agri.Engg./0196/06 relating to Agri. Engg. Graduates demanding 25% reservation in the post of JRA and Agril. Asstt.	11	N/1 , C/1 to C/15	44 (O)
12.	Charts showing particulars of candidates called for the posts of SRA/JRA.	12	Pg. 1 to 341 for YCMOU 1 to 2	45 (O)
13.	Selection Committee Members Attendance Registrar	13	C/1 to C/133	46 (O)
14.	File relating to promotion of Agri. Asstt. to JRA, JRA to SRA and time bond promotion	14	N/1 to N/11 C/1 to C/277	47 (O)

5) As shown in the above list of documents, one of the documents filed by the University was the representation dated 07.07.2006 (Ex. 20) made by Dr. B. G. Bathkal and 4 others to H. E. the Governor of Maharashtra and Chancellor, Dr. PDKV, Akola enclosing therewith what they called a “Brief Report of prejudicial selection and appointments of SRA/JRA (Agri.) by Dr. PDKV, Akola”. In the said representation dated 07.07.2006 (Ex. 20) and the brief report enclosed therewith, they pointed out amongst others the following illegalities and irregularities in the process of recruitment to the posts of SRA/JRA and in particular, the selection process:

- a) Although, originally, there were only 24 vacancies of SRA (Agri.) and 37 vacancies of JRA (Agri.) advertised, actually there were 55 appointments made in the post of SRA (Agri.) and 76 appointments in the post of JRA (Agri.) which were more than

double in both the posts and which were made without declaring the additional number of vacancies and the modus operandi for filling them.

- b) Merit was the biggest casualty in selection process of SRA/JRA because of manipulation in favour of the less qualified candidates who were given higher position in merit list by giving them higher marks in personal interview.
 - c) Non-eligible candidates were selected for the posts of JRA.
 - d) Selection norms for academic evaluation and personal interview were flouted.
 - e) Short Listing of the candidates was not done intentionally to increase the scope for manipulation, nepotism and corruption. Had there been proper shortlisting of the candidates by retaining only the highly qualified candidates, the number of candidates to be called for interview could have been restricted to 5 - 8 candidates per post leaving sufficient time for their interviews so as to make critical assessment of their knowledge and technical abilities leading to unbiased selection.
 - f) Common interviews were conducted for both these posts although these posts were different and had different responsibilities and perceptions.
 - g) The candidates appearing for interview for both these posts were not separately graded.
 - h) As the number of candidates interviewed for both these posts was very large, personal interview of each candidate could not have been more than about 3-4 minutes duration within which period there could not have been objective evaluation of his knowledge and technical abilities Vis-à-vis the posts for which he was interviewed, much less could there be given for each of these posts separate gradation to the candidates appearing in a common interview for both these posts. Personal interview of the candidates was thus the biggest fraud for manipulating marks tally and was a mere farce.
 - i) Selection list was never displayed and the appointment orders were issued piecemeal so that the names could neither be known collectively nor the number of appointments to the deserving aspirants.
 - j) Selection process was not rational and transparent and there were strong possibilities of horse-trading on a large scale as well as nepotism.
- 6) In the aforesaid representation dated 07.07.2006 (Ex. 20) Dr. B. G. Bathkal and others suggested the following points of reference for enquiry into the question of illegalities and irregularities in recruitment to the posts of SRA/JRA:
- I. To examine the final merit list based on academic evaluation and personal interview.
 - II. To examine fairness in rejection.

- III. To examine the justification for selection of academically poor candidates
- IV. To ascertain validity of the charge of nepotism.
- V. To take action against persons found guilty in respect of misuse of statutory provisions or circumventing them to their advantage and flouting the prescribed norms.
- VI. To give justice to the aggrieved ones.
- VII. To bring about improvement in process of selection and recommend measures to curb the existing loopholes for Lawful Governance.

7) Dr. B. G. Bathkal and three others who made the aforesaid representation dated 07.07.2006 (Ex. 20) to H. E. the Governor of Maharashtra and Chancellor, Dr. PDKV, Akola also filed Writ Petition No. 4771/2006 in the Hon'ble High Court of Bombay, Nagpur Bench, Nagpur since, according to them, no action was taken by the Hon'ble Chancellor in the matter although their representation dated 07.07.2006 (Ex. 20) was received by his office on 14.08.2006. The principle relief claimed by them in the said Writ Petition 4771/2006 was that the respondent No. 1 H. E., the Governor of Maharashtra and Chancellor, Dr PDKV should kindly be directed to institute and complete enquiry with respect to the illegalities and irregularities committed by the respondents 3 and 4 i.e. the University and its Vice Chancellor in the process of recruitment of SRA/JRA within a time bound programme in the light of their representation dated 07.07.2006 made by them.

8) The above relief was claimed in the aforesaid W.P. 4771/2006 upon the following amongst other facts and grounds.

- a) As per the advertisement dated 14.08.2004 (Ex. 2) 35 posts of SRA and 40 posts of JRA were advertised as stated in para 4 and the system of allotment of marks was adopted for selection of candidates as shown in para 5 of the writ petition.
- b) The total number of marks prescribed for evaluation of each candidate was 100, out of which 40 marks were prescribed for qualifications, experience, research publications and significant contribution. The remaining 60 marks were prescribed for performance in interview.
- c) As regards 40 marks prescribed for qualifications, experience, research publications and significant contribution, the marks to be given under each head of qualifications, experience, research publications and significant contribution were fixed leaving little discretion in the selection committee for allotment of the same. As such there was no scope for any material manipulation in allotment of the said marks although, in a few cases illegalities were committed in awarding them.

