

## **Part-IV**

### **FINDINGS AND CONCLUSIONS**

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

(Vide para 1024 of the Enquiry Report)

**1808)** Vide para 1024 of the Enquiry Report, being state within the meaning of Article 12 of the Constitution of India, the University is bound by the mandate of the fundamental rights under Articles 14 & 16 thereof. Its actions in service matters cannot therefore be arbitrary, discriminatory, capricious or 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 and regulations, if any, framed thereunder. It must also follow the G.Rs. or the Government Circulars which are binding upon it. Any action of the University which infringes Articles 14 & 16 of the Constitution of India or the Statutory provisions applicable to it or the G.Rs. or the Government circulars applicable to it would be illegal and invalid.

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

(Vide paras 1025 to 1027 of the Enquiry Report)

**1809)** Vide paras 1025 to 1027 of the Enquiry Report, as stated by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University in paras 4, 5 and 6 of his affidavit dated 14.1.2008 (Ex.658), no decision is taken in the University relating to its affairs orally but the same is always taken in writing. As regards the procedure followed in the University in taking decision upon any matter relating to its affairs, a file is opened in which an office note is written by the concerned clerk /Section Assistant / officer about such matter which is forwarded through proper channel to the Head of the office/department to which it relates, and it is only after he had given his opinion or made recommendation about it that the file relating thereto is forwarded to the Vice-Chancellor for his approval. If the Vice-Chancellor is satisfied about the opinion / recommendation given by the Head of the Office/Department, he would grant his approval by signing such note-sheet and in case he is not satisfied about it, he would call for the concerned clerk/officer and / or relevant records and after getting necessary information he would approve such proposal only after being satisfied about it. In particular, as regards the administrative side of the University with which this Enquiry is concerned, as stated by him in para 6 of his aforesaid affidavit, the procedure followed in the University regarding any administrative matter is that a proposal regarding it would be initiated in writing by the concerned clerk / section assistant/

officer in the Registrar's office contained in the file opened for that purpose. His office note about such proposal would then be forwarded to the Vice-Chancellor for his approval through proper channel i.e. through the Assistant Registrar, Deputy Registrar and the Registrar who would give their opinion / remarks either by recording separate note-sheet or by only signing such office note in token of its approval before forwarding it for final approval of the Vice-Chancellor. It would be shown in the relevant topic/s hereinafter how the decisions / actions were taken in the University in breach of above procedure in making selections and appointments in this case.

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

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

(Vide Paras 1029 to 1037 of the Enquiry Report)

**1810)** Although the nomination of two professors upon the Selection Committee as per its composition under Statute 76 (1) of the Statutes cannot be said to be made by its Chairman as required by it, it is held in para 853 of the Enquiry Report that since it is made by the Vice-Chancellor in consultation with him, it is merely a procedural irregularity and not an illegality in Constitution of the Selection Committee under Statute 76(1). It would not therefore vitiate its proceedings and on that ground render the selections made by it illegal. Even otherwise, as provided in Statute 137 of the Statutes, no Act or proceeding of the Selection Committee can be invalidated by reason of any defect in its constitution and therefore, even 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 the candidates in the posts of SRA (Agri.) and JRA (Agri.) made by it cannot be said to be vitiated on the ground that the nomination of two members upon the Selection Committee in the category of Professors was not made by its Chairman but was made by the then Vice-Chancellor.

### **ii) Advertisement dated 14.8.2004 with its addendum dated 06.09.2004 collectively marked as Ex. 2**

#### **a) Advertisement dated 14.8.2004 (Ex.2) of the posts of SRA (Agri.) and JRA (Agri.) amongst others**

(Vide Paras 1038 to 1048 of the Enquiry Report)

**1811)** The advertisement of various categories of the posts of SRA/JRA such as SRA (Agri.), and JRA (Agri.) etc. should have been more specific by notifying the department and / or scheme etc. where the vacancies actually existed in order to avoid any manipulation of appointment of the candidates in the said post. In other words, departmentwise/ Schemewise vacancies should have been advertised.

**1812)** As regards the procedure about submitting applications for the posts which were advertised although it was proper to call for separate application from the candidates for each post, the procedure adopted by the University as per the aforesaid advertisement date 14.8.2004 (Ex.2) in calling from the candidates separate applications for each category of post i.e. S.C., S.T. etc. was cumbersome and confusing and had unnecessarily increased the load of the applications for the posts of SRA (Agri.) and JRA (Agri.) in question.

**1813)** 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 had applied for open category or not, vide para 1210 (a) and (b) of the Enquiry Report.

**1814)** 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 its 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, vide para 1199 of the Enquiry Report.

**1815)** 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 dated 6.9.2004 to the aforesaid advertisement dated 14.8.2004 also marked as (Ex.2)**

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

(Vide paras 1049 to 1082 of the Enquiry Report)

**1816)** In view of the representation and agitation of the Agricultural Engineering graduates, the qualification of Bachelor's degree in Agricultural Engineering faculty was introduced as an additional qualification for the post of JRA (Agri.) as per the aforesaid addendum dated 6.9.2004 to the original advertisement dated 14.8.2004 (Ex.2) in which the posts of JRA (Agri.) were advertised with the qualification of Bachelor's degree in Agriculture faculty.

**1817)** Vide para 1065 of the Enquiry Report, for the reasons given therein and, in particular, since the qualification laid down for the post of JRA (Agri.) at S.no.4 in Appendix-III read with statute-73 is "Bachelor's degree in respective faculty" which would mean that for the post of JRA (Agri.), Bachelor's degree should be in the faculty of Agriculture and not in the faculty of Agricultural Engineering, the additional qualification of Bachelor's degree in Agricultural Engineering faculty laid down for the said post of JRA (Agri.) as per the addendum dated 6.9.2004 (Ex.2) is illegal and invalid, and unless the said qualification laid down in Appendix-III read with Statute 73 of the Statutes is appropriately amended by incorporating their qualification also for the post of JRA (Agri.) the graduates in Agricultural Engineering are ineligible for the said post of JRA (Agri.). Sub-Sections 2 and 6 of Section 38 of the University Act provide for amendment of the "Statutes".

