

educational institutions where they were necessary. It is pursuant to the said decision taken on 14.1.2001 by all concerned that as shown in the said note (Schedule-48), the University orders dated 25.6.2001 (Ex.777 to 783) were issued in which after withdrawing such surplus posts from research schemes/stations/ departments they were allotted to the new centres/units established as per the University orders dated 25.6.2001 (Exs.777 to 783). The Executive Council of the University therefore took note of the contents of the said schedule-48, and thus approved the University Orders dated 25.6.2001 (Exs.777 to 783) annexed to its aforesaid resolution dated 17.9.2001 (Ex.800).

**1598-B)** It is thus clear that the decision to allow the Agricultural Universities to utilize the surplus posts from research schemes/stations/departments by allotting them to new centers / units established in the University and also to the educational institutions where they were necessary was taken by all authorities/officers concerned including the State Government, MCAER and the Vice-Chancellors of the Agricultural Universities which would mean that the State Govt. had given its sanction/approval to the above arrangement in the absence of which it was possible that the surplus posts out of the posts which were sanctioned for the University by the State Govt. might have been reduced by it. As stated above, the Executive Council of the University by taking note of the contents of the said schedule-48 approved the said orders dated 25.6.2001 (Exs. 777 to 783) as per its resolution dated 17.9.2001 (Ex.800). Perusal of the preamble to the University orders dated 25.6.2001 (Exs. 777 to 783) would show as per the letter of the State Govt. dated 1.12.2000 referred to at S.no.1 under the head "Read" in the said order dated 25.6.2001, the State Govt. communicated the above decision taken by all authorities and officers concerned in their meeting held on 14.2.2001 to the University. It cannot therefore be said that there is no sanction to new centres / units including Bio-technology Centre and the posts created therein by the deployment of surplus posts from research schemes/ stations/departments in the University as per the orders dated 25.6.2001 (Exs.777 to 783).

**1599)** It is necessary to see that as per the University order dated 25.06.2005 (Ex. 781) which stood approved by the Executive Council of the University as per its resolution dated 17.9.2001 (Ex.800) by taking note of Schedule 48 annexed to it, when 2 surplus posts of SRA (Agri.) were withdrawn, one each from S.T.R.U. or Seed Monitoring Cell (see para 1603 of the Enquiry Report), and ARS Sindewahi and were allotted to the independent Bio-Technology Centre as shown in the said University order dated 25.06.2001 (Ex. 781), they ceased to be posts of SRA (Agri.) and became the posts of SRA (Bio-Technology) for which separate qualifications were required as shown in the advertisement dated 14.08.2004 (Ex. 2). Thus, including one post of SRA existing in the Biotechnology centre which was already functioning in the Department of Agricultural Botany as stated in the said University order dated 25.06.2001 (Ex. 781) itself, there were three sanctioned posts of SRA (Bio-technology) in the said Centre in the University which posts could not have

been utilised for filling the posts of the other categories of SRA including SRA (Agri.) without the sanction of the competent authority which would be the State Govt. which sanctioned the arrangement about establishment of new centres/units in the University and utilization of surplus posts from the research schemes/stations/departments therein, vide para 1598-A and 1598-B of the Enquiry Report or at any rate the Executive Council which, as stated above, approved the said University order dated 25.06.2001 (Ex. 781) Dr.V.D. Patil, the Chairman of the Selection Committee, who was also Acting Vice Chancellor at the time of appointment of the candidates selected in these posts of SRA (Agri.) and JRA (Agri.), and Dr. Vandan Mohod, the Registrar/Member Secretary of the Selection Committee could not have made in these 3 posts of SRA (Bio-Technology). selection and appointment of any candidate applying for the post of SRA (Agri.). They had therefore acted illegally in utilising these 3 posts of SRA (Bio-technology) in making appointment of 55 candidates selected in the posts of SRA (Agri.).

**1600)** As 5 posts of SRA (Bio-Technology/Bio-Chemistry) were advertised, a notice was issued to the Registrar to clarify whether the independent Bio-Technology Centre established under the control of the Head, Department of Agricultural Botany, included the subject of Bio-Chemistry also. He was further directed to clarify whether there were 2 posts of SRA sanctioned or deployed for Bio-Chemistry, when 5 posts of Bio-Technology/Bio-Chemistry were advertised as the aforesaid order dated 25.06.2001 (Ex. 781) showed that there were only 3 sanctioned posts of SRA (Biotechnology) in Bio-Technology Centre. The Registrar, Shri. G. K. Bhusare, stated in his affidavit dated 17.09.2008 (Ex. 768), that Bio-Chemistry was part and parcel of Bio-Technology unit, which was newly established as per the aforesaid order dated 25.06.2001 (Ex. 781), as it involved the work of research in various Biological aspects such as Molecular Biology, Micro Biology, Bio-Chemistry, Genetical Engineering etc. According to him, he had made the above statement in consultation with the Head, Department of Agricultural Botany, under whom the Bio-Technology Centre was established. He also stated in his aforesaid affidavit dated 17.09.2008 (Ex. 768) that, there were 3 posts of SRA (Bio-Technology) in the Bio-Technology Centre as shown in the University order dated 25.06.2001 (Ex. 781), 2 by deployment of SRA and one already existing in the said Centre in the dept. of Agril. Botany. As regards two remaining posts of SRA required for Bio-Technology Centre, which were taken into consideration for advertisement, by deployment in future, according to him, the University had not issued any administrative order for deployment of the said 2 posts in the said centre. He also stated that the need to have specific posts in the subject of Bio-Technology in the said Bio-Technology Centre was expressed in the discussion between the then Hon. Vice Chancellor and the Director of Instructions, and accordingly, the advertisement specifying 5 posts of SRA (Bio-Technology/Bio-Chemistry) as approved by the authority was given. He, however, stated that there was no specific sanction to the

new Bio-technology unit and the posts required for it were to be made available by way of deployment from the existing available posts. The question of sanction to the new Biotechnology Unit and the posts created therein is already dealt with in earlier paras 1598-A, 1598-B, and 1599 of the Enquiry Report. It is however made clear that the Registrar has wrongly stated in his aforesaid affidavit that according to the advertisement dated 14.02.2004 (Ex. 2) “the posts notified are subject to change, and they may increase or decrease.” What is stated therein is that “the number of posts and the reservation thereof is subject to change, it may increase or decrease,” which would mean that not the posts as such but their number given in the advertisement could increase or decrease.

**1601)** In showing the final position for advertisement of SRA/JRA/AA in question, at page C/7 of the file Ex. 40 (O), relating to the Advertisement dated 14.08.2008 (Ex. 2), as the then Assistant Registrar (Estt.), Shri P. V. Behare, had written a note in his own handwriting that 29 posts of SRA (Agri.) included 4 posts i.e. 2 each in Bio-Technology and Bio-Chemistry, a notice was issued to him as well as the Dean, Faculty of Agriculture to clarify whether there were, any posts of SRA (Bio-Chemistry) in the faculty of Agriculture. In pursuance to the above notice, Dr. D. L. Sale, Dean, Faculty of Agriculture in the University stated in his affidavit dated 27.08.2008 (Ex. 764) that there were 3 posts of SRA allotted to the Bio-Technology Centre as shown above, but according to him, there was neither any sanctioned nor redeployed post of SRA in the subject of Bio-Chemistry. In answer to the notice to him, Shri P. V. Behare, Assistant Registrar, (Estt) stated in para 4 of his affidavit dated 16.09.2008 (Ex. 767) that there was no formal order issued by the University for deployment of 2 posts of SRA in Bio-Chemistry. (Vide paras 835 and 836 of the Enquiry Report.)

**1602)** It is thus clear that although 5 posts of SRA (Bio-Technology/Bio-Chemistry) were advertised, since, no formal order was issued about the sanction or re-deployment of 2 posts of SRA in Bio-Chemistry, legally speaking, there was no restriction upon the University for utilizing the said 2 posts in making appointment of these candidates selected in the posts of SRA (Agri.) although these two posts were included in 5 posts of SRA (Biotechnology/Biochemistry) which were advertised for development of the branch of Bio-Technology as stated by the Vice Chancellor and the Dean (Agri.), vide para 1598 of the Enquiry Report and for which an independent centre under the control of the Head, Department of Agricultural Botany, was established, propriety required that it should not have utilised even these two posts for appointment of the candidates selected in the posts of SRA (Agri.) only because the formal order in regard to these two posts had remained to be issued.