- d) By fixing 60 marks for Viva-Voce test which were on the higher side and by granting unfettered discretion to the members of the selection committee in the allotment of the interview marks, the selection process was reduced to a very determined conspiracy.
- e) There were total 1987 candidates for the posts of SRA/JRA and the interviews were held by selection committee for 11 days for a period of 6 hours per day. Accordingly the maximum period that could be allotted to each candidate was only 2 minutes, during which it was virtually impossible for the members of the selection committee to assess and judge his performance and to allot him marks for his oral interview and that too out of as high as 60 marks.
- f) The members of the selection committee had resorted to arbitrary allotment of the interview marks, because of which favoured and less meritorious candidates were selected while more qualified candidates were deliberately excluded.
- g) Fixing 60 marks for Viva-Voce test is very much on the higher side and is contrary to the law laid down by the Hon'ble Supreme Court in this regard. The Supreme Court has laid down that the allotment of more than 15 % of the total marks for interview test should not be regarded as permissible for such a discretion to the members of the selection committee provides room for manipulation although in its subsequent judgment the allotment of 25 % of the total marks for interview test has been held to be not arbitrary by it. However, it has held that the interview for short duration of the 2-3 minutes is arbitrary and unsustainable in the eye of law.
- h) In the light of the law laid down by the Hon'ble Supreme Court the entire process of the selection for the posts of SRA/JRA undertaken by the Respondents 3 and 4 should be declared as arbitrary and should be struck down on the basic premise that 60% of the total marks allocated for the interview test were very much on the higher side and there was uncontrolled and arbitrary discretion vested in the selection committee which could be abused and/or misused with the result that it could upset the entire merit position.
- i) Although the petitioners demanded necessary information under the Right to Information Act about all the candidates appearing for the interview, the information supplied by the University was only about the selected candidates and deliberately and willfully the material information about the marks awarded to all the candidates was withheld. Even on the basis of the

information supplied about the selected candidates it could be demonstrated that the discretion granted in favour of the selection committee was misused. None of the members of the selection committee was in a position to evaluate and judge the performance of the candidate within a short period of 1-3 minutes so as to award him marks out of 60.

- j) It is revealed from the list of the selected candidates that many highly qualified and experienced candidates have been eliminated from the process of the selection by awarding them less marks in the interview while the less qualified and inexperienced candidates have been selected by awarding them very high marks in the interview. For instance by awarding 59 out of 60 marks in interview test a candidate who received only 5 marks out of 40 under the head of qualifications was selected by the selection committee.
- k) In no manner a candidate who is highly qualified, experienced and who has substantial research work to his credit can be discarded on the basis of marks awarded in the interview.
- l) Although the information of Non-selected candidates was deliberately withheld, even the charts relating to marks allotted to the selected SRA candidates (Annexure D) and the selected JRA candidates (Annexure E) show serious irregularities committed by the respondent 3 and 4 in the process of selection as given below:
 - (i) In the list of selected candidates for the posts of JRA there are more than 42 candidates out of 76 who have less than 50% marks in academic qualifications and have been selected because of very high marks given in the interview.
 - (ii) There are 25 candidates who have less than 10 marks in academic qualifications but because of higher percentage of marks given in interview they were selected.
 - (iii) Candidates with only B.Sc. degree have been selected and many other candidates with M.Sc./Ph.D. degrees have not been selected.
 - (iv) Although the respondents 3 and 4 have deliberately not supplied the information regarding marks given to the candidates who are not selected, the petitioners are confident of the fact that many highly qualified candidates who have secured more than 30 marks in academic qualifications have been eliminated because of less percentage of marks given to them in interview.

- (v) Similarly, with reference to the selection of the candidates for the post of SRA 40% of the candidates with less than 50% marks in academic qualifications have been selected for the said post because of very high percentage of marks given to them in interview.
 - (vi) A bare comparison of marks secured in academic qualifications and the marks awarded in interview would show the serious disparity because the marks obtained in academic qualifications are on much lower side and the marks awarded to them in the interview are very high.
 - (vii) If the cases of the candidates who are not selected are evaluated after receipt of the relevant information about them, it can be demonstrated that the marks secured by them in academic qualifications were high but the marks given to them in the interview were very low so that their total marks out of 100 were also low because of which they could not be selected.
- m) The members of the selection committee had predetermined the candidates to be selected and in order to facilitate their selection high percentage of marks was awarded to them in interview. Similarly, the other candidates who were to be eliminated were awarded very low marks in their interview. See Annexure F of Writ Petition No. 4771/2006, in which it is pointed out by the petitioners that higher marks are given to favour less meritorious candidates.
- n) As the posts of SRA/JRA were totally different and the post of SRA was in higher cadre, while the post of JRA was in lower cadre, the respondents 3 and 4 were under an obligation to hold separate interview for both the said posts. Many candidates had applied for both the said posts as they were eligible for them. However, the respondents 3 and 4 have in most illegal fashion held common interviews and selected persons for the posts of SRA and JRA in the most illegal manner by holding such common interviews.
- o) Although the total number of post of SRA advertised were 35 and of JRA were 40, the respondents 3 and 4 selected total 55 candidates for the posts of SRA and 76 candidates for the posts of JRA. The petitioners fail to understand as to how the vacancies increased drastically from 35 to 55 in posts of SRA and from 40 to 76 in posts of JRA. There is therefore, enough ground to believe that the respondents 3 and 4 had prejudged the selection and in order to accommodate the predetermined candidates the vacancies in the posts of SRA/JRA were unilaterally increased (see Annexure-C).

- p) Many reserved candidates secured more marks than the candidates in the open category as is clear from the selection lists of SRA/JRA (Annexure D and E). Perusal of the selection the reserved category list of SRA in chart D would show that there were 15 such candidates who should have been selected on their merit in open category with the result that 15 additional reserved category candidates could have been appointed in their places in the respective reserved categories. Similarly, in the posts of JRA as many as 18 candidates belonging to the reserved categories were entitled to be selected in open category on the basis of their merit as is clear from the selection list of JRA in the chart Annexure – E making room for 18 additional reserved category candidates for selection in the respective reserved categories.
- q) There are thus various illegalities and irregularities committed by the respondent 3 and 4, in recruitment to the posts of SRA/JRA for which it is necessary for the respondent No. 1, His Excellency, the Governor of Maharashtra and Chancellor of Dr. PDKV, Akola to institute an enquiry under Section 11 (1) of the University Act.