**1818)** As held in para 1069 of the Enquiry Report since the Agricultural Engineering graduates are ineligible for being selected and appointed in any post of JRA (Agri.) as they do not possess the requisite qualification of Bachelor's degree in Agriculture as required under Appendix-III read with Statute 73 of the Statutes, the question of holding them eligible for some posts of JRA (Agri.) as per the report of the Committee dated 31.8.2004 (Annexure No.4) of the Enquiry Report does not arise. However, as regards the question whether intensive study and knowledge of Agricultural Engineering is necessary to work in the post of JRA (Agri.) in the departments referred to by Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University in para 26 of his affidavit dated 14.1.2008 (Ex. 658), the said question is considered in paras 1061, and 1069 to 1071 of the Enquiry Report.

**1819)** Vide para 1073 of the Enquiry Report, as regards the submission on behalf of the Agricultural Engineering graduates that, since there existed some posts of JRA (Agril.Engg.) in the University, their selection and appointment was justified, it may be seen that in the first place, their appointment was not in the post of JRA (Agril.Engg.) but

was in the post of JRA (Agri.) and secondly even assuming that their selection and appointment was in the post of JRA (Agril.Engg.) still the same would be illegal and violative of Articles 14 and 16 of the Constitution of India, as also Statute 77 (1) (i) because the posts of JRA (Agril.Engg.) with the requisite qualification for the said posts were not advertised.

**1820)** Similarly, as held in para 1082 of the Enquiry Report, the submission of Shri Hitendra Kumar Motilal Khobragade in para 3 of his affidavit dated 14.3.2008 (Ex.692) cannot be accepted because as shown therein, in the first place, according to the University the posts of SRA/JRA which were not specifically designated were all the posts of SRA (Agri.) and JRA (Agri.) for which he was ineligible, and, secondly even assuming that the designation of the post in question in which he was actually appointed in the department of Agro-ecology and Environmental Centre was JRA – General (not from any special faculty), the said post JRA – General would have to be advertised in which case the candidates from all the faculties would be able to apply for the said post. In the absence of the advertisement of the said post as JRA -General, his appointment therein would still be illegal and invalid, being violative of Articles 14 and 16 of the Constitution of India and Statute 77 (1) (i) of the Statutes.

**iii) Criteria laid down for short-listing of candidates for the posts of SRA (Agri.) and JRA (Agri.)**

(Vide paras 1083 to 1138 of the Enquiry Report)

**a) Advantages of proper short-listing of candidates**

**1821)** The advantages of proper short-listing of candidates are pointed out in para 1138 of the Enquiry Report relating to this topic. Where there are large number of applications for few posts, process of taking interview of each candidate who is qualified for the posts 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. Short-listing of candidates is thus a device by which the large 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. Ramkicheamin –Vs- Union of India (2008) 1 SCC 362 cited supra, Vide para 1119 of the Enquiry Report. Advantage of 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 mal-practices etc. in

selection of the candidates. As observed therein, the larger the number of candidates appearing for interview, which is subjective, greater is the scope for it being abused by reason of the above factors playing a major role in selection of the candidate for the job.

**1822)** 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 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 possibility of any selected candidate not joining his post and for filling any vacancies occurring in near future.

**b) Large number of application received for both these posts of SRA (Agri.) and JRA (Agri.) as compared to number of posts advertised**

(Vide Paras 1083 to 1086 of the Enquiry Report)

**1823)** Keeping-in-mind the above advantages of proper short-listing of candidates, it must be seen that as per the advertisement dated 14.8.2004 (Ex.2) 24 posts of SRA (Agri.) and 37 posts of JRA (Agri.) were advertised and as shown in paras 1083 to 1086 of the Enquiry Report, there were 1115 applications received for the posts of SRA (Agri.) as per the revised Chart (Ex.3) filed by the University out of which the candidates in 1018 applications were qualified for the said posts as per advertisement and as regards the posts of JRA (Agri.), the applications received for the said post as per the revised chart (Ex.4) filed by the University were 2099 out of which the candidates in 2051 applications were qualified as per advertisement. Thus, the total number of applications of the candidates which satisfied the qualifications in the advertisement for both the posts of SRA (Agri.) and JRA (Agri.) was 3069. Since each candidate had filed more than one application i.e. separate application for each post and each category such as S.C., S.T. etc., the University was directed to file the chart/List showing the total number of candidates qualified as per the aforesaid advertisement dated 14.8.2004 (Ex.2) for both these posts. An alphabetical chart / List (Ex.833) filed by the University with its affidavit dated 5.1.2009 (Ex.832) shows that there were 2021 candidates who had applied for and were qualified as per the advertisement for both these posts of SRA (Agri.) and JRA (Agri.) i.e.  $24 + 37 = 61$ , besides 7 YCMOU graduates who were qualified for interview for the post of JRA (Agri.).

c) **Criteria for short-listing of candidates laid down by Dr.V.D. Patil, the Chairman of the Selection Committee for the posts of SRA (Agri.) and JRA (Agri.)**

(Vide paras 1093 to 1098 of the Enquiry Report)

**1824)** It is provided in the advertisement dated 14.8.2004 (Ex.2) that where the number of applications received is large, the University reserves its right to short-list the candidates to be called for interview by adopting appropriate method. After seeing the large number of applications filed for the posts of SRA (Agri.) and JRA (Agri.), vide para 1087 of the Enquiry Report, Dr.V.D. Patil, discussed the matter with the officers of the Registrar's office and decided to have short-list the candidates for which he asked them to collect information regarding the criteria for the same. It is necessary to see that as rightly pointed out by the Assistant Registrar Shri P.V. Behare, vide para 1091 of the Enquiry Report, the authority to take decision about the criteria to be applied for short-listing of candidates applying for the posts of SRA/JRA is the Chairman of the Selection Committee and not the Vice-Chancellor because under Statute 77 (1) (ii) the Registrar has to put-up applications received for the said posts before the Chairman of the Selection Committee for his consideration and as provided in sub-clause(iii) thereof, the said Chairman has to prepare a List of eligible candidates who shall be called for interview which would mean or in other words in which it is implicit that he can lay down the criteria for short-listing of candidates if he thought that the number of candidates eligible as per the advertisement is very large.