**1603)** Vide paras 838 to 840 of the Enquiry Report under the head “Sanctioned posts of SRA in Bio-Technology”, the Movement Register Ex. 644(O) maintained by Shri D.P. Deshmukh, Section Assistant (Estt.) on the basis of which the appointment and posting

orders were given to the candidates selected in these posts of SRA (Agri.) did not show the Bio-Technology Centre which was already functioning in the dept. of Agricultural Botany with one post of SRA (Bio-technology) amongst others as stated in the University order dated 25.6.2001 (Ex.781) and also the independent Biology centre established by it under the control of the Head, Department of Agricultural Botany with two posts of SRA (Bio-Technology) by withdrawing one post each from Seed Monitoring Cell and A.R.S., Sindewahi (Paddy) and allotting them to the said independent centre. Instead, at its page 16 relating to the Head, Department of Agricultural Botany 4 posts of SRA which, according to para 2 of the affidavit of the Registrar, Shri G. K. Bhusare, dated 08.05.2008 (Ex. 733) and para 60 of the affidavit of Shri D. P. Deshmukh, Section Assistant (Estt.) dated 15.11.2007 (Ex. 598), meant SRA (Agri.) were shown in the said department itself. It may be seen that as shown at page 27 of the earlier Staff Position Register (Ex. 881) from which Shri D. P. Deshmukh, Section Assistant (Estt.) prepared his Movement Register Ex. 644(O), originally there were only 2 posts of SRA shown in the said Register (Ex. 881) in the department of Agricultural Botany, but thereafter two posts of SRA were added therein as allotted to the said department by withdrawing one post each from Seed Monitoring Cell and A.R.S., Sindewahi (Paddy). 4 posts of SRA were thus shown in the said department in the said Movement Register (Ex. 881). Further, the said 4 posts in the said department of Agricultural Botany were filled by persons having qualifications in Agriculture and not in Bio-Technology. Even as regards, the qualifications in agriculture, they were all not from discipline of Agricultural Botany but were from other disciplines also. See the extract of pages 27 and 16 relating to the posts of SRA in the department of Botany in the Staff Position Register (Ex. 881) and the Movement Register Ex. 644(O) in para 840 of the Enquiry Report, under the topic "Sanctioned posts of SRA (Bio-Technology)". It is thus clear that 3 posts of SRA (Bio-Technology), two posts created by the aforesaid order dated 25.06.2001 (Ex. 781) and one already existing in the Bio-technology Centre in the department as stated in the said order dated 25.6.2001 (Ex.781) itself were admittedly utilized in making appointments of the candidates selected in the posts of SRA (Agri.) as shown hereinbefore.

**b) Re : Posts of SRA (Agril. Engg.) and JRA (Agril. Engg.)**

(Vide paras 767 to 830 of the Enquiry Report)

**b-1) Variation in the total number of posts of SRA (Agril.Engg.) and the departments/ schemes etc. in which they are shown by the concerned officers of the University**

**1604)** All the affidavits regarding the total number of posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) existing in the University are discussed in detail in paras 767 to 830 of the Enquiry Report. As regards the total number of the said posts and the departments/ schemes

etc. in which they exist there is difference in the figures given by the concerned officers of the University. Shri D.P. Deshmukh, Section Assistant (Estt.), whose Movement Register (Ex.644(O)) is the basis for making appointment of the candidates selected in the posts of SRA (Agri.) stated in para 67 of his affidavit dated 15.11.2007 (Ex.598) that the total number of posts of SRA (Agril.Engg.) was 7 including one Farm Group Post although his Movement Register (Ex.644(O)) actually shows two Farm Group posts under Project Engineer LFD, Wanirambapur. The Registrar, Shri Gokul K. Bhusare, also stated in para 5 of his affidavit dated 8.5.2008 (Ex.733) on the basis of the copies of the actual orders annexed by him to his aforesaid affidavit that there were 7 posts of SRA (Agril.Engg.) which included 2 Farm Group Posts in LFD Wanirambapur, sanctioned by the State Government as per its order dated 26.2.1982 (Ex.736). The Dean, Faculty of Agricultural Engineering in his letter dated 7.4.2008 (Ex.722) addressed to the Deputy Registrar (Estt.) had shown therein the total number of posts of SRA (Agril.Engg.) as 14 and after excluding the said posts in the Schemes relating to Agricultural Engineering, he had shown the total number of the said posts in the departments under the Faculty of Agricultural Engineering as 7 in his revised letter dated 29.4.2008 (Ex. 735) addressed to him. The posts of SRA (Agril.Engg.) shown in the revised Akrutibandh-2003 (Ex.724), although not designated as such, are 9 as is clear from the posts of SRA sanctioned under it in the departments relating to Agricultural Engineering. The posts of SRA (Agril.Engg.) as shown in the University Circular dated 27.2.1997 (Ex.723) are 12 including posts which are not specifically designated as such but are in the departments relating to Agricultural Engineering the bracketed figures showing the designated posts. All the posts referred to above are inclusive of the Farm Group Posts i.e. the posts under Project Engineer, LFD, Wani-rambapur. A chart prepared by this office on the basis of the Movement Register (Ex. 644(O)), the affidavits letters and the documents referred to above was shown to Shri D.P. Deshmukh, Section Assistant (Estt.), vide his affidavit dated 03.11.2008 (Ex. 773) and was then marked as Ex.775-A in this Enquiry. It is also annexed to this Enquiry Report as Annexure-32

**b-2) Whether any post of SRA (Agri.Engg.) existed in the Dept. SWCE and what about 1 post of SRA (Agril.Engg.) in the Dept. of IDES**

**1605)** Perusal of the chart (Ex.775-A) referred to above would show that Dr.P.M.Nimkar, Dean, Faculty of Agricultural Engineering, had shown 3 posts of Agril. Engg. in the department of Soil & Water Conservation Engineering (SWCE) and one post of SRA (Agril.Engg.) in the department of Irrigation, Water Management and Drainage Engineering (IDES) in his letters dated 7.5.2008 (Ex.722) and 29.4.2008 (Ex.735). In the University Circular dated 27.2.1997 (Ex.723) although three posts of SRA are shown in the said dept. of SWCE, two of them are shown with the general designation as SRA and one is shown with the designation of SRA (Agril.Engg.). It also shows one post of SRA (Agril.Engg.) in the department of Irrigation, Water Management and Drainage

Engineering (IDES). However, the Registrar Shri G.K. Bhusare, in his affidavit dated 8.5.2008 (Ex.733) did not show the said posts in the said departments. Similarly, Shri D.P. Deshmukh, Section Assistant (Estt.) who prepared his Movement Register (Ex.644(O)) from the earlier Staff Position Register (Ex.881) did not show the said departments in his Movement Register (Ex.644(O)) on the ground that there were no posts of SRA/JRA in the said departments as they were not shown in the aforesaid earlier Register (Ex.881). When questioned about the existence of the posts of SRA (Agril.Engg.) in the department of Soil & Water Conservation Engineering (SWCE), Shri S.S. Suradkar, Deputy Registrar (Estt.) stated in para 4 of his affidavit dated 2.1.2009 (Ex.825) that when the enquiry was made with the said department the letter dated 4.4.1997 (Ex.830) was traced addressed by the Deputy Registrar (Estt.) to Prof-Cum-Head of the said Department with regard to his office note no. 69/97 dated 18.3.1997. It was stated in the said letter dated 4.4.1997 (Ex.830) that there was misprint in the entries at S.nos. 4, 5, 6 and 7 relating to the said dept. in the University Circular dated 27.2.1997 (Ex.723) regarding the Staff Position as on 1.1.1997 and that there were no posts of SRA/JRA/AA as shown therein. But then there was no corrigendum issued to the said University Circular dated 27.2.1997 (Ex.723) as admitted by Shri D.P. Deshmukh, Section Assistant (Estt.) in para 2 of his affidavit dated 17.2.1997 (Ex.845) (Vide paras 729 to 791 of the Enquiry Report).