9) The Hon'ble High Court of Bombay, Nagpur Bench, Nagpur, passed an order on 21st April, 2007 in the said Writ Petition No. 4771/2006 in which, looking to the grave illegalities and irregularities in the process of recruitment to the posts of SRA/JRA alleged in the said Writ Petition No. 4771/2006 and brought to its notice and the delay caused in the matter, it expressed the view that the Hon'ble Chancellor should take immediate decision upon the representation of the petitioners treating their Writ Petition also as their representation since their grievances were further crystallized therein. It, therefore, directed its Registrar, (Judicial) to issue a letter of request to H. E., the Governor of Maharashtra, and Chancellor of Dr.PDKV, communicating to him the expectations of the Hon'ble High Court and for suitable action by him in the matter. It also directed the learned AGP to communicate its expectations to the Hon'ble Chancellor. The said Writ Petition was directed to be listed for further orders on 21.08.2007.

10) Besides the aforesaid Writ Petition No. 4771/2006, there are two other Writ Petitions filed in this matter which are also pending in the High Court. One Shri Himmatrao Sukhdeo Bache, a Social Worker from Akola filed Writ Petition No. 342/2006 challenging selections in question principally on the ground that the said selections were illegal and were liable to be set aside since an Officer from Social Welfare Department was not appointed in the selection committee constituted for making appointments to the posts of SRA/JRA which are class III posts and for filling which, according to him, it was necessary for the University to include the Social

Welfare Officer in the Selection Committee so as to supervise the selection of the candidates from the reserved categories. In this regard, he relied upon the letter of the Special District Social Welfare Officer, dated 21.06.2005 (Annexure C to W. P. No. 342/2006) by which the said officer had brought to the notice of the University that as per the Government circulars dated 19.07.1972 and 25.05.1973 it was necessary for the University to associate the Social Welfare Officer in the selection process of the candidates for class III and class IV posts in order to safe-guard the interest of the backward classes and in his absence if the selection is made it would be treated as contrary to the rules. By his aforesaid letter dated 21.06.2005 he categorically informed the University that since the Social Welfare Officer was not asked to remain present while the selection process for these class III posts was going on, the said selection process was contrary to rules.

11) Miss. Archana Rambhau Bipte and another who had applied for the posts in question of SRA/JRA have filed Writ Petition No. 905/2006 in the High Court, principally on the ground that the selections made and the appointments given to the selected candidates in the posts of SRA/JRA were vitiated because the selection committee as shown in paras 8, 9 and 10 of their aforesaid Writ Petition had selected candidates who were relations of the Chairman, the members of the selection committee, and the present and the retired employees of the University.

12) It appears that Dr. B. G. Bathkal and others had made a similar representation dated 10.09.2006 (it should be 10.06.2006) to Hon'ble Minister for Agriculture about the illegalities and irregularities in recruitment to the posts of SRA/JRA in Dr. PDKV, Akola in regard to which the Director General, Maharashtra Council of Agricultural Education and Research (for short MCAER), a body constituted under Section 12 of the University Act, had submitted his report to H. E. the Governor of Maharashtra and Chancellor of Dr. PDKV, Akola which he had enclosed with his forwarding letter No. मकृप/आस्था-६/क.सं.स/व.सं.स. भरती प्रक्रिया/६१/ २००६, दिनांक ०८ नोव्हेंबर, २००६ addressed to the Principal Secretary to H.E., the Governor of Maharashtra and the Chancellor, Dr. PDKV, Akola. Similarly, the Registrar, Dr PDKV had also sent his remarks about the said illegalities and irregularities in the selection process of SRA and JRA as per his letters dated 7, 24 and 31st October, 2006 addressed to the Secretary to H. E. the Governor of Maharashtra and Chancellor, Dr. PDKV, Akola.

13) Broadly speaking, the scope of this enquiry thus is whether there were illegalities and irregularities committed and whether the selection process was unfair in making recruitment to the posts of SRA/JRA for which advertisement was given by the University on 14.08.2004 (Ex. 2). In particular, from the conspectus of the above

material on record, i.e. the representation of Dr. Balwant Govind Bathkal and others dated 07.07.2006 (Ex. 23) the Writ Petition No. 4771/2006 filed by them (Ex. 19), Writ Petition No. 342/2006 filed by Shri Himmatrao Sukhdeorao Bache (Ex. 15) and Writ Petition No. 905/2006 filed by Ku. Archana Rambhau Bipte and another (Ex. 19) the following points inter-alia need consideration.

- i) Whether fixing 60 marks for Viva-voce test out of total of 100 marks is contrary to the law laid down by the Supreme Court in this regard?
- ii) Whether, by manipulation, in the Mark-Sheet of all the candidates, higher positions are ensured to the favoured and lowly qualified candidates by giving them higher marks in personal interview and by giving poor/less marks in personal interview to the candidates who are highly qualified thereby making merit the biggest casualty in recruitment to the posts of SRA/JRA? Does it show that the candidates to be selected were predetermined and the above modus operandi is adopted to enable their selection in the select list?
- iii) Whether non-eligible candidates were selected for the posts of JRA?
- iv) Whether selection norms for academic evaluation and personal interview were flouted with utter disregard to merit?
- v) Whether short listing of candidates was not done intentionally to increase the scope for manipulation, nepotism and corruption?
- vi) Whether personal interview of the candidates was of 3 to 4 minutes duration and was thus mere farce and the biggest fraud for manipulating marks-tally?
- vii) Whether there was an obligation upon the selection committee to hold separate interviews for the posts of SRA and JRA and whether by holding common interviews for these posts the candidates were selected for the posts in most illegal manner?
- viii) Whether the candidates could be and were separately graded in their common interviews for both the posts of SRA/JRA?
- ix) Whether select List was not displayed and whether the appointment orders were issued piecemeal so that the names could neither be known collectively nor the number of appointments to the deserving aspirants.
- x) Whether the vacancies of SRA (Agri.) were increased drastically from 24 to 55 and of JRA (Agri.) from 37 to 76 so as to accommodate favoured and predetermined candidates in these posts?