**1825)** Accordingly by his office note dated 29.4.2005 at pages N/9 to N/11 of the file Ex.35(O) (Annexure-6 of the Enquiry Report), Dr.V.D. Patil, the Chairman of the Selection Committee, laid down the criteria for short-listing of candidates for the posts of JRA (Agri.) and SRA (Agri.) vide paras 1093 and 1094 the Enquiry Report. The criteria for short-listing of candidates for the posts of JRA (Agri.) laid down by him in para 1 of his office note dated 29.4.2005 at page N/9 of the file Ex.35(O) 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 for that post (Vide para 1093 of the Enquiry Report). As regards the post of SRA (Agri.) the criteria for short-listing of candidates laid down by him in para 2 of his aforesaid office note dated 29.4.2005 at page 10/N of the file (Ex.35(O), and in particular, the portion marked-B thereof, was that the candidates to be called for interview for the said posts should possess the qualification of post graduate degree and above. (Vide para 1094 of the Enquiry Report)

**1826)** Dr.V.D. Patil, the Chairman of the Selection Committee stated in para 2 of his aforesaid office note dated 29.4.2005 at page 10/N of the file Ex.35(O) that according to his estimate there would be about 900 candidates for both these posts of SRA (Agri.)/ JRA (Agri.). If the above total number of candidates i.e. 900 to be called for both these posts of

JRA (Agri.) and SRA (Agri.)  $37 + 24 = 61$  is considered, the ratio of the candidates to be called for interview would work out to 14 to 15 candidates per post. However, the total number of candidates for both these posts after short-listing them as per the criteria laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, is more than 900 and is actually 1335, besides 7 candidates of YCMOU eligible for the posts of JRA (Agri.), as per their alphabetical list contained in the file Ex.36(O) filed by the University in this Enquiry. Even the Assistant Registrar Shri P.V. Behare estimated the number of candidates for both these posts as between 1300 to 1350. If the above total number of candidates for both these posts i.e. 1335 to be called for interview is considered then on the basis of the total number of these posts advertised i.e. 61, the ratio of the candidates to be called for interview per post would be 21 to 22 (Vide para 1095 of the Enquiry Report).

**1827)** In justifying the criteria for short-listing of candidates laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, the Assistant Registrar, Shri P.V.Behare, in his office note dated 4.5.2004 at pages N/11 to N/13 of the file Ex.35(O), while calculating the ratio of the candidates to be called for interview per post on the basis of his estimate that there were about 1300 to 1350 candidates who would have to be called for interview as per the criteria laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, he wrongly took into consideration the increase of 35 posts i.e. 27 posts of SRA and 8 posts of JRA thus calculating the total number of posts as  $61 + 35 = 96$ . Accordingly, he worked out the said ratio as 13 to 14 candidates per post which according to him was proper. He calculated the said increase of 35 posts on the basis of the chart/ statement at page C/15 of the file (Ex.35(O)) which chart as admitted by the concerned Section Assistant, Shri D.P.Deshmukh, in para 61 of his affidavit dated 15.11.2007 (Ex.598) was wrong besides the fact that the posts of SRA/JRA therein included the posts of all the categories of SRA/JRA such as SRA (Computer), SRA (Agri.), SRA (Agril.Engg.) JRA (Computer) and JRA (Agri.) and were not restricted to the posts of SRA (Agri.) and JRA (Agri.) only. As seen from the programme of interviews of the candidates for both these posts of SRA (Agri.)/ JRA (Agri.) given in the office note of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 24.5.2005 contained in the said file Ex.35(O), there were about 119 to 123 candidates whose interviews were fixed on each day from 13<sup>th</sup> June to 17<sup>th</sup> June and 20<sup>th</sup> June to 25<sup>th</sup> June 2005.

**1828)** As pointed out above, even after short-listing of candidates as per the criteria laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, the number of applicants for both the posts of SRA (Agri.) and JRA (Agri.) i.e. 1335 candidates, besides 7 YCMOU candidates for the posts of JRA (Agri.) was too large, considering the number of the said posts advertised i.e.  $24 + 37 = 61$ , requiring interviews of about 119 to 123 candidates fixed on each day in the programme of interview from 13<sup>th</sup> to 17<sup>th</sup> June 2005 and 20<sup>th</sup> June to 25<sup>th</sup> June 2005. As would be shown in the subsequent topic relating to common interviews for



both these posts, the programme of interviews was unwieldy and unmanageable in the sense that it was 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 his nature of duties and responsibilities. It was also confusing, time consuming and tiresome.

**d) Proposal about written examination / test for short-listing of the candidates for the posts of SRA (Agri.) and JRA (Agri.) rejected by the Vice-Chancellor**

(Vide paras 1104 to 1114 of the Enquiry Report)

**1829)** Vide para 1104 of the Enquiry Report, the Assistant Registrar Shri P.V.Behare, had sensed at the time of the advertisement itself that there would be large number of applications i.e. more than about 3000 which would be received for the posts which were advertised making the task of conducting interviews difficult and time consuming and making selection. He, therefore, proposed in his office note dated 16.7.2004 contained in the file Ex.40(O) relating to the advertisement that short-listing of candidates should be resorted to by taking written examination / test as was generally done. He then cited the example of Rahuri University where the written examination / test was conducted for short-listing of candidates. According to him, if such written examination/ test was to be taken then mention about it would have to be made in the advertisement. Although his aforesaid proposal about short-listing of candidates was approved by the Deputy 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 of the file Ex.40(O) that the old system prevailing should be followed for short-listing of candidates.

