

## **Part - III**

### **APPRECIATION / ASSESSMENT OF MATERIALS** **ON RECORD**

**1023)** The data collected through the affidavits filed in this enquiry and referred to in para 62 of the report is considered and assessed under the following heads :

- A. Applicability of Article 14 and 16 of the Constitution of India
- B. Decision making process in the University
- C. Selection process and selection
- D. Appointment of the selected candidates in the posts of SRA (Agri.) and JRA (Agri.)
- E. Reservation policy of the Government not followed by the University
- F. Illegalities, flaws, consequential reshuffling of Selection Lists and other infirmities in preparation of Selection Lists of these posts of SRA (Agri.) and JRA (Agri.)
- G. Selecting in the posts of SRA (Agri.) and JRA (Agri.) favoured candidates as understood on this enquiry

#### **A. APPLICABILITY OF ARTICLE 14 AND 16 OF THE CONSTITUTION OF INDIA**

**1024)** In appreciating the material on record, it must be borne in mind that the University is “State” within the meaning of Article 12 of the Constitution of India and Chapter-III thereof relating to fundamental rights is applicable to it. It is, therefore, bound by the mandate of Articles 14 and 16 of the Constitution of India in relation to its service matters. Its actions in these matters cannot therefore be arbitrary, capricious and malafide and must conform to the rule of law and the principles of natural justice. The University must follow the provisions of the statutory enactments applicable to it including the University Act and the Statutes, Ordinances, and the Rules, if any, framed thereunder. It has also to follow the G.Rs. or the Govt. Circulars which are binding upon it.

## **B. DECISION MAKING PROCESS IN THE UNIVERSITY**

**1025)** As the question of “Decision making process” followed in the University was relevant in this enquiry, Dr.S.A. Nimbalkar, the then Vice-Chancellor in the University, was asked to explain it. He stated in para 2 of his affidavit dated 14.1.2008 (Ex.658) that he had long tenure of service in the University and had therefore lot of experience of its Administrative as well as academic side. He was also the Vice-Chancellor of the University since 17.5.2002. According to him, he was thus conversant with the provisions of the University Act, the statutes and the regulations framed thereunder as also the procedure ordinarily followed in the University in taking decisions upon any administrative or academic matter. He explained the said procedure in paras 4, 5 and 6 of his aforesaid affidavit dated 14.1.2008 (Ex.658) referred to in paras 63 to 66 of this Report.

**1026)** Perusal of the said paras 63 to 66 of this Report, would show that no decision was taken in the University upon any matter relating to its affairs orally but the same was always taken in writing. The procedure followed in the University in taking decision upon any matter relating to its affairs described therein was that a note-sheet was put-up by the concerned Clerk/ Section Assistant/Officer about such matter forwarded through proper channel to the higher officers for their consideration and ultimately to the Vice-Chancellor for his approval / sanction. As regards any proposal relating to any office or department, it was first considered by the Head of the office or the Department to which it related and it was only after he had given his opinion or made recommendations about it that the file relating thereto would be forwarded to the Vice-Chancellor who would grant his approval by signing such note-sheet, if he was satisfied about the opinion / recommendation given by the Head of the office/Dept. In case he was not satisfied about it, he would call for the concerned officers and / or relevant records and after getting necessary information, he would approve such proposal only after being satisfied about it. His approval was never oral but was always in writing.

**1027)** In particular, as regards the administrative side of the University, he stated in para 6 that according to the procedure followed in the University, a note containing proposal of the Registrar’s office would be initiated in writing by the concerned Clerk/Section Assistant/Officer, which would be forwarded to the Vice-Chancellor for his approval through proper channel i.e. through the Assistant Registrar, Deputy Registrar, and the Registrar. Such proposal would then be considered by them either by submitting their own notes i.e. giving their separate opinion / remarks or by only signing it in token of their approval before forwarding it for final approval by the Vice-Chancellor. It would be interesting to see whether in carrying out the selection process and making selections and appointments in the instant case such decision making process was followed or not.

**1028)** The material question to be considered next is how the selection process was carried out and the selections made by the Selection Committee in the posts of SRA (Agri.) and JRA (Agri.) in question. The various stages in the selection process and selection referred to in para 67 are considered hereafter.

## **C. SELECTION PROCESS AND SELECTION**

### **i) Constitution of the Selection Committee**

**1029)** Statute 71 of the Statutes which makes classification of academic staff members in the University includes therein SRA/JRA. Statute-76 (1) of the Statutes provides for composition of the Selection Committee for selection to the posts of academic staff members below the posts of Associate Professors/Reader, Assistant Professors, Lecturers and their equivalent posts i.e. for SRA/JRA amongst others. The composition of the Selection Committee under Statute 76 (1) is re-produced in paras 52 and 53 of the Enquiry Report. Perusal of para 53 of the Enquiry Report referred to above would show that the Registrar of the University is the Member Secretary of the said Committee as provided in section 19 (2) of the University Act after its amendment by section 6(2) of the Maharashtra Act No.14 of 2003. The tenure of the said Committee is one year from the date of its constitution under statute 76 (2) which, in exceptional circumstances, can be extended by the Vice-Chancellor for a period not exceeding six months.

**1030)** By notification dated 24.5.2004 (Ex.7), the Selection Committee under the aforesaid Statute-76 (1) which made the selections of the candidates in the posts of SRA (Agri.) and JRA (Agri.) in question was constituted. The said notification is reproduced in para 69 of this report. By further notification dated 23.5.2005 (Ex.8), the tenure of the said Committee was extended by the then Vice-Chancellor for further period of six months i.e. till 23.11.2005.

**1031)** Perusal of Statute-76 (1) shows that the Chairman of the Selection Committee has to be nominated by the Vice-Chancellor of the University, from amongst its Directors or Deans. He has also to nominate upon the Selection Committee, one member from the category of one Associate Dean in the University and two members from the category of the Heads of the Departments one of whom has to be from the other Agricultural University in the State. As regards the remaining category of two Professors other than the Head of the Department, they are to be nominated upon the Selection Committee by its Chairman one of whom has to be from the other Agricultural University in the State. Dr.B.S.Fadnaik, and Dr.B.S. Chimurkar, writ petitioners in writ petition no. 4771/2006, raised an objection in Topic-3 of their additional written statement (Ex.117) filed with their affidavit dated 23.8.2007 (Ex.116) that the constitution of the Selection Committee as per the above referred notification dated 24.5.2004 (Ex.7) was illegal since two members of the said Committee from the category of professors, other than the Head of the Department, and one of whom had to be from the other Agricultural University in the State were nominated by the then Vice-chancellor himself although as per Statute 76(1) (iv) they were to be nominated by the Chairman of the Selection Committee.

**1032)** In view of the above objection raised by the above referred writ petitioners, Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, was questioned in this regard vide para 71 of this Report. He stated in para 17 of his affidavit dated 14.1.2008 (Ex.658) that he was the appointing authority so far as the posts of SRA/JRA were concerned and that he had constituted the Selection Committee under statute-76 (1) as per the notification dated 24.5.2004 (Ex.7). According to him, after he had proposed for appointment as Chairman of the said Selection Committee, the name of Dr.V.D.Patil, D.I./Dean and for nomination as its members, the name of Dr.E.R. Patil, Associate Dean, PGI, from the category of one Associate Dean, and the names of the Head of the Department of Horticulture, Dr.PDKV, Akola and the Head of the Department of Plant Pathology, MPKV, Rahuri from the category of two Heads of Departments, one of whom had to be from the other Agricultural University in the State, he had asked on phone Dr.V.D.Patil, whom he had nominated as Chairman of the Selection Committee, to communicate to him the names of two Professors, one from Dr.PDKV, Akola and another from the other Agricultural University in the State. Further, according to him, Dr.V.D. Patil had communicated to him on phone the names of Dr.B.N.Dahatonde, Professor of Agronomy and Dr. N.D.Pawar, Professor of Agricultural Economics, MKV, Parbhani, for their appointment as members of the Selection Committee whereafter he had come to him personally also. He, however, admitted that Dr. V.D. Patil, did not make any nominations upon the Selection Committee in writing and that he had himself also not made his nominations upon it in writing. As regards the question about the above nominations of two professors to be made upon the Selection Committee by its Chairman, one from Dr.PDKV, Akola and another from the other Agricultural University in the State, Dr.V.D. Patil, stated in para 3 of his affidavit dated 15/12/2007 (Ex.645) that before issuing the aforesaid notification dated 24.5.2004 (Ex.7), the then Vice-Chancellor had asked him his suggestions in that regard on phone upon which he suggested to him the names of the above two professors. He then admitted that he had not made any nominations as such upon the Selection Committee, much less in writing after he was appointed as Chairman of the Selection Committee as per the aforesaid notification dated 24.5.2002 (Ex.7).

**1033)** Before constitution of Selection Committee a file was opened for that purpose marked as Ex.643(O) in this Enquiry. In appreciating the question whether the Chairman of the Selection Committee can be said to have made nominations in the category of two professors under Statute 76(1) for the constitution of the Selection Committee thereunder, it is material to notice that, as stated in para 79 of this report, in none of their office notes in the file Ex.643(O) relating to the constitution of the Selection Committee, the concerned officers of the University pointed out that the nominations of two members in the Selection Committee from the category of Professors had to be made by its Chairman. On the other hand, their office notes, would show that the nominations of all the members in the Selection Committee had to be made by the Vice-Chancellor.

**1034)** In particular, the Assistant Registrar, Shri P.V.Behare, in his office note dated 13.5.2004 contained at pages N/6 and 7/N of the aforesaid file Ex.643(O) had given detailed information about the persons to be nominated, whether by name or designation, in various categories of members in the Selection Committee, under Statute 76(1) referred to in para 74 of the Report. In all the categories of members given in paras 1 to 4 of the aforesaid office note dated 13.5.2004 which include the category of nomination of two professors other than the Head of the Dept., the Assistant Registrar had requested the Vice-Chancellor to make nominations and accordingly as stated by him in para 19 of his affidavit dated 14.1.2008 (Ex.658) referred to in para 76 of the Report, the Vice-Chancellor had made nominations in all the categories of members to constitute the Selection Committee. Perusal of the aforesaid office note dated 13.5.2004, would show that the manner in which the Vice-Chancellor had made nominations in all the categories of members under Statute 76(1) to constitute the Selection Committee was by tick-marking in green ink against the designations in paras 1 and 2 of the said office note dated 13.5.2004 for nominating the Director of Instructions as its Chairman and the Associate Dean (PGI) as its member from the category of one Associate Dean and as regards the categories of two Heads of the Departments and the two professors other than the Head of the Department, by writing in green ink the names of two Heads of the Departments viz. Dr.Jogdande and Dr.Sawant in para 3 and the names of two professors viz. Dr.Dahatonde and Dr.N.D. Pawar in para 4 of the said office note dated 13.5.2004.

**1035)** Perusal of the said file Ex.643(O) also shows that there is no remark of the Vice-Chancellor in the said file that the nominations in the category of professors in the Selection Committee other than the Head of the Dept. had to be made by its Chairman and therefore after the nominations were made by him, the said file should be forwarded to him for making nominations in the said category. Further, as already stated, the Vice-Chancellor and the Chairman of the Selection Committee did not mention in writing in the said file Ex.643(O) that they were making nominations upon the Selection Committee as per Statute-76 (1).

**1036)** It is true that, according to proper procedure, after making his own nominations upon the Selection Committee in writing in the said file Ex.643 (O), the Vice-Chancellor should have directed the Registrar's office that the said file Ex.643(O) should be forwarded to the Chairman of the Selection Committee nominated by him to make his nominations upon the Selection Committee in the category of Professors under statute 76 (1) (iv) and it is only after receiving nominations from him in the category of professors that the Selection Committee thus constituted should be notified. The Vice-Chancellor, merely asking the Chairman Dr.V.D. Patil, on phone for his suggestions/ i.e. the names of the two professors to be nominated by him upon the Selection Committee but actually he himself making nominations in the said category would not mean that the Chairman had made nominations upon the Selection Committee but would still mean that it was the Vice-Chancellor who

made the said nominations. In fact, the Vice-Chancellor admitted in para 19 of his affidavit dated 14.1.2008 (Ex.658) that he made the nominations upon the Selection Committee, in the category of Professors in consultation with the Chairman of the Selection Committee, Dr.V.D. Patil.

**1037)** However, since Dr.S.A. Nimbalkar, the then Vice-chancellor of the University, made nominations as members of the Selection Committee of the same two Professors whose names were communicated to him by its Chairman Dr.V.D.Patil, in my view the same would constitute only procedural irregularity and not an illegality in the constitution of the Selection Committee under statute-76 (1). It would not therefore vitiate its proceedings and render the Selections made by it illegal. Even otherwise, Statute-137 provides that no act or proceeding of the Selection Committee shall be invalidated by reason of any defect in its constitution. Therefore, assuming that there is some defect in the Constitution of the Selection Committee constituted under Statute-76(1) as per the notification dated 24.5.2004 (Ex.7), the selection process carried out by it and the selection of candidates in the posts of SRA (Agri.) and JRA (Agri.) made by it cannot be said to be vitiated on the ground that the nominations of two members upon the Selection Committee in the category of professors were not made by the Chairman of the Selection Committee. However, the question whether the selection process carried out by the Selection Committee and the Selection of candidates in the posts of SRA (Agri.) and JRA (Agri.) made by it pursuant thereto was vitiated because of participation of Dr.V.D. Patil, in the proceedings of the Selection Committee as its Chairman and of Dr.B.N. Dahatonde, as its member since their son and daughter respectively who were the candidates for the said posts, had appeared for interview before the Selection Committee and were selected and appointed as SRA (Agri.) and JRA (Agri.) respectively would be considered at the appropriate place in the report.

**ii) Advertisement dated 14.8.2004 with its addendum dated 6.9.2004 collectively marked as (Ex.2)**

**a) Advertisement No. BEJ/02/2004 dated 14.8.2004 marked as (Ex.2)**

**1038)** The data relating to the original advertisement dated 14.8.2004 (Ex.2) is collected in paras 80 to 96 of the Enquiry Report. As stated by Shri S.A. Nimbalkar, the then Vice-Chancellor of the University, in para 8 of his affidavit dated 14.1.2008 (Ex.658), after the ban on recruitment was lifted by the State Government and it permitted the University to fill-up the vacant posts, the University decided to fill some of the vacant posts including the posts of SRA (Agri.) and JRA (Agri.) in question in this enquiry by issuing an advertisement dated 14.8.2004 (Ex.2), vide Annexure 2 of the Enquiry Report. As regards the posts of SRA and JRA which were advertised in the said advertisement dated 14.8.2004 (Ex.2), the vacant position in the said posts was first ascertained by the Registrar's office by following the procedure ordinarily followed in the University i.e. by opening a file

relating to the advertisement with the office note of the Section Assistant (Estt.) dealing with the matter which was then forwarded through proper channel i.e. through the Section Officer (Estt.), Assistant Registrar (Estt.), Deputy Registrar (Estt.) and the Registrar to the Vice-Chancellor for his approval.

**1039)** Shri D.P. Deshmukh, who was working as Section Assistant, in the “D” unit of the Establishment Section in the Registrar’s office stated in para 2 of his affidavit dated 15.11.2007 (Ex.598), that, as Section Assistant (Estt.), he was looking after the work relating to service matters of the posts of SRA/JRA/AA/LSS, which were dealt with in his D-Unit. The said work, according to him, inter-alia included the work relating to appointment, selection, transfer, seniority, promotion etc. of the appointees in the said posts and also the work of giving information about the same to the State Government and to other concerned persons. He stated in para 60 of his aforesaid affidavit dated 15.11.2007 (Ex.598) that for the aforesaid work he maintained a Movement Register which was marked as Ex.644(O) in this enquiry. He then stated therein that at pages S.Nos A to G of the said Register Ex.644(O) he had mentioned how many posts of SRA / JRA/AA were sanctioned in each department / scheme in the University. He also stated therein that in showing the said posts at pages S.Nos. A to G, of the said Register Ex.644(O), he had mentioned which posts of SRA were of Agricultural Engineering and of Computer and which posts of JRA were of Computer and according to him all the remaining posts of SRA/JRA were of Agriculture. He then stated in the said para 60 of his aforesaid affidavit that the vacancy position in the posts of SRA/JRA which he had given in his office note for the purpose of advertisement was on the basis of the data contained in his aforesaid Movement Register Ex.644(O).

**1040)** As stated by him in para 2 of his aforesaid affidavit dated 15.11.2007 (Ex.598), Shri D.P. Deshmukh, Section Assistant (Estt.), opened the file relating to the advertisement marked as Ex.40(O) in this enquiry by writing an office note dated 15.7.2004 contained at pages N/1 to N/7 therein giving his proposal for advertisement by showing the vacancy position in the posts of SRA/JRA. Perusal of the aforesaid office note of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.7.2004 contained in the file Ex.40(O), would show that, according to him, at the time of giving the said proposal there were 159 sanctioned posts of SRA excluding farm group posts and the posts reduced in Akrutibandh. He stated in para 3 of his aforesaid affidavit dated 15.11.2007 (Ex.598) that all these posts were not of SRA (Agri.) but included 4 posts of SRA (Computer) and 6 posts of SRA (Agril.Engg.). He further stated in the said para 3 that the said posts were filled in the University by nomination and promotion in the ratio of 50:50, vide the resolution of its Executive Council dated 18.3.1991 (Ex.595) filed with its affidavit dated 2.11.2007 (Ex.591). Shri D.P.Deshmukh, Section Assistant (Estt.) then stated in the said para 3 of his aforesaid affidavit that out of 159 sanctioned posts of SRA there were thus 79 posts in nomination and 80 posts in promotion quota.

**1041)** In para 84 of the Enquiry Report, there is a tabular statement extracted from page N/1 of his office note dated 15.7.2004 in the file Ex.40(O) showing the total number of posts in nomination quota 79 presently filled in posts 59, and vacant posts 20. The categorywise break-up i.e. S.C., S.T. etc. of the said total number of posts, filled in, and vacant posts is also shown in the said tabular statement. As stated in the said para 84 of the Enquiry Report, below the said table he had given a note that besides the above clear vacancies, there would be 15 additional vacancies available for advertisement keeping in view regularization of atleast 15 SRAs who were already working as Assistant Professors on temporary basis against the promotion quota of the said posts under the emergency power of the Vice-Chancellor. According to his aforesaid note, the said 15 SRAs were mostly appointed by nomination. He had then given the categorywise break-up of the said 15 posts of SRA on the basis as to in which category each incumbent therein was working vide the said categorywise break-up of these 15 posts extracted in para 84 of the Enquiry Report from the said table at page N/1 of the said office note dated 15.7.2004 in the file Ex.40(O). There were thus 35 vacancies (20 existing +15 additional) in the posts of SRA at that time in its nomination quota which could be advertised for being filled by nomination i.e. direct recruitment. The designationwise bifurcation of these 35 vacant posts into 3 posts of SRA (Computer), 3 posts of SRA (Agril.Engg.) and 29 posts of SRA (Agri.) with their categorywise break-up i.e. S.C., S.T. etc. for the purpose of advertisement was then shown by him in the table at page N/1 of the said file Ex.40(O) vide para 84 of the Enquiry Report.

**1042)** Vide para 85 of the Enquiry Report, as regards the designationwise and categorywise break-up of 35 vacant posts of SRA about which the proposal for advertisement was given by Shri D.P.Deshmukh (Estt.), in his aforesaid office note dated 15.7.2004, he had explained in paras 4 and 5 of his aforesaid affidavit dated 15.11.2007 (Ex.598) how he had made the said distribution. He stated therein that he took into consideration the fact as to in which categories i.e. S.C., S.T. etc. SRAs were working at that time in the designated posts and in which category they were not. He also stated therein that he had kept in mind that the reservation could only be upto 50%. As regards the posts of SRA (Computer), according to him he found that one S.C. candidate was already working in one of the said posts. He, therefore, allotted one post to OBC category and 2 posts to open category out of 3 posts of SRA (Computer) included in his proposal about the advertisement of 35 vacant posts of SRA. Further, according to him, as regards the 3 posts of SRA (Agril.Engg.) included in the said 35 vacant posts of SRA to be advertised, since one candidate each was working in S.C., S.T. and OBC category (See the note at the bottom of page C/1 in the file Ex.40 (O) relating to SRA (Agril.Engg.), he allotted one post to NT (B) category and 2 posts to Open category in making proposal about the 3 posts of SRA (Agril.Engg.) to be advertised. With regard to 29 posts of SRA (Agri.), to be advertised he stated that in dividing the said posts in various categories i.e. S.C., S.T. etc., he took into consideration the category of each of 15 SRAs who were promoted to the post

of Assistant Professor as also the categories allotted by him to three posts each of SRA (Computer) and SRA (Agril.Engg.). According to him, in making proposal for categorywise and designationwise distribution of 35 posts of SRA as stated above, he had seen which post was available to the candidate in each category as per the reservation point shown in the 100 point roster.

**1043)** Except his statement in the previous para that he had seen the reservation points in the 100 point roster in giving the proposal about distribution of 35 posts of SRA in various categories such as S.C., S.T. etc. which does not appear to be correct, the above approach of Shri D.P. Deshmukh, Section Assistant (Estt.) in calculating the categorywise and designationwise break-up of 35 vacant posts of SRA to be advertised keeping in mind the total number of posts of SRA irrespective of their categories such as SRA (Computer), SRA (Agril.Engg.), SRA (Agri.) etc. broadly appears to be correct since the University has treated all the posts of SRA in one cadre irrespective of their designations for making vertical Reservations (S.C., S.T., V.J., N.T.etc.) which would mean that the prescribed percentage of each reserved category has to be calculated on the basis of the total number of posts in the said cadre irrespective of their designations vide the affidavit of the University dated 7.10.2008 marked as Ex.771 in this enquiry. Vide para 90 of the Enquiry Report, as regards the categories of the posts of SRA shown by him in his office note dated 15.7.2004 (Ex.40(O)) he stated in para 8 of his affidavit dated 15.11.2007 (Ex.598) that, on page C/1 of the said file Ex.40(O) he had made rough calculations in pencil to show the categorywise vacancy position in the posts of SRA which was approved by the Assistant Registrar Shri P.V.Behare, who had made his own calculations in pencil on the backside of the said page. However, the question whether the reservation policy of the Govt. and the 100 point roster laid down by it for filling the posts by nomination was actually properly followed or not in making recruitment in these posts in the University and particularly the present recruitment made by it pursuant to the advertisement dated 14.8.2004 (Ex.2) is considered in this Enquiry Report under a separate topic relating thereto.

**1044)** As regards the proposal for advertisement of the vacant posts of JRA, the vacancy position in the said posts of JRA is shown at page N/3 of the aforesaid note of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.7.2004 contained in the file Ex.40 (O). The total number of posts of JRA excluding farm group posts and other curtailment shown by him in the said office note dated 15.7.2004 is 103 out of which in the ratio of 50:50 the posts shown by him in nomination quota are 51 and in promotion quota 52. The table at page N/3 of the said office note dated 15.7.2004, reproduced in para 88 of the Enquiry Report would show that although the total posts in nomination quota were 51, the posts actually filled by nomination were 53 i.e. 2 in excess of the said quota, as a result of which there was no clear vacancy in the said posts which could be advertised. However, below the said table in the said office note dated 15.7.2004 in the file Ex.40(O), there is a note of Shri D.P.Deshmukh, Section Assistant (Estt.), in which he stated that taking into account the

regularization of promotion of certain JRAs against the promotion quota of SRAs, it was likely that there would be 40 vacancies available for appointment of JRA by nomination as, according to him, almost all the JRAs due for promotion as SRA were originally appointed by nomination. The categorywise distribution of the said 40 posts made by him for the purpose of advertisement in his aforesaid note dated 15.7.2004 is also reproduced in the said para 88 of the Enquiry Report. According to it, 37 posts of JRA (Agri.) and 3 posts of JRA (Computer) with their categorywise break-up as shown in the said table could be advertised.

**1045)** The above office note dated 15.7.2004 written by Shri D.P. Deshmukh, Section Assistant (Estt.) in the file Ex.40(O) containing inter-alia the above Tables showing 35 posts of SRA and 40 posts of JRA to be advertised was finally approved by the Vice-Chancellor on 17.7.2004 when it was forwarded to him through proper channel i.e. through Section officer, the Assistant Registrar, Deputy Registrar and the Registrar. Although the proposal for advertisement of 35 posts of SRA in the aforesaid office note of Shri D.P.Deshmukh, Section Assistant (Estt.), dated 15.7.2004 contained in the file Ex.40(O) which was finally approved by the Vice-Chancellor on 17.7.2004 as stated above did not include any post of SRA (Bio-technology/Bio-chemistry) the advertisement which was actually issued on 14.8.2004 (Ex.2) for filling inter-alia the posts of SRA at Sr.No.3 thereof included 5 posts of SRA (Bio-technology/Bio-chemistry) and 24 posts of SRA (Agri.) instead of 29 as proposed.