- xi) Whether selection process was not rational and transparent and was tainted by bias and favouritism?
- xii) Whether there are strong reasons to believe possibilities of horse-trading on large scale as well as nepotism?
- xiii) Whether the selection process was biased and was vitiated because the relations of the Chairman, the members of the selection committee, and the present and the retired employees were selected and were given appointment in the posts in question of SRA/JRA?
- xiv) Whether the selections, and the appointments made pursuant to them in the class III posts of SRA/JRA are illegal and liable to be set aside since the Social Welfare Officer as required by the Government circulars dated 19.07.1972 and 25.05.1973 was not associated with the selection committee while making selection of the reserved category candidates in the posts in question of SRA/JRA?

E. RELEVANT PROVISIONS OF THE UNIVERSITY ACT AND STATUTES FRAMED THEREUNDER

14) It would be appropriate to refer to some of the provisions of the University Act and the Statutes framed thereunder relevant to the points arising for determination in this enquiry. Section 11(1) of the University Act inter-alia provides for causing an enquiry to be made regarding any matter connected with the administration or finance of the University. It is under the aforesaid provision of Section 11(1) of the University Act that His Excellency the Governor of the Maharashtra and Chancellor of the Dr. PDKV, Akola has directed an enquiry to be made into the illegalities and irregularities and also fairness of the selection process in recruitment to the posts of SRA/JRA in the University by appointing the Enquiry Officer by his order dated 28th May, 2007. Sub Section 2 of Section 11, of the University Act enables the University to appoint in such enquiry its representative who has a right to remain present and be heard in such enquiry. The provisions of Sub Sections 3, 4 and 5 of Section 11 of the University Act enables the Hon'ble Chancellor to communicate the result of such enquiry to the Executive Council through the Vice Chancellor of the University and seek its opinion thereon to be communicated to him through the Vice-Chancellor within the time specified by him. If the Executive Council communicates its opinion within the specified time, or fails to do so, the Hon'ble Chancellor can then proceed and advise the Executive Council upon the action to be taken by it fixing time limit for taking such action. If the Executive Council fails to take such action to his satisfaction within the time specified for it, he can, after considering such explanation as may be furnished by it or any representation made by it, issue directions in the matter which the Executive Council and any other authority concerned is bound to comply with.

15) Section 12(1) of the University Act provides for constitution of a Council to be called the “Maharashtra Council of Agricultural Education and Research” for the purpose of effective co-ordination in the activities of all Agricultural Universities in the state, particularly, in relation to teaching, research, extension education and other matters of common interests and for having periodical evaluation of the functioning of the Universities and supervision over them and their academic and financial activities and programmes. Clause (a) of Sub Section 2 of Section 12 of the University Act lays down that the Minister for Agriculture, Maharashtra State shall be the Ex officio Chairman of the said Council and Sub Section 3 thereof prescribes powers and functions of the Council.

16) Chapter IV of the University Act is about the officers of the University. Section 13 therein provides for classification of personnel of the University into the following categories:

- a) Executives, academic officers and other officers who have the administrative authority and who are designated as such by or under this Act or by the statutes.
- b) Academic staff members who have duties of an academic nature, such as teaching, research and extension education and who hold professional rank of Professor, Associate Professor, Assistant Professor, Lecturer or Demonstrator or the like as may be designated by or under this Act, or by the statutes.
- c) Ministerial staff members who are in service of the University and not included in the categories (a) and (b) above.

17) Section 14 then enumerates as follows the officers of the University falling in the above categories:

(a) Executives

- i) The Chancellor
- ii) The Pro-Chancellor
- iii) The Vice Chancellor

(b) Academic Officers

- iv) The Director of Instruction
- v) The Director of Research
- vi) The Director of Extension Education
- vii) The Deans of Faculties
- viii) Associate Deans

(c) Other Officers

- ix) The Registrar
- x) The Comptroller
- xi) The Director of Students Welfare
- xii) Librarian

(d) Officers declared by the statutes

- xiii) Such other persons declared by the statutes to be the Academic Officers or other officers of the University.

18) Section 15(1) provides that the Governor of Maharashtra, shall be the Chancellor and as per Section 16, the Minister for Agriculture, Maharashtra State is the ex officio Pro-Chancellor of each University.

19) Section 17 (1) of the University Act provides for appointment of Vice Chancellor of the University in accordance with its provisions and Section 18 lays down his powers and duties. As stated in Sub-Section (1) of Section 18 the Vice Chancellor is the principal executive officer of the University. Sub Section (2) of Section 18 provides that he shall exercise general control over the affairs of the University and shall be responsible for the due maintenance of discipline in the University. Some of the relevant Sub Sections of Section 18 conferring powers or casting duties or obligations upon the Vice Chancellor are as under :

- 4: It shall be the duty of the Vice Chancellor to ensure that the provisions of this Act and the Statutes and the Regulations are faithfully observed, and he shall have all powers necessary for this purpose.
- 5: The Vice Chancellor shall be responsible for the proper administration of the University including financial administration and for close co-ordination and integration of teaching, research and extension education programmes.
- 10: The Vice Chancellor shall have power to appoint such employees of the University as provided in this Act or in the Statutes.
- 16: In any emergency which, in the opinion of the Vice Chancellor, requires that immediate action should be taken he shall, subject to the control of the Pro-chancellor, take such action which he deems necessary and shall at the earliest opportunity thereafter report his action to the Executive Council and to such other authority or officer as would have in the ordinary course, dealt with the matter.

- 20: The Vice Chancellor shall exercise such other powers and perform such other duties as are laid down under this Act and may be conferred or imposed on him by the Statutes.
- 20)** Section 19 (1) provides for appointment of Registrar of the University who is its whole-time salaried officer. Section 19(2) then provides that the Registrar shall be responsible for the due custody of the records and he shall be Ex- Officio Member Secretary of the Executive Council and the Academic Council and shall be bound to place before them all available information regarding the business of the University. There is an amendment to Section 19(2) of the University Act by Section 6 (a) of the Maharashtra Ordinance No. 11 of 2003 which is replaced by Maharashtra Act No. 14 of 2003 according to which the Registrar is also the Ex- Officio Member Secretary of the Selection Committees constituted for the “Academic Staff”.
- 21)** As regards the other officers of the University viz., the Comptroller, the Dean of each faculty, the Director of Instruction, the Director of Research, the Director of Extension Education; the Director of Students Welfare and Associate Dean, Sections 20, 21, 23, 24, 25, 26 and 27 of the University Act deal with their appointments and functions. Section 28 of the University Act then states that subject to its provisions, the designations, qualifications, method of recruitment, pay and allowances and other conditions of service of all the employees of the University and their powers and duties shall be such as may, from time to time, be determined by the Statutes and Regulations.
- 22)** Chapter V of the University Act is about the authorities of the University, their powers and duties. According to section 29 of the said Act the following shall be the authorities of the University : -
- (i) the Executive Council
 - (ii) the Academic Council
 - (iii) the Faculties
 - (iv) the Boards of Studies
 - (v) and such other bodies of the University as may be declared by the statutes to be the authorities of the University.
- 23)** Section 30 of the University Act provides for composition of the Executive Council and Section 31, its powers and duties. Clause xvii of the said Section 31 empowers the Executive Council to make, amend and repeal the Statutes and Regulations. Section 33 then provides for the composition of the Academic Council, and Section 34, its Powers and Duties.