**1830)** It is, however, material to see that when questioned about whether the written test was the proper test for short-listing of candidates, Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.G.N.Dake and Dr.N.D. Pawar, its members commended it as a proper test for short-listing of candidates, vide paras 1105, 1107 and 1108 of the Enquiry Report. It is however, surprising that vide para 1109 of the Enquiry Report although Dr.V.D. Patil, being the Chairman of the Selection Committee, had power to take decision about short-listing of candidates which was implicit in the duty cast upon him under Statute 77 (1) (iii) of the Statutes to prepare the List of eligible candidates to be called for interview, the said file Ex.40(O) was not forwarded to him, either at the time when the proposal about issuing an advertisement was being considered or at the time when he laid down the test about short-listing of candidates as per his office note dated 29.4.2005 contained in the file Ex.35(O). Dr.V.D. Patil, stated in para 20 of his affidavit dated 25.12.2007 (Ex.645), vide para 1105 of the Enquiry Report, that although he was also of the view that the written test was proper test for short-listing of candidates as proposed by

the Assistant Registrar Shri P.V.Behare, contained in his office note dated 16.7.2004 in the file Ex.40(O) since the Vice-Chancellor had overruled him i.e. Shri P.V.Behare, the Asst. Registrar, about his aforesaid proposal about proscribing written test for short-listing of candidates and instead had directed that the old system which was prevailing should be followed, he did not lay down the said written examination / test for short-listing of candidates in his aforesaid office note dated 29.4.2005 contained in the file Ex.35(O). Be that as it may, as stated in the said para 1109, had the said file Ex.40(O) containing the note of the Assistant Registrar, Shri P.V.Behare, dated 16.7.2004 in the file Ex.40(O) about prescribing written test for short-listing of candidates been forwarded to him, he might have prescribed the said test for short-listing of candidates because according to him it was proper test not only for short-listing of candidates but also for testing the knowledge of the candidates.

**1831)** Vide para 1106 of the Enquiry Report, when questioned as to why he did not accept the written examination/ test for short-listing of candidates, 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 the said written test was followed by Rahuri University only and 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 however, stated therein that the said test was now being introduced in the University for short-listing of candidates where their number was large and for testing their knowledge. As stated in para 15 of his aforesaid affidavit, he now felt that the written test was the best way for short-listing of candidates and also to judge their knowledge but according to him it should be done by framing appropriate common rules applicable to all four Agricultural Universities in the State.

**1832)** As regards the reasons given by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University they are considered in detail in paras 1111 to 1114 and are rejected. It is observed in para 1111 of the Enquiry Report that they appeared to be an after thought and were given only to justify his order dated 17.7.2004 contained in the file Ex..40(O). As regards the reason given by him that the written examination/test for short-listing of candidates was introduced only in Rahuri University, it was pointed in para 1112 of the Enquiry Report that it was introduced in Konkan University also as stated by it in paras 6 & 7 of its affidavit dated 2.1.2009 (Ex.834) and further that if it was the best way for short-listing of candidates and also to judge their knowledge, it was not necessary to wait for uniform rules to be framed by the MCAER in that regard when no provision in the Act

required it to do so. Moreover, as 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 the post of JRA which was Group-C post.

**1833)** As regards the question of feasibility to introduce the said written test in the University, vide para 1113 of the Enquiry Report, although, Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University in para 12 of his affidavit dated 14.1.2008 (Ex.658) stated that he had discussed the said question with the Registrar and the concerned officers of the University, the Registrar, Deputy Registrar (Estt.), and the Assistant Registrar (Estt.) stated in their affidavits referred to in para 1110 of the Enquiry Report, that there was no discussion held with them and also the Chairman of the Selection Committee by the Vice-Chancellor regarding the aforesaid office note of the Assistant Registrar dated 16.7.2004 contained in the file Ex.40(O) about holding preliminary written examination for short-listing of candidates before directing that the old system prevailing should be followed. In fact, it is pointed out in para 1114 of the Enquiry Report that it was obligatory upon the University to hold written examination for selection of the candidates in the posts of JRA in view of the G.R.dated 9.6.2004 (Ex.589) referred to above which was applicable to the University as per its affidavit dated 28.5.2008 (Ex.758).

**d-1) Letter of the MPSC dated 22.3.2005 about short-listing of candidates not considered**

(Vide paras 1099 to 1103 of the Enquiry Report)

**1834)** Vide para 1099 of the Enquiry Report, in collecting material for guidance on the question of short-listing of candidates as directed by Dr.V.D. Patil, the Chairman of the Selection Committee, vide para 14 of his affidavit dated 25.12.2006 (Ex.645), the University had received the letter of the MPSC dated 22.3.2005 which was kept at page C/13 of the file Ex.35(O) relating to interviews. As per the said letter of MPSC dated 22.3.2005 regarding the criteria for short-listing of candidates appearing for interview before it, the criteria followed 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. Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 19 of his aforesaid affidavit that he had seen the said letter of the MPSC dated 22.3.2005 and as regards the criteria for short-listing of candidates laid down therein, his personal opinion was that the above criteria given by MPSC, ought to have been followed in short-listing of candidates in the present case. However, according to him, as per the discussion of the said matter with the Vice-Chancellor, perhaps on the same day i.e. 29.4.2005 on which date as per his office note referred to above, he had laid down the criteria for short-listing of candidates and in view of the guidelines given to him by the

Vice-Chancellor, he prepared the aforesaid note dated 29.4.2005 giving criteria of higher qualification for short-listing of candidates.