**1046)** In this regard, it may be seen that there is a chart at page C/7 of the file Ex.40(O) showing the “Final position for advertisement of SRA/JRA/AA (graduate)” with their designationwise and categorywise break-up. As regards 29 posts of SRA (Agri.), the post shown therein is “SRA (Agri.) / Bio-tech. and the total posts thus shown are 29. The word “Bio-tech” is written in ink which would show that it was written later on when the note was written at the bottom of the said page C/7 in his own hand writing by the Assistant Registrar Shri P.V.Behare according to which the said 29 posts of SRA (Agri.) included 4 posts, 2 each in Bio-technology and Bio-chemistry. Perusal of the advertisement dated 14.8.2004 (Ex.2), would show that at serial no.3 therein, about the posts of SRA in item no.1 thereof the total posts of SRA (Agri.) shown were 24, and, in item no.4 thereof the total posts of SRA (Bio-Technology/Bio-Chemistry) separately shown were 5. The qualification for the said posts of Bio-Technology/Bio-Chemistry were also shown separately and were different from the qualification shown for the posts of SRA (Agri.), vide serial no.3 under the head “Qualification” in the Advertisement in question dated 14.8.2004 (Ex.2)

**1047)** The office note dated 15.7.2004 in the file relating to advertisement Ex.40(O) contains also the vacancy position in the promotion quota of the posts of SRA/JRA which also stands approved by the Vice-Chancellor but since the advertisement is based upon the

vacant posts of SRA and JRA as shown in the nomination quota of the said posts, 13 vacant posts of SRA, and 4 vacant posts of JRA shown in their respective promotion quota are not referred to in this topic relating to the Advertisement dated 14.8.2004 (Ex.2). The said vacancy position in the promotion quota of the said posts would be referred to when the question of appointments in the posts of SRA (Agri.) and JRA (Agri.) made by the University is considered in this Enquiry Report since the vacant posts in promotion quota of these posts were utilized for making appointment of the candidates selected in these posts.

**1048) Brief points about criticism of some salient features of the advertisement dated 14.8.2004 (Ex.2) :-**

- 1) The Advertisement dated 14.8.2004 (Ex.2) is extracted in para 96-A of the Enquiry Report in so far as it is applicable to the posts of SRA/JRA. It is issued in order to comply with the mandate of equal opportunity to all the candidates who are similarly situated as envisaged by Articles 14 and 16 of the Constitution of India and also by Statute 77 (1) (i) of the Statutes framed under the University Act. However, the advertisement of the various categories of the posts of SRA/JRA such as SRA (Agri.), JRA (Agri.) etc. should have been more specific by notifying the departments and/ or schemes etc. where there were actual vacancies to avoid any manipulation of appointment of the candidates in the said posts.
- 2) The procedure of making applications given in the advertisement dated 14.8.2004 (Ex.2) under the head “How to apply” is that separate applications should be submitted for each post and each category i.e. S.C., S.T. etc. The University should have called for separate application for each post but not separate application for each category i.e. S.C., S.T. etc. The procedure adopted by the University as per the advertisement dated 14.8.2004 (Ex.2) was cumbersome and confusing and had unnecessarily increased the load of the applications for the posts of SRA (Agri.)/ JRA (Agri.) in question.
- 3) The said procedure of requiring the candidate to file separate application for each category i.e. S.C., S.T. etc. of the same post is inconsistent with the procedure to be actually followed in making vertical (i.e. S.C., S.T. etc.) as well as horizontal (i.e. female candidates, physically handicapped etc.) reservation in direct recruitment as laid down by the State Govt. in para 5 of its G.R. no. SRV-1097/Case No.31/98/16-A dated 16.3.1999 (Ex.703) to implement the guidelines of the Supreme Court in its Judgment in Anil Kumar Gupta –Vs- State of U.P. & Ors. J.T. 1995 (5) S.C.505 = (1995) 5 SCC 173, vide para 886 of the Enquiry Report, because according to the procedure which should be followed in preparation of Selection List of open category candidates, which List has to be first prepared, even though a candidate had applied only in any reserved category, he had to be selected in open category if he is eligible for selection in the said category in descending order of merit irrespective of whether he has applied for open category or not, vide paras 1210 (a) and (b) of the Enquiry Report.

4) The advertisement dated 14.8.2004 (Ex.2) does not mention all the classes of persons for whom Horizontal reservation is envisaged as per G.R.dated 16.3.1999 (Ex.703) but mentions reservation for female candidates and physically handicapped only in clause-IV under the head “Other Conditions”. It does not also mention the specific number of posts reserved if any for each category of horizontal reservation in vertical reservation in each category such as S.C., S.T. etc. and open as per the Judgment of the Supreme Court cited supra.

5) The question whether the qualifications and other conditions laid down in the Advertisement dated 14.8.2004 (Ex.2) are complied with in making selection of the candidates in the posts of SRA (Agri.) and JRA (Agri.) or not is considered at appropriate places in the Enquiry Report.

b) **Addendum No. BEJ/02/2004 dated 6.9.2004 also marked as (Ex.2)**

**Whether Selection and appointment of Agricultural Engineering graduates in the posts of JRA (Agri.) which were advertised as per the advertisement dated 14.8.2004 (Ex.2) is legal?**

**1049)** By the aforesaid addendum dated 6.9.2004, the qualifications for the posts of JRA (Agri.) at serial no.4 and AA at serial no.10 in the advertisement dated 14.8.2004 (Ex.2) were amended by including the qualification of Bachelor’s degree in Agricultural Engineering Faculty as an additional qualification for the posts of JRA (Agri.) and AA which were advertised in the original advertisement dated 14.8.2004 (Ex.2) with the qualification of Bachelor’s degree in Agriculture Faculty. The last date for submitting applications for the posts of JRA (Agri.) and AA was extended upto 30<sup>th</sup> Sept.2004 for only Agricultural Engineering graduates.

**1050)** The data relating to the addendum dated 6.9.2004 is referred to in paras 97 to 120C of the Report. Perusal of para 97 of the Report would show that after the advertisement dated 14.8.2004 (Ex.2) was issued, the Agricultural Engineering graduates made representation dated 16.8.2004 to the Registrar of the University, vide page 1/C of the file Ex.40(O) in which they stated that although their graduate qualification in Agricultural Engineering was equivalent to the graduate qualification in Agriculture, their qualification was excluded from the qualification given for the posts of JRA/AA in the advertisement dated 14.8.2004 (Ex.2). In their aforesaid representation dated 16.8.2004, they pointed out that as per Govt. rules, their degree was equivalent to the degree in Agriculture and that they were held eligible for various posts in the Agriculture Department of the State Govt. in support of which they annexed to their aforesaid representation dated 16.8.2004 the three G.Rs. dated 5.1.1990, issued by the State Government in the exercise of its power under the proviso to Article 309 of the Constitution of India, to amend the Recruitment Rules,1983, of its Department of Agriculture for introducing the qualification of “Agricultural

Engineering” also in addition to the qualification of “Agriculture” in recruitment to the posts of Agricultural Supervisor and Agricultural Assistant (Class-III) in the Land & Water Management Group, Extension Group & Development Group of the said Department. They, therefore, requested the University to issue suitable corrigendum to the advertisement dated 14.8.2004 (Ex.2) to give them opportunity to apply for the posts of JRA (Agri.)/ AA which were advertised. By further representation dated 30.8.2004 made to the then Vice-Chancellor of the University enclosed at page C/11 of the file Ex.40(O), the said Agricultural Engineering graduates brought to his notice that although he had given them assurances about issuing corrigendum to the advertisement dated 14.8.2004 (Ex.2) by favourably considering their grievance in their representation dated 16.8.2004, the said assurances were not fulfilled till date i.e. 30.8.2004. They, therefore, threatened the University that unless their grievance was redressed within 24 hours from the date of their aforesaid representation dated 30.8.2004, they would go on hunger strike unto death.

**1051)** In view of the gravity of the situation created because of the agitation of the Agricultural Engineering graduates, the University constituted a Committee under the Chairmanship of Dr.V.D. Patil, D.I./Dean (Agri.) as per the office note of Shri D.P.Deshmukh, Section Assistant (Estt.), dated 27.8.2004 to go into their grievance. Perusal of his aforesaid office note dated 27.8.2004 contained at page N/11 of the file Ex.40(O) would show that he referred to therein to their aforesaid representation dated 16.8.2004 and to the above 3 G.Rs. dated 5.1.1990 enclosed with it stating that the Recruitment Rules, 1983, were amended to include also the qualification of degree in Agricultural Engineering for the posts of Agricultural Supervisor and Agricultural Assistant (Class-III) in the Agriculture Dept. of the State Government. He further mentioned therein not only the qualification for the post of JRA laid down in Appendix-III read with Statute-73 of the Statutes as “Bachelor’s degree in the respective faculty” but mentioned also the qualification specifically required for the post of JRA (Agri.), which was advertised as “Bachelor’s degree in Agriculture faculty”. He also stated therein that the University had advertised vacancies facultywise i.e. Agriculture/ Agril.Engg./Computer Science etc. and that the vacancies belonging to the Agricultural Engineering faculty were advertised separately. He then mentioned therein that there were no sanctioned posts of JRA/Agriculture Assistant in the faculty of Agricultural Engineering and the schemes concerning it. The said office note of Shri D.P.Deshmukh, Section Assistant (Estt.), dated 27.8.2004 was approved on 31.8.2004 by the Director of Instructions, Dr.V.D. Patil, and on the same day the Committee consisting of himself as Chairman and Dr.J.S. Jadhav (DEE), Dr.S.D.Deshmukh, Dy. Director (Res.), Dr.S.D. Dalvi, Prof. ( SWCE), Shri R.B.Bali, the Registrar and Shri S.S.Suradkar, Deputy Director (Estt.), as its members urgently met and took decision upon the aforesaid representation of the Agricultural Engineering graduates, vide its Report dated 31.8.2004 (Annexure 4 of this Enquiry Report). As per its decision, the Committee had decided to discuss the said matter with the Hon’ble Vice-Chancellor.

Accordingly, as stated by him in paras 6 of his affidavit dated 25.12.2007 (Ex.645) Dr.V.D. Patil, the Chairman of the said Committee discussed the above report of the Committee dated 31.8.2004 with the Hon'ble Vice-Chancellor on the same day which he accepted, vide para 104 of the Enquiry Report.

**1052)** The report of the aforesaid Committee dated 31.8.2004 (Annexure 4 of the Enquiry Report) would show that the Recruitment Rules of the Government referred to by the Agricultural Engineering graduates in their representation were not, according to the Committee, applicable to the Agricultural University for which the Recruitment Rules were prescribed by MAU (KV), Statutes, 1990, which prescribed the qualification for JRA as "Bachelor's degree in respective faculty". Further, according to it, as per the 3 G.Rs. dated 2.7.1993 by amending the relevant Recruitment Rules, 1983 of the Agriculture Department of the State Govt., the qualification of degree in Agricultural Engineering or Horticulture was made equivalent to the qualification of degree in Agriculture for the purpose of recruitment in the posts of Agricultural Supervisor and Agricultural Assistant (Class-III) to which the said Recruitment Rules were applicable. It was stated in the said report of the aforesaid Committee dated 31.8.2004 that it was brought to its notice that the Government/ ICAR had not sanctioned any post of JRA (Agril.Engg.) / AA (Agril.Engg.) under the faculty of Agricultural Engineering. It was also stated therein that it was discussed in the meeting that the posts of JRA/AA were not general posts as are being utilized for the purposes of Research, Extension Education, and Education in the Faculty of Agriculture. According to the said report, even in the Agriculture school, an Agricultural Engineering graduate could not teach the students because the course credit for agriculture was only 20 out of 160 credits for Agricultural Engineering graduate which was not sufficient to allow him to teach the students of Diploma in Agriculture courses.

**1053)** However, without giving any reasons, the Committee decided to hold them eligible for some posts of JRA (Agri.) which were also not indicated in its report, although the whole trend of the report as shown above was that the Agricultural Engineering graduates were not eligible for the posts of JRA (Agri.) as also admitted by Dr.V.D. Patil himself, the Chairman of the said Committee, in para 6 of his affidavit dated 25.12.2007 (Ex.645), by Shri S.S.Suradkar, the Deputy Registrar (Estt.), its member, in para 6 of his affidavit dated 1.12.2007 (Ex.634), by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University in para 25 of his affidavit dated 14.1.2008 (Ex.658) and by Dr.Vandan Mohod, the Registrar who acted as Member Secretary of the Selection Committee in para 9 of his affidavit dated 1.12.2007 (Ex. 633), vide paras 104, 113, 119 and 120B respectively of the Enquiry Report.

**1054)** As regards "some posts of JRA (Agri.)" for which the aforesaid Committee held the Agricultural Engineering graduates eligible, although its report dated 31.8.2004 did not show such posts, Dr.V.D. Patil, the Chairman of the aforesaid Committee stated in para 6 of his affidavit dated 25.12.2007 (Ex.645) that the aforesaid Committee discussed the said

question in its meeting and decided that there were 4 or 5 posts of JRA (Agri.) in which they could suitably be absorbed. Dr.V.D. Patil, indicated in the said para 6 of his aforesaid affidavit that such posts were the posts in the departments of Soil and Water Conservation, Water Shed Management, Land Resource Management, Land-Levelling, Rain Water Harvesting, Agricultural Machinery etc. vide para 104 of the Report. Dr.Vandan Mohod, the Registrar / Member Secretary of the Selection Committee, stated in para 38 of his affidavit dated 1.12.2007 (Ex.633) that the Agricultural Engineering graduates could work in some such posts in the departments of Water Harvesting, Soil Conservation, Land Source Management and Soil Physics. He then stated that there were no other departments in the University in which the Agricultural Engineering graduates could work and could be absorbed vide para 120-C of the Report. Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University also stated in para 26 of his affidavit dated 14.1.2008 (Ex.658) that, according to him, the Agricultural Engineering graduates could work in the posts of JRA (Agri.) in the following departments :

Agro Meterology, Watershed Management, Drought Resistance Variety Research, Soil Water Conservation, Drainage and Agro-ecology (See para 120 of the Report).

**1055)** As regards the representations of the Agricultural Engineering graduates dated 16.8.2004 and 30.8.2004, referred to above, two questions need to be considered :-

- (i) Whether according to the rules of Maharashtra Government, the degree in Agricultural Engineering is equivalent to the degree in Agriculture and whether the Agricultural Engineering graduates are eligible for the posts of JRA (Agri.)/AA since they are eligible for similar posts in the Agriculture department of the State Govt.
- (ii) Whether the then Vice-Chancellor had given them any assurance that a corrigendum would be issued to the advertisement dated 14.8.2004 (Ex.2) giving them an opportunity to apply for the posts of JRA/AA by favourably considering their representation;

The principal question which, however, arises for consideration in the light of the report of the Committee (Annexure 4 of the Enquiry Report) constituted by the University for considering their grievance in this regard is: (i) whether the Agricultural Engineering Graduates are at all eligible for the posts of JRA (Agri.) in the University.

**1056)** As regards the question no. (i) raised by the Agricultural Engineering graduates in their representation dated 16.8.2004 contained at page 1/C of the file Ex.40(O) referred to above, reliance was placed by them upon the 3 G.Rs. dated 5.1.1990 annexed to their aforesaid representation dated 16.8.2004 and also similar 3 G.Rs. dated 2<sup>nd</sup> July 1993 annexed to their representation dated 30.8.2004 on the basis of which they claimed that

their degree in Agricultural Engineering was equivalent to the degree in Agriculture and that they were eligible for the posts of JRA (Agri.) and AA in the University since they were held eligible for similar posts in the Agriculture Dept. of the State Govt. . Perusal of the said 3 G.Rs. would show that they are applicable to the posts of Agricultural Supervisor and Agriculture Assistant (Class-III) in Land and Water Management group, Extension group, and the Development group in the Agriculture department of the State Govt. By the said 3 G.Rs. dated 5.1.90 the amendment is made in Rule-3 (b) ii of the Recruitment Rules for the said posts to include the degree in Agricultural Engineering also therein so that not only the graduate in agriculture but a graduate in Agricultural Engineering is also eligible for the said posts. As regards the 3 G.Rs. dated 2.7.93, by amendment of the above Recruitment rules, the graduate in Horticulture is also made eligible for the said posts in Agriculture department of the Govt. It is rightly observed in the report of the aforesaid Committee dated 31.8.2004 , that the degree in Agriculture and the degree in Agricultural Engineering are treated as equivalent by the Govt. for the purpose of appointment in the posts of Agricultural Supervisor and Agriculture Assistant (Class-III) in the aforesaid groups in the Agriculture department of the Govt. It is also rightly observed therein that these Recruitment Rules are not applicable to the Agricultural University to which the Recruitment rules are prescribed by MAU (KV) Statutes, 1990, in which for the posts of JRA, the qualification prescribed is “Bachelor’s degree in respective faculty”. (See S.No.4, Appendix-III read with Statute 73)

**1057)** It is pertinent to see that even in Govt. service for making Agricultural Engineering graduates eligible for the aforesaid posts of Agricultural Supervisor, and Agricultural Assistant ( Class-III) in the Land and Water Management group, Extension group, and the Development group in the Dept. of Agriculture in the State Govt. the Recruitment Rules of the said Dept. were first amended by the aforesaid 3 G.Rs. dated 5.1.1990 whereafter only they became eligible for the aforesaid posts in the said Dept. No appropriate amendment is made in the qualification laid down in Appendix-III of the Statutes for the post of JRA so as to make the graduate in Agricultural Engineering eligible for the post of JRA (Agri.) for which the qualification as per Appendix-III would be “Bachelor’s degree in the faculty of Agriculture” as given in the advertisement dated 14.8.2004 (Ex.2). The Agricultural Engineering graduates cannot therefore claim that on the analogy of the aforesaid G.Rs. dated 5.1.1990 they should be held eligible for the posts of JRA (Agri.)/AA.

**1058)** As regards the question no. (ii) raised in the representation of the Agricultural Engineering graduates dated 30.8.2004 contained at page C/11 of the file Ex.40(O), referred to above, i.e. whether the then Vice-Chancellor had given the agitating Agricultural Engineering graduates any assurance that the corrigendum would be issued to the advertisement dated 14.8.2004 (Ex.2) to include their qualifications therein for the posts of JRA (Agri.) and AA., Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University denied in para 21 of his affidavit dated 14.1.2008 (Ex.658) that he had given them any such

assurance. According to him, what he told them was that the University was trying to get sanction from the Government for creation of some posts of JRA (Agril.Engg.) as there was work for Agricultural Engineering graduates in the said posts of JRA and as such it was necessary to create such posts in the University. Even assuming that the assurance as claimed by the Agricultural Engineering graduates was given to them by the then Vice-Chancellor, even then, it would not make them eligible for the posts of JRA (Agri.) since the qualifications which were laid down for the said posts under Appendix-III read with Statute-73, did not permit their appointment in the said posts. The statutes framed by the University under the University Act had statutory force and any assurance given contrary to the provisions of the said Statutes would be illegal and would not be enforceable. Although the assurance which Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University had given to them as referred to above was a proper way to consider the question of their appointment by creating some posts of JRA (Agril.Engg.), in the University, the said course was not actually followed by the University as is clear from para 25 of his aforesaid affidavit dated 14.1.2008 (Ex.658) and also from para 11 of the affidavit of Dr.V.D. Patil, the Chairman of the Selection Committee, dated 25.12.2007 (Ex.645) which would show that they made them eligible to apply for the posts of JRA (Agri.) by including their qualification of degree in Agricultural Engineering for the said post of JRA (Agri.) in the advertisement dated 14.8.2004 (Ex.2) by issuing to it the addendum dated 6.9.2004 on the ground that there was great pressure upon them due to agitation of the Agricultural Engineering graduates.

**1059)** As regards the question of sanction from the Govt. for creation of some posts of JRA (Agril.Engg.) referred to by the Vice-Chancellor, the said question would be considered while considering the question of set-up of the posts of SRA/JRA in the University. It is however, necessary to state that by its sanction the State Govt. fixes the complement i.e. strength of each post in the University. As regards the posts of SRA/JRA the State Govt. sanctioned the said posts with their general designation as SRA/JRA as is clear from the revised Akrutibandh (Ex.724) issued by it with its G.R. dated 29.11.2003 (Ex.724-A), vide para 715 of the Report. Once the total number of posts of SRA/JRA are thus fixed by the State Govt. by its sanction, it is open to the University to distribute the said posts in various categories such as SRA (Agri.), SRA (Agril.Engg.), SRA (Computer) and JRA (Agri.), JRA (Agril.Engg.) and JRA (Computer) etc. according to the requirement of the said posts in various departments/schemes etc in the University. It is only if the posts more than their complement fixed by the State Govt. are necessary that further sanction of the Govt. for such additional posts would be necessary.

**1060)** In fact, the University itself had distributed various posts in its departments/schemes as per its Circular dated 27.2.1997 (Ex.723) and also as per its orders dated 25.6.2001 filed with its affidavit dated 4.11.2008 (Ex.776) marked as Exs. 777 to 783 in this enquiry creating posts with change of designation such as of SRA (Bio-technology)

in independent Center of Bio-technology and of SRA (Computer) designated as “Computer Operator” and JRA (Computer) in independent Center of Computer, Senior Technical Assistant under the University Engineer etc. by transferring the posts of SRA/JRA from its other departments/schemes which orders were approved by its Executive Council by its resolution no. 51 /2001 dated 17.9.2001 (Ex.800) filed with its affidavit dated 13.11.2008 (Ex.798). It is thus clear that within the strength of each post sanctioned by the State Govt., it is open to the University to distribute the said posts in its various departments/schemes.

**1061)** It may be seen that if there was urgency due to agitation of the Agricultural Engineering graduates, the Vice-Chancellor, by exercising his emergency power under section 18 (16) of the University Act, could have after informing the Pro-chancellor and following suggestions made by him, if any created 4 or 5 posts of JRA (Agril.Engg.) by conversion of the posts in question of JRA (Agri.) in the departments mentioned by him in para 26 of his affidavit dated 14.1.2008 (Ex.658) which posts of JRA therein could then be filled, by appointment of Agricultural Engineering graduates since, according to him, knowledge gained by the graduate in Agriculture by studying the subject of Agricultural Engineering prescribed for them in their course for B.Sc. (Agri.) was not adequate to discharge the duties of the said posts of JRA (Agri.) in the said departments mentioned by him in the said para 26 of his aforesaid affidavit because, as stated by him therein, the number of grades for Agricultural Engineering were low in the said course of B.Sc. (Agri.) when, according to him, in modern day technology, in every field meant for JRA (Agri.), intensive study and knowledge of Agricultural Engineering was necessary which the Agricultural Engineering graduates alone possessed vide para 120 of the Enquiry Report. The posts of JRA (Agril.Engg.) thus created could have been then included in the advertisement dated 14.8.2004 (Ex.2) with the qualification of B.Tech. (Agril.Engg.) for the said posts by issuing addendum to that effect. The said action of the Vice-Chancellor of creation of posts of JRA (Agril.Engg.) could have been then in normal course put-up before the next meeting of the Executive Council for its approval as per the provisions of section 18 (16) of the University Act. No sanction of the Govt. was necessary for following the above course as it did not involve sanction of additional post/s of JRA in the University. However, without following the above course or of amending the qualification laid down in Appendix-III of the Statutes to include first the qualification of degree in Agricultural Engineering for the post of JRA (Agri.) Dr.V.D. Patil, the Chairman of the aforesaid Committee and the then Vice-Chancellor Dr. S.A. Nimbalkar, who had long experience in conducting the affairs of the University acted illegally in including in the advertisement dated 14.8.2004 (Ex.2) the qualification of degree in Agricultural Engineering faculty for the posts of JRA (Agri.)/AA on the ground that there was great pressure upon them due to agitation of the Agricultural Engineering graduates.