**1606)** The said letter of the Deputy Registrar (Estt.) dated 4.4.1997 (Ex.830) addressed to the Prof-cum-head of the dept. of SWCE referred to above was based upon the remarks of the then Section Officer of D-Unit in the establishment section of the University. Shri B.M. Kathiwale, who stated in his office note dated 4.4.1997 with regard to the office note no.69 dated 18.3.1997 of the Prof-Cum-Head of the said department SWCE, both marked collectively as (Ex.846) in this Enquiry, that there were no posts of SRA (Agri.), SRA (Agril.Engg.), JRA and AA in the said department. In view of the difference in the University Circular dated 27.2.1997 (Ex.723) which was not amended and the office note of Prof-Cum-Head of the above department (Ex.846) and the aforesaid letter of the Deputy Registrar (Estt.) dated 4.4.1997 (Ex.830) based upon the remarks of Shri B.M. Kathiwale, ex-Section officer of D-Unit in his office note dated 4.4.1997 (Ex.846) further enquiry was made in this matter.

**1607)** The principal affidavit in this regard is of Shri B.M. Kathiwale, Ex.Section Officer of the relevant D and B Units of the Establishment Section of the University who had taken pains to bring on record all the old Registers relating to SRA/JRA titled as “Staff Position Registers 1 to 3” and marked as Exs. 871 to 873 in this enquiry. He also brought on record his own Register titled “Staff Position Register of ‘D’ Unit” marked as Ex. 875 in this enquiry and other relevant documents to clarify the position of the posts of SRA (Agril.Engg.) in the University. The other concerned Section officers and / or Section Assistants in D and B-Units have also filed their affidavits in this regard. The said affidavits

of Shri B.M. Kathiwale and others and other relevant documents including all the Staff Position Registers on record are discussed in paras 792 to 805 of the Enquiry Report relating to the topic “Sanctioned posts of SRA (Agri. Engg.)”.

**1608)** As Regards the posts of SRA/JRA/AA shown in the department of Soil and Water Conservation Engineering (SWCE) in the University circular dated 27.02.1997 (Ex. 723), the detailed discussion of the affidavit of Shri B. M. Kathiwale, dated 17.04.2009 (Ex. 928) and other relevant affidavits and documents including old Staff Position Registers Exs. 871 to 873, and the Staff Position Register of ‘D’ Unit (Ex. 875) maintained by Shri B. M. Kathiwale himself vide paras 789 to 804 of the Enquiry Report, would show that as rightly observed by him in his office note dated 04.04.1997 (Ex. 846) there were no posts of SRA/JRA/AA in the aforesaid department of Soil & Water Conservation Engineering (SWCE). Accordingly although no corrigendum was issued to the aforesaid University circular dated 27.2.1997 (Ex. 723) in the next University circular dated 18.03.1998 (Ex. 880) filed by Shri D. P. Deshmukh, Section Assistant (Estt.) with his affidavit dated 21.03.2009 (Ex. 870) the corrections were made and no posts of SRA/JRA/AA were shown therein in the said department of SWCE. However, one post of SRA (Agri. Engg.) was rightly shown in the University circular dated 18.03.1998 (Ex. 880) in the department of Irrigation, Water Management, and Drainage Engineering (IDES) since after the bifurcation of the original department of Soil and Water Management Engineering into the departments of SWCE and IDES, one post of SRA (Agril. Engg.) which existed in the said original department was allotted to the said IDES department, vide para 799 of the Enquiry Report.

**1609)** The said post of SRA (Agril. Engg.) in the Department of Irrigation, Water Management; and Drainage Engineering (IDES) is not shown in the Movement Register (Ex. 644(O)) of Shri D. P. Deshmukh on the basis of which the appointments in question of the candidates selected in the post of SRA (Agri.) are made. Still the total number of posts of SRA shown in his Movement Register is 159 as admitted by him in para 5 of his affidavit dated 03.11.2008 (Ex. 773) and by Shri S. S. Suradkar, Deputy Registrar (Estt.) in para 5 of his affidavit dated 02.01.2009 (Ex. 825). They however, stated in their aforesaid affidavit that they cannot explain the above discrepancy. If the total number of posts of SRA remains the same i.e. 159 without including 1 post of SRA (Agril. Engg.) in the department of IDES which is not shown in the Movement Register (Ex. 644(O)) it means that the said post is utilized as post of SRA (Agri.) in making the appointments in question of the candidates selected in the posts of SRA (Agri.), particularly when as stated by Shri D. P. Deshmukh, Section Assistant (Estt.), in para 60 of his affidavit dated 15.11.2007 (Ex. 598) after excluding the posts of SRA (Agril. Engg.) and SRA (Computer) specially designated by him in his Movement Register (Ex. 644(O)) all the remaining posts of SRA shown therein were posts of SRA (Agri.) although not so specifically designated.

**b-3) Whether one post of SRA and one post of JRA in the department of Agricultural Engineering is of SRA (Agri.) /JRA (Agri.) or whether they are of SRA (Agri. Engg.)/JRA (Agri. Engg.)**

(Vide paras 774 to 783 of the Enquiry Report)

**1610)** The question whether the department of Agricultural Engineering is under Dean, Faculty of Agriculture or Dean, Faculty of Agricultural Engineering and what about the posts of SRA/JRA therein is considered in paras 774 to 783 of the Enquiry Report. It is clear from the said paras that although the said department is technically under the control of Dean, Faculty of Agriculture because the said department is shown at serial number 10 under the faculty of Agriculture in Statute 99(1), it is clear from para 5 of the affidavit of Dr. S. A. Nimbalkar, the then Vice Chancellor of the University, dated 29.04.2008 (Ex. 731) that the physical and actual control of the said department is of the Dean, faculty of Agricultural Engineering. Dr. P. M. Nimkar, Dean Faculty of Agricultural Engineering stated in para 8 of his affidavit dated 18.10.2008 (Ex. 742) that he had the additional charge of the said department of Agricultural Engineering and according to him 1 post of SRA and 1 post of JRA in the said department of Agricultural Engineering is the post of Agricultural Engineering since the nature and type of work of SRA/JRA in the said department is the same which he has described in his letter dated 29.04.2008 (Ex. 735) addressed to the Deputy Registrar (Estt.). He therefore stated that SRA/JRA working in the said department should have intensive knowledge of Agricultural Engineering to work in the said department and SRA/JRA of the other disciplines including Agriculture cannot work in the said department. He thus stated that one post of SRA and one post of JRA in the said department is of Agricultural Engineering as shown by him in his letters dated 07.04.2008 (722) and 29.04.2008 (Ex. 735) and not of SRA (Agri.) and JRA (Agri.). Even the Dean, faculty of Agriculture has shown the said posts of SRA and JRA in the department of Agricultural Engineering under him as the posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) in his affidavit dated 11.04.2008 (Ex. 726). Shri V. J. Chaware, Assistant Registrar (Estt.), admitted in para 4 of his affidavit dated 09.04.2008 (Ex. 725) that one post of SRA and one post of JRA in the said department of Agricultural Engineering were correctly shown as the posts of Agricultural Engineering in the letter of Dean, Faculty of Agricultural Engineering dated 07.04.2008 (Ex. 722).

**1611)** When the Deans of the faculty of Agriculture and the faculty of Agricultural Engineering have both stated that one post of SRA and one post of JRA in the department of Agricultural Engineering are the posts of Agricultural Engineering, their statements are authoritative and must be accepted. The statement made by Shri D. P. Deshmukh, Section Assistant (Estt.) in para 83 of his affidavit dated 15.11.2008, Shri B. M. Kathiwale in para 12 of his affidavit dated 17.04.2009 (Ex. 928) and the Registrar, Shri G. K. Bhusare in para 3 of his affidavit dated 08.05.2008 (Ex.733) cannot be accepted. Moreover, the Registrar



Shri G. K. Bhusare, admitted in para 4 of his aforesaid affidavit that for 1 post of SRA and 1 post of JRA in the department of Agricultural Engineering the intensive knowledge of Agricultural Engineering is necessary for the person who is to be appointed in the said post in the said department. He therefore stated the said posts should have been the posts of Agricultural Engineering in the said department of Agricultural Engineering and a graduate possessing degree in Agricultural Engineering should have been appointed in the said posts. However, according to him, the candidates who have qualifications in agriculture were assisting their heads. But then he sought relevant information in this regard from the Dean, Faculty of Agricultural Engineering, who, by his letter dated 29.4.2008 (Ex.735) already referred to informed him about the nature of duties required to be performed by the SRA/JRA in the said department. Perusal of the said letter dated 29.4.2008 (Ex.735) would show that according to the Dean, Faculty of Agricultural Engineering, the persons to be employed in the posts of SRA/JRA in the said department should be of Engineering Educational background only to do the work in the said department.