**1835)** Vide para 1100 of the Enquiry Report, 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 he had seen the said letter of MPSC dated 22.3.2005 contained in the file Ex.35(O) when after the criteria for short-listing of candidates was laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, the said file Ex.35(O) was brought before him on 4.5.2005. He had then 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 short-listing of candidates. According to him, since they told him that the criteria for taking interview in the ratio of 13:14 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. He however denied that he had given any guidelines to the Chairman of the Selection Committee about short-listing of candidates.

**1836)** It is thus clear that if Dr.S.A.Nimbalkar, the then Vice-Chancellor had noticed the letter of MPSC dated 22.3.2005 about short-listing of candidates in the ratio of 1:3 when the office note of Dr.V.D. Patil, the Chairman of the Selection Committee, dated 29.4.2005 laying down criteria for short-listing of candidates for the posts of JRA (Agri.) and SRA (Agri.) contained in the file Ex.35(O) was brought before him thereafter on 4.5.2005 for approval it means that even assuming that he had any discussion with Dr. V. D. Patil, the Chairman of the Selection Committee, on or before 29.04.2005 there was no question of his issuing any guidelines to him about short-listing of candidates in the light of or despite the said letter of MPSC dated 22.3.2005. In fact, as stated above, he had denied that he had given any guidelines to him about short-listing of candidates. It may be seen that as shown in para 1109 of the Enquiry Report, the power to short-list the candidates is with the Chairman of the Selection Committee upon whom a duty is cast under Statute 77 (1) (iii) to prepare the List of eligible candidates who shall be called for interview. The Vice-Chancellor is thus not concerned with the question of short-listing of candidates. Therefore, if Dr.V.D. Patil, the Chairman of the Selection Committee, thought that the ratio laid down by MPSC in its letter dated 22.3.2005 ought to have been followed, he should have followed the said ratio in 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 contained in the file Ex.40(O) relating to the advertisement, vide para 1102 of the Enquiry Report, the number of candidates appearing for interview of both these posts was large i.e. 1335 for both these posts besides 7 YCMOU graduates for the post of JRA (Agri.). It would have been a different thing had the Vice-Chancellor rejected the application of the said ratio laid down by the MPSC to the short-listing of

candidates in these posts to be called for interview when the file Ex.35(O) was forwarded to him for approval of his office note dated 29.4.2005 about short-listing of candidates.

**1837)** It however, appears that as rightly stated by the Asstt. Registrar, Shri P.V.Behare, in his affidavit dated 6.11.2007 (Ex.597) although the aforesaid letter of MPSC dated 22.3.2005 was on record, no specific consideration was given to it which is also clear from the fact that when Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University called on 4.5.2005 the Chairman of the Selection Committee, and its Member Secretary for discussion upon the criteria for short-listing of candidates laid down by the former in his office note dated 29.4.2005, Dr.V.D. Patil, the Chairman of the Selection Committee did not insist upon him that although he had prepared the criteria for short-listing of candidates as per the guidelines given by him, the criteria laid down by MPSC in its letter dated 22.3.2005 i.e. the ratio of 1:3 ought to be followed. On the contrary, as stated by the Vice-Chancellor, in para 14 of his aforesaid affidavit dated 14.1.2008 (Ex.658) during the discussion on 4.5.2005 they told him that the ratio of 13: 14 candidates per post was proper and could be managed, vide para 1103 of the Enquiry Report.

e) **Applicability to the University criteria fixed by the Government for short-listing of candidates**

(Vide paras 1124 to 1129 of the Enquiry Report)

**1838)** As Shri P.V.Behare, Assistant Registrar (Estt.) Dr.PDKV, Akola, in his office note dated 16.7.2004 in the file Ex.40(O) relating to the advertisement had referred to Rahuri University while proposing written test for short-listing of candidates, notice was issued to MPKV, Rahuri pursuant to which it filed the affidavit dated 26.10.2007 (Ex.587) annexing to it G.R. dated 2.5.1995 (Ex.588) and the G.R. dated 9.6.2004 (Ex.589) (Annexure Nos. 40 and 41 of the Enquiry Report). Vide para 1124 of the Enquiry Report, Rahuri University stated in paras 14 and 15 of its aforesaid affidavit dated 26.10.2007 (Ex.587) 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 the Rahuri University followed the aforesaid G.R. 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 University, pursuant to which Shri G.G.Tonde, the Assistant Registrar (Estt.) filed on its behalf the affidavit dated 28.5.2008 (Ex.758) in which he stated that the aforesaid G.Rs. dated 09.06.2004 (Ex. 589) and 02.05.1995 (Ex. 588), relating to the written examination and the ratio for short-listing of candidates were applicable to it. In fact, Shri S.S.Suradkar, Dy. Registrar (Estt.) who then was 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 Administrative Department (GAD) of the Government are applicable to the University.

**e-1) Method of short-listing provided in G.Rs. dated 02.05.1995 (Ex. 588) and 09.06.2004 (Ex. 589) alone had not be followed by the University**

**1839)** It is held by the Supreme Court in para 17 of its Judgment in the case of B.Ramkicheimin -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.

**e-2) Method of Short-Listing of candidates provided in the G.R. dated 2.5.1995 (Ex.588)**

**1840)** Vide para 1125 of the Enquiry Report, perusal of the G.R.dated 2.5.1995 (Ex.588) showed that in order to bring uniformity in different standards applied in the Govt., Semi-Government bodies, the Government Undertakings, Autonomous and all other Institutions including the University, the Government prescribed in para 3 of the G.R. dated 2.5.1995 (Ex.588) the ratio for the candidates to be called for interview which would show that for filling 6 vacant posts and above as in this case the number of candidates to be called for interview is 3 times the number of posts.