**1062)** As regards the question no.iii i.e. whether the Agricultural Engineering graduates are at all eligible for the posts of JRA (Agri.) in the University, the said question is the

principal question which arises for consideration in the light of the report of the aforesaid Committee which made Agricultural Engineering graduates eligible for some posts of JRA (Agri.) in the University. In this regard, it may be seen that perusal of the said report, would show that the whole trend of the said report was that the Agricultural Engineering graduates were not eligible for the posts of JRA (Agri.) as admitted also in their affidavits by Dr.V.D. Patil himself, the Chairman of the aforesaid Committee, by Shri S.S. Suradkar, Deputy Registrar (Estt.) and its member, by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, and by Dr.Vandan Mohod, the Registrar who acted as Member Secretary of the Selection Committee as already pointed out above in para 1053 of the Enquiry Report, and it was only in one sentence without giving any reasons that it was held by the aforesaid Committee in its report that the Agricultural Engineering graduates were eligible for some posts of JRA (Agri.) in the University but no such posts or any department/s in which they existed were indicated in the said report.

**1063)** It is clear from the advertisement dated 14.8.2004 (Ex.2) that the posts of JRA which were advertised at serial no.4 of the Advertisement dated 14.8.2004 (Ex.2) for being filled were of JRA (Agri.), the qualifications for which prescribed in the said advertisement were “Bachelor’s degree in Agriculture faculty”. However, by addendum dated 6.9.2004, the qualifications for the said posts were sought to be amended by adding the words “Agricultural Engineering faculty” after the words “Agriculture faculty” so as to make the Agricultural Engineering graduates eligible to apply for the said posts. In Appendix-III at serial no.4, the qualification prescribed for the post of JRA is “Bachelor’s degree in the respective faculty” and therefore the qualification prescribed thereunder for the post of JRA (Agri.) would be “Bachelor’s degree in the faculty of Agriculture” and not “Bachelor’s degree in the faculty of Agricultural Engineering”. Since the said qualification for the post of JRA (Agri.) is prescribed under Appendix-III of the Statutes which has statutory force, the aforesaid Addendum dated 6.9.2004 prescribing also the qualification of “degree in Agricultural Engineering” for the post of JRA (Agri.) would be illegal and contrary to the said statutory provision making selection and appointment of Agricultural Engineering graduates in these posts illegal and violative of Articles 14 and 16 of the Constitution of India.

**1064)** Dr.V.D. Patil, the Chairman of the aforesaid Committee and also the Chairman of the Selection Committee, vide paras 106 to 108 of the Enquiry Report, Shri R.B. Bali, the then Registrar and the Member of the aforesaid Committee vide para 109 of the Enquiry Report, Shri S.S.Suradkar, Deputy Registrar (Estt.), and also Member of the aforesaid Committee, vide para 112 of the Enquiry Report, Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, vide paras 117 to 119 of the Enquiry Report, and Dr.Vandan Mohod, the Registrar of the University after Shri R.B. Bali and the Member Secretary of the Selection Committee, vide paras 120A and 120B of the Enquiry Report admitted in

their affidavits referred to therein that the Agricultural Engineering graduates were ineligible for the posts of JRA (Agri.)

**1065)** The Agricultural Engineering graduates, are ineligible for the posts of JRA (Agri.) for the following amongst other reasons :

- i) The faculty of Agriculture and the faculty of Agricultural Engineering are separate and independent faculties as shown in section 35(1) of the University Act. The subjects for study prescribed under the faculty of Agriculture are different from the subjects for study prescribed in the faculty of Agricultural Engineering as shown in paras A and D of Statute 5(2) of the Statutes leading to separate degrees in these faculties.
- ii) As shown in Statute-96, for graduation, the degree in the faculty of Agriculture is B.Sc. (Agri.) B.Sc. (Horticulture), B.Sc. (Forestry) and for post graduation therein, the degree is M.Sc. (Agri.) whereas in the faculty of Agricultural Engineering, for graduation in Agricultural Engineering, the degree is B.Tech. (Agril.Engg.) and for post graduation therein the degree is M.Tech (Agril.Engg.).
- iii) The qualification laid down for the post of JRA at serial no. 4 in Appendix-III is “Bachelor’s degree in the respective faculty”, which would mean that for the post of JRA (Agri.), the Bachelor’s degree should be in the faculty Agriculture and not in the faculty of Agricultural Engineering particularly when, as shown above the subjects prescribed in the said faculties and the degrees awarded to the students therein are different.
- iv) Under Statute 77 (1), the Executive Council of the University is competent to lay down the qualifications for the posts to be advertised thereunder. The Executive Council of the University and also the State Govt. have power to frame and amend the Statutes under sections 38(2) and 38(6) respectively of the University Act. It is under Statute 73 read with Appendix-III that the qualifications for the posts of academic staff members other than the posts of the Heads of the Departments and professors in the University are laid down. As already stated, there is no amendment made in the qualification prescribed for the post of JRA at serial no.4 in Appendix-III to include therein the Bachelor’s degree in Agricultural Engineering also as qualification for the post of JRA (Agri.) so as to make the Agricultural Engineering graduate eligible for the said post.

**1066)** Shri Hemant D. Deshmukh, Advocate, appearing for Agricultural Engineering graduates, who were selected and appointed in the posts of JRA (Agri.) sought to justify their selection and appointment in the posts of JRA (Agri.) by raising the question through para 25 (iv) of the affidavit dated 3.10.2007 (Ex.571) filed by Shri Hitendra Kumar Khobragade, an Agricultural Engineering graduate appointed in the post of JRA (Agri.)

that the word “Agriculture” as defined in section 2 (b) of the University Act includes “Agricultural Engineering” and therefore, the qualification for the post designated as JRA (Agri.) would include the qualification of “Agricultural Engineering” also vide para 999 of the Enquiry Report. Apart from the aforesaid definition clause, he has also relied upon some authoritative books in support of his above submission.

**1067)** The definitions given in the Act provide a dictionary for the words and expressions used in the Act. Perusal of the definition of the word “Agriculture” in section 2 (b) of the University Act, shows that it is an inclusive definition which means that it extends the ordinary connotation of the said word “Agriculture” defined therein. The dictionary meaning of the word “Agriculture” in “D.K. Illustrated (revised and updated) Oxford Dictionary” is “Science or Practice of Cultivating the Soil and Rearing animals”. In K.B.Virkar’s little modern dictionary (English-English-Marathi), its meaning is “Cultivation of the Soil, farming” (शेतकी). In this regard it may be seen that section-2 of the said Act is subject to context otherwise as the definition clause always is “The Act has provided comprehensive definition of the word “Agriculture” because wherever the Act intends to and has made common provision for “Agriculture and for all the facets and/or activities related to it which are dealt with under the Act, it has provided for the sake of brevity an artificial definition of the word “Agriculture” to be used for the same as for instance in section 4 of the Act to indicate the purposes for which the University is established. The said word “Agriculture” used in designating the post as JRA (Agri.) cannot however, be said to be used in a comprehensive sense so as to include the qualification of Agricultural Engineering also for the same post as the context in which it is used requires otherwise.

**1068)** In this regard, it may be seen that the posts of Agriculture, Agricultural Engineering, Computer, Bio-technology / Bio-chemistry etc. are separate posts in the University with different duties and qualifications and are therefore separately advertised, vide the advertisement in question dated 14.8.2004 (Ex.2). The question whether the Agricultural Engineering graduates are eligible for selection and appointment in the posts of JRA (Agri.) has to be considered in the light of the qualifications laid down for the said post in Appendix-III of the Statutes and other related provisions of the University Act and the Statutes framed thereunder. As already pointed out, the qualification for the post of JRA is Bachelor’s degree in the respective Faculty, which would mean that for the post of JRA (Agri.) the qualification would be “Bachelor’s degree in the faculty of Agriculture and for the post of JRA (Agril.Engg.), the qualification would be Bachelor’s degree in the faculty of Agricultural Engineering. As shown above, the faculty of Agriculture is separate and independent from the faculty of Agricultural Engineering under section 35 of the University Act, the subjects for study therein under paras A & D of Statute 5 (2) are different and the degrees conferred upon the students prosecuting their studies therein are different as given

in Statute-96. The above provisions of the University Act and the Statutes framed thereunder would clearly show that Agricultural Engineering is not comprehended in the expression “Agriculture” used in designating the post as JRA (Agri.) which was advertised in the advertisement in question dated 14.8.2004. The submission on behalf of the “Agricultural Engineering” graduates that since the word “Agriculture” as per its definition in section 2 (b) of the University Act includes “Agricultural Engineering” the qualification for the post designated as JRA (Agri.) would include the qualification of graduate in Agricultural Engineering cannot therefore, be accepted. The graduates having a Bachelor’s degree in the faculty of Agricultural Engineering are eligible to apply and get selected and appointed only in the posts of JRA (Agril.Engg.), if they are advertised for being filled, and not in the posts of JRA (Agri.) which are advertised for being filled. In fact, at serial no.3 in the advertisement in question dated 14.8.2004 (Ex.2) itself, the University has separately advertised the posts of SRA (Agri.) and SRA (Agril.Engg.) for which the qualifications prescribed by it are different i.e. Master’s degree in respective faculty.

**1069)** In view of the fact that the Agricultural Engineering graduates are not eligible for being selected and appointed in any post of JRA (Agri.) as shown above, the question of holding them eligible for some posts of JRA (Agri.) as per the report of the aforesaid Committee dated 31.8.2004 does not arise. However, since in para 6 of his affidavit dated 25.12.2007 (Ex.645), Dr.V.D. Patil, the Chairman of the Selection Committee, in para 38 of his affidavit dated 1.12.2007 (Ex.633), Dr.Vandan Mohod, the then Registrar/its Member Secretary in para 26 of his affidavit dated 14.1.2008 (Ex.658) Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, have specified the departments, in which the Agricultural Engineering graduates could work in the posts of JRA (Agri.) vide para 1054 of the Enquiry Report, the said question is briefly considered in this report. Dr.V.D. Patil, the Chairman of the aforesaid Committee, stated in the said para 6 of his aforesaid affidavit that so far as the need for limited knowledge of Agricultural Engineering involved in the posts of JRA (Agri.) is concerned, the graduate in Agriculture has such knowledge since Agricultural Engineering is one of the subjects for study in the faculty of Agriculture. He thus admitted that for this reason the Agricultural Engineering graduates cannot be held eligible for appointment in the posts of JRA (Agri.) for which such qualification of Agricultural Engineering is not prescribed. As regards the said question, whether the Agricultural Engineering graduates could work in the posts of JRA (Agri.) in the departments mentioned by him in para 26 of his aforesaid affidavit, vide para 1054 of the Enquiry Report, Dr.S.A. Nimbalkar, the then Vice-Chancellor stated therein that there were 4 or 5 posts in the departments referred to by him in the said para 26 of his aforesaid affidavit which could be filled by the appointment of Agricultural Engineering graduates because, as stated by him therein, knowledge gained by the graduates in Agriculture by studying the subject of Agricultural Engineering prescribed for them in the course for B.Sc. (Agri.) was not adequate to discharge the duties of the aforesaid posts of JRA (Agri.) in the

aforesaid departments because, according to him, in the course for B.Sc. (Agri.) the number of grades for Agricultural Engineering were low when in modern day technology in every field meant for JRA (Agri.), intensive study and knowledge of Agricultural Engineering was necessary which the Agricultural Engineering graduates alone possessed. He however, admitted that the graduate in agriculture had basic knowledge or foundation knowledge of most of the branches of Agricultural Engineering.

**1070)** In this regard it is necessary to see that when the posts of SRA/JRA are to be allotted to any department of Agriculture or of Agricultural Engineering, or any scheme thereunder the nature of main work or duties to be performed by the incumbent of the said post/s in such dept./scheme would be first seen and thereafter the said post/s of SRA/JRA would be allotted to either Agriculture or Agricultural Engineering in such dept./scheme. Even after allotting the said post/s to Agriculture, if it was found that in modern day technology, it should be manned by the person having qualification in Agricultural Engineering it was open to the University to convert the said post/s into the post/s of Agricultural Engineering by taking necessary steps to do so according to law. However, when the post continues to be of Agriculture, it would mean that a graduate in Agriculture can work in the said post even if it requires some knowledge of Agricultural Engineering, because he has such basic or foundation knowledge of most of the branches of Agricultural Engineering as admitted by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University in the said para 26 of his aforesaid affidavit dated 14.1.2008 (Ex.658) and also by Dr.V.D. Patil, the Chairman of the aforesaid Committee and of the Selection Committee itself in para 6 of his affidavit dated 25.12.2007 (Ex.645). Perusal of item-10 in Statute 5 (2) A would show that the subject of Agricultural Engineering is taught to the students in "Agriculture" in their Bachelor's degree course. It cannot therefore be a ground for appointment of an Agricultural Engineering graduate in the post of JRA (Agri.) contrary to the statutory provisions in the statute laying down the qualification for the said posts as B.Sc. (Agri.).

**1071)** If, as stated by Dr.S.A. Nimbalkar, in para 26 of his aforesaid affidavit dated 14.1.2008 (Ex.658) intensive study and knowledge of Agricultural Engineering, which an Agricultural Engineering graduate alone possesses is necessary in every field meant for JRA (Agri.) in modern day technology then such post would have to be converted into the post of JRA (Agril.Engg.) and if the intensive study and knowledge of both Agriculture and Agricultural Engineering was necessary, one post of JRA (Agri.) and one post of JRA (Agril.Engg.) would be necessary to be created in such department/s or scheme/s. Further, in such dept./scheme, referred to in para 26 of his aforesaid affidavit, if there are posts of both SRA and JRA one post, whether of SRA or JRA can be of Agricultural Engineering to meet the above situation envisaged by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University. However, it appears that as stated in para 9 of his affidavit dated 25.12.2007 (Ex.645) by Dr.V.D. Patil, the Chairman of the Selection Committee, who was D.I./ Dean

(Agri.) for a long time the limited knowledge of Agricultural Engineering possessed by a graduate in Agriculture was sufficient for him to work in the posts of JRA (Agri.) which would include such posts ( i.e. JRA (Agri.) in the departments referred to by him, by Dr. Vandan Mohod, the then Registrar / Member Secretary of the Selection Committee, and also by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University in their aforesaid affidavits, vide para 1054 of the Enquiry Report, and it was not necessary to appoint Agricultural Engineering graduates to work in the said posts. Occasionally, if the assistance of Agricultural Engineering graduate was necessary because even with his basic knowledge of Agricultural Engineering a graduate in Agriculture was still unable to handle any particular matter relating to his work, an Agricultural Engineering graduate from the appropriate department under the faculty of Agricultural Engineering could be called to assist him.

**1072)** The learned Counsel Shri Hemant D. Deshmukh appearing for five Agricultural Engineering graduates who were selected and appointed in the posts of JRA (Agri.) has justified their appointments in the said post on the ground that there were posts of JRA (Agril. Engg.) in the University. The Agricultural Engineering graduate Shri Hitendra Kumar Khobragade raised in his affidavit dated 14.3.2008 (Ex.692) the said question about the sanctioned posts of JRA (Agril.Engg.) in the University relying upon two advertisements of the University dated 12.8.1997 and 15.7.2006 annexed to his aforesaid affidavit and marked as Exs.693 and 694 respectively in this enquiry. The aforesaid advertisement dated 12.8.1997 (Ex.693) would show that one post of JRA (Agril.Engg.) was advertised therein with the qualification of Bachelor's degree in Agricultural Engineering and in the second advertisement dated 15.7.2006 (Ex.694), 15 posts of JRA faculty (Agri./Agril.Engg.) were advertised.

**1073)** There is some controversy on the question as to whether there are any sanctioned posts of JRA (Agri.Engg.) in the University which can be considered when the question of University set-up of the posts of SRA/JRA is considered. Suffice it to say at this stage that even assuming that there existed some sanctioned posts of JRA (Agri.Engg.) in the University, the said posts were not advertised in the advertisement in question dated 14.8.2004 (Ex.2) as was done in the aforesaid advertisements dated 12.8.97 and 15.7.2006 (Exs.693 and 694) relied upon by the learned counsel for the Agricultural Engineering graduates. Had such posts of JRA (Agril.Engg.) been advertised in the advertisement in question dated 14.8.2004 (Ex.2) or in its addendum dated 6.9.2004 the Agricultural Engineering graduates could have been appointed in the said posts but merely because, according to the Agricultural Engineering graduates , the said posts existed in the University they cannot claim that their selection and appointment in the posts of JRA (Agri.) which were advertised in the advertisement in question dated 14.8.2004 (Ex.2) was legal. Statute 77 (1) (i) dealing with the procedure for appointment of Academic Staff Members and the mandate of Articles 14 and 16 also requires the said posts to be advertised

with the qualifications prescribed for the said posts. Thus, in the absence of proper advertisement for the posts of JRA (Agril.Engg.) the appointment of Agricultural Engineering graduates in the posts of JRA (Agri.) was illegal and violative of Articles 14 and 16 of the Constitution of India, since it was in breach of the qualifications laid down for the posts of JRA (Agri.) in Appendix-III of the Statutes.

**1074)** The five Agricultural Engineering graduates viz Shri Hitendra Kumar Motilal Khobragade, in para 25 (ix) of his affidavit dated 3.10.2007 (Ex.571), Ku. Mittal S. Supe in her affidavit dated 24.9.2007 (Ex.503), Shri A.K. Kamble, in his affidavit dated 24.9.2007 (Ex.508), Shri A.A. Deogirakar, in his affidavits dated 24.9.2007 (Ex.511) and 28.9.2007 (Ex.561), and Shri S.M. Dhongde, in his affidavit dated 24.9.2007 (Ex.510) justified their selection and appointment in the posts of JRA (Agri.) stating therein that they could work and discharge the duties of the posts of JRA (Agri.) in which they were appointed. Shri Hitendra Kumar Motilal Khobragade, justified his appointment in the post of JRA (Agri.) in the office of the Director of Agro Ecology and Environmental Centre , Dr.PDKV, Akola, by reproducing the duties of the said post in para 25 (ix) of his aforesaid affidavit and further by stating that he could perform the above duties since they were such which an Agricultural Engineering graduate could carry out taking into consideration his knowledge about the field of Agriculture and allied Sciences, vide para 1000 of the Report.

**1075)** Ku. Mittal S. Supe, an Agricultural Engineering graduate, was appointed in the post of JRA (Agri.) under Senior Research Scientist, Oil Seed Research Unit, Dr.PDKV, Akola, as per the order of the Registrar dated 17.9.2005. She stated in her written statement (Ex.504) annexed to her affidavit dated 24.9.2007 (Ex.503) that by office order dated 13.10.2005 issued by the Senior Research Scientist, Crop Research Unit, (Oil Seeds) and Safflower Breeder, Dr.PDKV, Akola, she was directed to work in the post of JRA (Oil Seed) under the Junior Breeder in the said Unit and look after all the breeding activities of SORP under his guidance. In addition, she was also directed to do the work as Incharge of the Computer Unit of the said office and in case of emergency work on computer also. She then stated therein that in her degree course for B.Tech. (Agricultural Engg.) she had also undergone courses closely related to the Agricultural Sciences and that for obtaining the degree in B.Tech. (Agril.Engg.), she had to complete 151 credits out of which 20 credits were in Agriculture, vide para 201 of the Report.

**1076)** As regards Shri A.K. Kamble, since 21.6.1997 he was working in the University as Foreman Supervisor, first in the department of Agricultural Engineering and then in the department of Farm, Power and Machinery before he was appointed pursuant to the advertisement dated 14.8.2004 (Ex.2) as amended by addendum dated 6.9.2004 of Dr.PDKV, Akola in the post of JRA (Agri.) in the department of Agricultural Engineering which, according to him, is a separate department, in the faculty of Agriculture under the control of its Dean wherein the Head, department of Agricultural Engineering had directed

him to work under the officer Incharge, Automobile Work Shop, Dr.PDKV, Akola. Thereafter, by order dated 29.10.2005 (Ex.557) i.e. after about 1 month and 20 days addressed by the Deputy Registrar (Estt.) to the Dean, Faculty of Agricultural Engineering, he was directed to physically work under the Research Engineer AICRP on RES and Head UCES/EE Dr.PDKV, Akola, till the staff was posted in the scheme. Accordingly, he was relieved by the Head, Department of Agricultural Engineering by his order dated 9.11.2005 (Ex.558) to join the said post where he was directed to work under the Research Engineer, A.I.C.R.P. on Renewable Sources of Energy by the order dated 11.11.2005 issued by the Head, Department of UCES & EE, Dr.PDKV, Akola (Ex.560) (vide para 1014 of the Report).

**1077)** As regards the Agricultural Engineering graduates Shri A.A. Deogirikar and Shri S.M. Dhongde, they were appointed in the posts of JRA (Agri.) in the department of Agricultural Chemistry and Soil Science. Shri A.A. Deogirikar, stated in his affidavit dated 24.9.2007 (Ex.511) that he was assigned the duties alongwith Dr. N.M. Konde, SRA to work in Soil Testing Laboratory under Dr. Ritu Thakre, Incharge of Soil Testing Laboratory to perform the duties of Soil and Manure testing, complete revolving fund activities (day-to-day transaction) including micro nutrient analysis (vide para 1019 of the Report). By filing additional affidavit dated 28.9.2007 (Ex.561) he narrated in detail the number of duties performed by him in the said department vide para 1021 of the Report. Shri S.M. Dhongade, did not state anything in his affidavit dated 24.9.2007 (Ex.510) about the duties performed by him as JRA (Agri.) in the said department of Agricultural Chemistry and Soil Science.

**1078)** Assuming, that the above Agricultural Engineering graduates could work in the post of JRA (Agri.), because in their B.Tech. degree course in Agricultural Engineering, they had undergone some courses in "Agriculture" because of which they had some basic knowledge about it as stated by Shri Hitendra Kumar Motilal Khobragade and Ku. Mittal Supe in their above-referred affidavits as also by Shri Tale, Associate Professor, Soil Water Conservation Engineering Department, in para 5 of his affidavit dated 20.9.2008 (Ex.770), it would not mean that they satisfy the requirement of the qualification of "Bachelor's degree in the faculty of Agriculture" which is required under Appendix-III of the Statute as a qualification for the post of JRA (Agri.). Similarly, if the post is of JRA (Agril. Engg.), a graduate in Agriculture would not be eligible for the said post only because he had studied the subject of Agricultural Engineering in his degree course and had thus some basic knowledge about it. As already pointed out above in para 1062 of the Enquiry Report, the posts of SRA/JRA are allotted to the department of Agriculture or Agricultural Engineering or any scheme thereunder by finding out the main work or the duties required to be performed by the incumbent of the said post/s in such department/scheme. When the post is thus determined as that of JRA (Agri.) then the basic knowledge of Agricultural Engineering to the graduate in Agriculture would be ordinarily useful to him for doing the

incidental work of Agricultural Engineering if involved in his post of JRA (Agri.) and, vice versa, if the post is in the above manner determined as the post of JRA (Agril.Engg.), the basic knowledge of Agriculture to the graduate in Agricultural Engineering would be ordinarily useful to him in doing the incidental work of Agriculture involved in his post of JRA (Agril.Engg.). Occasionally, if required, the services of the graduate in Agriculture or Agricultural Engineering, as the case may be, from the appropriate department in the University i.e. his specialized or expert knowledge, can be utilized to attend to any particular problem arising in such posts.

**1079)** As regards, Ku. Mittal S. Supe, it is clear from para 97 of the affidavit of Dr.V.D. Patil, dated 25.12.2007 (Ex.645) that the work allotted to her as JRA (Agri.) under the Junior Breeder to look after all the breeding activities of SORP under his guidance and also in addition to look after computer section as its Incharge and work on computer in case of emergency was not the work to be allotted to an Agricultural Engineering graduate. The work under the Junior Breeder was purely of Agriculture. Even, she did not specifically state in any of her affidavits that she could do the work assigned to her as per the office order dated 13.10.2005 i.e. the work relating to breeding activity of SORP and the work as Incharge of Computer Unit or work on Computer herself. The courses in Agricultural Sciences shown by her in her written statement (Ex.580) annexed to her affidavit dated 3.10.2007 (Ex.579) also do not show any subject relating to Botany and / or Plant Breeding.

**1080)** As regards Shri A.K. Kamble, an Agricultural Engineering graduate, he was appointed in the post of JRA in the department of Agricultural Engineering treating it as post of JRA (Agri.). The question whether the said post of JRA and also the post of SRA in the said department of Agricultural Engineering are the posts of Agriculture or Agricultural Engineering is considered while considering the question of University set-up of the posts of SRA/JRA. Suffice it to state that in truth and substance the said posts of SRA and JRA in the said department of Agricultural Engineering are the posts of Agricultural Engineering and not of Agriculture. Merely, because the designation of the said posts is not shown as SRA (Agril.Engg.) and JRA (Agril.Engg.) but is shown as SRA and JRA in the said department of Agricultural Engineering in the University Circular dated 27.2.1997 (Ex.723), the said posts could not have been treated as posts of SRA (Agri.) and JRA (Agri.) respectively in the said department. Therefore, the qualification for the said post would be of a graduate in Agriculture Engineering i.e. B.Tech. (Agril.Engg.) and not of a graduate in Agriculture i.e. B.Sc. (Agri.). The said post of JRA cannot therefore be said to be included in the posts of JRA (Agri.) which were advertised in the advertisement in question dated 14.8.2004 (Ex.2). If the said post was to be filled by the University, it needed to be advertised separately with the qualification of a graduate in Agricultural Engineering i.e. B.Tech. (Agril.Engg.). In the absence of proper advertisement, the appointment of Shri A.K. Kamble, although an Agricultural Engineering graduate is illegal and violative of Articles 14 and 16 of the Constitution of India.