24) Section 35(1) of the University Act, which is relevant in this enquiry, provides that each University shall constitute/institute any of the following Faculties and such other Faculties as may be constituted by the Statutes, from time to time:-

- (i) Agriculture (including Agricultural Economics & Animal Husbandry and Dairy).
- (ii) Veterinary Science
- (iii) Agricultural Technology.
- (iv) Agricultural Engineering
- (v) Home Science
- (vi) Basic Science
- (vii) Post Graduate Studies
- (viii) Lower Agricultural Studies.
- (ix) Fisheries (including Marine Biology)
- (x) Forestry

It then provides that the subjects comprising each faculty shall be determined by the Statutes.

25) Chapter VI of the University Act deals with framing of Statutes and Regulations. It may be noticed that Section 2 (r) defines “Statutes” and “Regulations” to mean respectively the Statutes and the regulations of the University made or deemed to be made under this Act. (Underlining is mine) The expression “deemed to be made under this Act” is used because there were Statutes and Regulations framed under the earlier Act namely – “Punjabrao Agriculture University (Krishi Vidyapeeth) Act, 1968”, which Act was repealed by Section 70 (1) of this Act when it came into force but the “Statutes” and “Regulations” framed thereunder continued to apply to this University by virtue of clauses xiii and xiv of Section 70 (2) of this Act which provided that they were deemed to have been made under this Act by this University until they were superseded or modified by the Statutes made under this Act.

26) Section 37 of the University Act provides for the matters upon which the statutes can be framed and Section 38 thereof enables the Executive Council of the University to make new statutes upon the said matters in accordance with the procedure laid down therein. It also enables it to amend or repeal the Statutes in the manner laid down in the said Section. Sub-Section 6 of Section 38, however, provides that notwithstanding any thing contained in the said section, if in the opinion of the State Government, it is necessary to amend any statute or make any new statute, the State Government may, with the concurrence of the Chancellor, make an amendment in the Statute or make a new Statute and notify it in the

Official Gazette. The reason why the expression “new Statute” is used in this Section is because as shown above the Statutes made under the previous Act were in existence as they were deemed to be made under this Act Section 39 (1) of the University Act empowers the Executive Council, the Academic Council, and the Faculties to make regulations upon the matters enumerated therein consistent with said Act and the Statutes framed thereunder.

27) The most relevant provision to be noticed is Section 58(1) of the University Act which provides, that no person shall be appointed by the University as a member of the academic staff, except on the recommendation of a Selection Committee constituted for the purpose in accordance with the provisions of the statutes made in that behalf. However, it is laid down in its proviso that the appointment to the posts of Director (other than Director of Student Welfare), Dean, Associate Dean, Head of a Department and Professor shall be made on the recommendations of the Selection Committee to be constituted by the State Government, common to all the four Universities, in accordance with Sub-Section (2) of the said Section 58 of the University Act.

28) Section 60 of the University Act provides that notwithstanding anything contained, in the said Act the State Government shall have power to give to any University, from time to time, such directions as it may consider necessary in regard to categories of posts in which reservation of posts shall be made in favour of the Scheduled Castes, Scheduled Tribes and the members belonging to Other Backward Classes, the percentage of the posts to be reserved for them and any other matter connected with such reservation and the University shall comply with such directions.

29) The last Section which needs to be noticed is Section 63 of the University Act, which provides that notwithstanding that the Executive Council or the Academic Council or any other authority or body of any University is not duly constituted, or there is a defect in its constitution or re-constitution and notwithstanding that there is a vacancy in the membership of any such authority or body, no act or proceeding of such authority or body of the University, shall be invalid merely on any such ground.

F. STATUTES OF THE UNIVERSITY

30) Turning to the statutes applicable to Dr. PDKV, Akola, the State Government has by the notification No. AGN.2388/CR-16/19-A, dated 12th July, 1990, issued by its Agriculture, Animal Husbandry, Dairy Development and Fisheries Department, framed common Statutes in respect of all Agricultural Universities in the State of Maharashtra, in the exercise of the powers conferred upon it by Sub Section (6) of Section 38 of the University Act called “Maharashtra Agricultural Universities (Krishi Vidyapeeths) Statutes 1990. (for short, “the Statutes”.) The statutes which are relevant for the purpose of this enquiry needs now to be noticed.

31) Statute 2 contains definitions of the words and expressions used in the Statutes. The relevant definitions for the purpose of this enquiry are as follows:

- (a) “Act” means the Maharashtra Agricultural Universities (Krishi Vidyapeeths) Act 1983 (Maharashtra Act No. XLI of 1983).
- (b) “Appendix” means an appendix to these Statutes;
- (c) “Appointing Authority” in relation to the recruitment to any post in the University services means the Vice-Chancellor;
- (d) “Council” means the Maharashtra Council of Agricultural Education and Research constituted under Section 12 of the Act;
- (e) “Section” means a section of the Act’
- (f) “Selection Committee” means the Selection Committee constituted for the purpose of Selection of Academic Officers, other Officers, Academic Staff Members, Ministerial Staff Members of the University and affiliated Colleges and recognized institutions.