**e-3) G.R. dated 9.6.2004 (Ex.589) applicable not only for short-listing of candidates but for their selection also.**

**1841)** Vide para 1126 of the Enquiry Report, 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 Government was of taking written examination/test and personal interview of the candidates. According to it, the written test carried 75% marks and the interview 25% marks. Vide paras 1127 and 1128 of the Enquiry Report the classification of posts in Groups-A, B, C and D was based upon their pay-scales as stated in para 54 of his affidavit dated 14.1.2008 (Ex.658) by Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, who in this regard referred therein to the G.R. dated 2.7.2002 (Ex.646) filed by him with his aforesaid affidavit. Perusal of the G.R. dated 2.7.2002 (Ex.646) would show that the classification of the posts in Groups A, B, C and D is based upon their pay or the

maximum of their pay-scale. Accordingly, the post of SRA is group-B post and the post of JRA group-C.

**1842)** The aforesaid G.R.dated 9.6.2004 (Ex.589) prescribing the written test of 75% marks and interview of 25% marks was in terms applicable to the post of JRA which was Group-C post. Therefore, as held in the next topic, “Procedure prescribed in G.R. dated 9.6.2004 (Ex.589) is not only for short-listing of candidates but for their selection also”, vide paras 1130 to 1134 of the Enquiry Report, the whole selection process for the posts of JRA (Agri.) was governed by the aforesaid G.Rs. dated 9.6.2004 (Ex.589) and 2.5.1995 (Ex.588) which G.Rs. the University was bound to follow. Vide para 1133 of the Enquiry Report, the procedure followed by the University in selection of the candidates in the posts of JRA (Agri.) is in breach of the aforesaid G.R. dated 9.6.2004 (Ex.589) read with G.R. dated 2.5.1995 (Ex.588) because if the number of candidates passing in written examination / test was six and above then as held in paras 1130 and 1131 of the Enquiry Report they were to be short-listed in the ratio of 1:3 as per the G.R. dated 2.5.1995 (Ex.588). As held in the case of Ramanna –Vs- International Airport Authority (1979) 3 SCC 489, 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. dated 9.6.2004 (Ex.589) and 2.5.1995 (Ex.588) scrupulously in selection and appointment of the candidates in the post of JRA (Agri.) is therefore, illegal, improper and invalid being violative of Articles 14 and 16 of the Constitution of India, as the aforesaid G.Rs were admittedly applicable to the University.

**1843)** As regards the posts of SRA (Agri.), although the G.R.dated 9.6.2004 (Ex.589) was not in terms applicable to the University being group-B post, perusal of para 13 of the affidavit of Rahuri University would show that where the number of candidates applying for the posts of SRA was large, written test was still held in Rahuri University for short-listing of candidates. It is particularly stated in para 1 of its 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 for the said posts in response to the advertisement was large written test was conducted for short-listing them. It is also stated therein that after conducting the written test, the candidates were called for interview in the ratio of 1:5 as per the guidelines in the G.R. dated 2.5.1995 (Ex.588). Since, as shown above, vide paras 1105 to 1108 of the Enquiry Report, even according to Dr.V.D.Patil, the Chairman of the Selection Committee, Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University and the two outside members of the Selection Committee, Dr.G.N.Dake and Dr.N.D. Pawar, written test was the best way for short-listing of candidates and also for testing their knowledge, it should have been followed in this University also as in Rahuri University.

**e-4) G.R. dated 2.5.1995 (Ex.588) at any rate, applicable to recruitment by nomination in the posts of SRA.**

**1844)** Be that as it may, even though the G.R. dated 9.6.2004 (Ex.589) 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) prescribing the ratio of the candidates to be called for interview was in terms applicable to the recruitment in the said post of SRA 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 posts 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. In paras 1136 and 1137 of the Enquiry Report, it is pointed out how it could be made applicable to the posts of SRA (Agri.) to be filled by the University.

**e-5) The University officers either not aware or deliberately ignored the crucial G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589)**

**1845)** It is surprising that the Registrar's office did not include the aforesaid G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589) in the file Ex.35(O) relating to interviews when the concerned officers therein recorded their office notes about short-listing of candidates. Even though the Assistant Registrar Shri P.V.Behare (Estt.), in his aforesaid office note dated 16.7.2004 contained in the file Ex.40(O) relating to advertisement, pointed out that the written examination / test was applied in Rahuri University for short-listing of candidates, he did not specifically refer to the aforesaid G.Rs. dated 9.6.2004 (Ex.589) and 2.5.1995 (Ex.588) which were in fact followed by Rahuri University for short-listing of candidates, as according to it, the said G.Rs. were applicable to it and were scrupulously followed by it in filling the vacant posts of SRA/JRA. It appears that even though the said G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2006 (Ex.589) were available in the office of the University, the concerned officers of the Registrar's office of the University, the Chairman of the Selection Committee, and the Vice-Chancellor were either unaware of the said G.Rs. which were not only applicable to the University but were binding upon it or they deliberately ignored them so as to include the favoured candidates for being selected in the said posts which if the said G.Rs. were scrupulously followed was not possible.

**f) Whether there is proper application of the criteria of higher qualification for short-listing of candidates**

(Vide paras 1115 to 1123 of the Enquiry Report)

**1846)** Although the action of the University in not following the G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589) in short-listing of candidates for the posts of SRA (Agri.) and JRA (Agri.) is invalid as shown above, even the criteria of "higher qualification" is also not properly applied by it in short-listing them. Vide para 1115 of the Enquiry Report, 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) relating to advertisement, 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 posts was large, the test prescribed at that time in the University was of “higher qualification” for short-listing them for being called for interview. 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) that in view of the guidelines given by the then Vice-Chancellor, he prepared the office note dated 29.4.2005 laying down the criteria of “higher qualification” for short-listing of candidates. The question is whether the criteria which he laid down as per his aforesaid office note dated 29.4.2005 contained in the file Ex.35(O) for short-listing of candidates is in real sense the criteria of “higher qualification” or not because as laid down by the Hon’ble Supreme Court in the case of Ramanna –Vs- International Airport Authority (1979) 3 SCC 489, it is well settled rule of administrative law that an executive authority must be rigorously held to the standard by which it professes its action to be judged and it must scrupulously observe the said standard on pain of invalidation of an act in its violation., a rule firmly established in administrative law.