**1081)** As regards remaining three Agricultural Engineering graduates viz. Shri Hitendra M. Khobragade, appointed in the post of JRA (Agri.) in the office of the Director Agro Ecology and Environmental Centre, Dr.PDKV, Akola. Shri A.A. Deogirikar, appointed in the post of JRA (Agri.) in the department of Agricultural Chemistry and Soil Science Dr.PDKV, Akola and Shri S.M. Dhongde, also appointed as JRA (Agri.) in the aforesaid department of Agricultural Chemistry and Soil Science, Dr.PDKV, Akola, it is not stated by them that the duties they performed in their posts of JRA (Agri.) could not be performed by the person, who was graduate in Agriculture. On the contrary, according to Hitendra Kumar Khobragade, as stated by him in para 25 (ix) of his affidavit dated 3.10.2007 (Ex.571) vide para 1000 of the Report, he could perform the duties of the said post enumerated by him in the said para, taking into consideration his knowledge about the field of Agriculture and allied sciences, which would show that the knowledge of Agriculture was required for performing the duties of the post in which he was appointed. Similarly, as regards the appointment of Agricultural Engineering graduate, Shri A.A. Deogirikar in the department of Agricultural Chemistry and Soil Science, the duties performed by Shri A.A. Deogirikar in the post of JRA (Agri.) in the said department reproduced by him in his additional affidavit dated 28.9.2007 (Ex.561), would show that they were principally related to Agriculture and were performed by a graduate in Agriculture. Be that as it may, as held earlier the Agricultural Engineering graduates could not have been appointed in the posts of JRA (Agri.) for which the qualification laid down in Appendix-III read with Statute-73 of the Statutes was degree in Agriculture i.e. B.Sc. (Agri.).

**1082)** As regards the submission of Shri Hitendra Motilal Khobragade in para 3 of his affidavit dated 14.3.2008 (Ex.692), that the post in which he was working in the department of Agro ecology and Environmental Centre, Dr.PDKV, Akola, was the post of JRA (General) (not of any special faculty), vide para 1002 of the Enquiry Report, the said submission cannot be accepted, in view of set-up of the posts of SRA/JRA in the University, considered in paras 1040 and 1041 of the Enquiry Report under the head no.(xii) "Sanctioned Posts of SRA (Agri.) and JRA (Agri.)" the principal head being (E) "University set-up of the posts of SRA/JRA". As observed therein except the posts which are specifically designated such as SRA (Agril.Engg.), SRA (Computer), SRA (Bio-technology/Bio-chemistry), and JRA (Computer) etc, all other posts of SRA / JRA according to the University which are not specifically designated are the posts of SRA (Agri.) and JRA (Agri.), vide para 2 of the affidavit of the then Registrar Shri G.K.Bhusare, dated 8.5.2008 (Ex.733) and para 60 of the affidavit of dealing Section Assistant (Estt.), Shri D.P. Deshmukh, dated 15.11.2007 (Ex.598). Even otherwise, dutywise also the said post of JRA in the department of Agro-ecology and Environmental Centre, Dr.PDKV, Akola, is the post of JRA (Agri.) as admitted by Shri Hitendra Motilal Khobragade himself in para 25 (ix) of his affidavit dated 3.10.2007 (Ex.571). His appointment in the said post which is of JRA (Agri.) is, therefore, illegal and invalid. Even assuming that the said post is

JRA - General, the post advertised is of JRA (Agri.) and in the absence of the advertisement of the post as JRA-General, the appointment made in the said post would still be illegal and invalid. If the post is advertised as JRA-General, the candidates from all the faculties would be eligible to apply for the said post.

**iii) Criteria laid down for Short-listing of candidates due to receipt of large number of applications for the posts of SRA (Agri.) and JRA (Agri.) in question**

**a) Receipt of applications for the posts of SRA/JRA and rejection of the applications not fulfilling the qualifications in the advertisement**

**1083)** The data in regard to receipt of applications of the candidates pursuant to the advertisement dated 14.8.2004 read with its addendum dated 6.9.2004 collectively marked as Ex.2 in this enquiry is referred to in paras 121 to 124 of the Enquiry Report. Vide para 122 of the Report, Shri D.P. Deshmukh, Section Assistant (Estt.), who actually deals with the service matters relating to SRA/JRA/AA/LSS stated in para 18 of his affidavit dated 15.11.2007 (Ex.598) that after receipt of the applications for all the above posts which were advertised as per advertisement dated 14.8.2004 (Ex.2) read with its Addendum dated 6.9.2004, he sorted out all the applications, scrutinized them and separated them in different categories such as S.C., S.T. etc. According to him, he then prepared the categorywise chart / statement of the posts of AA/JRA (Agri.)/Computer/SRA (Agri.)/ Engineering/ Computer/ Bio-technology/Bio-chemistry/LSS showing in each category the total number of the above posts advertised, the total number of applications received, the total number of qualified and non-qualified applicants, and the various qualifications possessed by all the qualified applicants. The said chart/statement is at page C/11 of the file relating to interviews marked as Ex.35(O) in this enquiry.

**1084)** Shri D.P. Deshmukh, Section Assistant (Estt.), stated in the said para 18 of his aforesaid affidavit dated 15.11.2007 (Ex.598) that he had put-up all the applications of the qualified and non-qualified candidates as per the aforesaid chart/statement at page C/11 in the file Ex.35(O) before the Registrar, who according to him, granted his approval to the said chart/statement orally. As regards the question of rejection of the applications of the candidates who were ineligible for the posts as per the advertisement or whose applications were deficient as per the requirements thereof, it appears from Statute 77 (1) (ii) that the Registrar is required to put-up all the applications received by him before the Chairman of the Selection Committee for his consideration which would mean that the applications of the candidates who were ineligible for the posts as per the advertisement or whose applications were deficient as per the requirements thereof could be rejected by him but Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 13 of his affidavit dated 25.12.2007 (Ex.645) that he did not pass any order rejecting their applications but the same might have been passed by the Registrar.

**b) Large number of applicants for the posts of SRA (Agri.)/JRA (Agri.) qualified as per the Advertisement**

**1085)** The relevant extract of the aforesaid chart/statement at page C/11 of the file Ex.35(O) relating to the posts of SRA (Agri.) of JRA (Agri.) (Annexure-5 of the Enquiry Report) would show that the applications received by the University for the posts of SRA (Agri.) and JRA (Agri.) were 1119 and 2104 respectively out of which the applications of the candidates qualified for the said posts as per the advertisement were 1017 and 2030 respectively. Thus, the total applications received for both the posts of SRA (Agri.) and JRA (Agri.) were 3223 out of which the applications of the candidates who were qualified as per the advertisement were 3047. However, there is some discrepancy in the above figures given in the chart / statement at page C/11 in the file Ex.35(O) and the figures given in the revised charts (Exs.3 and 4) filed by the University in this enquiry with its affidavit dated 18.7.2007 (Ex.1), as in the revised chart (Ex.3) the applications shown to have been received for the posts of SRA (Agri.) were 1115 out of which 1018 were of the candidates qualified as per the advertisement and as regards the posts of JRA (Agri.) as shown in the above-referred revised chart (Ex.4), the applications received for the said posts were 2099 out of which 2051 were of the candidates qualified as per the advertisement. Thus, the total number of applications received for both the posts of SRA (Agri.) and JRA (Agri.) as per the aforesaid revised charts (Exs.3 and 4) were 3214 out of which 3069 were of the candidates qualified as per the advertisement. There is thus discrepancy in the revised charts Exs.3 and 4 filed by the University in this enquiry and the chart at page C/11 of the file Ex.35(O) referred to above regarding the above figures.

**1086)** As regards the magnitude of the problem created by large number of applications being filed for these 24 posts of SRA (Agri.) and 37 of JRA (Agri.) which were advertised since as per the advertisement dated 14.8.2004 (Ex.2) a candidate had to make separate application for each post and for each category requiring proper short-listing of candidates, the charts and the affidavits in that regard were considered in paras 133 to 136 of this Enquiry Report. It appears from para 136 of the Enquiry Report that prior to short-listing of candidates, the total number of candidates qualified as per the advertisement dated 14.8.2004 (Ex.2) for both the posts (i.e.  $24 + 37 = 61$ ) was 2021 as shown in the alphabetical list (Ex.833), filed by the University with the affidavit dated 5.1.2009 (Ex.832) sworn by Shri D.P. Deshmukh, besides 7 candidates of YCMOU who were eligible for interview of the post of JRA (Agri.) .

**c) Decision about short-listing of candidates**

**1087)** Be that as it may, vide para 128 of the Enquiry Report, Dr. V.D. Patil, the Chairman of the Selection Committee, stated in para 14 of his affidavit dated 25.12.2007 (Ex.645) that after seeing large number of applications filed for the posts of SRA/JRA, he discussed the matter with the officers of the Registrar's office, and asked them to collect

information regarding the criteria for shortlisting of candidates which information the Registrar's office got from M.P.S.C. as per its letter dated 22.3.2005 contained at Page C/3 of the file Ex.35(O). He also asked it to submit its proposal for short-listing of candidates applying for the posts of SRA/JRA. There was thus, decision taken by him to short-list the candidates applying for the posts of SRA/JRA. Accordingly, Shri D.P. Deshmukh, Section Assistant (Estt.), put-up the proposal about shortlisting of candidates through his office note dated 25.4.2005 contained at pages 1/N to 7/N of the file Ex.35(O).

**d) Proposal for shortlisting of Candidates**

**d-1) Review of vacant posts of SRA/JRA, Vide para 125 of the Enquiry Report, and the office note of Shri D.P. Deshmukh, Section Assistant, dated 25.4.2005 in the file Ex.35(O).**

**1088)** Perusal of the office note of Shri D.P. Deshmukh, Section Assistant (Estt.), dated 25.4.2005 contained in the file Ex.35 (O), would show that he had placed the material and given proposal for shortlisting of candidates for all the posts of SRA/JRA/AA/LSS although Dr.V.D. Patil, the Chairman of the Selection Committee had given criteria only in regard to the candidates who had applied for the posts of SRA (Agri.) and JRA (Agri.). Shri D.P. Deshmukh, Section Assistant (Estt.), gave at page 3/N of his aforesaid office note dated 25.4.2005, the table showing the posts of SRA/JRA/AA/LSS which were actually vacant at that time, the posts which would become vacant in future, and their total number. The said table would thus show the total number of posts which were actually advertised in the advertisement dated 14.8.2004 (Ex.2). He pointed out in his note below the above-referred table at page 3/N of his office note dated 25.4.2005 that there were many employees working in the posts of SRA/JRA/AA (graduate) who were given promotions on temporary basis by the University and assuming that they would be regularised in higher posts in which they were promoted, their original posts would become vacant, a chart about which, he stated, was enclosed at page C/15 of the said file Ex.35(O). In the table below his above-referred note upon the said page 3/N, he showed the total number of posts of SRA/JRA/AA (graduate) which would thus become vacant in nomination quota according to the said chart/statement at page C/15 of the file Ex.35(O), the posts which were actually advertised, and the likely increase in the number of the vacant posts. Accordingly, after excluding the total number of posts of SRA/JRA which were advertised as per the advertisement dated 14.8.2004, the likely increase in the number of the said posts of SRA/JRA which he had shown in the said table was 27 and 8 respectively.

**1089)** Perusal of the said chart/statement at page C/15 of the file Ex.35(O) giving the details of vacancy position in the cadres of SRA/JRA/AA which appears to have been prepared on 25.4.2005, however, shows that it is not prepared properly by calculating separately the actual vacancy position in the said posts in their nomination and promotion quota but is prepared on the basis of the total number of posts in the said cadres by showing

vacancy position therein. In column no.7 of the said chart/statement at page C/15 of the file Ex.35(O), the total vacancies shown by him in the post SRA are 125 and in JRA 97. After thus calculating the vacancy position on the basis of the total number of posts in the cadres of the said posts, he had bifurcated the total number of such vacant posts into promotion and nomination quota as shown in columns 8 and 9 thereof i.e. as regards SRA 63 in promotion and 62 in nomination quota and as regards JRA 49 in promotion and 48 in nomination quota, which was obviously improper and incorrect. As the posts advertised for being filled were the vacant posts in nomination quota of the posts of SRA/JRA, the increase in the number of posts to be filled in excess of the posts which were advertised was 27 SRA (62-35) and 8 JRA ( 48-40) as shown in column 11 of the said chart/statement at page C/15 of the file Ex.35(O), which was also improper and incorrect. Shri D.P.Deshmukh, Section Assistant (Estt.), who had prepared the said chart admitted his mistake in para 61 of his affidavit dated 15.11.2007 (Ex.598), in which he stated that since in calculating the vacancy position, he had not taken into account the number of posts actually filled and those which were actually vacant separately in nomination and promotion quota of the said cadres his calculation about the increase in the posts would not depict the true vacancy position. The table at page 3/N of the said file Ex.35(O) showing the likely increase in vacant posts of SRA/JRA viz. 27 and 8 over and above the said posts which were advertised does not therefore, show the true position about the expected increase of vacancies in future.

**d-2) Actual proposal for short-listing of candidates vide paras 126 to 129 of the Enquiry Reprt and the office notes at pages 1/N to N/11 of the file Ex.35 (O)**

**1090)** In his aforesaid office note dated 25.4.2005, Shri D.P. Deshmukh, Section Assistant (Estt.), expressed the need for shortlisting of candidates to be called for interview taking into consideration the large number of applications i.e. 4660 received for the posts of SRA/JRA/AA/LSS out of which 4242 were of the candidates qualified as per the advertisement dated 14.8.2004 (Ex.2) for being called for interview as shown in the chart/statement at page C/11 of the said file Ex.35(O). In the portion marked “A” at page 5/N of his office note dated 25.4.2005, he stated that he had placed at page C/13 of the said file Ex.35(O) the letter of the Acting Dy. Secretary, Maharashtra Public Service Commission (MPSC) for perusal. The said letter shows the criteria followed by the MPSC for shortlisting of candidates. In the said portion marked “A”, he also brought to the notice of his superiors that in the advertisement dated 14.8.2004 (Ex.2) it is made clear that shortlisting of the candidates can be undertaken if there are large number of applications for the posts. He then stated that the aforesaid chart/statement at page C/11 had made classification of the employees categorywise and educationwise also. He therefore requested that the meeting of the Selection Committee be called and the agenda referred to by him at page 7/N of the said file Ex.35(O) be kept before it, for which he requested that his office note be sent to the Director of Instructions Dr.PDKV, Akola.

**1091)** When the aforesaid office note of Shri D.P. Deshmukh, Section Assistant (Estt.), dated 25.4.2005 was forwarded to the Director, Instructions, he, in his note dated 27.4.2004 contained in the said file Ex.35(O) directed that the meeting of the Selection Committee should be called on 29.4.2005 in regard to which the Assistant Registrar, Shri P.V. Behare, pointed out in his note dated 29.4.2005, that, in this matter regarding the question of criteria for calling the candidates for interview the decision had to be taken by the Chairman of the Selection Committee himself and the Selection Committee as such is not concerned with it. Perusal of Statute 77 (1) (iii) of the Statutes would show that he was right in placing the matter for decision before him because the obligation was cast thereunder upon the Chairman of the Selection Committee to prepare the list of candidates to be called for interviews which would mean that it was for him to lay down the criteria for short-listing of candidates if he thought that the number of candidates eligible as per advertisement was very large.

**e) Decision to call first for interviews the candidates applying for the posts of SRA (Agri.) and JRA (Agri.) (Vide para 130 of the Enquiry Report)**

**1092)** The said file Ex.35(O) was therefore again forwarded to him where-after he recommended the criteria for short-listing of candidates applying for the posts of SRA (Agri.) and JRA (Agri.) as per his office note dated the same i.e. 29.4.2005 contained at pages N/9 to N/11 of the file Ex.35(O). As regards the reason why he laid down the criteria for short-listing of candidates applying for the posts of SRA (Agri.) and JRA (Agri.) only although there were several other posts of SRA / JRA such as SRA (Agril. Engg.), SRA (Computer), SRA (Bio-technology), JRA (Computer) which were advertised. Vide para 130 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 23 of his affidavit dated 25.12.2007 (Ex.645) that he held the discussion with the officers of the Registrar's office in that regard and it was decided that they should first take the interviews of the candidates for the posts of SRA (Agri.) and JRA (Agri.) as their number was very large and then consider the question of taking interviews for the other posts of SRA/ JRA as advertised. According to him, he had communicated the said decision to the Vice-Chancellor. He, however, made it clear that there was no decision taken that the interviews for the other posts of SRA/JRA would not be taken at all. It appears that the above decision and its approval by the then Vice-Chancellor is oral and is not in writing.

**f) Criteria for shortlisting of candidates laid down by Dr.V.D. Patil, the Chairman of the Selection Committee (Vide para 131 of the Enquiry Report and his office note dated 29.4.2005 at pages N/9 to N/11 of the file Ex.35(O))**

**Re. posts of JRA (Agri.)**

**1093)** As regards the posts of JRA (Agri.), Dr.V.D. Patil, the Chairman of the Selection Committee, stated in his office note dated 29.4.2005 at page N/9 of the file Ex.35(O) that there were 2030 candidates who were qualified for being called for interview of the posts of

JRA (Agri.) for which only 37 posts were available and it was, therefore, necessary to reduce the total number of the candidates to be called for interview for the posts of JRA (Agri.). The criteria for short-listing of candidates, therefore, laid down by him in para 1 and, in particular, portion marked-A thereof was that the candidates possessing B.Sc. degree in First Division and above should be called for interview. As regards the post graduate and Ph.D. candidates he stated that even if they had secured B.Sc. degree in Second division, they would have to be called for interview. He estimated that there would be about 900 candidates thus qualified for interview of the said posts. However, according to him, since many candidates had applied for the posts of SRA (Agri.) also and since many of them had applied in open and OBC category, the total number of candidates to be called for interview of the posts of JRA (Agri.) exclusively would be about 300.

**Re. Posts of SRA (Agri.)**

**1094)** As regards the posts of SRA (Agri.), he stated in para 2 of his office note dated 29.4.2005 at page 10/N of the file Ex.35(O) that the number of qualified candidates for the said posts was 1017 and the number of the said posts available was 24. It was thus necessary according to him, to reduce the number of candidates to be called for interview of the said posts as per the condition laid down in the advertisement. The criteria, therefore, laid down by him in the portion marked-B of the said para 2 was that the candidates to be called for interview for the above posts of SRA (Agri.) should possess the qualification of post graduate degree and above. According to him, there were about 700 candidates possessing post graduate degree. Further, according to him, there were about 250 candidates who had applied in open category as well as in OBC category. He therefore, stated that the actual number of candidates to be called for interview of the above posts of SRA (Agri.) would be about 450. He, thus, stated that the total number of candidates to be called for interview of both the posts of JRA (Agri.) and SRA (Agri.) would be about 900 whose interviews could be completed in about 10 days time.

**1095)** If the above total number of candidates i.e. 900 to be called for interview for both the posts of JRA (Agri.) and SRA (Agri.) i.e.  $37 + 24 = 61$  is considered the ratio of the candidates to be called for interview per post would work out to 14 to 15 candidates per post. However, the total number of candidates after short-listing them as per the criteria laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, is much more than 900 as approximately estimated by him and is actually 1335 besides 7 candidates of YCMOU eligible for the post of JRA (Agri.). Even the Assistant Registrar (Estt.), Shri P.V.Behare, of the Registrar's office which would ordinarily supply him such data had estimated the number of candidates to be called for interview for both the posts of SRA (Agri.) and JRA (Agri.) as between 1300 to 1350. If the above total number of the candidates of both these posts i.e. 1335 to be called for interview is considered then on the basis of the total number

of posts advertised i.e. 61, the ratio of the candidates to be called for interview per post would be between 21 to 22.

**g) Criteria for short-listing justified by Asstt. Registrar Shri P.V. Behere and approved by the Vice-Chancellor (vide para 132 of the enquiry Report)**

**1096)** When the above recommendation of Dr.V.D. Patil, the Chairman of the Selection Committee, came back to the Assistant Registrar, Shri P.V.Behare, he pointed out in his office note dated 4.5.2004 at page N/11 to N/13 of the file Ex.35(O), that if shortlisting of candidates for the posts of SRA (Agri.) and JRA (Agri.) was done as per the aforesaid criteria laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, the number of candidates to be called for interview of the above posts of JRA and SRA, would be around 1300 to 1350 for whom, the total number of both the posts available for recruitment as per the advertisement was  $JRA\ 37 + SRA\ 24 = 61$ , and if the expected increase therein of 35 posts was taken into account, the total number of vacancies in both these posts would be 96. According to him, therefore, if there were 1300 candidates for 96 posts, the ratio would be 13 to 14 candidates per post which, according to him, was proper. It may however, be seen in this regard that the said expected increase of 35 posts is taken into consideration by him on the basis of the chart/statement at page C/15 of the file Ex.35(O) as shown in para 905 of the Report and as admitted by Shri D.P. Deshmukh, Section Assistant (Estt) concerned, in para 61 of his affidavit dated 15.11.2007 (Ex.598) since the filled in and vacant posts in nomination and promotion quota are not separately considered, the said chart/ statement does not reflect the true position of the expected increase in the number of posts of SRA and JRA, besides the fact that the posts of SRA /JRA there include the posts of all their categories such as SRA (Computer), SRA (Agri.), SRA (Agril.Engg.), JRA (Agri.), and JRA (Computer) and are not restricted only to the posts of SRA (Agri.) and JRA (Agri.). Be that as it may, even the above ratio of 13 – 14 candidates per post as would shown hereinafter was on higher side. When the said file (Ex.35(O)) was forwarded through, the Dy. Registrar and the Registrar to the Vice-Chancellor for his approval of the criteria laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, as per portion marked-A at page-9 and the portion marked-B at page-10 of his office note dated 29.4.2005 for JRA (Agri.) and SRA (Agri.), respectively, the said criteria was approved by the Vice-Chancellor, on the same day i.e. 4.5.2005.

**1097)** As regards the above ratio of 13 to 14 candidates to be called for interview per post calculated by the Assistant Registrar, Shri P.V. Behare, which was on the higher side as stated earlier, it is necessary to notice that Dr.V.D. Patil, the Chairman of the Selection Committee had not taken any notice of any expected increase in the number of posts over and above the posts which were advertised which would show that no such expected increase was brought to his notice, muchless any decision was taken at that time to fill-up the increased number of posts although such decision could be taken as per the

advertisement for these posts, and, secondly, the expected increase taken by him into consideration on the basis of the calculation made by Shri D.P. Deshmukh, Section Assistant (Estt.), was wrong as shown hereinbefore which fact was also admitted by Shri D.P. Deshmukh, concerned Section Assistant (Estt.), himself. He should have therefore, at that time calculated the said ratio only on the basis of the total number of the said posts which were advertised. If thus calculated on the basis of 61 posts the said ratio would be 21 to 22 candidates to be called for interview per post out of 1335 candidates for both the posts of SRA (Agri.) and JRA (Agri.). Perusal of the alphabetical list of 1335 candidates for both the posts Ex.36(O), would show that there were actually 854 candidates eligible for interview of 24 posts of SRA (Agri.) and 1125 candidates eligible for interview of 37 posts of JRA (Agri.) and after including 7 candidates of YCMOU for the post of JRA (Agri.), the said figure would be 1132 (The above figures are calculated by the office staff in this enquiry). If separate interviews were to be held for these posts, the ratio of the candidates to be called for interview would be 35 to 36 candidates per post for SRA (Agri.) and 30 to 31 candidates per post for JRA (Agri.) on the basis of 24 posts of SRA (Agri.) and 37 posts of JRA (Agri.) as advertised. Even after taking into consideration separately the expected increase of 27 vacancies in the posts of SRA (Agri.) and 8 vacancies in the posts of JRA (Agri.) as calculated and shown by Shri D.P. Deshmukh, Section Assistant (Estt.), in the chart/statement of vacancy position at page C/15 of the file Ex.35(O), the ratio of the candidates to be called for interview separately for the posts of SRA (Agri.) and JRA (Agri.) would be about 16 to 17 candidates per post for SRA (Agri.) and 25 candidates per post for JRA (Agri.). It is thus clear that the ratio of the candidates to be interviewed per post was very much on the higher side whether the interviews held were common or separate.