32) Clause (1) of Statute 5 requires the Vice-Chancellor to issue an order, from time to time, to institute on the recommendations of the Academic Council and the Executive Council and on approval of the State Council all or any of the faculties mentioned in Sub-Section (1) of Section 35 of the University Act and any other faculties Clause (2) of Statute 5 gives the subjects comprised in each of the faculties. Faculty of Agriculture and Faculty of Agricultural Engineering are relevant for the purpose of this enquiry. The subjects comprised in the said Faculties are as follows:-

(A) Faculty of Agriculture :

1. Agronomy, meteorology, Forages and Pasture Management.
2. Agricultural Chemistry (including Bio-Chemistry) and Soil Science.
3. Agricultural Botany, Plant Pathology, Genetics, Plant Breeding and Seed Technology.
4. Extension Education and Languages.
5. Agricultural Economics and Statistics.
6. Agricultural Entomology including Sericulture, Zoology and Nematology.
7. Plant Pathology, Mycology, Microbiology, Bacteriology, Seed Pathology and Virology.
8. Animal Husbandry and Dairying including Dairy Science and Veterinary Science and Silviculture.

9. Horticulture.
10. Agricultural Engineering, Farm Machinery, Farm Implements, Physics, Mathematics, Irrigation and Drainage and Water Management.
11. Forestry.

(D) Faculty of Agricultural Engineering:

1. Irrigation, Water Management, Drainage Engineering, Soil and Soil Mechanics.
2. Soil and Water Conservation Engineering including Surveying and Leveling.
3. Process Engineering of Farm Products, Animal Products, By-Products and Dairy Products, Extension Education.
4. Farm Power and Machinery and Workshop Technology and Mechanical Engineering.
5. Farm and Agro-Industrial Structures and Roads and Civil Engineering.
6. Unconventional Sources of Energy and Electrical Engineering.

33) Chapter IV of the Statutes contains general provisions relating to the meeting of the University i.e. its authorities or committees. Statute 26 provides that all the meetings of the authorities and committees of the University shall be arranged through the Registrar who may or may not be an Ex-Officio Secretary of all such authorities or committees.

34) Statute 27(1) lays down that except where otherwise provided in the Act, the Statutes or the Regulations and when the Chairman of the authority or the committee is absent in a meeting, another Chairman shall be elected from amongst the members of the authority or the committee who are present in the said meeting. It then provides that the Registrar or in his absence any Academic Officer/ Other Officer of the University or the Secretary of the authority will act as the Chairman of the meeting, till the elected Chairman takes charge of the meeting. Statute 27(2) enables the Chairman, if he so desires, to adjourn a meeting once called, for any length of time.

35) Statute 28 enables the Chairman of the authority or the Committee to exercise a casting vote in the event of equality of votes upon any matter upon which votes of the members are taken in the meeting.

36) Statute 29 casts an obligation upon the Secretary of the Committee about issuing notices of the meetings, making arrangement for conducting the meetings, recording and maintaining the proceedings of the meeting and disbursement of T.A. and D. A. if any to the members of the Committee.

37) Statute 30 make a general provision prescribing quorum for the meeting of the Authority or the Committee. It provides that if the required quorum is not forthcoming the Chairman shall adjourn the meeting. Such adjourned meeting can be held on the same day after half an hour from the time of adjournment or on any other day and the business of the meeting can be conducted without any concern about the quorum.

38) Statute 31 provides 7 clear days notice for the meeting of any Committee and in case of its special meeting notice of not less than 3 clear days.

39) Statute 32 deals with the question of preparation of Agenda of the meeting. As regards the meetings of the Executive Council and the Academic Council, it is the Registrar who is charged with the duty to prepare their agenda with the approval of their Chairman i.e. the Vice Chancellor. As regards any other authority or the committee it is its Secretary who has to prepare its agenda and to circulate it to all its members with the copies of the relevant papers, wherever necessary at least five days before the date of its meeting except when the meeting is a special or emergent meeting or when in the business of the meeting, an election is to be held.

40) Statute 36 provides that attendance of the members at a meeting of any authority of the University or a committee or a sub-committee shall be recorded in a register kept for that purpose and each member/invitee shall sign that register as soon as he joins or attends the meeting.

41) Statute 37 (1) provides that minutes or proceedings of the meeting shall be recorded by the Secretary of the committee or the authority and in his absence by a person authorized in this behalf by the Chairman and shall be subject to the approval of the latter. Only the decisions reached in the meeting with due regard to clarity and brevity shall be recorded in the minutes/proceedings and not the discussions adverbium. Clause 2 of Statute 37, then provides that the minutes/proceedings shall be confirmed by the authority or the committee in its next meeting. When it is proved to the satisfaction of the Chairman that any decision has not been recorded accurately or has been recorded differently than the decision taken in the previous meeting, he may order for appropriate modification of the minutes/proceedings provided that no decision on any issue once taken shall be taken up, for debate or reconsideration in any meeting for a period of three months from the date of the meeting in which such decision was taken.

42) Chapter – V of the Statutes deals with the question of appointment, powers and duties of the Academic Officers, Heads of Departments, Professors and the Other Equivalent posts in the University. Statute 40 provides that Statutes 41 to 54 regarding recruitment, qualifications, and Selection Committee procedure shall be applicable to the posts of Directors (other than Director of Student's Welfare), Deans of Faculties, Associate Deans, Heads of Departments, Professors and other equivalent posts.

43) Statute 51 deals with the question of assessment of the candidates. It provides that assessment of the candidates shall be made on the basis of the performance at the time of the interview and in accordance with the educational qualifications, experience in teaching or research, publication of papers in journals and evolution of new varieties of crops, new techniques etc. The committee shall arrange in order of merit of the persons, whom it recommends for appointment to the general seats and the reserved seats, if any, as advertised.

44) Statute 52 which is important for the purpose of this enquiry deals with the question of evaluation of each candidate applying for the post of Professor and above. The said Statute 52 is reproduced below for ready reference.