**1612)** As regards the entries in the Movement Register (Ex. 644(O)) maintained by Shri D. P. Deshmukh, Section Assistant, (Estt.) and also in the previous Movement Register (Ex. 881) the appointment of Shri S. B. Shinde (B.Sc. Agri.), i.e. graduate in Agriculture is shown in the post of SRA in the said department of Agricultural Engineering. But then it is clear from page 24 of the Movement Register (Ex. 644(O)) that he was physically working in CDF, Wanirambhapur and retired on 30.11.2004 whereafter the said post is vacant. As regards the post of JRA in the said department, the said post is shown vacant in the earlier Movement Register (Ex. 881) but in the Movement Register (Ex. 644(O)) maintained by Shri D. P. Deshmukh, Section Assistant, (Estt.) in which the said post is treated as post of JRA (Agri.) the appointment of Shri A. K. Kamble is shown in the said post as per the order dated 17.09.2005 which is in question in this Enquiry. The said candidate Shri A. K. Kamble, is M. Tech. i.e. the post-graduate in Agril.Engg. and can therefore perform the duties of the said post of JRA in the said department of Agricultural Engineering, although he was thereafter transferred to the post of JRA (Agri. Engg.) in AICRP on Renewable Energy Sources. The objection to the appointment of Shri A. K. Kamble in the said post is however, different and as shown hereinbefore the posts which were advertised were the posts of JRA (Agri.) and not of JRA (Agril.Engg.) and the qualification for the post of JRA (Agri.) as per Appendix –III read with Statute 73 of the Statutes, would be graduate in Agriculture and not in Agricultural Engineering. It is, therefore, held earlier that even prescribing such qualification of graduate in Agricultural Engineering for the post of JRA (Agri.) by amending the advertisement dated 14.08.2004 (Ex. 2) was illegal and therefore his appointment in the said post as advertised was held illegal.

**1613)** Vide paras 753 and 754 of the Enquiry Report, according to Shri D.P. Deshmukh, Section Assistant (Estt.), as stated by him in para 60 of his affidavit dated 15.11.2007

(Ex.598), in his Movement Register (Ex.644(O)), all the posts of SRA/JRA which are not specifically designated such as SRA (Agril.Engg.), SRA (Computer), JRA (Computer) etc. are the posts of SRA (Agri.) and JRA (Agri.). It is necessary to see that each post must be properly evaluated looking to the nature of duties required to be performed therein before designating it as the post of Agriculture, Agricultural Engineering. Merely because the Dept. of Agricultural Engineering is under the faculty of Agriculture as shown in Statute 99 (1), it would not mean that the posts of SRA/JRA therein are the posts of SRA (Agri.) and JRA (Agri.). It may be seen that the subject of Agricultural Engineering is comprised in the faculty of Agriculture as laid down in item-10 of Statute 5 (2) A relating to the faculty of Agriculture and therefore the academic staff which includes SRA/JRA as per Statute-71 must have qualifications in Agricultural Engineering. Even otherwise, as shown above the nature of work in the said dept. of Agricultural Engineering is such which a graduate / post graduate in Agricultural Engineering can alone perform and not a graduate/ post graduate in any other disciplines including Agriculture. Thus, one post of SRA and one post of JRA in the department of Agricultural Engineering are the posts of SRA (Agri. Engg.) and JRA (Agril.Engg.) only.

**b-4) Actual position of the posts of SRA (Agril. Engg.) and JRA (Agril. Engg.) in the University.**

**1614)** A chart showing the actual position of the posts of SRA (Agri. Engg.) and JRA (Agril. Engg.) in the University prepared in the light of the discussion in the above paras is as follows ;

**Actual Position of SRA (Agri. Engg.)/JRA (Agri. Engg.) in the University**

Sr. No.	Name of Dept. /Scheme	Number of SRA (Agri. Engg.)	Number of JRA (Agri. Engg.)
1	Head, Depart. Of Agril. Engg.	1	1
2	College of Agricultural Engineering		-
	A. Department of Farm Structure	1	-
	B. Department of Handling and Process Engg.	1	-
	C. Department of Irrigation Water Management, Drainage Engg.	1	-
3	AICRP for Renewable Energy Sources	1	-
4	AICRP for Dryland Agriculture	1	-
5	AICRP Harvest and Post Harvest Technology	2	-
	<b>Total (excluding farm group posts)</b>	<b>8</b>	<b>1</b>

Farm group		
Large Farm Development Scheme Central Demonstration Farm, Wanirambhapur	2	-

**b-5) The number of posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) utilized in making appointments of the candidates selected in these posts of SRA (Agri.) and JRA (Agri.).**

**1615)** As shown in the above chart, excluding the farm group posts, the total number of posts of SRA (Agril.Engg.) in the University is thus 8 and there is only one post of JRA (Agril.Engg.) in the Dept. of Agricultural Engineering in the University. It may be seen that since as stated by Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, in para 45 of his affidavit dated 1.12.2007 (Ex.633) the appointments and postings of the candidates selected in the posts of SRA (Agri.) and JRA (Agri.) are made on the basis of the vacant posts shown in the Movement Register (Ex.644(O)), it is necessary to see how many posts of SRA (Agril.Engg.) are shown therein as compared to the posts which are actually the posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) as shown above in the chart prepared in this Enquiry . Perusal of the chart (Ex.775-A) referred to above, filed as Annexure-32 of the Enquiry Report shows that as per the Movement Register Ex. 644(O), the total number of posts of SRA (Agril.Engg.) inclusive of farm group posts is 8 and as there are 2 farm group posts in L.F.D. Wanirambapur shown therein excluding the said posts, the total number of posts of SRA (Agril.Engg.) is 6 according to the said Movement Register (Ex.644(O)). There is no post of JRA (Agril.Engg.) according to it and the post of JRA in the dept. of Agricultural Engineering held in this enquiry as the post of JRA (Agril.Engg.) is shown therein as the post of JRA (Agri.).

**1616)** There is thus difference of two posts in the total number of posts of SRA (Agril.Engg.) excluding farm group posts shown in the above chart prepared in this enquiry and in the said posts shown in the Movement Register Ex.644(O). The reason is that, as already discussed above, Shri D.P. Deshmukh, Section Assistant (Estt.), has not included in his Movement Register (Ex.644(O)) the department of Irrigation, Water Management and Drainage Engineering (IDES) in which there is one post of SRA (Agril.Engg.) and has treated one post of SRA and one post of JRA in the department of Agricultural Engineering as the posts of SRA (Agri.) and JRA (Agri.) which are actually as held in this enquiry, the posts of SRA (Agril.Engg.) and JRA (Agril.Engg.). The above two posts of SRA (Agril.Engg.), one each in the dept. of IDES and the dept. of Agricultural Engineering are thus not included by him in calculating the total number of posts of SRA (Agril.Engg.). So also, one post of JRA (Agril.Engg.) in the department of Agricultural Engineering is wrongly treated by him as the post of JRA (Agri.) showing thus no post of JRA (Agril.Engg.) in his Movement Register (Ex.644(O)).

**1617)** In considering the question as to how many posts of SRA (Agril.Engg.) are utilized in making appointment of the candidates in question selected in the posts of SRA (Agri.), it has to be seen as to how many total posts of SRA (Agri.) exist in the University. Shri D.P. Deshmukh, Section Assistant (Estt.), stated in para 60 of his aforesaid affidavit dated

15.11.2007 (Ex.598) that he had shown in his Movement Register Ex.644(O) 148 posts of SRA (Agri.), 7 posts of Agricultural Engineering, and 4 posts of Computer. The above statement of Shri D.P. Deshmukh, Section Assistant (Estt.) is not actually supported by his Movement Register (Ex.644(O)) which shows 149 posts of SRA (Agri.), 8 posts of SRA (Agril.Engg.) including 2 Farm Group Posts in CDF Wanirambapur, Akola, and 4 posts of Computer. Excluding 2 farm group posts of SRA (Agril.Engg.), the total number of posts of SRA (Agril.Engg.) shown in the said Register (Ex.644(O)) would be 6. A chart prepared on the basis of his Movement Register (Ex.644(O)) is reproduced below to show that the total number of posts of SRA (Agri.) therein inclusive of posts in Bio-technology is 149.