**h) Programme of interviews of the Candidates**

**1098)** The programme for interviews of the candidates for both the posts of SRA (Agri.) and JRA (Agri.) given by Dr.V.D. Patil, the Chairman of the Selection Committee in his office note dated 10.5.2005 contained at page 14/N of the file Ex.35(O) was that the interviews of the candidates for both these posts should be held from 13<sup>th</sup> June to 17<sup>th</sup> June 2005 and 20<sup>th</sup> June 2005 to 25<sup>th</sup> June 2005 and about 100 to 110 candidates should be called for interview on each day. In view of the above decision of Dr.V.D. Patil, the Chairman of the Selection Committee, regarding shortlisting of candidates and the programme for interviews given by him, Shri D.P. Deshmukh, Section Assistant (Estt.), prepared alphabetical list of the candidates for both the posts of SRA (Agri.) and JRA (Agri.) together under all categories which was produced in this Enquiry in the file marked as Ex.36(O). The said list consisted of 1335 candidates in alphabetical order, besides 7 graduates of YCMOU eligible for interview of the post of JRA (Agri.). Accordingly, the programme for interviews was prepared by Shri D.P. Deshmukh, Section Assistant (Estt.), as per his office note dated 24.5.2005 in which he fixed combined / common interviews of

the candidates for both these posts, following the same alphabetical order as in the aforesaid list (Ex.36(O)). He kept 119 to 123 candidates for interview on each of the aforesaid dates of interview. He also submitted the specimen copy of the interview call letter along with his aforesaid office note dated 24.5.2005 for approval. His aforesaid note dated 24.5.2005 was thereafter approved by Dr.V.D. Patil, and by the Vice-Chancellor on 25.5.2005 with the specimen copy of the interview call letter.

**i) Criticism of the criteria for short-listing of candidates**

**i-1) Re : Letter of the MPSC dated 22.3.2005 in the file Ex.35(O) about shortlisting of candidates**

**1099)** In collecting the material for guidance on the question of short-listing of candidates, the University had received the letter of MPSC dated 22.3.2005 which is at page C/13 of the file Ex.35(O). Vide para 137 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 19 of his affidavit dated 25.12.2007 (Ex.645) that before fixing the criteria for shortlisting of candidates, he had seen the said letter of MPSC dated 22.3.2005 which is at Page C/13 of the said file Ex.35(O) in which the criteria for shortlisting of candidates appearing for interview before MPSC was that if the number of candidates was above 11, the ratio given was 1 : 3 i.e. the number of candidates to be called for interview was 3 times, the number of posts to be filled by nomination. As regards the said criteria laid down by MPSC, Dr.V.D. Patil, stated in the said para 19 that his personal opinion was that the above criteria given by MPSC for shortlisting of candidates ought to have been followed i.e. for filling one post by nomination, three times the number of candidates should have been called for interview. However, according to him, as per the discussion of the said matter with the Vice-Chancellor, perhaps on the same day and in view of the guidelines given by him, he prepared the aforesaid note dated 29.4.2005 giving criteria of “higher qualification” for shortlisting of candidates.

**1100)** Vide para 141 of the Enquiry Report, as regards the criteria for shortlisting of candidates laid down by MPSC in its letter dated 22.3.2005 i.e. when the number of candidates was above 11, the criteria for shortlisting of candidates laid down was that for 1 post 3 candidates should be called for interview, Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, stated in para 14 of his affidavit dated 14.1.2008 (Ex.658) that when the said file Ex.35(O) containing the criteria laid down by Dr.V.D. Patil, the Chairman of the Selection Committee for short-listing of candidates was forwarded to him for his approval on 4.5.2005, he had called the Chairman of the Selection Committee and its Member Secretary i.e. the Registrar and had discussion with them about the criteria to be applied for shortlisting of candidates at which time he had seen the aforesaid letter of the MPSC dated 22.3.2005 in the said file Ex.35(O). According to him, since they told him that the criteria for taking interviews in the ratio of 13 to 14 candidates for one post was proper and could be managed, he did not feel that the above ratio was unwieldy i.e. on the

higher side. According to him, it was also brought to his notice that even on earlier occasions the above ratio was followed in taking interviews of the candidates in the University. He however, denied that he gave any guidelines to the Chairman of the Selection Committee about shortlisting of candidates.

**1101)** It may be seen that if Dr.V.D. Patil, the Chairman of the Selection Committee was of the view that the criteria given by MPSC for short-listing of candidates ought to have been followed i.e. for filling one post by nomination 3 times the number of candidates should be called for interview, it was open to him to do so even after applying the criteria of “higher qualification” for short-listing of candidates as per the order of the Vice-Chancellor dated 17.7.2004 viz. that the old system prevailing in the University should be followed when he found that the ratio of the candidates to be called for interview after application of the test of “higher qualification” was still on the higher side and needed to be properly reduced to bring it in conformity with the ratio given by MPSC in its aforesaid letter dated 22.3.2005. Although he stated that he had prepared his note dated 29.4.2005 about short-listing of candidates as per discussion of the said matter with the Vice-Chancellor, perhaps on the same day and in view of the guidelines given by him, the affidavit of the Vice-Chancellor shows that there was no discussion with him in that regard on or before 29.4.2008 i.e. the date on which he prepared his aforesaid note. Dr.S.A. Nimbalkar, the then Vice-Chancellor, categorically stated in para 14 of his affidavit dated 14.1.2008 (Ex.658) that when the aforesaid file Ex.35(O) containing the criteria laid down by Dr.V.D. Patil, the Chairman of the Selection Committee for short-listing of candidates i.e. as per his aforesaid note dated 29.4.2005 was forwarded to him for his approval on 4.5.2005, he had called him and the member Secretary i.e. the Registrar, and had discussion with them about the criteria to be applied for short-listing of candidates at which time he had seen the letter of the MPSC dated 22.3.2005 in the said file Ex.35(O). It is thus clear that the then Vice-Chancellor Dr.S.A. Nimbalkar, had seen the said letter of the MPSC dated 22.3.2005 after the date on which Dr.V.D. Patil, the Chairman of the Selection Committee had prepared his note for short-listing of candidates i.e. 29.4.2005 and in fact had discussion with him thereafter on 4.5.2005. He, therefore, could not have given him any instructions whether to follow the ratio about short-listing of candidates given in the aforesaid MPSC letter dated 22.3.2005 or not when he prepared his aforesaid office note dated 29.4.2005.

**1102)** In fact, Dr.S.A. Nimbalkar, the then Vice-Chancellor, as stated by him in the said para 14 of his aforesaid affidavit dated 14.1.2008 (Ex.658), had not given any guidelines to the Chairman of the Selection Committee about short-listing of candidates. In these circumstances, and as shown above if Dr.V.D. Patil thought that the ratio laid down by MPSC in its letter dated 22.3.2005 ought to have been followed, he could have followed the said ratio for short-listing of candidates since even after application of the test of “higher qualification” for short-listing of candidates as per the order of the Vice-Chancellor dated

17.7.2004 referred to above there were large number of candidates who would have to be called for interview of these posts of SRA (Agri.) and JRA (Agri.) i.e. 1335 for both the posts besides 7 YCMOU graduates for JRA (Agri.). It would have been a different thing had the then Vice-Chancellor rejected the application of the said ratio laid down by MPSC short-listing of candidates when the said file Ex.35(O) was forwarded to him for his approval of the criteria of short-listing of candidates to be called for interview. In fact, the power to short-list the candidates vests in the Chairman of the Selection Committee on proper interpretation and effect of the provisions of Statute 77 (1) (ii) and (iii) of the Statutes which is considered in the subsequent para 1109 of this Enquiry Report.

**1103)** It may further be seen that if Dr.V.D. Patil, the Chairman of the Selection Committee was of the view that the criteria for short-listing of candidates laid down by MPSC as incorporated in its letter dated 22.3.2005 ought to be followed, he could insist upon it when he had discussion about it with the Vice-Chancellor. But as stated by the Assistant Registrar in answer to question no.7 in his affidavit dated 6.11.2007 (Ex.597) although the aforesaid letter of the MPSC dated 22.3.2005 was on record no specific consideration was given to it as is also clear from para 14 of the aforesaid affidavit of Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University dated 14.1.2008 (Ex.658) which would show that instead of insisting upon him about following the aforesaid ratio of 1:3 laid down by MPSC in its letter dated 22.3.2005, Dr.V.D. Patil, the Chairman of the Selection Committee, and its Member Secretary told him that the criteria for taking interviews in the ratio of 13 to 14 candidates for one post worked out by the Asst. Registrar, Shri P.V. Behare, in his office note dated 4.5.2005 contained in the file Ex.35(O) was proper and could be managed and that even on earlier occasions the University had followed the above ratio in taking interviews of the candidates. Therefore, as stated by Dr.S.A. Nimbalkar, the then Vice-Chancellor, in the said para 14, he did not feel that the above ratio was unwieldy and was on higher side. However, as will be shown hereinafter when particularly the topic about “Award of marks for performance in the Interview” is considered, the said ratio was unwieldy and was on higher side and could not be managed properly to judge the candidates in their interviews. Even otherwise, since the ratio of the candidates to be called for interview was determined by the Govt. as per its G.R. date 2.5.1995 (Ex.588) which admittedly was applicable to the University as shown hereinafter under the head “Applicability to the University the criteria fixed by the Govt. for short-listing of candidates” it could not have acted in breach of the said G.R.dated 2.5.1995 (Ex.588) in laying down the above higher ratio of 13 to 14 candidates per post in taking common interviews for the posts of SRA (Agri.) and JRA (Agri.).

**i-2) Re. written examination / test for short-listing of candidates**

**1104)** As regards the question of shortlisting of candidates, vide para 138 of the Enquiry Report, the Assistant Registrar Shri P.V. Behare, in his office note dated 16.7.2004

contained in the file (Ex.40(O)) relating to the proposal for issuing the advertisement in question, pointed out that in view of the past experience, keeping in mind that large number of applications i.e. more than 3000 would be received for the posts which were advertised, it would be difficult and time consuming to conduct the interviews of all the candidates who had applied for the posts which were advertised and make selection. He, therefore, proposed in the portion marked-B at page N/9 of his office note dated 16.7.2004 in the file Ex.40(O) that shortlisting of candidates would have to be resorted to by taking their written examination as was generally done. He then pointed-out that Rahuri University had conducted written examination/test for short-listing of candidates. According to him, if such written examination was to be taken then mention about it would have to be made in the advertisement. Although his aforesaid proposal about shortlisting of candidates was approved by the Dy. Registrar and the Registrar, when the said file (Ex.40(O)) was forwarded thereafter to the Vice-Chancellor, he disapproved the said proposal and directed by his order dated 17.7.2004 contained at page N/10 in the said file Ex.40(O) that the old system prevailing should be followed for short-listing of candidates. In this regard it may be stated that the Assistant Registrar, Shri P. V. Behare also pointed out that if it was decided not to conduct written examination test, the old method to short-list the candidates i.e. higher qualification etc. would have to be followed.

**1105)** Vide para 139 of the Enquiry Report, as regards the proposal of the Assistant Registrar, Shri P.V. Behare, contained in his office note dated 16.7.2004 in the file Ex.40(O), Dr. V.D. Patil, the Chairman of the Selection Committee stated in para 20 of his affidavit dated 25.12.2007 (Ex.645) that he was also of the view that the written test was proper test for short-listing of candidates as proposed by him. But, according to him, since the Vice-Chancellor, had overruled him i.e. Shri P.V.Behare, Assistant Registrar, by his order dated 17.7.2004 contained in the said file Ex.40(O) in which he had directed that the old system which was prevailing should be followed, he did not lay down the said test in his aforesaid note dated 29.4.2005 contained in the file Ex.35(O) for short-listing of candidates although, according to him, the written test was a proper test not only for short-listing of candidates but also for testing their knowledge

**1106)** As regards the criteria of written test for short-listing of candidates proposed by the Assistant Registrar, Shri P.V.Behare, in his aforesaid office note dated 16.7.2004 contained in the file Ex.40(O), Vide para 140 of the Enquiry report, Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University stated in para 12 of his affidavit dated 14.1.2008 (Ex.658) that he rejected the said proposal and directed that the old system prevailing in the University i.e. the test of “higher qualification” should be followed. According to him, the ratio followed in the University for shortlisting of candidates was that for one post about 10 to 15 candidates were called for interview. The reasons given by him in the said para 12 of his aforesaid affidavit for not adopting the test of written examination were that the test of written examination was followed by Rahuri University only and by no other Agricultural

University and that after discussion with the Registrar and the concerned officers of the University, he found that it was not feasible to introduce the said written test in the University at least in that year because (i) the University did not have adequate infrastructure to introduce the same for the first time in the University, (ii) there was paucity of staff and not enough time to hold the test during that year, and (iii) it would have been difficult to maintain secrecy about the question paper and the result of such test. He, then stated in the said para 12 that it was true that the written test was now being introduced in the University for short-listing of candidates where their number was large and also for testing their knowledge. He, however, stated in para 15 of his affidavit dated 14.1.2008 (Ex.658), vide para 142 of the Enquiry Report, that although he now felt that the written test was the best way for shortlisting of candidates and also to judge their knowledge, according to him, it should be done by framing appropriate common rules applicable to all the four Agricultural Universities in the State.

**1107)** It is necessary to notice in this regard that Dr.G.N.Dake, the Member of the Selection Committee, stated in para 4 of his affidavit dated 23.11.2007 (Ex.600) that when he attended the meeting of the Selection Committee, on the first day i.e. 13.6.2005, after seeing the number of candidates appearing for interview for the posts of SRA/JRA, he told the Chairman of the Selection Committee Dr.V.D. Patil, that it would be better if some written test was taken and there was short-listing of candidates for the purpose of interviews. He, then stated in the said para 4 that Dr.V.D. Patil, the Chairman of the Selection Committee, turned down his suggestion. According to him, the procedure of short-listing of candidates by taking their written test was a normal procedure followed in most of the Universities including MPKV, Rahuri, when large number of candidates would apply for one post. According to him, it was a better procedure for short-listing of candidates because the number of candidates was thereby reasonably reduced and only highly qualified candidates who would pass the said test would then appear for interview.

**1108)** Dr.N.D.Pawar, the Member of the Selection Committee in question in this case, who had experience of working as Member of the Selection Committee constituted by Rahuri University for recruitment in the posts of SRA/JRA, stated in para 12 of his affidavit dated 1.11.2007 (Ex.590), that for selection of candidates in the said posts, written test is prescribed in the said University, apart from the interviews. According to him, out of total of 100 marks, the said University allotted 75 marks for written test and 25 marks for personal interview. He then observed in para 13 thereof that where large number of candidates apply for one post, prescribing written test for them is the best way of shortlisting of candidates for personal interview. He further observed therein that in Rahuri University, even from amongst the candidates passing the written test, the candidates were called for interview in the ratio of 1 : 10 i.e. for one post the candidates to be called for interview would be 10. As regards the above ratio of 1:10 which according to him, was followed in Rahuri University, it is clearly wrong in view of the affidavit dated 26.10.2006

(Ex.587) read with the additional affidavit dated 28.1.2008 (Ex.665) filed by Rahuri University referred to hereinafter in which it is stated that for short-listing of candidates to be called for interview the ratio followed was 1:5 as per the guidelines given in the G.R. dated 2.5.1995 (Ex.588).

**1109)** As regards the order dated 17.7.2004 passed by the then Vice-Chancellor that short-listing of candidates should be carried out as per old system prevailing in the University thus rejecting the proposal of the Assistant Registrar Shri P.V.Behare, about the written examination of the candidates to be taken for short-listing them as was done in Rahuri University incorporated in his office note dated 16.7.2004 contained in the file Ex.40(O) relating to advertisement, perusal of the note-sheets regarding the proposed advertisement at pages N/1 to 10/N, of the file Ex.40(O) would show that the said note-sheets were not forwarded to Dr.V.D. Patil, the Director, Instructions, to seek his opinion about the aforesaid proposal of written examination of the candidates to be taken for short-listing them although it was necessary to do so as the Selection Committee for the posts of SRA/JRA was already constituted at that time as per the notification of the University dated 24.5.2004 (Ex.7), nominating him as its Chairman. In this regard perusal of Statute 77(1) (ii) and (iii) would show that all the applications received by the Registrar pursuant to the advertisement issued are to be put-up for consideration before the Chairman of the Selection Committee who prepares the list of eligible candidates to be called for interview in which, as also pointed out by the Assistant Registrar (Estt.), Shri P.V.Behare, in his office notes dated 25.4.2005 and 27.4.2005 contained in the file Ex.35(O), it is implicit that he has power to short-list candidates for being called for interview. Statute-77, does not show that such power is conferred upon the Vice-Chancellor. The aforesaid proposal about short-listing of candidates, therefore, ought to have been sent to Dr.V.D. Patil the Chairman of the Selection Committee and needed to be considered by him. Statute 77, being a statutory provision, the procedure laid down therein for appointment of academic staff members was binding upon all the officers of the University. Had the said file Ex.40(O) been forwarded to Dr.V.D. Patil, the Chairman of the Selection Committee, for consideration of the aforesaid proposal about short-listing of candidates before it was sent to the then Vice-Chancellor, he might have prescribed the written examination/test for short listing of candidates because, as stated by him in para 20 of his affidavit dated 25.12.2007 (Ex.645), after seeing the aforesaid note of the Assistant Registrar Shri P.V. Behare, dated 16.7.2004, he was also of the view that the written test was a proper test for short-listing of candidates for interview. At any rate before passing any order upon the said proposal, it was necessary for the Vice-Chancellor to consult him and obtain his views upon the said proposal of taking written examination for short-listing of candidates where their number was large because as the Chairman of the Selection Committee, he had power to short-list candidates to be called for interview as shown above.

**1110)** It is also necessary to see in this regard that as stated by Shri P.V. Behare, the Asst. Registrar (Estt.) in his affidavit dated 6.11.2007 (Ex.597) in answer to question no.3 put to him there was no discussion held by the Vice-Chancellor with the Registrar and the Chairman of the Selection Committee over his aforesaid note dated 16.7.2004, proposing the written test for short-listing of candidates. He therefore, stated therein that he would not be able to tell why the order to short-list the candidates as per old system was passed by the Vice-Chancellor. Similarly, Dr.V.K. Mohod, who was Registrar at that time stated in para 6 of his affidavit dated 1.12.2007 (Ex.633) that without any consultation or discussion with the competent officers of the Registrar's office, the Vice-Chancellor by his order dated 17.7.2004 disapproved the proposal of the Assistant Registrar contained in his office note dated 16.7.2004 about holding preliminary written examination for short-listing of candidates and directed that the old system prevailing should be continued. Shri S.S. Suradkar, Dy. Registrar (Estt), also stated in para 2 of his affidavit dated 1.12.2007 (Ex.634) that the Vice-Chancellor had not discussed the matter of short-listing of candidates with him before disapproving the said proposal about short-listing of candidates by holding the written examination.

**1111)** As regards the reasons given by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, in para 12 of his affidavit dated 14.1.2008 (Ex.658) (See Para 1106 above) for not holding the written examination for short-listing of candidates, it appears that they are an afterthought and are given only to justify any how his order dated 17.7.2004 contained in the file Ex.40(O). He has put-forth two reasons in the said para 12 for not holding the written test in the University for short-listing of candidates :

- (i) The said written test was held only in Rahuri University and by no other Agricultural University, and
- (ii) After discussion with the Registrar and the concerned officers of the University, he found that it was not feasible to introduce the said written test in the University at least in that year.

**1112)** As regards the first reason given by him, it is not wholly correct because besides Rahuri University, the said written test is conducted in Dr. Balasaheb Sawant Konkan Krishi Vidyapeeth also, vide paras 6 and 7 of the affidavit of its Registrar dated 2.1.2009 (Ex.834). Apart from it, the said reason given by him, needs to be stated for being merely rejected because whether the written test should be held or not depends on the question whether it is a proper test for short-listing of candidates or not. Even, he had also admitted in para 15 of his aforesaid affidavit dated 14.1.2008 (Ex.658) that he now felt that the written test was the best way for short-listing of candidates and also to judge their knowledge although according to him, the said test should be uniform for all the four Agricultural Universities in the State and should be made applicable by framing common rules for them. In fact, as stated above, it was already introduced in two Agricultural

Universities in the State which did not wait for common rules to be framed in that regard for its introduction. If it was the best way for short-listing of candidates and also to judge their knowledge, it was not necessary for the University to wait for uniform rules to be framed by MCAER for introducing the said test as was done in the above two Agricultural Universities particularly when the provisions of Section 12 constituting MCAER or any other provision in the Act did not prohibit them from doing so until the common rules in that regard were framed. Moreover, as it would be shown hereinafter, the G.R. dated 9.6.2004 (Ex.589) which was applicable to the University as admitted by it in its affidavit dated 28.5.2008 (Ex.758) had already provided for holding written examination of 75% marks and interview of 25% marks, for selection in posts of JRA which is Group C post. Vide subsequent topics-i (4) and (5) relating thereto.

**1113)** As regards the question of feasibility to introduce the test of written examination in the University although the Vice-Chancellor stated in para 12 of his aforesaid affidavit dated 14.1.2008 (Ex.658) (See para 1106 above) that he had discussed the said question with the Registrar and other concerned officers of the University, the Registrar, the Deputy Registrar (Estt.), and the Assistant Registrar (Estt.), categorically stated in their affidavits referred to above that there was no discussion held with them and also with the Chairman of the Selection Committee by the Vice-Chancellor, regarding the aforesaid office note of the Assistant Registrar (Estt.) dated 16.7.2004 proposing the written examination for short-listing of candidates. The Assistant Registrar (Estt.), further stated in his affidavit 6.11.2007 (Ex.597) in answer to question no.3 that he would not be able to tell why the order to short-list the candidates as per old system was passed by the Vice-Chancellor.

**1114)** In appreciating the question of feasibility of holding the written examination in the University for short-listing of candidates, it may be seen that the Registrar and the Deputy Registrar (Estt.) had approved the proposal of the Assistant Registrar (Estt.), contained in his office note dated 16.7.2004 vide back side of page N/9 in the file Ex.40(O), which would show that they must have considered the question of feasibility while approving the said test of written examination to be taken in the University for short-listing of candidates. It further needs to be seen that the University conducts much bigger examinations as compared to the written test and it is therefore, difficult to believe that it would not be able to conduct the written test for the reasons put-forth by him. Moreover, what is important to be seen is that there was enough time for the University to make arrangements for holding the written test because the proposal for holding the written test for short-listing of candidates contained in the aforesaid office note dated 16.7.2004 was given by the Assistant Registrar (Estt.), even before the advertisement for filling-up the said posts was issued on 14.8.2004 i.e. much before the interviews for the said posts were actually held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005, apart from the fact that in view of the G.R. dated 9.6.2004 (Ex.589) , it was obligatory upon the University to hold the written

examination for selection of the candidates in the posts of JRA as would be shown hereinafter.

**i-3) Whether there is proper application of the criteria of “higher qualification” for short-listing of candidates.**

**1115)** As regards his order dated 17.7.2004 that short-listing of candidates should be done “as per the old system prevailing” contained in the file Ex.40 (O), Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University stated in para 12 of his affidavit dated 14.1.2008 (Ex.658) that what he meant by his aforesaid order dated 17.7.2004 was that where the number of candidates applying for the post was large, the test prescribed at that time in the University was of “higher qualification” for short-listing them for being called for interviews (Vide para 140 of the Enquiry Report). Dr.V.D. Patil, the Chairman of the Selection Committee, also understood the said criteria in the same sense when he stated in para 19 of his affidavit dated 25.12.2007 (Ex.645) (vide para 137 of the Enquiry Report) that in view of the guidelines given by the then Vice-Chancellor he prepared the aforesaid office note dated 29.4.2005, laying down the criteria of “higher qualification” for short-listing of candidates. The question, however, is whether the criteria actually given by Dr.V.D. Patil, the Chairman of the Selection Committee in his office note dated 29.4.2005 in the file Ex.35(O) for short-listing of candidates applying for the posts of SRA (Agri.) and JRA (Agri.) is in real sense the criteria of “higher qualification or not”. As laid down by the Supreme Court in the case of Ramanna-Vs- International Airport Authority (1979) 3 SCC 489, it is a well settled rule of administrative law that an Executive Authority must be rigorously held to the standards by which it professes its action to be judged and it must scrupulously observe the said standards on pain of invalidation of an act in their violation, a rule which is firmly established in administrative law. It is, therefore, necessary to see whether the University has scrupulously observed the said test of “higher examination” or not.