52 : Each member of the Selection Committee shall give marks individually to each candidate. The marks given by the various members shall be totalled and arranged in descending order. Selection shall be on merits in the order of total marks scored by the candidates. Evaluation of candidates shall be done by giving 60 per cent marks for personal interview and 40 marks for past performance as given below :

(A) Academic Career :

Distribution Scheme 10 Marks

- (i) Bachelor, Master and Doctorate levels. All First Class or equivalent
- (ii) In (i) above any one 2nd Class or equivalent in any of the degrees will cause deduction of 2 marks per case.
- (iii) In (ii) above, and one 3rd Class or equivalent will cause further deduction of 2 marks each. In (i) above, it will, therefore, mean a deduction of 4 marks each.
- (iv) Any extra degree will entitle to 2 marks limited to total maximum of 10 marks. University recognized post graduate diploma will entitle an addition of one mark limited to the total maximum of 10 marks.

(B) Service experience:

Satisfactory completion of 5 Marks

Service years without any with holding of probation or increments.

3 to 5 years 2 marks

5 to 10 years 3 marks

10 to 15 years 4 marks

15 years and above 5 marks

(C) Research Publications:

Scientific publication in journal which is internationally abstracted will get 2 marks each and other technical publication as 1 mark. Extension publication could get 0.2 marks.

(D) Special Contribution :

Special Contribution 5 Marks

Evaluation of new varieties of Crops, new techniques successful original efforts in extension, innovative experiments etc. upto 5 marks.

For personal interview, a candidate getting 20 or less marks out of 60 from two or more members, shall be rejected even if his total grade may be higher than that of other candidates.

45) Statute 53 lays down that selection of candidates by the Selection Committee shall be finalized as soon as interviews of the candidates for particular post are over. After interviewing the candidates, the decision of the Selection Committee shall be recorded and signed by the members present as well as by the Chairman and it shall be communicated to the respective Agricultural University by the Secretary of the Committee.

46) Chapter VI of the Statutes is about the other officers of the University. Statute 60 declares the following officers as other officers of the University as per category (d) under Section 14 of the University Act.

- (i) The University Engineer,
- (ii) The Deputy Registrar,
- (iii) The Assistant Registrar,
- (iv) The Assistant Comptroller.

Statutes 61 to 65, then deal with the question of selection and appointment of the aforesaid officers of the University.

47) Statute 66 enumerates the powers and duties of the Registrar in addition to those contained in Section 19 of the University Act. Some of his powers and duties contained in statute 66 are as follows:

(2) to act as a Secretary of the Executive Council, Academic Council and of such other committees, as may be so prescribed by the Statutes or Regulations and to attend or to depute any of his assistants for any of the meeting of the Executive Council, Academic

Council and the committees referred to above and keep the minutes thereof. (Underlining is mine)

(3) to conduct the official correspondence of the Executive Council, Academic Council and Selection Committee.

(4) to issue all notices convening meeting of the Executive Council, Academic Council, and such other committees of which he is the Secretary.

(9) to supervise the general administration of the University subject to the control of the Vice Chancellor, to ensure the smooth implementation of the Statutory provisions of the Act, Statutes, Rules and Regulations.

(10) to assist and advice the Vice Chancellor in all administrative matters of the University.

(20) to exercise such other powers and perform such other duties as may be conferred or imposed on him by the Statutes, Regulations or by the Vice Chancellor.

48) Chapter VII of the Statute which is most material for the purpose of this enquiry is in relation to the Academic Staff members of the University. Statute 71 deals with the question of classification of Academic Staff members. It provides that irrespective of the duties of teaching, research and extension education for the time being allotted to an Academic Staff member of the designation of the post to which he was originally appointed or the posts presently held by him, each such member shall hold one of the following ranks as may by an order be specifically allotted by the Vice Chancellor namely:

- (i) Principal
- (ii) Head of the Department
- (iii) Professor
- (iv) Associate Professor
- (v) Assistant Professor
- (vi) Lecturer/Superintendent of Agricultural Schools
- (vii) Sports Officer
- (viii) Demonstrator/ Tutor
- (ix) Senior Research Assistant /Agriculture Officer
- (x) Physical Training Instructor
- (xi) JRA/Agriculture Supervisor/Research Assistant
- (xii) Assistant Librarian
- (xiii) College Librarian

Provided further that any staff member other than those specified above and having prescribed qualification and drawing pay scale equivalent to any of the rank mentioned above and discharging duties of an academic staff member as mentioned in clause (b) of Section 13 shall be designated as an Academic Staff member.

49) Statute 72 then makes applicable to all the posts of Academic Staff Members except the Heads of the Departments and the Professors the provisions of Statutes 73 to 77 regarding qualifications and method of recruitment.

50) As regards the qualifications for the posts of the Academic Staff Members, Statute 73 provides that the minimum qualifications for the posts of Associate Professor, Assistant Professor, SRA and JRA shall be as given in Appendix–III of the Statutes. It also provides that in case of non-availability of the candidates with the prescribed qualifications and/or experience for any of the above posts, if the Selection Committee makes such report to the State Government, the State Government can relax higher basic qualifications and/or experience in making the appointments as may be necessary.

The qualifications for the posts of SRA and JRA prescribed in Appendix – III are reproduced below:

3	Senior Research Assistant.	Master's degree in respective subject.
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OR

Bachelor's degree in 1st Class with distinction,
Atleast IInd Class Bachelor's degree with
three years experience as Junior Research
Assistant or its equivalent.

4.	Junior Research Assistant.	Bachelor's degree in the respective Faculty.
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51) Statute 74 provides for the manner of appointment of the members of the academic staff. It states that all the appointments of the members of the academic staff shall be made by the Vice Chancellor strictly on merit and no person shall be appointed by the Vice Chancellor as a member of the academic staff except on the recommendation of the Selection Committee constituted under Section 58 (2) of the Act and Statute 75. However, an exception is carved out in its provisos according to which, in case of emergency, the Vice Chancellor is empowered to make appointment of a suitable person having the minimum prescribed qualifications to any Post of the academic staff member for a period not exceeding one year without the recommendation of the Selection Committee or without following the procedure prescribed in Statute 77 but then he has to report his action at the earliest opportunity to the Executive Council and simultaneously initiate action to fill up

the post through due process of selection within a period of one year from the date of such appointment.