**Number of posts of SRA shown in Movement Register (Ex. 644(O))**

Sr. No.	Name of the Department/Scheme	Senior Research Assistant			
		Agri.	Agri. Engg.	Computer	Farm Group
1	University Engineer, Akola	2			
2	Associate Dean, PGI, Akola	1			
3	Dean, Agriculture, Akola	2			
4	Associate Dean, (Instruction), Akola'	6			
5	Associate Dean, Agriculture College Akola	4			
6	Associate Dean, Agriculture College, Nagpur	11			
7	Extension Section, Agriculture College, Nagpur	1			
8	Agronomy Section, Agriculture College, Nagpur	2			
9	Horticulture Section, Agriculture College, Nagpur	1			
10	Dairy Section, Agriculture College, Nagpur	1			
11	H.D. Agronomy, Akola	5			
12	H.D. Botany, Akola	4			
13	H.D.Chemistry, Akola	2			
14	L.R.M. under H.D.Chemistry, Akola	3			
15	H.D. Entomology, Akola	2			
16	Plant Protection Survelling, under H.D. Entomology, Akola	1			
17	H.D. Plant Pathology, Akola	3			
18	H.D. Dairy, Akola	3			
19	H.D. Horticulture, Akola	2			
20	H.D. Economics, Akola	3			
21	Planning and Monitoring Cell, under H.D. Economics, Akola	1			
22	<b>H.D. Agricultural Engineering, Akola</b>	1			
23	<b>H.D. Farm Structure, Akola</b>		<b>1</b>		

Sr. No.	Name of the Department/Scheme	Senior Research Assistant			
		Agri.	Agri. Engg.	Computer	Farm Group
24	<b>H.D. Agricultural Process Engineering, Akola</b>		<b>1</b>		
25	H.D. Extension, Akola	3			
26	Associate Dean, Horticulture, Akola	4			
27	Associate Dean, Forestry, Akola	2			
28	Officer Incharge, ARS, Achalpur	2			
29	Officer Incharge, ARS, Amaravati	5			
30	Officer Incharge, ARS, Buldhana	1			
31	Officer Incharge, ARS, Washim	2			
32	Officer Incharge, ARS, Yeotmal	1			
33	Rice Breeder, ARS, Sakoli	2			
34	Officer Incharge, ARS, Kutaki	1			
35	Horticulturist, RFRS, Katol	5			
36	Officer Incharge, ARS, Tharasa	1			
37	Rice Breeder, (Paddy) Research Unit, Sindewahi	3			
38	Officer Incharge, ARS, Ramtek	1			
39	Officer Incharge, ARS, Sugarcane Research Unit, Navegaon Bandh	1			
40	Officer Incharge, ARS, Ekarjuna	1			
41	Officer Incharge, ARS, Nagpur	1			
42	Sorghum Breeder, Sorghum Research Unit, State Kharif Sorghum Scheme, Akola	2			
43	Senior Research Scientist, Wheat Research Unit, Akola	2			
44	Senior Research Scientist, Sugarcane Research Unit, Akola	1			
45	Officer Incharge, Chilli & Vegetable Research Unit, Akola	1			
46	Officer Incharge, Betalvine Research Station, Diwthana	1			
47	Director of Agroecology & Environmental Research Centre, Akola	2			
48	Senior Research Scientist ICDP (Cotton), State Scheme, Akola	2			
49	Director of Research and Deputy Director Research, Akola	2			
50	Independent Computer Centre under Director of Research, Akola			4	
51	Seed Research Officer, Seed Monitoring Cell and Cold Storage, Akola	5			
52	Associate Professor, NARP, Sakoli, Bhandara	1			

Sr. No.	Name of the Department/Scheme	Senior Research Assistant			
		Agri.	Agri. Engg.	Computer	Farm Group
53	Associate Director, NARP, Yeotmal	2			
54	Field Officer, Agricultural Prices Scheme, Akola	2			
55	Director of Extension Education, Akola	1			
56	ATIC, under Director of Extension, Akola	2			
57	Publication and Printing Unit, under Director of Extension, Akola	1			
58	Chief Scientist, KVK, Selsura	3			
59	Director of Farm, CRS, Akola				11
60	Chief Seed Prod. Officer, CDF, Wanirambhapur				13
61	Project Engineer, LFD, Wanirambhapur				<b>2 (Engg.)</b>
62	<b>Chief Scientist, AICRP of Dryland, Akola</b>	3	<b>1</b>		
63	Chief Scientist, AICRP of Cotton, Akola	4			
64	AICRP of Harvest and Post harvest, Akola		<b>2</b>		
65	SRS, AICRP on Oilseed, Sunflower, Akola	2			
66	Breeder Genetics, AICRP, Linseed, Nagpur	1			
67	Senior Horticulturist, AICRP, Tropical Fruits Citrus, Akola	4			
68	SRS, AIC, Sorghum, Improvement Project, Akola	3			
69	Associate Professor, AICR on Agro-forestry, Nagpur	2			
70	SRS, Sunflower, Seed Production, Akola	2			
71	<b>Research Engineer, AICRP for Renewable Energy Sources, Akola</b>		<b>1</b>		
72	Associate Professor, (Agronomist), AICRP on Medicinal and Aromatic Plant, Akola	1			
<b>Total</b>		<b>149</b>	<b>6</b>	<b>4</b>	<b>26</b>
<b>Total 149 + 6 + 4 + 26 = 185</b>					

**1618)** Since the appointments of the candidates selected in the posts of SRA (Agri.) is made after finding out the vacant posts for them in the said Movement Register Ex. 644(O),

it is these 149 posts of SRA (Agri.) which had to be looked into and not what Shri D.P. Deshmukh, Section Assistant (Estt.), has stated in his aforesaid affidavit.

**1619)** It then needs to be seen that the total number of posts of SRA (Agri.) is determined by the University after excluding from the total number of posts of SRA in the University i.e. of all its categories, the total number of posts of SRA (Agril.Engg.) and SRA (Computer) and not of other categories of SRA such as SRA (Bio-technology) etc. or other posts such as STA treated as posts of SRA which are utilized in making the impugned appointments of the candidates selected in the posts of SRA (Agri.). Therefore, in order to find out whether any post of SRA (Agril.Engg.) is utilized for making appointment of the candidates selected in the posts of SRA (Agri.), proceeding in the same manner, the posts of SRA (Agril.Engg.) and SRA (Computer) are only excluded for determining the total number of posts of SRA (Agri.) which exist in the University.

**1620)** As regards the total number of posts of SRA (i.e. of all categories) in the University, it is necessary to bear in mind that as per the revised Akrutibandh-2003 (Ex.724) on the basis of which a chart (Ex.756) is enclosed with the affidavit of the then Registrar Shri G.K. Bhusare, dated 17.5.2008 (Ex.754) the total number of sanctioned posts of SRA in the University is 154 after reducing 4 posts thereof from its earlier sanctioned strength of 158. However, after including 5 posts of ICAR on 100 percent grant basis, the total number of posts in the University is 159. It is this sanctioned strength of 159 posts of SRA calculated as per the revised Akrutibandh-2003 (Ex.724), which is shown by Shri D.P. Deshmukh, Section Assistant (Estt.), in his Movement Register (Ex.644(O)) on the basis of which he recorded his office note dated 15.7.2004 at the time of the advertisement of these posts of SRA dated 14.8.2004 (Ex.2) contained in the file Ex.40(O), vide para 60 of his aforesaid affidavit dated 15.11.2007 (Ex.598). In determining the total number of posts of SRA (Agri.), from the said total 159 posts of SRA, the posts of SRA (Agril.Engg.) and SRA (Computer) are only excluded as is done by the University. So far as the posts of Computer are concerned, there are 4 posts of SRA (Computer) about which there is no dispute. As per the calculations made in this enquiry shown in the chart reproduced above, there are 8 posts of SRA (Agril.Engg.) excluding two farm group posts in Wani Rambhapur, Akola. Therefore, excluding these 8 posts of SRA (Agril.Engg.) and 4 posts of SRA (Computer), from 159 total posts of SRA, the total number of posts of SRA (Agri.) would be 147. However, as shown above, in the chart prepared on the basis of the Movement Register (Ex.644(O)) the total number of posts of SRA (Agri.) are 149. As already pointed out above, the said difference of two posts of SRA (Agril.Engg.) arises because admittedly the department of IDES in which one post of SRA (Agril.Engg.) exists is not included in the Movement Register (Ex.644(O)) and one post of SRA in the department of Agricultural Engineering is wrongly treated as the post of SRA (Agri.). Thus, as shown above, the above two posts of SRA (Agril.Engg.) are treated as the posts of SRA (Agri.).