**1116)** As regards the posts of JRA (Agri.), the criteria for short-listing of candidates to be called for interview fixed by Dr.V.D. Patil, the Chairman of the Selection Committee in his office note dated 29.4.2005 is “B.Sc. in First Division and above” and for the post of SRA (Agri.) “M.Sc. and above”. In Appendix-III read with Statute-73 of the Statutes, the minimum qualification fixed for the posts of SRA/JRA is as follows :

3)Senior Research Assistant : Master’s degree in respective subject

**OR**

Bachelor’s degree in 1<sup>st</sup> 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.

**1117)** In my view, when the minimum qualification for the post of JRA is B.Sc. the criteria “B.Sc. in First Division” would not mean that it is a “higher qualification” for the post of JRA for which the higher qualification would be M.Sc. and above. A grade/class in which a candidate passes the same examination would not mean that it is a “higher qualification”. Similarly, when the minimum qualification prescribed for the post of SRA in Appendix-III of the Statutes is itself M.Sc. in respective subject” it cannot mean that a higher qualification is laid down for short-listing of candidates applying for the post of SRA (Agri.) when the same qualification is laid down for short-listing them although it is true that the alternative qualification of “Bachelor’s degree in First Division with distinction or Bachelor’s degree in Second Division with 3 years experience as JRA or its equivalent” is also the minimum qualification prescribed under Appendix-III for the said post. The above alternative qualification would only mean that it is equated to the minimum qualification of “Master’s Degree in respective subject” for appointment to the post of SRA. It cannot by any stretch of imagination mean that M.Sc. in respective subject is a higher qualification for the post of SRA for which the higher qualification would be Ph.D. in respective subject. The criteria thus fixed by Dr.V.D. Patil, for short-listing of candidates applying for the posts of JRA (Agri.) and SRA (Agri.) is not thus in accordance with the alleged old system prevailing in the University as per which the test of “higher qualification” was prescribed for short-listing of candidates where their number was large. It cannot therefore be said that the University followed scrupulously the said test of “higher qualification” laid down by it at that time for short-listing of candidates.

**1118)** As regards the meaning of the expression “qualification” its dictionary meaning is as follows :-

1. Any quality, accomplishment, or ability that makes a person suitable for a particular position or task.
2. A degree, diploma, or other evidence of successful completion of a course of study or training : left school without any qualifications
3. A condition or circumstance that must be met or complied with.
4. A restriction or modification : an offer with a number of qualifications.

(Extracted from Reader’s Digest Universal Dictionary)

In ordinary parlance, the word “qualification” is used in the sense of “educational qualification” i.e. a degree, diploma or other evidence of successful completion of a course of study or training. It is in the said sense of “educational qualification” that the said test of “higher qualification” is understood by Dr.V.D. Patil, the Chairman of the Selection Committee, who prescribed the above referred test of “educational qualification” for short-listing of candidates in the posts of JRA (Agri.) and SRA (Agri.).

**1119)** For valid short-listing of candidates, the Supreme Court has laid down two tests in para 17 of its Judgment in B. Ramkicheamin –Vs- Union of India (2008) 1 SCC 362. They are : (i) It has to be on some rational, and objective basis and (ii) If a method for short-listing is provided under the Rule or the advertisement the said method alone has to be followed. If the criteria for short-listing of candidates as per the old system in the University was of “higher education” it should have been strictly followed as shown above. However, as would be shown hereinafter the method for short-listing of candidates was provided in the G.R. dated 2.5.1995 (Ex.588) prescribing the ratio of the candidates to be called for interview of any post in the University and in addition, not only the method for short-listing of candidates but for their selection also was provided in the G.R. dated 9.6.2004 (Ex.589) for the post of JRA which was Group “C” post. Both the aforesaid G.Rs. being applicable to the University as admitted by it in its affidavit dated 28.5.2008 (Ex.758) they ought to have therefore been followed by it.

**1120)** Be that as it may, in para 16 of its judgment cited supra, the Supreme Court, held that even if there is no rule or even if it is not mentioned in the advertisement, short-listing can be undertaken where the number of candidates applying for the post is large. Further, in para 20 of its aforesaid judgment, it considered the method of short-listing given in the advertisement in that case i.e. qualification or experience “higher than the minimum prescribed in the advertisement”. The illustration given in the said para would give support to the above meaning given to the expression “higher qualification” in this case. It is observed in the said para that it was open to UPSC to call only those candidates who were Ph.D. in Agriculture although the essential degree was M.Sc. (Agri.). Similarly, the UPSC could prescribe 4 years experience instead of 2 which was prescribed under the advertisement. It however, held that prescribing two years experience after M.Sc. cannot be said to be “higher experience”. According to it no words can be added to the provisions about short-listing given in the advertisement.

**1121)** As shown above, there is no proper application of the criteria of “higher qualification” for short-listing of candidates applying for the posts of SRA (Agri.) /JRA (Agri.) in the University. The action of the University in short-listing of the candidates applying for the posts of SRA (Agri.) and JRA (Agri.) in the University is thus violative of the standard laid down by it in that regard i.e. “higher qualification” and is therefore invalid. It thus infringes Articles 14 and 16 of the Constitution of India.

**1122)** If the criteria of “higher qualification” alleged to be followed by the University for short-listing of candidates for being called for interview as per the old system prevailing therein is properly understood and followed, the higher qualification for the post of JRA (Agri.) would be M.Sc. (Agri.) /M.Tech. (Agril.Engg.) and above and for the post of SRA (Agri.) it would be Ph.D in Agriculture. The Office Staff in this Enquiry, on the basis of particulars of the candidates given in the charts Ex.45(O) prepared for the benefit of the

Members of the Selection Committee, calculated the total number of candidates who were M.Sc. (Agri.) / M.Tech. (Agril.Engg.) and were thus eligible for interview for the post of JRA (Agri.) and the number of candidates who were Ph.D. in Agriculture and were thus eligible for interview for the post of SRA (Agri.) on the basis of the above criteria of “higher qualification” which should have been fixed for them. The charts Ex.45(O) contained the names of Ph.D. candidates who had submitted their Ph.D. degree certificates with their applications which charts alone were relevant to calculate the total number of candidates to be called for interview for the post of SRA (Agri.) on the basis of the aforesaid criteria of “higher qualification” which needed to be satisfied on the last date of applications. The candidates who had produced their Ph.D. degree certificates for the first time before the Assistant Professors/Associate Professor, at the time of their interviews, as shown in the Chart Ex.38(O), would not be eligible to be called for interview. Thus, on the basis of the aforesaid criteria of “higher qualification” the number of candidates who were Ph.D. in Agriculture and were therefore eligible to be called for interview for the post of SRA (Agri.) was 45, and the number of candidates who were M.Sc. (Agri.) /M.Tech. (Agril.Engg.) and were thus eligible to be called for interview for the posts of JRA (Agri.) was 885.

**1123)** As regards 24 posts of SRA (Agri.) to be filled as advertised, since the number of Ph.D. candidates, to be called for interview for the said posts was 45 and was therefore less than the number of candidates to be called for interview i.e. 72 as per the ratio of 1:3 prescribed in the G.R. dated 2.5.1995 (Ex.588) which was admittedly applicable to the University as shown hereinafter, there was no necessity of further short-listing of candidates in the above ratio of 1:3. As regards 37 posts of JRA (Agri.), after applying the criteria of higher qualification i.e. M.Sc. (Agri.) / M.Tech. (Agril.Engg.), the number of candidates to be called for interview was 885 which was still on higher side as the ratio per candidate would be 23 or 24 candidates per post calculated on the basis of 37 posts of JRA (Agri.) which were advertised. Since the ratio of candidates to be called for interview as per the aforesaid G.R. dated 2.5.1995 (Ex.588) was 1:3 as stated above, the candidates would have to be called for interview for the post of JRA (Agri.) in the said ratio of 1:3 as per their merit rank from amongst the aforesaid 885 post-graduate candidates.

**i-4) Applicability to the University the criteria fixed by the Govt. for short-listing of candidates**

**1124)** As Shri P.V. Behare, the Asst. Registrar (Estt.), Dr.PDKV, Akola, in his office note dated 16.7.2004 in the file Ex.40(O) had referred to Rahuri University while proposing the written test for shortlisting of candidates, notice was issued to MPKV, Rahuri Dist. Ahmadnagar, (for short Rahuri University) pursuant to which it filed the affidavit dated 26.10.2007 (Ex.587) annexing to it the G.R. dated 2.5.1995 (Ex.588) and the G.R. dated 9.6.2004 (Ex.589).The said GR's dated 2.5.1995 (Ex. 588) and dated 9.6.2004 (Ex. 589)

are annexed as **Annexures-40 and 41** to the Enquiry Report. Perusal of paras 14 and 15 of the affidavit of Rahuri University dated 26.10.2007 (Ex.587), would show that the procedure laid down in the Statutes and the provisions contained in the Government Resolutions including the aforesaid G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589) were applicable to it and were scrupulously followed by it in filling the vacant posts of SRA/JRA. Since Rahuri University followed the aforesaid G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589) in recruitment to the posts of SRA/JRA, notice was issued to the Registrar Dr.PDKV, Akola, on the question of applicability of the said G.Rs. to the said University pursuant to which Shri G.G. Tonde, Assistant Registrar (Estt.), filed on behalf of the University the affidavit dated 28.5.2008 (Ex.758) in which he stated that the aforesaid G.Rs. relating to the written examination and the ratio for short-listing of candidates were applicable to Dr.PDKV, Akola. In fact, Shri S.S. Suradkar, Deputy Registrar (Estt.), presently functioning as Registrar of the University, stated in para 6 of his affidavit dated 2.1.2009 (Ex.825) that all the G.Rs. issued by the General Administration Deptt. (GAD) of the Govt. are applicable to the University.

**1124-A)** It is held by the Supreme Court in para 17 of its Judgment in the case of B. Ramkichemin -Vs- Union of India (2008) 1 SCC 362 that if the method of short-listing is provided under the Rule or the advertisement, the said method alone has to be followed. In this case, the method of short-listing is laid down under the G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589) and therefore the said G.Rs. alone had to be followed by the University in short-listing of candidates as they were binding upon it. As held by the Supreme Court in Ramanna .Vs. International Airport Authority (1979) 3 SCC 489 cited supra, the University was bound to observe the procedure laid down in the said G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589) scrupulously in short-listing of candidates and its failure to do so would result invalidating its action in that regard being violative of Articles 14 & 16 of the Constitution of India.

**1125)** Perusal of G.R. dated 2.5.1995 (Ex.588), would show that it deals with two questions viz. (i) about reimbursement of traveling expenses to the candidates appearing for interview, and (ii) the ratio of the candidates to be called for interview per post. As regards the second question it is dealt with in para 3 thereof perusal of which would show that in order to bring uniformity in different standards applied in the Govt., the Zilla Parishad, Municipal Corporation, Municipalities, Government Undertaking, Autonomous and all other Institutions for determining the number of candidates to be called for interview in filling the permanent posts therein, and in supersession of all previous orders in that regard, the Govt. prescribed the following ratio for the candidates to be called for interview

<u>Number of Vacant posts</u>		<u>Number of candidates to be called for interview</u>
Upto 5 posts	:	5 times. Limit upto 15 candidates only
6 and above	:	3 Times

The above ratio had to be followed by Dr.PDKV, Akola in short-listing of candidates for being called for interview in recruitment to the posts of SRA (Agri.) and JRA (Agri.) as per the advertisement dated 14.8.2004 (Ex.2), since, as admitted by it in its affidavit dated 28.5.2008 (Ex.758), the aforesaid G.R. dated 2.5.1995 (Ex.588) was applicable to it. The ratio of 10 to 15 candidates per post to be called for interview followed in the University as stated by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University in para 12 of his affidavit dated 14.1.2008 (Ex.658) (Vide para 140 of the Enquiry Report), and the ratio of 13-14 candidates per post according to the criteria laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, in his office note dated 29.4.2005 for short-listing of candidates applying for these posts of SRA (Agri.) and JRA (Agri.) as explained by Shri P.V. Behare, the Assistant Registrar (Estt.), in his office note dated 4.5.2005 contained in the file Ex.35(O) and as accepted by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University in para 14 of his aforesaid affidavit (Vide para 141 of the Enquiry Report) was in contravention of the aforesaid G.R. dated 2.5.1995 (Ex.588) and was thus illegal, and invalid being violative of Articles 14 and 16 of the Constitution of India and was improper, being very much on the higher side when compared with the ratio laid down in the said G.R. dated 2.5.1995 (Ex.588). Although it was in the mind of Dr. V.D. Patil, the Chairman of the Selection Committee, when he laid down the Criteria of Short Listing candidates on 29.4.2005 that the number of these posts to be filled would be increased to more than double the posts which were advertised, even on the basis of 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.) which were filled, if the common interviews were held for both the posts, their total being 131, the ratio of the candidates to be called for interview per post would work out to more than 10, the total number of posts of SRA (Agri.) and JRA (Agri.) being  $1335 + 7 = 1342$ . If separate interviews were held for the posts of SRA (Agri.) and JRA (Agri.) for which, vide para 1097 of the Enquiry Report, the total number of candidates were 854 and 1132 respectively, the ratio of the candidates in the posts of SRA (Agri.) worked out to more than 15 candidates per post and for the candidates in the posts of JRA (Agri.) more than 14 candidates per post which is also in breach of the aforesaid G.R. dated 2.5.1995 (Ex.588)

**1126)** Perusal of G.R. dated 9.6.2004 (Ex.589) would show that in making recruitment to Group-C posts, the procedure for selection prescribed by the Govt. was of taking the written examination/test and personal interview of the candidates. It appears from the said G.R. dated 9.6.2004 (Ex.589) that as per G.R. dated 10.11.1995 referred to at serial no.1 under the caption "Read", in the said G.R. dated 9.6.2004 (Ex.589), the written test carried 90% marks and the personal interview 10% in making recruitment to Group-C posts. By the said G.R. dated 9.6.2004 (Ex.589), in making recruitment by nomination in Group-C posts, the said percentage of marks was changed by prescribing 75% marks for written test or for the marks obtained by the candidates in the class/examination prescribed for having minimum educational qualification for such post, and 25% marks for personal interview.

**1127)** Since the above test is prescribed for Group-C posts as is clear from the aforesaid G.R. dated 9.6.2004 (Ex.589), it needs to be seen how various posts in the University are classified. Dr.S.A. Nimbalkar, the Vice-Chancellor of the University stated in para 54 of his affidavit dated 14.1.2008 (Ex.658) that the classification of the posts in the University is based upon their pay/pay-scales. In this regard he referred to G.R. dated 2.7.2002 in the said para 54 of his aforesaid affidavit, the copy of which he filed with it marked as Ex.646 in this Enquiry. According to him both the posts of SRA/JRA were not Group-C but were Group-B posts as per their pay-scales and hence the aforesaid G.R. dated 9.6.2004 (Ex.589) was not applicable to them. The pay-scales of the said posts given by him in the said para 54 were as follows : -

SRA - 6500 – 10500

JRA - 5500 – 9000

The above Pay-scale of the post of JRA given by him is incorrect as the pay-scale of the said post given at serial no.4 under the head “Pay-scales” in the advertisement dated 14.8.2004 (Ex.2) is Rs.5000 – 8000 and the same is also shown in the orders of appointment of the candidates dated 17.9.2005 selected in the posts of JRA (Agri.). However, the above pay-scale of the post of SRA given by him is correct as it tallies with its pay-scale given at S.No.3 under the above head “Pay-scales” in the aforesaid advertisement and also in the orders of appointment of the candidates dated 16.9.2005 selected in the posts of SRA (Agri.).

**1128)** The University with its affidavit dated 7.1.2008 (Ex.650), filed the copy of the aforesaid G.R. dated 2.7.2002 marked as Ex.656 in this Enquiry. Perusal of Clause at S. No.3 in para 2 of the aforesaid G.R. dated 2.7.2002 (Ex.646), would show that there is topographical error committed in regard to pay or the upper limit of the pay-scale referred to therein. The scheme of making classification of posts given in the said G.R. dated 2.7.2002 (Ex.646) would show that as per clause at S.No.1 in para 2 thereof the posts whose pay or the maximum of whose pay-scale is not less than Rs.11500/- are Group-A posts, as per clause at Sr.No.2 thereof, the posts whose pay or the maximum of whose pay-scale is not less than Rs.9000/- but is less than Rs.11500/- are Group-B posts, as per clause at Sr.No.3 thereof, the posts whose pay or the maximum of whose pay-scale is not less than Rs.4500/- but is less than Rs.9000/- (it should be so read) are Group-C posts and as per Clause at Sr.No.4 thereof, the posts whose pay or the maximum of whose pay-scale is less than Rs.4500/- are Group-D posts. As stated above there is mistake in clause at serial no.3 in using the words “रूपये ९,००० पेक्षा कमी नाही” which in the context and scheme of the said classification of posts should read as “रूपये ९,००० पेक्षा कमी आहे.”. The said clause is thus intended to mean and would rationally mean that the posts whose pay or the maximum of whose pay-scale is not less than Rs.4400/- but is less than Rs.9000/- are

Group-“C” posts. If clause at S.No.3 of para 2 of the said G.R. dated 2.7.2002 (Ex.646) is read literally, the classification therein would include the posts whose pay or the maximum of whose pay-scale was more than Rs.9000/- which would overlap with the classification of posts made by clauses at s.nos. 1 and 2 of para 2 thereof, apart from the fact that the words “रूपये ४,४०० पेक्षा कमी नाही.” used therein would be superfluous once it says “रूपये ९,००० पेक्षा कमी नाही.” making the said clause meaningless and redundant. Perusal of the copy of the aforesaid G.R. dated 2.7.2002 (Ex.656) filed by the University with its affidavit dated 7.1.2008 (Ex.650) would support the above interpretation as there is correction made by it in the said copy (Ex.656) i.e. the word “नाही” in clause at sr.no.3 is deleted and instead the word “आहे.” is inserted in its place.

**1129)** As shown above, since the pay-scale of the post of JRA was 5000 – 8000 it was Group-C post within the meaning of the clause at Sr.No.3 of para 2 of the said G.R. dated 2.7.2002 (Ex.646) rationally construed. Hence, as per the G.R. dated 9.6.2004 (Ex.589) which was applicable to Dr.PDKV, Akola, as admitted by it in its affidavit dated 28.5.2008 (Ex.758) it should have held the written test of 75% marks and personal interview of 25% marks for the candidates eligible for the posts of JRA as per the advertisement dated 14.8.2004 (Ex.2). Further, after holding the written test, the candidates should have been called for interview in the ratio of 1:3 as per para 3 of the G.R. dated 2.5.1995 (Ex.588) since the posts of JRA (Agri.) to be filled as per the advertisement dated 14.8.2004 (Ex.2) were more than 6. It is categorically stated in para 2 of the additional affidavit of Rahuri University dated 28.1.2008 (Ex.665) read with para 9 of its affidavit dated 26.10.2007 (Ex.587) that for recruitment in the post of JRA which is a Group-C post written test of eligible candidates is conducted by it for short-listing of candidates following G.R. dated 9.6.2004 (Ex.589). It is then made clear in the said para 9 that according to the marks obtained by the candidates in written test they are called for interview in the ratio of 1:5 as per their merit rank. It is also stated therein that after conducting the written test, the result of all the candidates eligible to be called for personal interview is displayed on notice board. After referring to the criteria of written test of 75 marks and personal interview of 25 marks, it is stated in para 10 of its aforesaid affidavit dated 26.10.2007 (Ex.587) that the merit rank of each candidate for the post of JRA is decided on the basis of the marks obtained by him out of 75 in written test and the marks given to him by various members of the Selection Committee out of 25 for personal interview. As stated in the said para 10, the list of the candidates is prepared as per merit by totalling the marks of the candidates obtained by them in written test and the marks in personal interview given to them by various members of the Selection Committee and by arranging them in descending order. The names of suitable candidates for appointment in the posts of JRA are then recommended to the Vice-Chancellor.

**i-5) Procedure prescribed in G.R. dated 9.6.2004 (Ex.589) is not only for short-listing of candidates but for their selection also**

**1130)** As the University has itself admitted in its affidavit dated 28.5.2008 (Ex.758) that the G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589) are applicable to it, it was bound to follow the procedure laid down in the said G.Rs. not only for short-listing of candidates eligible for the post of JRA as per the advertisement dated 14.8.2004 (Ex.2) but for their selection also as was done in Rahuri University as shown above. It was not open to the Chairman of the Selection Committee in question in this enquiry to lay down any criteria for short-listing or for evaluation of candidates applying for the posts of JRA because as per the G.R. dated 9.6.2004 (Ex.589) read with G.R. dated 2.5.1995 (Ex.588), the whole process of selection of candidates was laid down where-after the list of the candidates in order of merit as arranged by the Selection Committee was to be submitted to the Vice-Chancellor for making appointment according to it as provided in Statute 77 (1) (iv) of the Statutes. The above view is supported by the judgment of the Supreme Court cited B. Ramkichemin – Vs- Union of India (2008) 1 SCC 362 in para 17 of which it is held that when the method of Short-Listing is provided under the rule or the advertisement, the said method alone has to be followed.

**1130-A)** As regards the candidates applying for the post of JRA since it was Group-C posts as shown above, the procedure provided for their selection as per the G.R. dated 9.6.2004 (Ex.589) was that they had to undergo written test of 75% marks and personal interview of 25% as provided therein. After the written test was over their list had to be prepared according to their merit rank in the said written test for being called for interview in the ratio of 1:3 prescribed in the G.R. dated 2.5.1995 (Ex.588) since the posts to be filled were more than 6 as per the advertisement dated 14.8.2004 (Ex.2). After the interviews of the short-listed candidates were over, the marks obtained by them in written test and the marks obtained by them from each member of the Selection Committee in their interviews would be added and then their list in descending order of merit as arranged by the Selection Committee would be submitted to the Vice-Chancellor for making their appointment to the extent of the vacancies as advertised.

**1131)** It is pertinent to see that the aforesaid G.R. dated 9.6.2004 (Ex.758) also envisages a procedure which is alternative to the procedure of taking the written test of the candidates. According to the said alternative procedure, the total marks prescribed for the examination of the candidates for having minimum educational qualification for such Group-C post are treated as 75% marks which are fixed for “written test” and then since 25% marks fixed for interview are 1/3rd of the marks fixed for written test, the said marks for interview are fixed as 1/3rd of the total marks prescribed for examination of such candidates in Group-C posts for having minimum educational qualification for such posts. For instance, if the total marks for the examination for B.Sc. degree which is the minimum qualification for the post

of JRA are 300 they are made equal to 75% marks as per the aforesaid G.R. dated 9.6.2004 (Ex.589) and since the marks for personal interview are  $\frac{1}{3}^{\text{rd}}$  of the said marks, they would be 100. The list of the candidates as per the marks obtained by them in their B.Sc. degree examination which is minimum educational qualification for the post of JRA is then prepared according to their merit rank in the said examination for being called for interview in the ratio of 1:3 prescribed in the G.R. dated 2.5.1995 (Ex.588) since the posts to be filled are more than 6 as per the advertisement dated 14.8.2004 (Ex.2). After their interviews are over the marks obtained by them in their aforesaid qualifying examination and the marks obtained by them from each member of the Selection Committee in their interviews are added and then their list in descending order of merit as arranged by the Selection Committee is submitted to the Vice-Chancellor for making their appointment to the extent of the vacancies as advertised.

**1132)** Assuming that it was not feasible for the University to adopt the written test for short-listing of candidates for the reasons given by Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University in para 12 of his affidavit dated 14.1.2008 (Ex.658), then as regards the posts of JRA (Agri.), it was open to the University to adopt the above alternative procedure of short-listing of candidates and for their selection as given in the aforesaid G.R. dated 9.6.2004 (Ex.589) read with G.R. dated 2.5.1995 (Ex.588) i.e. instead of holding the written test, taking into consideration the total marks prescribed for examination of B.Sc. degree which is the minimum educational qualification for the post of JRA as equivalent to 75% marks and then calculating on that basis 25% marks for personal interview in the manner as shown above i.e.  $\frac{1}{3}^{\text{rd}}$  of the marks fixed for B.Sc. examination. After preparation of the list of successful candidates in B.Sc. examination in descending order of the marks obtained by them therein the candidates could thereafter be called for interview as per their merit rank in the aforesaid examination in the ratio of 1:3 prescribed in the G.R. dated 2.5.1995 (Ex.588) since the posts of JRA (Agri.) to be filled were more than 6 as per the advertisement dated 14.8.2004 (Ex.2). Since the G.Rs. dated 9.6.2004 (Ex.589) and 2.5.1995 (Ex.588) were applicable to the University as stated in the affidavit dated 28.5.2008 (Ex.758) filed on behalf of the University by its Assistant Registrar, Shri G.G. Tonde, authorized to swear affidavits on its behalf, the University was bound to follow the procedure laid down in the said G.Rs. in selection of candidates for the post of JRA (Agri.).