52) Statute 75 gives the composition of the Selection Committee constituted for selection to the posts of Associate Professor/Reader, Assistant Professor, Lecturer and their equivalent posts as required by Section 58 (1) of the University Act. Statute 76 which is most relevant for the purpose of this enquiry then provides for constitution of Selection Committee for selection to the posts other than those to be selected by the Selection Committee constituted under Statute 75 and Section 58(2) of the Act i.e. below the posts of Assistant Professors such as the posts of SRA/JRA etc.

The composition of the said Selection Committee constituted under Statute 76 (I) is as follows:

- (i) Director or Dean nominated by the Vice Chancellor Ex-Officio Chairman.
- (ii) One Associate Dean to be nominated by the Vice Chancellor.
- (iii) Two Heads of the Departments to be nominated by the Vice Chancellor, one of whom shall be from the other Agricultural Universities in the State.
- (iv) Two Professors other than Head of the Department to be nominated by the Chairman, one of whom shall be from the other Agricultural Universities in the State.

53) As already pointed out, in view of the amendment made to Section 19(2) of the University Act by Section 6 of the Maharashtra Agricultural Universities (Krishi Vidyapeeths) (Amendment) ordinance, 2003 (Maharashtra ordinance No. II of 2003) replaced thereafter by Maharashtra Act No. 14 of 2003, the Registrar is now the Member-Secretary of the Selection Committee instead of the Deputy Registrar or Assistant Registrar as provided in clause 3 of Statute 76.

54) The tenure of the aforesaid Selection Committee is one year from the date of its constitution as provided in clause 2 of Statute 76 which tenure can be extended in exceptional circumstances by the Vice Chancellor for a period not exceeding six months. Clause 4 of Statute 76 provides that no act or proceeding of the Selection Committee shall be invalid by reason of any vacancy in its membership. Clause 5 of Statute 76 then provides that the members nominated by the Vice Chancellor shall hold office for one year. Clause 6(b) of Statute 76 lays down that for the purpose of the meeting of the Selection Committee constituted under Statute 76(I), four members shall form a quorum.

55) Sub-clause (a) of clause (6) of Statute 76 lays down that the University shall make rules consistent with the provisions of the Act and the Statutes providing for the giving of notice to the members of the Selection Committee and the business to be considered at its meetings and for keeping of record of the proceedings of the meetings and assessment of

candidates (Underlining is mine). The University has, however stated in its affidavit dated 17/7/2007 (Ex. No.48) that no such rules under the aforesaid sub-clause (a) of clause (6) of Statute 76 are framed by the University.

56) Statute 77 (1) deals with the procedure for appointment of Academic Staff Members, when vacancies arise or when new posts are created. The said procedure laid down in its Sub-clauses (i) to (v) is as under:

- (i) The Vice Chancellor may have the post advertised with such qualifications as have been prescribed by the Executive Council on the recommendations, if any, of the Academic Council.
- (ii) The Registrar shall cause to put up all such applications received before the Chairman of the Selection Committee for his consideration.
- (iii) The Chairman shall arrange to scrutinize all applications received and prepare a list of eligible candidates who shall be called for interview.
- (iv) The Vice Chancellor shall then make the appointment of a candidate or candidates strictly in the order of merit as arranged by the Selection Committee. If he wishes to make an appointment otherwise than in the order of merit recommended by the Selection Committee, he shall record the reasons thereof and obtain the approval of the Executive Council before making the appointment.
- (v) The Vice Chancellor shall then make the appointment of suitable person only from amongst the persons recommended by the Selection Committee.

57) Clause (2) of Statute 77 provides that notwithstanding any thing contained in clause (1) thereof, the Vice Chancellor may at his discretion determine from time to time the number of posts under each category of academic staff referred to in Statute-71 to be filled in by promotion from the lower category. It is however stated in the first proviso to clause 2 of Statute 77 that number of such posts to be filled by promotion from the lower category shall be 25 percent of the total number of posts in the category as a whole to which promotions are to be made or such higher percentage not exceeding 50 percent as may from time to time be determined by the Executive Council. The University has made statement in this enquiry that the ratio of appointment by nomination and promotion is 50:50 which would mean that the quota of promotion fixed in these posts by the Executive Council is 50% of the total number of posts, vide Resolution of the Executive Council dated 18.3.1991 (Ex.595).

58) It is stated in the second proviso to clause 2 of Statute 77 that such posts shall be filled in by promotion through the Selection Committee on the basis of merit and seniority in the discipline or group of disciplines, departments or sector and minimum qualifications and experience as prescribed by the Statutes. It is made clear in its third proviso that the

academic staff members would be eligible to apply for any post of the academic staff advertised by the University.

59) Clause (3) of Statute 77 provides that while filling in the posts of the members of the academic staff as specified in Statute 71 by promotion or nomination, the University shall reserve for Backward Classes and other categories such percentage of posts as may be prescribed by the State Government, from time to time, for such classes and categories.

60) Chapter VIII deals with the appointments, powers and duties of the ministerial staff members of the University. For the purpose of this enquiry, it is only relevant to see Statute 87(1) in Chapter VIII regarding the composition of the Selection Committee constituted for selecting Ministerial Staff Members of Grades 'C' and 'D'. Clause (v) thereof shows that one District Social Welfare Officer of the Social Welfare Department to be nominated by the Director of Social Welfare, Maharashtra State, is a member of the said Selection Committee.

61) Lastly, Chapter-XV of the Statutes which deals with the question of pay, allowances, pension, leave, and general conditions of services of the employees of the University/Affiliated colleges/recognized institutions needs to be seen. The relevant provisions to be seen in this Chapter are in Statutes 135, 136, and 137. Statute-135 which prohibits any canvassing provides that any attempt on the part of a candidate or his relative or friend to enlist support by direct or indirect method for his application for appointment to any of the posts in the University services, shall disqualify the candidate for being appointed to the post for which he has applied. Statute-136 provides that in respect of matters for which, there is no provision or insufficient provision is made in these statutes, the Selection Committee may conduct its proceedings in such manner as it thinks fit, keeping in view the basic objective of selecting the right man for the right job. Statute 137, which is about the validity of the proceedings of the Selection Committee provides that no act or proceeding of the Selection committee shall be invalidated by any reason of any defect in the Constitution thereof.