**1847)** Vide paras 1116 and 1117 of the Enquiry Report, when the minimum qualification prescribed for the post of JRA in Appendix-III read with Statute-73 is bachelor’s degree in respective faculty, i.e. B.Sc. (Agri.) for the post of JRA (Agri.), the criteria of B.Sc. (Agri.) in First Division laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, for short-listing of candidates in the posts of JRA (Agri.) would not be a higher qualification for the said post of JRA (Agri.), for which higher qualification would be M.Sc. (Agri.) and above. Similarly, the minimum qualification for the posts of SRA in the said Appendix-III is Master’s degree in respective subject or Bachelor’s degree in 1<sup>st</sup> Class with distinction, at least IInd class Bachelor’s degree with three years experience as JRA or its equivalent. As explained in the said para 1117 of the Enquiry Report, post graduate degree in Agriculture cannot be said to be higher qualification for the posts of SRA (Agri.) for which the higher qualification would be Ph.D. in the subject in Agriculture Faculty.

**1848)** It cannot therefore be said that the University followed scrupulously the said test of higher qualification laid down by it for short-listing of candidates for the posts of SRA (Agri.) and JRA (Agri.). How Short-listing of candidates for being called for interview should be done on proper application of the aforesaid criteria of “higher qualification” is demonstrated in paras 1122 and 1123 of the Enquiry Report.

**1849)** It is thus clear that the University has committed illegality in not applying the G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589) in short-listing of candidates as shown above adversely affecting selection of candidates in these posts of SRA (Agri.) and JRA (Agri.). Even the criteria of “higher qualification” for short-listing of candidates which it

professes to follow is not followed by it properly leaving large number of candidates to be interviewed for few posts of SRA (Agri.) and JRA (Agri.) i.e. 24 and 37 respectively in the absence of their proper short-listing leading to selection of undeserving and less meritorious candidates by manipulation and other mal-practices in selection of the candidates as pointed out in subsequent topics particularly “Awarding marks for academic performance and for performance in interview”. Even otherwise, as shown above, because of illegal and improper short-listing of candidates, the Selection process and selection of candidates in these posts of SRA (Agri.) and JRA (Agri.) is vitiated.

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

(Vide paras 1139 to 1158 of the Enquiry Report)

**a) Decision to hold combined / common interviews for both these posts of SRA (Agri.) and JRA (Agri.) taken by Dr.V.D. Patil, the Chairman of the Selection Committee**

(Vide paras 1139 and 1141 of the Enquiry Report)

**1850)** It is clear that the decision to hold common interviews for both the posts of SRA (Agri.) and JRA (Agri.) was not taken in explicit manner by following the routine procedure of recording the office notes in the file opened for that purpose forwarded to the Vice-Chancellor for his approval through Dr.V.D. Patil, the Chairman of the Selection Committee. However, it is implicit in the office note of Dr.V.D. Patil, the Chairman of the Selection Committee dated 29.4.2005 laying down the criteria for short-listing of candidates in the posts of SRA (Agri.) and JRA (Agri.) contained at pages N/9 to N/13 of the file Ex.35(O) relating to interviews and the programme of interviews of the candidates for the said posts given by him which is on page N/14 of the said file Ex.35(O) that he had decided to hold common interviews for both these posts, although Shri R.B.Bali, the then Registrar of the University stated in his affidavit dated 11.10.2007 (Ex.588) that in discussion between Dr.V.D. Patil, the Chairman of the Selection Committee, he himself, and other concerned officers of the University on the question of procedure to be adopted for short-listing of candidates, it was decided that as per the normal practice in the University the candidates should face separate interviews if they had applied for both these posts. Dr.V.D. Patil, did not make his decision to hold common interview explicit when, as stated by him in para 23 of his affidavit dated 25.12.2007 (Ex.645), he had taken the decision to hold first the interviews for both the posts of SRA (Agri.) and JRA (Agri.) in discussion with the officers of the Registrar’s office.

**1851)** Vide para 1141 of the Enquiry Report, Shri D.P.Deshmukh, concerned Section Assistant (estt.), stated in para 25 of his affidavit dated 15.11.2007 (Ex.598) that although

there was no clear reference to 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 after the aforesaid programme for interviews was given on 10.5.2005 by him, the Assistant Registrar Shri P.V.Behare, had told him that there would be combined / common interviews of both these posts of SRA/JRA and that the steps should be taken accordingly. He had thereafter prepared the alphabetical List of the candidates for both these posts and in all categories in which they had applied as contained in the file Ex.36(O) for the purpose of their common interviews. He then recorded the office note dated 24.5.2005 contained at page N/15 of the file Ex.35(O) incorporating therein the programme for interviews of the candidates from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 allotting 119 to 123 candidates for interview on each day in the same serial order in which their names appeared in alphabetical List Ex.36(O). According to him, he submitted with his aforesaid note dated 24.5.2005 for approval the interview call letter to be issued to the candidates which also showed that the interview was combined / common for both these posts of SRA (Agri.) and JRA (Agri.). His aforesaid office note dated 24.5.2005 contained in the file Ex.35(O) was approved by Dr.V.D. Patil, D.I./Chairman and the then Vice-Chancellor on 25.5.2005. It is thus clear that Dr.V.D. Patil, the Chairman of the Selection Committee, had, on his own decided to hold common interviews for both these posts of SRA (Agri.) and JRA (Agri.).

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

(Vide paras 1142 to 1144 of the Enquiry Report)

**1852)** Vide para 44 of the affidavit of Dr.V.D. Patil, the Chairman of the Selection Committee, dated 25.12.2007 (Ex.645), he stated therein that common interviews for both these posts of SRA and JRA were held in the sense that common questions were asked to the candidates and common marks were given to them for both these posts and also categories in which they had applied i.e. S.C., S.T. etc. if they had applied for both these posts and in more than one category. As regards the nature of questions put to the candidates for both these posts, although there was no fixed format about it, the Chairman and all the Members of the Selection Committee broadly agreed as to the type of questions to be asked to the candidates appearing for interview. They also agreed that ordinarily the professor in the subject in which the candidate had done his post graduation or Ph.D. should ask them questions regarding the said subject.