**1133)** The procedure followed by the University in short-listing of candidates for interview for the post JRA (Agri.) and also in their selection is in breach of the aforesaid G.R. dated 9.6.2004 (Ex.589) read with G.R. dated 2.5.1995 (Ex.588). As held by the Supreme Court in the case of **Ramanna –Vs- International Airport Authority (1979) 3 SCC 489, cited supra**, the University was bound to observe the procedure laid down in the said G.Rs. scrupulously. The action of the University in not following the said G.Rs. scrupulously in selection and appointment of the candidates in the post of JRA (Agri.), is

therefore, illegal, improper and invalid and is violative of Articles 14 and 16 of the Constitution of India as the aforesaid G.Rs. were admittedly applicable to the University.

**1134)** As regards the post of SRA, since its pay-scale was 6500-10500, it fell within the clause at S.No.2 of para 2 of the aforesaid G.R. dated 2.7.2002 (Ex.646) and was thus a Group-B post as stated by Dr.S.A. Nimbalkar, in para 54 of his affidavit dated 14.1.2008 (Ex.658). Hence it was true that the said G.R. dated 9.6.2004 (Ex.589) was not in terms applicable to it as it was applicable to Group-C posts only. However, where the number of candidates applying for the said posts of SRA was large, the written test was still held in Rahuri University for short-listing of candidates as stated in para 13 of its aforesaid affidavit dated 26.10.2007 (Ex.587). It is particularly stated in para 1 of its aforesaid additional affidavit dated 28.1.2008 (Ex.665) that in filling the vacant posts in the cadre of SRA, in case the number of applications received in response to the advertisement for the said posts is large, the written test is conducted for short-listing them. Otherwise, in normal course, on scrutiny, the candidates fulfilling the prescribed qualification and experience are directly called for personal interview. It is also stated therein that after conducting the written test, the candidates are called for personal interview in the ratio of 1:5 as per the guidelines in G.R. dated 2.5.1995 (Ex.588).

**i-6) G.R. dated 2.5.1995 (Ex.588), applicable to recruitment by nomination in the post of SRA**

**1135)** It is made clear that even if the G.R. dated 9.6.2004 (Ex.589) which was applicable to Group-C posts only was not in terms applicable to recruitment by nomination in the post of SRA being Group-B post, the G.R. dated 2.5.1995 (Ex.588) about the ratio of the candidates to be called for interview was in terms applicable to the recruitment therein by nomination. Hence, it was incumbent upon the University to follow the ratio of 1:3 in calling the candidates for interview for the said post of SRA (Agri.) as the number of the said posts to be filled as per the said advertisement dated 14.8.2004 (Ex.2) was more than 6.

**1136)** As regards the posts of SRA (Agri.) which were to be filled, even if the written test was not to be held for short-listing of candidates in view of the order of the Vice-Chancellor dated 17.7.2004 contained in the file (Ex.40(O)) according to which the old system prevailing at that time in the University for short-listing of candidates was to be followed, after applying the test laid down by Dr. V. D. Patil, the Chairman of the Selection Committee for short-listing of candidates applying for the post of SRA (Agri.) the list of candidates satisfying the said test could be prepared in descending order of their merit rank after which they could be called for interview in the ratio of 1 :3 prescribed in the aforesaid G.R. dated 2.5.1995 (Ex.588). The marks could also be awarded to such short-listed candidates for their academic performance as per the criteria laid down on 31.5.2005 by the Committee headed by Dr.V.D. Patil, the Chairman of the Selection Committee, contained at page C/35 of the file Ex.35(O) (Annexure No. 12 of the Enquiry Report) and then the list

of such candidates in descending order of merit could be prepared by adding the marks for academic performance and their interviews to be submitted to the Vice-Chancellor for making appointment to the extent of vacancies advertised.

**1137)** However, in the absence of the written test, the better way of short-listing of candidates eligible for the posts of SRA (Agri.) as per the advertisement was to prepare the list of candidates in descending order on the basis of the marks awarded to them as per the criteria for evaluation of candidates for the posts of SRA/JRA, i.e. for their academic performance (Bio-data Marks), fixed on 31.5.2005 contained at page C/35 of the file Ex.35(O) and then call the candidates for interview in the ratio of 1:3 i.e. for one post, 3 times the number of candidates to be called for interview as laid down in the G.R. dated 2.5.1995 (Ex.588) since the number of posts of SRA (Agri.) advertised were more than 6. Had the above procedure been adopted the candidates having better and more merit would have alone been called to appear for interview. It would have thus given more weightage to meritorious candidates from amongst whom only the most suitable candidates for the posts of SRA would have been selected through their interviews, although the pattern of 40:60 i.e. giving more weightage to “interview” was adopted in fixing the above referred criteria for evaluation of SRA/JRA.

**i-7) Advantages of proper short-listing of candidates**

**1138)** Where there are large number of applications for few posts, the process of taking interview of each candidate who is qualified for the post as per the advertisement is confusing, time-consuming, tiresome and unmanageable in the sense that it is not possible to devote proper and reasonable time for interview of each candidate so as to judge his ability, talent, knowledge, and his fitness for the job looking to the nature of its duties and responsibilities although it is true that time required for interview may differ from candidate to candidate depending upon the nature of the post and other factors relevant thereto. Short-listing of candidates is thus a device by which the number of candidates appearing for interview is reduced to a reasonable number by adopting some rational and objective criteria as observed by the Supreme Court in its Judgment in **B. Ramkichemin – Vs- Union of India (2008) 1 SCC 362** cited supra (vide para 1119 of the Enquiry Report). The interviews of the candidates can then be completed within a reasonable time by devoting proper time for interview of each candidate to judge his ability, talent, knowledge, and suitability for the job. The advantage of the reasonable number of candidates to be called for interview is that only such candidates would appear for interview who are most qualified amongst the candidates applying for the job from amongst whom the most suitable candidate/s can then be selected. Another advantage of proper short-listing of candidates for the posts is that there is less scope for selecting undeserving, and less meritorious candidates by manipulation, favouritism and other malpractices etc. in selection of candidates. In fact, the larger the number of candidates appearing for interview, which is

subjective, the greater is the scope for it being abused by reason of the above factors playing a major role in selection of candidates for the job. Proper short-listing of candidates to be called for interview is thus important. In choosing proper criteria for short-listing of candidates what needs inter-alia to be seen is that there should be just reasonable or enough number of the most qualified candidates available for being called for interview from amongst whom the selection of the most suitable candidates can be made through their interviews to the extent of the vacancies to be filled and for preparation of the waiting list to meet the contingencies such as the possibility of any selected candidate not joining his post and for filling any vacancies occurring in near future.

**iv) Common interviews held for the posts of SRA (Agri.) and JRA (Agri.)**

**a) Decision to hold combined/common interviews for both the posts of SRA (Agri.) and JRA (Agri.)**

**1139)** It is clear that the decision to hold combined / common interviews for both the posts of SRA (Agri.) and JRA (Agri.) was not taken in an explicit manner by Dr.V.D. Patil, the Chairman of the Selection Committee or by Dr.S.A. Nimbalkar, the then Vice-Chancellor, in consultation with the concerned officers of the University Shri R.B. Bali, the then Registrar of the University, stated in para 17 of his affidavit dated 11.10.2007 (Ex.588) that in discussion between Dr.V.D. Patil, he himself and other concerned officers of the University about the procedure to be adopted for short-listing of candidates, it was decided that the candidates should face separate interviews if they had applied for both the posts of SRA / JRA as per the normal practice of the University for which separate sheets were to be supplied to the members of the Selection Committee for giving marks to the candidates for interview of each post. He then stated that according to his experience in the University, the said procedure of holding separate interviews was followed for the posts of Assistant Professor and Associate Professor the interviews for which were held a few days prior to the interviews for the posts of SRA/JRA. According to him, Dr.V.D. Patil, was present in interviews for the said posts of Assistant Professor and Associate Professor as member of its Selection Committee in which he was also present as its Member Secretary. But the facts hereinafter appearing would show that the decision was taken by Dr.V.D. Patil, the Chairman of the Selection Committee to hold common interviews for the posts of SRA (Agri.) and JRA (Agri.) although not stated by him in so many words. He did not state in para 23 of his affidavit dated 25.12.2007 (Ex.645) that at the time when he had taken the decision to hold first the interviews for the said posts of SRA (Agri.) and JRA (Agri.) in discussion with the officers of the Registrar's office that he had also taken the decision to hold common interviews for both these posts.

**1140)** As stated above, although no explicit decision was taken to hold common interviews for both these posts of SRA (Agri.) and JRA (Agri.), the following facts would show that Dr.V.D. Patil, the Chairman of the Selection Committee had made-up his mind

and decided to take common interviews for both these posts. Perusal of his office note dated 29.4.2005, contained at page N/9 to N/11 of the file Ex.35(O) regarding short-listing of candidates eligible for the posts of JRA (Agri.) and SRA (Agri.) would show that he had given the estimate of about 900 candidates to be interviewed for both these posts whose interviews, according to him, could be completed within a period of 10 days. When the said file Ex.35(O) came back to the Assistant Registrar, Shri P.V.Behare, his office note date 4.5.2005, would show that he had given his own estimate about the total number of the candidates to be interviewed for both these posts and their ratio per post. The dates about the programme for interviews proposed by Dr.V.D. Patil, the Chairman of the Selection Committee in his aforesaid office note dated 29.4.2005 at page N/15 and ultimately the programme of interviews given by him in his office note dated 10.5.2005 contained in the aforesaid file Ex.35(O) would show that common interviews for both these posts were to be held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005.

**1141)** Shri D.P. Deshmukh, Section Assistant (Estt.), stated in para 25 of his affidavit dated 15.11.2007 (Ex.598) that there was no clear reference to the common interviews to be taken for both these posts of SRA (Agri.) and JRA (Agri.) in the office notes referred to by him earlier in his aforesaid affidavit, and in particular, the office note of the Director of Instructions / Chairman of the Selection Committee dated 29.4.2005 but after the aforesaid programme for interviews was given on 10.5.2005 by Dr.V.D. Patil, the Chairman of the Selection Committee, vide page N/14 of the file EX. 35(O) the Assistant Registrar, Shri P.V.Behare, had told him that there would be combined / common interviews for both these posts of SRA/JRA and that the steps should be taken accordingly. He then stated in the said para 25 that he had, thereafter, prepared the alphabetical list of the candidates for both these posts and in all the categories in which they had applied as contained in the file (Ex.36(O)) and also prepared the programme for interviews accordingly. His office note dated 24.5.2005 contained at page N/15 of the file Ex.35(O) incorporates the said programme for interviews perusal of which would show that he had allotted about 119 to 123 candidates for interview on each day in the same serial order in which their names appeared in the alphabetical list Ex.36(O). It is also mentioned in the said office note dated 24.5.2005 that the call letter is also submitted for approval but no such call letter is included in the said file Ex.35(O). The said office note dated 24.5.2005 relating to the programme of interviews and the specimen copy of the call letter was approved by Dr.V.D. Patil, Director of Instructions, and by Dr.S.A. Nimbalkar, the then Hon'ble Vice-Chancellor on 25.5.2005. As its specimen copy, the University has filed in this enquiry the copy of the interview call letter dated 24.5.2005 (Ex.10) issued to one Mankar Sushma M. at serial no.786 in the alphabetical list in the file Ex.36(O). The said call letter for interview would clearly show that the interview was combined / common for both these posts of SRA (Agri.) and JRA (Agri.) and in all the categories in which she had applied as mentioned in the said call letter.

**b) Common interviews held in the sense of Common questions being asked to the candidates, and common marks given to them in their interviews**

**1142)** Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 44 of his affidavit dated 25.12.2007 (Ex.645) that common interviews were held for the posts of SRA (Agri.) and JRA (Agri.) and in all their categories like S.C., S.T. etc. in the sense that if a candidate had applied for both the posts and if he had applied in more than one category, his interview was common for both the posts and the categories in which he had applied. He then stated that common questions were asked and common marks given to them for their interviews of both the posts. Although all the members of the Selection Committee, corroborated him on the question of common interviews being held, common questions asked to the candidates and common marks given to them, they did not know whether common interviews were held for the posts of SRA (Agri.) and JRA (Agri.) only. Their affidavits which are considered in the next topic relating to criticism about holding common interviews would show that according to them, common interviews were held generally for the posts of SRA/JRA, vide para 19 of the affidavit of Dr.Vandan Mohod dated 1.12.2007 (Ex.633), para 9 read with para 18 of the affidavit of Dr.E.R. Patil dated 16.11.2007 (Ex.599), para 6 read with para 15 of the affidavit of Dr.G.N. Dake dated 23.11.2007 (Ex.600), para 7 read with para 22 of the affidavit of Dr.N.D. Pawar dated 1.11.2007 (Ex.590), para 8 read with para 16 of the affidavit of Dr.B.N. Dahatonde dated 10.12.2007 (Ex.636), and para 7 of the affidavit of Dr.N.D. Jogdande dated 5.11.2007 (Ex.596). However, as regards Dr.Vandan Mohod, the Registrar/ Member Secretary, perusal of para 49 of his aforesaid affidavit would show that since according to him, the candidates who appeared for their interviews before the Selection Committee held the degree of graduation and post graduation in agriculture only, and since no candidate with other qualifications had appeared for interview before them he inferred that their interviews were for the posts of SRA (Agri.) and JRA (Agri.) only. However, as stated therein he did not know when the decision to fill the posts of SRA (Agri.)/ JRA (Agri.) was taken and by whom since he functioned as Registrar/ Member Secretary only from the first day of interviews i.e. 13.6.2005 and not prior to it. It may be seen that there were candidates with qualification other than Agriculture viz. "Agricultural Engineering" and they were allowed to apply for the post of JRA (Agri.) as per the amendment dated 6.9.2004 to the University Advertisement dated 14.8.2004 (Ex.2).

**1143)** The Chairman of the Selection Committee and its Members have broadly described in their affidavits the nature of questions put to the candidates although there was no fixed format about it. See paras 44, 19 and 6 of the aforesaid affidavits of Dr.V.D. Patil, Dr.Vandan Mohod, and Dr.G.N. Dake, referred to above, and paras 26, 10 and 9 of the aforesaid affidavits of Dr.E.R. Patil, Dr.N.D. Pawar, and Dr.B.N. Dahatonde respectively. According to them, the questions were asked to the post graduate candidate ordinarily by the Professor in that subject although the other members of the Selection Committee could

also ask him questions about the said subject. However, normally they would ask him questions of general type to test their general knowledge. As regards the candidates who were only graduate, they were asked general questions by all the members about the subjects they had offered for their graduate degree. Dr. N.D. Pawar further stated in para 10 of his aforesaid affidavit that the object of judging the candidates in interview was to see their knowledge about the subject particularly from the point of view of the duties and responsibilities of the said posts which were principally research oriented and the candidates who would be selected in these posts would be required to work in farm, extension education, stores, laboratories and also do teaching in schools so far as JRA was concerned. It is then necessary to see that Dr.V.D. Patil, the Chairman of the Selection Committee also stated in para 44 of his aforesaid affidavit that he and the members of the Selection Committee had agreed amongst themselves that each member should ask two questions (according to Dr.N.D. Pawar, five questions) to each candidate.

**1144)** As regards the question of preparation of selection Lists on the basis of common marks awarded to the candidates for the posts of SRA (Agri.) and JRA (Agri.), Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 47 of his affidavit dated 25.12.2007 (Ex.625) how the final Mark-Sheet of the candidates Ex.34(O)-A was prepared categorywise separate for the posts of SRA (Agri.) and JRA (Agri.) from the common marks awarded to them for both the above posts. He further stated in para 51 of his aforesaid affidavit that they then prepared the Selection Lists first for the posts of SRA (Agri.) in each category i.e. S.C., S.T. etc and Open in descending order of merit from amongst the candidates who received highest marks and, thereafter for the posts of JRA (Agri.) in similar manner i.e. in descending order of merit, from the remaining candidates. Dr.Vandan Mohod, the Member Secretary of the Selection Committee broadly corroborated him on the said question of preparation of Selection lists, vide para 28 of his affidavit dated 1.12.2007 (Ex.633).

**c) Criticism of holding common interviews, asking common questions and giving common marks to the candidates applying for both the posts of SRA (Agri.) and JRA (Agri.)**

**c-1) Majority members of the Selection Committee not aware of the posts for which common interviews were held**

**1145)** As shown in paras 1139 to 1141 above, the decision to hold common interviews for the posts of SRA (Agri.) and JRA (Agri.) only from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 was taken by Dr.V.D. Patil, the Chairman of the Selection Committee on his own without reference to the Selection Committee, and the members of the Selection Committee did not even know whether the interviews were held only for the posts of SRA (Agri.) and JRA (Agri.) on the aforesaid dates except that, as stated by him in para 49 of his affidavit dated 1.12.2007 (Ex.633), Dr.Vandan Mohod, the Registrar/ Member Secretary,

inferred that the common interviews were for the posts of SRA (Agri.) and JRA (Agri.) since according to him, all the candidates who appeared for interviews before them possessed graduate or post graduate degree in Agriculture. Dr.E.R. Patil, senior most member of the Selection Committee, after observing in para 9 of his aforesaid affidavit dated 16.11.2007 (Ex.599) that in the discussion in the meeting held on 31.5.2005 for determination of criteria for evaluation of SRA/JRA they had decided to take common interviews for both the posts of SRA/JRA, described in para 18 of his aforesaid affidavit what the Registrar and the Chairman of the Selection Committee did on the last day of interview i.e. 25.6.2005. He stated therein that the Registrar had told them in the meeting of the Selection Committee (i.e. held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005) that more than 50 posts of SRA and more than 70 posts of JRA of all the categories i.e. SRA (Agri.), SRA (Agril.Engg.), SRA (Computer), SRA (Bio-technology / Bio-chemistry) and JRA (Agri.) and JRA (Computer) were to be filled in. He then stated in para 19 of his aforesaid affidavit that the Chairman of the Selection Committee had told them that the Selection Committee would not be taking interviews for the posts of SRA (Computer Science) and would be taking interviews of all the posts which were advertised. Perusal of para 16 of the affidavit of Dr.B.N. Dahatonde, local member of the Selection Committee dated 10.12.2007 (Ex.636), would show that they were generally told by the Chairman of the Selection Committee to select the candidates for the posts of SRA/JRA but were not specifically told whether they had to select the candidates for the posts of either SRA (Agri.), SRA (Agril.Engg.), SRA (Computer) or SRA (Bio-Technology/Bio-chemistry) and as regards the posts of JRA, whether for the posts of JRA (Agri.) or JRA (Computer) or for all the above posts of SRA/JRA as advertised.

**1146)** Perusal of para 15 of the affidavit of Dr. G.N.Dake, outside member of the Selection Committee dated 23.11.2007 (Ex.600) would show that according to him, the Selection Committee had taken the interviews of all the categories of posts of SRA/JRA which were advertised i.e. SRA (Agri.), SRA (Agril.Engg.), SRA (Computer), SRA (Bio-technology / Bio-chemistry), JRA (Agri.) and JRA (Computer ) and that its members were not told that only the posts of SRA (Agri.) and JRA (Agri.) were to be filled. He then stated that they might not have filled the posts of SRA / JRA in categories other than SRA (Agri.) and JRA (Agri.) such as SRA (Agril.Engg.), SRA (Computer), SRA (Bio-technology/Bio-chemistry), and JRA (Computer) because, according to him, there were no suitable candidates for the posts in the said categories. Dr. N.D. Pawar, another outside member of the Selection Committee, stated in para 22 of his affidavit dated 1.11.2007 (Ex.590) that they had taken the interviews of the candidates for all the posts of SRA/ JRA i.e. SRA (Computer), SRA (Agril.Engg.), SRA (Bio-technology/Bio-chemistry) and SRA (Agri.) and JRA (Agri.) and JRA (Computer ) as mentioned in the advertisement regarding the said posts issued on 14.8.2004 (Ex.2) and given them common marks for all the said posts shown in the said advertisement. According to him, the members of the Selection

Committee were not told that the posts to be filled were of JRA (Agri.) and SRA (Agri.) only. Even after perusal of Resolutions 4 & 5 of the proceedings of the meeting of the Selection Committee contained in the file Ex.34(O), which, according to him, spoke about the increase in the number of posts of SRA/JRA to be filled, he stated that they were not told that the posts of SRA (Agri.) and JRA (Agri.) were only to be filled and also about the exact number of the said posts to be filled.

**1147)** The above facts would throw light upon the manner in which the members of the Selection Committee applied their mind to the interviews of the candidates appearing before them. In fact, it clearly appears that the Chairman of the Selection Committee, did not tell its members, at the outset, on the first day of its meeting on 13.6.2005 that common interviews would be held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 only for the posts of SRA (Agri.) and JRA (Agri.) and they also did not make any specific enquiry about it which would show that the interviews were only to be a formality and a farce, so that by manipulation of interview marks the favoured candidates could be selected for these posts. As shown in the subsequent topic about its duration, the interview of the candidates tended to be casual and farcical.

**c-2) Decision to hold common interviews not taken by the Selection Committee**

**1148)** In this regard, it has to be seen that an obligation is cast upon the Selection Committee to take interviews of the candidates and to award marks to them for their performance therein. Ordinarily, the interview for each post which is advertised is held separately. If the common interviews of the candidates applying for both the posts in question were to be taken in the sense of asking them common questions and giving them common marks for both the posts, it was essentially a question which needed to be considered by the Selection Committee. All pros and cons of the question in the light of the duties and responsibilities of the two posts i.e. SRA (Agri.) and JRA (Agri.) which constituted separate cadres with different pay scales had to be considered by the Selection Committee before deciding whether the common interviews in the sense of asking common questions and giving common marks to the candidates should be held or not. The question whether there should be a common Mark-sheet prepared for both these posts and if so how the selection should be made for each of the said posts had also to be considered by the Selection Committee. Dr.V.D. Patil, the Chairman of the Selection Committee, could not have taken such decision on his own without reference to the Selection Committee. In its meeting properly convened for the said purpose, the Selection Committee could consider the question whether it would be proper and convenient to hold common interviews of the candidates applying for these posts, whether their talent and knowledge required for each of these posts could be properly assessed therein and whether they could be evaluated properly for each of these posts through their common interviews. Any complication or inconvenience arising in such common interviews could also be considered in such a

meeting of the Selection Committee. It was open to it to decide to hold interviews of the candidates applying for both the posts one after another for the convenience of the candidates and evaluate them separately by asking separate set of questions to them for each of these posts so as to evaluate them separately for these posts and then prepare separate Mark-Sheet and separate Selection lists for these posts. The decision of Dr.V.D. Patil, the Chairman of the Selection Committee to hold common interviews for both these posts of SRA / JRA in the sense of common questions being asked to them and common marks given to them in their interviews was thus illegal , improper and unjustified.

**1149)** As stated by Dr.N.D. Pawar, in para 7 of his affidavit dated 1.11.2007 (Ex.590), Dr.V.D. Patil, the Chairman of the Selection Committee, had told them that it was already decided to hold common interviews for both the posts of SRA and JRA and therefore, according to him, the Selection Committee had itself not considered and decided whether common or separate interviews should be held for the posts of SRA/JRA which is also clear from the above paras 1139 to 1141 of the Enquiry Report, which would show that he had taken the said decision on his own without reference to the Selection Committee. Although not specifically stated by the members of the Selection Committee, it would appear to be so from their affidavits except the affidavit of Dr.E.R. Patil, which is dealt with separately hereinafter.

**1150)** As referred to above, Dr.E.R. Patil, stated in para 9 of his affidavit dated 16.11.2007 (Ex. 599) that the said decision to hold common interviews was taken on 31.5.2005 orally during the discussion in the meeting of the Committee which determined the criteria for evaluation of SRA/JRA on that day. According to him, the said meeting on that day i.e. 31.5.2005 was a meeting of the Selection Committee which meeting even Dr.V.D. Patil, the Chairman of the Selection Committee, and Shri R.B. Bali, the then Registrar who was therefore its Member Secretary did not describe as the meeting of the Selection Committee, vide para 26 of the affidavit of Dr.V.D. Patil, dated 25.12.2007 (Ex.645) and para 8 of the affidavit of Shri R.B. Bali, dated 11.10.2007 (Ex.585). It is held in subsequent paras 1192 to 1203 paras 985 to 993 of the Enquiry Report under the topic relating to “Determination of criteria for academic evaluation of SRA/JRA” that the meeting held for the said purpose on 31.5.2005 was not the meeting of the Selection Committee.