**1621)** As regards one post of SRA (Agril.Engg.) in the dept. of IDES, when the said Dept. of IDES was not shown in the Movement Register (Ex.644(O)) it means that one post of SRA (Agril.Engg.) therein was not shown in the said Movement Register (Ex.644(O)). The total number of posts of SRA (i.e. of all categories) should have been then shown less than one but Shri D.P. Deshmukh, Section Assistant (Estt.), in para 5 of his additional affidavit dated 3.11.2008 (Ex.773) and Shri S.S.Suradkar, Deputy Registrar (Estt.), also in para 5 of his affidavit dated 2.1.2009 (Ex.825) stated that even after excluding the post of SRA (Agril.Engg.) in the aforesaid department of IDES, the total number of posts shown in the Movement Register Ex.644(O) is 159 which clearly means that the said post is utilized by the University as the post of SRA (Agri.) in making appointment of the candidate selected in the post of SRA (Agri.).

**1622)** Although, as shown above, the post of SRA (Agril.Engg.) in the dept. of IDES was utilized for making appointment of the candidates selected in the posts of SRA (Agri.), the post of SRA (Agril.Engg.) in the department of Agricultural Engineering can not be said to be utilized for the said purpose even if it was treated as the post of SRA (Agri.) by Shri D.P. Deshmukh, Section Assistant, (Estt.) because perusal of his Movement Register (Ex.644(O)) would show that the said post remained vacant after retirement of Shri S.B. Shinde, B.Sc. (Agri.) on 30.11.2004 who also did not work in the said post but was physically working in CDF Wanirambapur, Akola and none of the candidates selected in the posts of SRA (Agri.) was appointed in the said post.

**1623)** It may be seen that the departmentwise charts (Ex. 757) of the sanctioned posts of SRA (Agri.) as on 14.8.2004 and 16.9.2005 annexed by the then Registrar Shri G.K. Bhusare to his affidavit dated 17.5.2008 (Ex.754) show that the total number of posts of SRA (Agri.) is 148. Perusal of the said charts (Ex. 757) would show that in preparing the said charts (Ex.758) from the Movement Register Ex.644(O), the department of Agricultural Engineering, with one post of SRA therein which is treated as the post of SRA (Agri.) by the University is not included therein. If the said post is included, the total number of posts of SRA (Agri.) according to the said charts (Ex.757) would also be 149 as shown above in the chart prepared on the basis of the Movement Register Ex.644(O). It may be seen in this regard that in preparing the charts of sanctioned posts of JRA (Agri.) as on the said dates i.e. 14.8.2004 and 17.9.2005 the University has included in the said charts the said department of Agricultural Engineering at serial no.13 so as to include the post of JRA therein as the post of JRA (Agri.).

**1624)** It is, therefore, clear that one post of SRA (Agril.Engg.) in the department of IDES is alone utilized in making appointment of the candidates selected in the post of SRA (Agri.).



**1625)** As regards one post of JRA in the Dept. of Agricultural Engineering held in this enquiry as the post of Agricultural Engineering but which is shown as the post of JRA (Agri.) in the Movement Register (Ex.644(O)), as already shown above, the said post was utilized as the post of JRA (Agri.), but the candidate appointed in the said post Shri A.K. Kamble, had qualification in Agricultural Engineering being M.Tech. but as already shown hereinbefore in the topic relating to Addendum no. BEJ/02/2004 dated 6.9.2004 also marked as (Ex.2) from paras 1049 to 1082 and in particular para 1065 his appointment was held illegal since the post of JRA (Agril.Engg.) was not advertised by the University and for the post of JRA (Agri.) which was advertised the qualification of Agricultural Engineering was illegally prescribed by the University by amending the advertisement dated 14.8.2004 (Ex.2) when Appendix-III read with Statute-73 of the Statutes required degree in Agriculture for the post of JRA (Agri.) as shown in the topic referred to above.

**c) Re : Posts of Senior Technical Assistant (STA) in the independent Estate Unit under the control of the University Engineer**

(Vide paras 842 to 855 of the Enquiry Report)

**1626)** Perusal of the Movement Register (Ex.644(O)) would show that Shri D.P. Deshmukh, Section Assistant (Estt.), without getting himself informed about the University order dated 25.6.2001 (Ex.780) had shown in the office of the University Engineer two posts of SRA (Agri.). He did not show therein the independent Estate Unit established under the control of the University Engineer as per the said order dated 25.6.2001 (Ex.780). He did not also mention the designation of the said post as Senior Technical Assistant (STA) as per the said order dated 25.6.2001 (Ex.780) although even in the set-up of the posts in the office of the University Engineer sanctioned as per the revised Akrutibandh-2003 (Ex.724) the designation of the post mentioned therein is STA and no post of SRA is shown therein. It is also not mentioned either in the aforesaid order dated 25.6.2001 (Ex.780) or in the aforesaid set-up of the posts in the revised Akrutibandh-2003 (Ex.724) or in any other order by the University that the post of STA is in the cadre of SRA, much less that it is equivalent to the post of SRA (Agri.) (vide para 843 of the Enquiry Report). It is material to see that whenever the posts are differently designated but are of SRA cadre, it is so shown in the University Circular dated 27.2.1997 (Ex.723). Even in the order of the University dated 27.7.2001 (Ex.739) enclosed by the Registrar Shri G.K. Bhusare, with his affidavit dated 8.5.2008 (Ex.733), the post of Sr. Mechanic is specifically shown as equivalent to the post of SRA (Agril.Engg.) by bracketing it with the said post.

**1627)** In considering the question whether the posts of Senior Technical Assistant in the Estate Unit under the control of the University Engineer are the posts of SRA (Agri.), it is necessary to bear in mind that in the University Circular dated 27.2.1997 (Ex.723) no posts of SRA or STA was shown in the set-up of the posts in the office of the University

Engineer and for the first time two posts of Senior Technical Assistant (STA) were created in the Independent Estate Unit established under the Control of the University Engineer as per the order dated 25.6.2001 (Ex.780) by allotment of two surplus posts of SRA, one each from H.D. Agronomy, Akola and Chilli Research Unit, Akola with the revised designation as Senior Technical Assistant. It is however, not stated by the University in the said order dated 25.6.2001 (Ex.780) or in any other order that the said posts were in the cadre of SRA, muchless that they were posts of SRA (Agri.) or SRA (Agril. Engg.).

**1628)** The Registrar of the University Shri G.K. Bhusare, however, stated in his affidavit dated 17.9.2008 (Ex.768) that as the post of Senior Technical Assistant (STA) was created in the office of the University Engineer by way of deployment of SRA from its existing sanctioned strength, the two posts of STA were in the cadre of SRA only although it is not so specifically mentioned in the revised Akrutibandh-2003 (Ex.724). He then stated that the need of the post was assessed due to paucity of staff under the University Engineer specially for estate section and maintenance of University property records. As regards the duties of the said post in the office of the University Engineer, he stated that some duties of the posts of SRA which were of administrative nature were expected to be performed by the SRA provided in the office of the University Engineer specially related to the estate unit. According to him, their services were also utilized for survey of land etc. He admitted in the last para of his aforesaid affidavit that the duties and responsibilities of the post of STA borne on the establishment of the University Engineer, were not specified. It may be seen that when the post of STA is principally a technical post, the fact that SRA can perform the duties of the said post which are of administrative nature and which may be incidental to his principal duties would not mean that SRA is fit to be appointed in the said post.

**1629)** Dr. S. M. Tale, Associate Professor and Head, Dept. of Soil & Water Conservation Engineering (SWCE), Faculty of Agricultural Engineering, who was holding the additional charge of the post of University Engineer since 17.08.2007 stated in para 2 of his affidavit dated 20.9.2008 (Ex.770) that the work in the office of the University Engineer was about planning, preparing estimate of the development and infrastructure work in the University, to prepare the proposal for funding, to give technical sanction to the estimate, to make budgetary provisions for various works, estate management and various maintenance works. Perusal of paras 3 and 4 of his aforesaid affidavit would show that there was an administrative as well as field staff in the office of the University Engineer and that two posts of Senior Technical Assistant (STA) were included in its field staff. He further stated in the said para 4 of his aforesaid affidavit that the duties of the Senior Technical Assistant were about the land surveying, estate management, assessment of losses, fixing of boundary etc. and his help was taken for farm side development also, whereas Sectional Engineer, according to him, was helpful in purely civil works. He then stated that although

the qualifications for the said posts of Senior Technical Assistant and also the duties and responsibilities required to be performed in the said posts were not laid down by the University, the said posts were treated as the posts of SRA (Agri.)