**1151)** Further, Dr.V.D. Patil, did not state in his aforesaid affidavit that any such decision about holding common interviews was taken in the said meeting held on 31.5.2005 under his Chairmanship for determination of the criteria for evaluation of SRA/JRA. It is also necessary to see that when any decision is taken in the meeting, the minutes/proceedings of the said meeting must reflect the said decision as is also clear from Statute 37(1) of the Statutes. Even assuming that any decision in the meeting is taken orally, it cannot be accepted as the decision of the meeting unless its minutes/proceedings are suitably corrected and the said decision is recorded in its minutes/ proceedings. Statute 37(2) provides that the

minutes/proceedings can be corrected by satisfying the Chairman about it. The statement of Dr.E.R. Patil, in his aforesaid affidavit that it was orally decided during the discussion on 31.5.2005 to hold the common interviews for both these posts and to ask common questions and give common marks to the candidates who had applied for both these posts cannot therefore be accepted as the decision taken in the said meeting held on 31.5.2005 which is called, even otherwise, according to him, for the purpose of laying down the criteria for evaluation of SRA/JRA.

**c-3) Duration of interview of each candidate**

**1152)** There were large number of candidates i.e. 1335 called for interview for 61 total posts of both SRA (Agri.) and JRA (Agri.) (i.e. 24 + 37) besides 7 YCMOU graduates called for interview for the post of JRA (Agri.). According to the programme for common interviews for the posts of SRA (Agri.) and JRA (Agri.), they were spread over on the dates of interviews i.e. 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 ranging between 119 to 123 candidates on each day of interview which number was also very large. Dr.V.D. Patil, the Chairman of the Selection Committee stated in para 44 of his affidavit dated 25.12.2007 (Ex.645) that out of about 120 candidates called for interview on each day, about 110 remained present, on an average it took about 5 minutes time for interview of each candidate. It thus took about 10 hours to complete the work of interview on each day with the lunch break of 45 minutes to 1 hour. According to him, the work of taking interviews which started at about 9.00 a.m.in the morning was completed on each day at about 8.30 p.m. to 9.00 p.m. Dr.Vandan Mohod, the Registrar/Member Secretary also gave in para 19 of his affidavit dated 1.12.2007 (Ex.633), the same estimate of about 5 minutes duration to complete the interview of each candidate. Dr.E.R. Patil, Senior most member of the Selection, stated in para 13 of his affidavit dated 16.11.2007 (Ex.599) that there were about 120 to 123 candidates appearing for interview on each day whose interviews they completed on the same day by about 8.30 or even 10 P.M. at night starting from about 9.00 A.M. in the morning with a lunch break of about one hour. According to him, it took about 5 to 15 minutes for interview of each candidate. Dr.B.N. Dahatonde, local member of the Section Committee, stated in para 11 of his affidavit dated 10.12.2007 (Ex.636) that there were about 120 candidates appearing for interview on each day and on an average the minimum time consumed for interview of each candidate was about 5 to 7 minutes to test the knowledge about his subject.

**1153)** Dr.G.N. Dake, outside member of the Selection Committee, stated in para 6 of his affidavit dated 23.11.2007 (Ex.600) that, on an average, interview of each candidate was of about 5 to 10 minutes duration and they completed the interviews of all the candidates on the same day on which their interviews were fixed for which they sat even upto 8.00 p.m. or more in the evening. Dr. N.D. Pawar, another outside member of the Selection Committee, however, gave different version of taking interviews of the candidates in para 9

of his affidavit dated 1.11.2007 (Ex.590) in which he stated that they were calling inside the hall for interview, 5 candidates at a time and they had decided amongst themselves that each member of the Selection Committee should ask 5 questions to each candidate and accordingly one after another 5 questions were asked by each member of the Selection Committee to each candidate appearing for interview and it took about 25 to 30 minutes for completing the interview of 5 candidates. He then stated in the said para 9 of his aforesaid affidavit that the work of interviews continued till about 10.00 p.m. with a break of one hour for lunch.

**1154)** As stated by Dr.V.D. Patil, the Chairman of the Selection Committee, in para 44 of his affidavit dated 25.12.2007 (Ex.645), after the interviews were completed at about 8.30 to 9.00 PM on each day of interview, his work was not over because thereafter the process of calculation of average marks for the interview of each candidate started and the said marks were entered in his additional chart which he then dictated to Shri D.P. Deshmukh, Section Assistant who entered the same in his data-sheet. Thus, according to him, it was at about 10 to 10.30 P.M. that he completed his work on each day of interview. It is clear from the above programme of interview how it was unwieldy, time consuming, tiresome and unmanageable in the sense that it was not possible for the Selection Committee to give proper and reasonable time for interview of each candidate so as to judge his ability, talent, knowledge and fitness for the job looking to the nature of duties and responsibilities of these posts enumerated in their duty lists (Ex.26). It would be even difficult for the Chairman and the Members of the Selection Committee to maintain their energy level, physical as well as mental, to conduct interviews of so many candidates on a single day satisfactorily for almost 11 days continuously as per the programme of interviews.

**1155)** The Supreme Court has held in para 20 of its judgment in the case of **Ashok Kumar Yadav –Vs- State of Haryana ( 1985) 4 SCC 417**, in which also there were over 1300 candidates appearing for interview of 61 posts, that if a viva-voce test is to be carried out in a thorough and scientific manner, as it must be, in order to arrive at a fair and a satisfactory evaluation of the personality of the candidates, interview must take anything between 10 to 30 minutes relying upon for its view upon the book on “Theory and practice of Modern Government” by “Harman Finer” in which it was observed that “ the interview should atleast be for half an hour”. The Supreme Court then observed that the Union Public Service Commission making selection for the posts in the Indian Administrative Service also interviews the candidates for almost half an hour and 11 to 12 candidates are called for interview in a day of 5 and half hours. According to it, it was thus obvious that in the circumstances, it would be impossible to carry out a satisfactory viva-voce test if such a large unmanageable number of over 1300 candidates were to be interviewed. Further, according to it, the interviews would then tend to be casual, superficial and sloppy and the assessment made at such interview would not correctly reflect the true measure of the personality of the candidates. Moreover, it held that such a course would widen the area of

arbitrariness for even a candidate who was very much lower down in the list on the basis of the marks obtained in written examination could, to borrow an expression used by the Division Bench, gatecrash in the range of selection if awarded unduly high marks at the viva-voce examination. The above observations of the Supreme Court would aptly apply in the instant case as would be shown hereinafter.

**1156)** The affidavits filed by some of the non-selected candidates in this case would show how either the interviews were casual or because the Selection Committee had a pre-determined mind not to select them there was no serious attempt made by it to judge their knowledge and suitability for the posts of SRA (Agri.) and JRA (Agri.) through their interviews. Shri Praful Premchand Jain who was a non-selected candidate for both the posts of SRA (Agri.) and JRA (Agri.) had received 20 marks out of 40 for his academic performance. He stated in para 9 of his affidavit dated 12.5.2008 (Ex.743) that in his common interview for the posts of SRA (Agri.) and JRA (Agri.), he was only asked his name and was not asked any question about his subject. Shri Nilesh Tukaram Fokmare, a non-selected candidate had received 10 marks out of 40 in his academic performance. He stated in para 11 of his affidavit dated 5.9.2007 (Ex.203) that his common interview held on 15.6.2005 for the posts of SRA (Open), SRA (OBC), JRA (Open) and JRA (OBC) was over in one to one and half minutes and he was asked three questions, one question each by the members of the Selection Committee. Ku. Archana Rambhau Bipte, a non-selected candidate, petitioner in writ petition no. 905/2006, who had applied for both the posts of SRA (Agri.) and JRA (Agri.) in VJ(A) category had received 16 marks out of 40 in her academic performance. She stated in para 3 of her written statement (Ex.59) annexed to her affidavit dated 4.8.2007 (Ex.58) that her interview of both the posts was of 2 minutes only and she was then asked to leave. Similarly, Shri Praful Bhagwantrao Gore, non-selected candidate, co-petitioner in the above writ petition no. 905/2006, stated in para 4 of his affidavit dated 13.8.2007 (Ex.83) that his interview lasted for one or two minutes and the only question he was asked was about his name and residence.

**1157)** The above affidavits of the non-selected candidates would show how the interview tended to be casual or were farcical with a pre-determined mind not to select them in order to favour other candidates. As observed by the Supreme Court in the judgment cited supra, in the absence of proper short-listing of candidates by which only a limited number of candidates at the top of the list have to be called for interview, the Viva-voce test would be reduced to a farce. Although it is true that in its subsequent judgments it is held that no optimum time can be fixed for interview ( See 2008 (4) SCC 619 Sadanand –Vs- Mumtaz Ali Sheikh ) and that how much time should be devoted for proper assessment of a candidate in his interview would vary from candidate to candidate and the nature of the post for which the interview is held, it is necessary that adequate time should be devoted to the interview of a candidate so as to assess his personality, talent, knowledge and fitness for the job looking to its nature of duties and responsibilities.

**1158)** If the interviews of the candidates tended to be casual, superficial and sloppy in view of large number of candidates appearing for interview, there would be large scope for awarding marks to the candidates in an arbitrary manner for their performance in their interviews with a view to select the favoured candidates for even a candidate who received lower marks in his academic performance would get selected by manipulation of his interview marks and vice-versa the candidate who had high marks in academic performance would not get selected because he was awarded lower marks in the interview as is shown in this case in the later topic relating to “Award of marks for performance in interview”. The additional vice in taking common interviews would be to accommodate favoured candidates in one or the other post or select less meritorious candidates in a higher post and more meritorious candidates in lower post. Had there been proper short-listing of candidates in the ratio of 1:3 as prescribed in the G.R. dated 2.5.1995 (Ex.588) which was applicable to the University as per its affidavit dated 28.5.2008 (Ex.758) only a few meritorious candidates would have been short-listed for interview in which case the programme of interviews of candidates would not have been unwieldy and tiresome and the Chairman and the Members of the Selection Committee could then devote proper and reasonable time for interview of each candidate to judge his ability, talent, knowledge and fitness for the job. There would then be less scope also for arbitrariness, manipulation of interview marks and favouritism in selecting the best suitable candidate/s for these posts.

**c-4) Separate Interviews should have been held for the posts of SRA (Agri.) and JRA (Agri.)**

**1159)** It may be seen that the posts of SRA/JRA in the University belonged to separate cadres with different pay-scales, different qualifications as laid down in Appendix-III read with Statute-73 of the Statutes, and different duties and responsibilities as contained in duty lists filed by the University and marked collectively as (Ex.26) in this enquiry. Separate interviews should have therefore been held for these posts as per the usual procedure followed in service matters. See in this regard, para 6 of the affidavit of Dr.G.N. Dake, the Outside Member of the Selection Committee dated 23.11.2007 (Ex.600) who stated therein that according to the procedure which is usually followed, separate interviews need to be taken for separate posts and therefore there should have been separate interviews taken for the posts of SRA/JRA for which separate lists of the candidates should have been prepared and separate interview calls sent for each of these posts.

**1160)** The then Registrar Shri R.B. Bali, stated in para 17 of his affidavit dated 11.10.2007 (Ex.585) that it was normal practice in the University to take separate interviews for these posts of SRA/JRA and that it was also decided in the discussion which Dr.V.D. Patil, had with him and other concerned officers of the University to hold separate interviews for them. In this regard, Ku. Archana Bipte, the petitioner in writ petition no. 905/2006, stated in para 28 of her written statement (Ex.59) annexed to her affidavit dated 4.8.2007 (Ex.58)

that although this time common interviews for these posts were held, prior to this, the University had taken separate interviews for these posts at which time although she had applied for the said posts, she was not called for interview since she had no experience.

**1161)** However, for the reasons better known to Dr.V.D. Patil, the Chairman of the Selection Committee, as shown hereinbefore, he had taken the decision at the time of short-listing of candidates to hold common interviews for the posts of SRA (Agri.) and JRA (Agri.) which were advertised in the advertisement dated 14.8.2004 (Ex.2). The said decision was not taken in writing in explicit manner nor any reasons were given by him for not holding separate interviews for these posts as per the usual procedure and practice followed in the University.

**1162)** As regards the question of common interviews of the candidates for the posts of SRA (Agri.) and JRA (Agri.) in question, Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, initially stated in para 36 of his affidavit dated 14.1.2008 (Ex.658) that common interviews could be held for selection in the said posts on the basis of the common questions put to the candidates to judge their knowledge for both these posts and therefore common marks could be given to them on the basis of their interviews for both these posts. Further, according to him, from the common Mark-list of both these posts, selection lists first for the posts of SRA (Agri.) in each category i.e. S.C., S.T. etc. and open could be prepared by selection of the candidates who had received higher marks in each category i.e. S.C., S.T. etc. and in open and then categorywise selection lists for the posts of JRA (Agri.) in order of merit could be prepared in similar manner from amongst the remaining candidates in the common Mark list. According to him, the candidates possessing higher qualification would have ordinarily the knowledge to work in both the posts of SRA/JRA considering the nature of the duties and responsibilities of the said posts and therefore the above method of preparation of selection lists of the posts of SRA (Agri.) and JRA (Agri.) i.e. selecting candidates first for the post of SRA (Agri.) from amongst those who had received higher marks and then selecting candidates for the post of JRA (Agri.) from amongst those securing lower marks was proper. However, on second thought, he stated in para 37 of his aforesaid affidavit that in his view in order to avoid any confusion and / or injustice to any candidate, whether applying for one of these two posts or both, although there may be combined interviews of the candidates applying for both these posts of SRA (Agri.) and JRA (Agri.), different sets of questions should be asked to them to judge their suitability separately for each of these posts looking to its nature of duties and responsibilities. He then stated that they should thus be evaluated by giving them separate marks for their interviews in these posts and accordingly by preparing separate Selection lists for these posts. He also stated that if separate sets of questions are put to them for each of these posts, their knowledge of the subjects necessary to perform their duties in each of these posts can be better judged.

**1163)** In this regard, it is worth-while to notice what Dr.V.D. Patil, the Chairman of the Selection Committee, stated about the system of common interviews which he himself had adopted for these posts. It may be seen that para 6 of the written statement (Ex.85) of Dr.B.G.Bathkal, and others submitted with the affidavit of Dr.B.S. Fadnaik and Dr.B.S. Chimurkar, dated 13.8.2007 (Ex.84) is in respect of “indiscriminate use of 60 marks meant for interview”. In para 6.4 thereof there is a chart regarding 5 candidates with only B.Sc. degree receiving only 5 marks for their academic performance out of 40 but receiving very high marks 49-55 in their interviews out of 60. When questioned about the chart in para 6.4 referred to above, Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 90 of his affidavit dated 25.12.2007 (Ex.645) that, according to him, the reason why they got very high marks in their interviews was that they must have been put questions of the graduate standard and therefore their interviews must have been excellent and they must have been given such higher marks in their interviews. But what is important to be seen is that he then stated that if the questions asked to the candidates were only of graduate standard whereby they received very high marks in their interviews, the system which they had adopted of taking common interviews for both the posts would be faulty because in that case a candidate with M.Sc. and even Ph.D. degree could get lower marks and could be excluded from being selected for any of these posts because he was asked questions of very high standard because of which he got lower marks.

**1164)** Dr.B.G. Bathkal and 3 others, the petitioners in writ petition no.4771/2006 who held very high executive and academic posts in the University, the first two petitioners retiring as Vice-Chancellors, the third as Dean and the fourth as Professor, in para 1.2 of their written statement (Ex.85) submitted with the affidavit of Dr.B.S. Fadnaik and Dr.B.S. Chimurkar, dated 13.8.2007 (Ex.84), have also stated that the posts of SRA (Agri.) and JRA (Agri.) are two different posts belonging to different cadres with different pay-scales. According to them, they differ in their minimum qualifications and their responsibilities are different. Further, according to them, knowledge parameters for testing their technical abilities for these posts differ considerably both in depth and extent and logically justice to both the posts is possible if separate interviews are held for these posts.

**1165)** Vide para 916 of the Enquiry Report, the above writ petitioners, in para 5 of their aforesaid written statement (Ex.85) annexed to the affidavit of Dr.B.S. Fadnaik and Dr.B.S. Chimurkar, dated 13.8.2007 (Ex.84), relating to their criticism of the selection process under the head “merit detracting tactics and irregularities during the selection process reducing the interviews to a farcical level” stated in sub para 5.3 that the interviews of the two posts which belonged to two different cadres with different pay-scales and responsibilities should have been planned separately for effective evaluation of candidates. According to them, although the interview marks given to the candidates who applied only for one of those posts were understandable, it was not known how the said marks should be understood in regard to the candidates who had applied for both these posts, the number of

such candidates being more than 50%, i.e. whether the said marks should be understood for JRA (Agri.) or for SRA (Agri.). They thus criticized the marking system as confusing, untenable, making selection process invalid. Further, according to them, the said system was amenable to manipulation and perhaps suited the University / Selection Committee and was therefore, adopted.

**1166)** Ku. Archana Rambhau Bipte, and Shri Praful Bhagwantrao Gore, who filed common writ petition no. 905/2006 in the High Court, have filed separate affidavits in this Enquiry. As already pointed out above, Ku. Archana Bipte, also criticized common interviews pointing out as stated in sub-para k of para 971 of the Enquiry Report, that, on prior occasion, when she had applied for the posts of SRA (Agri.)/ JRA (Agri.), although she was not called for interview for lack of experience, the University had held separate interviews for the above posts. Shri P.V. Gore, vide para 972 of the Enquiry Report, another writ petitioner in writ petition no. 905/2006, raised the ground as shown in sub para e thereof that as per Statute-71 the posts of SRA/JRA were different posts with different pay-scales. However, common interviews were held for the said posts which, according to him, would clearly show that the interview was a farce and that the respondent had already decided to appoint the candidates for the said posts. See para 4 of his affidavit dated 13.08.2007 (Ex. No. 83).

**1167)** Vide Para 975 of the Enquiry Report, Shri N.T. Fokmare, who had applied for the said posts but was not selected, also pointed out in ground-C in his affidavit dated 5.9.2007 (Ex.203), that it was necessary for the Selection Committee to take separate interviews for the posts of SRA (Agri.) and JRA (Agri.) since their cadres and pay-scales were different and even in the advertisement, separate applications were invited for the said posts. However, according to him, common interviews of the candidates who had applied for both these posts were held and no separate marks were given in evaluating them for these two posts.

**1168)** As rightly observed by the writ petitioners, Dr.B.G. Bathkal & Others in para 5 of their written statement (Ex.85) referred to above, the marking system was confusing, untenable and would make selection process invalid when common interviews for both these posts were held. They have also rightly stated that the above system was amenable to manipulation and favouritism because, it was possible for the Selection Committee to select the candidates for one or the other post by making manipulation in interview marks of the candidates favoured by them. In this regard, how the interviews could be manipulated would be clear from what Dr.V.D. Patil, stated in para 90 of his affidavit dated 25.12.2007 (Ex.645). He stated therein that it was true that if the questions asked to the candidates were only of graduate standard whereby they received very high marks in their interviews the system which they had adopted for taking common interviews for both these posts would be faulty because in that case a candidate with M.Sc. or even Ph.D. degree could get lower

marks and could be excluded from being selected for any of these posts because he was asked questions of very high standard due to which, he got lower marks. This was, however, one of the ways in which interview marks could be manipulated.

**1169)** The criticism of the above writ petitioners that the marking system was confusing and untenable would stand supported by the discrepancies / mistakes in the marks for interview awarded by the Selection Committee as seen in Mark-sheet Ex.34(O)-A, which discrepancies / mistakes were admitted by the Chairman and the Members of the Selection Committee and also by the fact that some of the candidates who received low marks in their academic performance received very high marks in their interviews and vice-versa those who received high marks in their academic performance received low marks in their interviews (See Annexures-43, 44 and 45 the Enquiry Report in the subsequent topic relating to “Award of marks for performance in interview”). The process of interviews, which was subjective, was thus capable of being abused.

**1170)** Even Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, admitted in para 37 of his aforesaid affidavit dated 14.1.2008 (Ex.658), that according to him, in order to avoid any confusion and injustice to the candidates who had applied for one of the two posts or both although there may be combined interviews held for both these posts of SRA (Agri.)/JRA (Agri.), different sets of questions should be asked to them to judge their suitability separately for each of these posts looking to its nature of duties and responsibilities and they should thus be evaluated separately by giving them separate marks for their interviews in these posts. He thus stated that accordingly, separate Selection Lists should be prepared for these posts. He also stated that if separate sets of questions are put to them for each of these posts, their knowledge of the subjects necessary to perform their duties in each of these posts can be better judged.

**1171)** As pointed out earlier in the topic relating to short-listing of candidates, the common interviews of large number of candidates who were called for interviews of these posts even after short-listing them were apart from being illegal and contrary to the usual practice as shown hereinbefore were confusing and untenable leaving greater scope for manipulation and favouritism. It is, however, made clear that had separate interviews been taken for these posts, it would have caused lesser confusion but that would not mean that there would be no confusion at all, that the interviews would be manageable and that there would be no scope for manipulation and favouritism because, as shown above in the topic about the criteria of short-listing of candidates, even if the interviews were held separately there would still be large number of candidates appearing for interview of these posts viz. 859 for 24 posts of SRA (Agri.) and 1136 including 7 candidates of YCMOU for 37 posts of JRA (Agri.) as advertised requiring further short-listing of candidates in each post by applying the G.R. dated 2.5.1995 (Ex.588) to reduce the number of candidates to a reasonable or manageable number of only the most qualified candidates from amongst

whom the most suitable candidate/s could be selected through their interviews leaving very little scope for manipulation and favouritism. .

**1172)** It is necessary to see that there was no reason given by Dr.V.D. Patil, the Chairman of the Selection Committee, why he decided to take common interviews for both these posts of SRA (Agri.) and JRA (Agri.) when they constituted separate cadres with separate pay-scales and separate duties and responsibilities as per their Lists (Ex.26) filed by the University contrary to normal practice of holding separate interviews for filling separate posts followed in the University. Moreover, no such decision was taken in writing as per the official routine followed in the University viz. through the office notes written by the officers concerned with approval to the same by the Chairman of the Selection Committee and finally by the Vice-Chancellor. It was necessary to do so particularly when, according to the then Registrar Shri R.B. Bali, as stated by him in para 17 of his affidavit dated 11.10.2007 (Ex.585), the decision infact taken by Dr.V.D. Patil, in consultation with him and other concerned officers of the University was to take separate interviews for these posts as per the normal practice in the University. As regards the decision making process in the University, Dr.S.A. Nimbalkar, described it in paras 4 to 6 of his affidavit dated 14.1.2008 (Ex.658) stating in para 5 that no decisions were taken in the University orally. In fact such a decision to hold common interviews had to be taken by the Selection Committee upon whom the duty is cast to hold interviews of candidates for these posts, vide paras 1148 to 1151 of the Enquiry Report.

**1173)** The most important reason why common interviews cannot be held for both the posts of SRA (Agri.) and JRA (Agri.), is that the post of JRA is Group-C post and therefore, the selection of the candidates in the posts of JRA is governed by the procedure prescribed in G.R. dated 9.6.2004 (Ex.589) as shown in para 1130 relating to short-listing of candidates under the head (v) "Procedure in G.R. dated 9.6.2004 (Ex.589) is not only for short-listing of candidates but for their selection also". As per the G.R. dated 9.6.2004 (Ex.589), the procedure consisting of written examination of 75% marks and the interview of 25% marks is provided for selection of candidates in Group-C posts. Since the procedure envisaged for selection to the posts of JRA in the G.R. dated 9.6.2004 (Ex.589) is different from the common procedure laid down in this case for selection in both the posts of SRA/JRA separate interviews of the candidates should have been taken for the said posts of JRA. The said G.R. dated 9.6.2004 (Ex.589) is not in terms applicable to the post of SRA which is Group-B post. Further, even if the same procedure of written examination and interview is made applicable for selection to the posts of SRA, still common interviews cannot be held for both these posts of SRA/JRA because the standard of written examination for the post of SRA would be higher than the standard of the written examination for the post of JRA. Therefore, no common written examination can be held for both these posts and no common list of candidates prepared for being called for common interview for both these posts.