**1630)** According to Dr. S. M. Tale, as stated by him in para 5 of his affidavit dated 20.9.2008 (Ex.770) a graduate / post graduate in Agriculture who had some basic knowledge about the Agricultural Engineering as the said subject was taught in his B.Sc. (Agriculture) Course and also a graduate/post graduate in the faculty of Agricultural Engineering who had also some basic knowledge about the subject of Agriculture besides having intensive knowledge about Agricultural Engineering could do the work of land survey and estate management upon the farm. However, comparatively according to him, as the subject of Farm and Agro Industries Structure Road and Civil Engineering was taught in the course of Agricultural Engineering a graduate and post graduate in Agricultural Engineering had better knowledge about the work and the activities carried out in the office of the University Engineer, land surveying and estate management. In this regard, Dr. P. M. Nimkar, Dean, faculty of Agricultural Engineering firmly stated in para 11 of his affidavit dated 18.10.2008 (Ex. 772) that SRA (Agril. Engg.) can but SRA (Agri.) cannot discharge the duties in the office of University Engineer, muchless in the post of Senior Technical Assistant, which is a technical post. Dr. S. M. Tale however, admitted in the said para 5 of his aforesaid affidavit that according to him, no thought was given to the post of Senior Technical Assistant and the said post was yet to be evaluated and its duties and responsibilities fixed. As regards the question whether SRA (Agri.) or SRA (Agril. Engg.) or both can discharge the duties of the post of Senior Technical Assistant.

**1631)** After seeing the set-up of the posts in the office of the University Engineer in the University Circular dated 27.2.1997 (Ex.723) Dr.S.M. Tale, holding the charge of the post of University Engineer admitted in para 6 of his aforesaid affidavit dated 20.9.2008 (Ex.770) that there was no post of Senior Technical Assistant or SRA shown therein. He also admitted that at pages 33 and 34 of the revised Akrutibandh-2003 (Ex.724) in the set-up of the office of the University Engineer, the post shown at S.no.29 was of Senior Technical Assistant but it was not shown therein that it was in the cadre of SRA or that it was equivalent to the post of SRA (Agri.).

**1631-A)** Dr.S.M.Tale, holding the charge of the post of University Engineer, however, admitted in para 7 of his affidavit dated 20.9.2008 (Ex.770) that since the time he had taken the additional charge of the office of the University Engineer, he had not seen any SRA working in the said department doing the duties of the posts of Senior Technical Assistant relating to land survey, and estate management as referred to in the above para 1629 of the Enquiry Report. He further stated in para 8 thereof that as regards the duties of the posts of STA narrated by him and also as regards the question whether the graduate in Agriculture can perform the said duties of Senior Technical Assistant he had no personal

knowledge because during the time he had additional charge of the said office, no SRA (Agri.) actually worked as Senior Technical Assistant in the said office. As shown in subsequent paras 1632 to 1634 of the Enquiry Report, the appointees i.e. SRAs (Agri.) although appointed in the said posts of STA in the office of the University Engineer as shown in the Movement Register Ex.644(O) and also the previous Register (Ex.881) were physically or actually working elsewhere i.e. in other department/scheme relating to Agriculture.

**1632)** As regards the Movement Register (Ex.644(O), Shri D.P. Deshmukh, Section Assistant (Estt.), stated in para 1 read with para 2 of his affidavit dated 3.11.2008 (Ex.773) that he prepared the said Movement Register from the previous Staff Position Register (Ex.881) maintained by Shri A.B. Raut, the then Senior Clerk in D-Unit of the establishment section. Perusal of the said previous Register (Ex.881) would show that at its page-1, the entries under the head, the office of the University Engineer.

**1633)** “Establishment of Estate Unit under the University Engineer”, two posts of SRA are shown in which in one post, the posting of Shri P.A. Kahate who was transferred from GTC Buldhana under the order dated 26.6.2001 is shown. However, in the entry about him, it was shown that he was relieved from this post and was transferred under the Senior Research Scientist (SRS) Sorghum on 7.8.2002. The other appointee in the other post of SRA shown in the office of the University Engineer in the said Register (Ex.881) is Shri V.R. Vaidya, who was shown to be physically working under the CSPO, CDF Wanirambhapur till he was promoted in the post of Assistant Professor and was posted under the H.D, Extension.

**1634)** However at page-1 of his Movement Register Ex.644(O) in showing the set-up of the posts in the office of the University Engineer, Akola (Estate Unit), Shri D.P. Deshmukh, Section Assistant (Estt.) did not make any reference to the two posts of STA created in the independent Estate Unit as per the aforesaid order dated 25.6.2001(Ex.780) and the above appointees shown in the said previous Register (Ex.881). Perusal of his Movement Register (Ex.644(O)) would show that he had shown two posts of SRA, which, according to him means SRA (Agri.), in the office of the University Engineer. In one of the said posts, he had shown the transfer of Ku. K.J. More, SRA (AHD) on 15.9.2005 from the College of Agriculture, Nagpur, on paper only as she was shown physically working in the said college at Nagpur. Similarly, in the other post of SRA (Agri.) in the said office of the University Engineer the appointment of the new candidate Ashish B. Bagde, M.Sc. (Botany) selected in the post of SRA (Agri.) is shown as per the order dated 16.9.2005 but he is also shown physically working in the Dept. of Horticulture. For detailed discussion about them (See paras 1525 and 1526 of the Enquiry Report).

**1635)** It is thus, clear that although the posts created in the independent estate unit under the control of the University Engineer were of Senior Technical Assistant, the posts shown in the aforesaid Movement Register (Ex.644(O)), were of SRA (Agri.) but the appointees in the said posts had not actually worked as Senior Technical Assistant or SRA (Agri.) therein since they were physically working elsewhere in the departments relating to Agriculture. It is pertinent to see that the question about appointment, transfer etc. of SRA/JRA/AA are decided on the basis of the information supplied from the said Movement Register (Ex.644(O)) as stated by Shri D.P. Deshmukh, Section Assistant, in para 2 of his affidavit dated 3.11.2008 (Ex.773) and the impugned appointments and postings in the posts of SRA (Agri.) and JRA (Agri.) were made after seeing the said Movement Register (Ex.644(O)) as stated by the Registrar / Member Secretary of the Selection Committee in para 45 of his affidavit dated 1.12.2007 (Ex.633).

**1636)** Dr.S.M.Mendhe, who was working as Professor of Agronomy and Estate Officer-II in the College of Agriculture, Nagpur, had submitted a note dated 21.11.2008 (Ex.801) about the nature of work in the Estate office in the College of Agriculture at Nagpur and also the Estate Unit in the office of the University Engineer in Akola. According to him, as the Estate Officer-II, he was looking after the landed property belonging to the said College and his work included the protection of land, measurement of land whenever taken by the appropriate authority, maintenance of record and related court cases. As regards the work in the Estate unit under the University officer at Dr.PDKV, Akola, he stated in para 4 that the work in the University Engineer's officer is only restricted to construction of new building, their maintenance and repairs. Further, according to him, there are number of research stations under the jurisdiction of Dr.PDKV, Akola in Vidarbha region and it is expected that the developmental work of the farm i.e. Soil and Water Conservation, Irrigation and Drainage, Water Harvesting including construction of farm ponds etc. is also to be carried out by the University Engineer's office for execution of which work, according to him, the services of persons having degree in agriculture or agricultural engineering are necessary. Perusal of the above referred para 4 of his note (Ex. 801) would show that the work about the farm side and development is not actually being carried out by the office of the University Engineer in Akola and its work is restricted only to construction of new building, their maintenance and repairs. It also shows that a person having knowledge of agricultural engineering, whether from agriculture faculty or the faculty of agricultural engineering is suited for executing the work of farm side development referred to by him. However, he also does not have any personal knowledge about the actual activities carried on in the Estate unit in the office of the University Engineer, Akola and the staff required to discharge the duties and responsibilities therein.

**1637)** It is however necessary that when a new post is for the first time created it needs to be first evaluated from the point of view of the duties and responsibilities of the said post

looking to the nature of work in the office/department in which it is created and accordingly the qualifications of the persons to be appointed in the said post also need to be determined. It is clear that the new post of STA is created for the first time in the independent Estate Unit established under the control of the University Engineer as per the University order dated 25.6.2001(Ex.780). It is not shown to be the same or equivalent to the post of SRA much less SRA (Agri.), in the said order dated 25.6.2001 (Ex.780) or in any other order by the University. It is admittedly not evaluated and its duties and responsibilities and also the qualifications for persons to be appointed in the said posts are not fixed looking to the nature of work in the independent Estate Unit established under the control of the University Engineer as per the aforesaid order dated 25.6.2001(Ex.780). As is clear from the Movement Register (Ex. 644(O)) no SRA (Agri.) appointed in the said post has actually worked in the said post but was physically working in some other department of Agriculture in the University. Infact, no notice of the said post of STA as such is taken in the Movement Register (Ex.644(O)) as the posts shown therein in the office of the University Engineer are the posts of SRA (Agri.). Merely because two posts of STA are created in the independent Estate Unit by allotment of two surplus posts of SRA by withdrawing them from their erstwhile department/ unit, it would not mean that they are still the posts of SRA. After their allotment as the posts of STA in the independent Estate Unit, they would not remain posts of SRA, muchless of SRA (Agri.) unless so stated in the said order or any other order by the University.

**1638)** Therefore, before utilising the said posts of STA in the independent Estate Unit under the control of the University Engineer as the posts of SRA (Agri.) in which the appointment of graduate/post graduate having qualification in agriculture could be made, the said posts should have been evaluated first. It is open to the University to fix its qualifications as that of graduate/post graduate in Agriculture or Agricultural Engineering or any of them or some other qualification looking to the nature of work to be done in the said posts. The said posts could not have been utilised as posts of SRA (Agri.) without first evaluating them as stated above, particularly when no graduate/ post graduate in agriculture appointed in the said posts had actually worked therein as seen from the Staff Position Register (Ex. 881) and Movement Register (Ex. 644(O)) and also as admitted in paras 7 and 8 of his affidavit dated 20.9.2008 (Ex.770) by Dr.S.M.Tale, who held the charge of the post of University Engineer but was physically working elsewhere in some other department of Agriculture.

**1638-A)** It perhaps gives an impression that no post of STA or SRA was required in the office of the University Engineer in which no such posts existed till the posts of STA were created as per the order dated 25.6.2001 (Ex.780), vide University Circular dated 27.2.1997 (Ex.723). It appears that the post required in the University was of SRA (Agri.) but since the Govt. had at that time started the process of reducing the number of posts in

the University to effect economy in its expenditure, as is clear from para 15 of the affidavit of Shri B.M. Kathiwale, dated 17.4.2009 (Ex.928), the said two posts were created with different designation in the independent Estate Unit under the control of the University Engineer as per the order dated 25.6.2001 (Ex.780) which is not the office/ department in the University concerning Agriculture. However, the posts of STA created therein had been or are being utilized by the University as the posts of SRA (Agri.) in the departments/schemes relating to Agriculture. If the said posts of STA are really required in the independent Estate Unit under the control of the University Engineer, as stated by the Registrar, Shri G.K.Bhusare, in his affidavit dated 17.9.2008 (Ex.768) according to whom, the need of the said post was assessed due to paucity of the staff under the University Engineer, Estate Section and maintenance of records, it is necessary for the University to evaluate the said posts, fix its duties and responsibilities looking to the nature of work in the Estate Unit, and accordingly to lay down qualifications for the persons to be appointed in the said posts. It is thus clear that two posts of STA created in the independent Estate Unit established under the control of the University Engineer as per the University order dated 25.6.2001 (Ex.780), were utilized for appointment of the candidates selected in these posts of SRA (Agri.).

**d) Number of posts of other categories of SRA/JRA and other posts utilized in making impugned appointments in the posts of SRA (Agri.) / JRA(Agri.)**

As discussed above, the following posts of other categories of SRA and JRA, and two posts of STA are illegally utilized by the University in making the impugned appointments in the posts of SRA (Agri.) and JRA (Agri.) without the sanction of the Executive Council for converting and/or treating the said posts as posts of Agriculture.

**d-1) Final calculation of SRA (Agri.) as on 15.09.2005**

**1639) Re.SRA** : As shown above, the following posts could not have been utilized for making appointments of the candidates selected in the posts of SRA (Agri.)

3 Posts of SRA ( Bio-technology)

1 Post of SRA (Agril.Engg.)

2 Posts of Senior Technical Assistant

Total : 6 Posts

As regards 5 posts of SRA (Bio-technology), which were advertised in the advertisement in question dated 14.8.2004 (Ex.2) with separate qualifications for the said posts, the University admitted that instead of filling the said posts, it utilized them for appointment of the candidates selected in these posts of SRA (Agri.). However, as pointed out in para 1599 of the Enquiry Report, the University could not have utilized three posts of SRA (Bio-technology) in the Bio-technology Centre under the control of the Head, Dept. of

Agricultural Botany. But, as pointed out in para 1602 of the Enquiry Report, since no formal order was issued for creation of two posts of SRA (Bio-chemistry), out of 5 posts of SRA (Bio-technology) which were advertised legally speaking, they could be used as the posts of Agriculture as the formal orders in that regard had remained to be issued although propriety required that they should not have been utilized for making appointment of the candidates selected in these posts of SRA (Agri.) as they were to be created for development of the branch of Bio-technology as stated by Dr.S.A.Nimbalkar, the then Vice-Chancellor and by Dr.V.D.Patil, the Dean (Agri.) in their affidavits already referred to earlier vide para 1598 of the Enquiry Report and for which the aforesaid independent Bio-technology centre was established as per the University order dated 25.6.2001 (Ex.781).As held in para 1565 of the Enquiry Report, had the above 6 posts been not utilized, the University could not have accommodated 55 candidates selected in the posts of SRA (Agri.).

**1639-A)** The vacancy position in the post of SRA (Agri.) as on 15.09.2005 i.e. at the time of appointment after excluding 6 posts other than the posts of SRA (Agri.) from the total posts of SRA 148 inclusive of 5 posts of SRA (Bio-technology) is worked out as follows;

Total number of post of SRA (Agri.) as on 15.09.2005 – 142

Nomination and promotion quota – 71 : 71.

Promotees as on 15.9.2005	Vacant posts in promotion quota	Direct Recruits as on 15.9.2005	Vacant posts in nomination quota	Total vacant posts as on 15.9.2005
70	01	21	50	51

Not only the vacant posts in nomination quota but even the total number of vacant posts included in nomination and promotion quota are not enough to accommodate all the candidates selected in the posts of SRA (Agri.).

N.B. There is no change in the total number of posts of SRA (Agri.) as per the revised Akrutibandh 2003 (Ex. 724) (Vide the chart Ex. 756 filed by the University)

**d-2) Final calculation of JRA (Agri.) as on 15.09.2005 as per revised Akrutibandh-2003 (Ex.724)**

**1640) Re.JRA :** As shown above, there was only one post of JRA (Agril.Engg.) in the dept. of Agricultural Engineering which was wrongly treated and utilized as the post of JRA (Agri.). However, the candidate appointed in the said post Shri A.K.Kamble, was post graduate in Agricultural Engineering whose appointment in that post was held illegal for other reasons as given in para 1065 of the Enquiry Report. Hence the total number of posts of JRA (Agri.) and consequently the vacancy position therein would less by one. Hence the



number of post of JRA (Agri.) and consequently the vacancy position therein would be less by one.

**1640-A)** Vide para 2172-A, of the Enquiry Report, as per the revised Akrutibandh-2003 (Ex.724), the total number of sanctioned posts of JRA (Agri.) are 94 out of which 4 posts are of Computer and 90 posts are of JRA (Agri.) (See the chart Ex. 756 filed by the University). Adding to them 15 posts of JRA (Agri.) created on 25.8.2004 by ICAR for Krushi Vigyan Kendra's, the total number of posts of JRA (Agri.) would be 105 as on 15.9.2005. But one post of JRA is of JRA (Agril. Engg.) as stated above but is wrongly treated as post of JRA (Agri.). Reducing therefore further 1 post, the total number of posts JRA (Agri.) would be 104 as on 15.09.2005.

Hence nomination and promotion quota would be 52 : 52.

Promotees as on 15.9.2005	Vacant posts in promotion quota	Direct Recruits as on 15.9.2005	Vacant posts in nomination quota	Total vacant posts as on 15.9.2005
30	22	4	48	70

Not only the vacant posts in nomination quota but even the total number of vacant posts included in nomination and promotion quota are not enough to accommodate all the candidates selected in the posts of JRA (Agri.).