**1853)** Vide para 1144 of the Enquiry Report, as stated by Dr.V.D. Patil, in para 47 of his affidavit dated 25.12.2007 (Ex.645) the final Mark-Sheet of the candidates (Ex.34(O))-A was prepared categorwise and separate for the posts of SRA (Agri.) and JRA (Agri.) from

the common marks awarded to the candidates for both the posts including their names in the Mark-Sheets for both the posts and in all categories if they had applied for both the posts and in more than one category. Further, as stated by him in para 51 of his aforesaid affidavit, 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 prepared the Selection Lists for the posts of JRA (Agri.) in similar manner from amongst the remaining candidates.

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

(Vide paras 1148 to 1151 of the Enquiry Report)

**1854)** In this regard it has to be seen that the obligation is cast upon the Selection Committee to take interviews of the candidates and award them marks for their performance therein. Ordinarily, the interview for each post which is advertised is held separately. If common interviews of the candidates applying for both the posts of SRA (Agri.) and JRA (Agri.) were to be held in the sense of asking them common questions and giving them common marks for both these posts, it was essentially a question which needed to be considered by the Selection Committee which would have taken the decision in that regard after considering all pros and cons of the question in the light of the facts that they constituted separate cadres with different pay-scales and that the duties and responsibilities of the said posts were different. It would also consider the question how the Mark-Sheet on the basis of common marks awarded by it should be prepared if they decided to hold common interviews and how the Selection List should be prepared therefrom. However, the basic question it would consider would be whether, by holding common interviews of the candidates applying for both these posts, their talent, knowledge and suitability required for each of the said 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 in such common interviews would also be considered by the Selection Committee. It was not thus open to Dr.V.D. Patil, the Chairman of the Selection, to take the decision on his own to hold common interviews for both these posts of SRA and JRA in the sense of common questions being asked to them and common marks being given to them therein for both these posts. The decision taken by him in this regard is thus illegal, improper and unjustified.

**1855)** Vide para 1149 of the Enquiry Report, in fact, Dr.N.D. Pawar, in para 7 of his affidavit dated 1.11.2007 (Ex.590) stated that on 13.6.2005 before actually the interviews started, Dr.V.D. Patil, told them that it was already decided to hold common interviews for both these posts of SRA/JRA and therefore the Selection Committee had itself not considered and decided the question whether common or separate interviews should be held for the posts of SRA/JRA. As already pointed out in paras 1139 to 1141 of the Enquiry

Report, the decision to hold common interviews was taken on his own by Dr.V.D. Patil, the Chairman, without reference to the Selection Committee. The affidavits of all the Members of the Selection Committee except Dr.E.R.Patil, would also show that the said decision to hold common interviews was not taken by the Selection Committee. As regards Dr.E.R. Patil, he stated in para 9 of his affidavit dated 16.11.2007 (Ex.599) that during the discussion in the meeting held on 31.5.2005 they had decided orally to take common interviews for both these posts. According to him, the said meeting held on 31.5.2005 was the meeting of the Selection Committee vide paras 4 and 6 of his aforesaid affidavit. It may be seen that the said meeting held on 31.5.2005, was chaired by Dr.V.D. Patil, Chairman and D.I., Dr.PDKV, Akola and was attended by Shri R.B.Bali, the then Registrar of the University. They did not describe the said meeting 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). They did not also state in their aforesaid affidavits that any such decision about holding common interviews was taken in the said meeting held on 31.5.2005 which was called for the purpose of determination of criteria for academic evaluation of SRA/JRA. It is categorically held in paras 1192 to 1203 of the Enquiry Report relating to the said topic about “Determination of criteria for academic evaluation of SRA/JRA” that the meeting held on 31.5.2005 was not the meeting of the Selection Committee. As discussed in detail in paras 1150 and 1151 of the Enquiry Report, there is no merit in the above submissions of Dr.E.R. Patil, in his aforesaid affidavit. As held in para 1151 of the Enquiry Report and also in the above topic relating to “criteria for academic evaluation of SRA/JRA” no decisions in a meeting regulated by statute are taken orally and all the decisions taken by it are recorded in its minutes/procedures.

**d) Majority members of the Selection Committee, not aware of the posts for which common interviews were held**

(Vide Paras 1145 to 1147 of the Enquiry Report)

**1856)** Vide para 1145 of the Enquiry Report, as shown in the previous paras 1139 to 1141 of the Enquiry Report, since the decision to hold common interviews only for the posts of SRA (Agri.) and JRA (Agri.) 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, on his own without reference to the Selection Committee, the Members of the Selection Committee did not even know whether the interviews were to be held only for the posts of SRA (Agri.) and JRA (Agri.) on the aforesaid dates except that although Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee stated initially in para 19 of his affidavit dated 1.12.2007 (Ex.633) that the common interviews were held for the posts of SRA/JRA, he thereafter stated in para 49 thereof that since all the candidates who appeared for interviews before them possessed graduate or post graduate degree in agriculture, he inferred that common

interviews were for the posts of SRA (Agri.) and JRA (Agri.). It, however, appeared from 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) that, as described in detail in paras 1145 and 1146 of the Enquiry Report, according to them, the common interviews taken by the Selection Committee were of all the categories of the 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).

**1857)** Vide para 47 of the Enquiry Report, the above facts threw light upon the manner in which the Members of the Selection Committee applied their mind to the interviews of the candidates appearing before them as they did not even know that the common interviews were held only for the posts of SRA (Agri.) and JRA (Agri.). It appeared from their affidavits that they were not told by the Chairman of the Selection Committee at the outset on 13.6.2005 when the interviews started that the interviews were only for the posts of SRA (Agri.) and JRA (Agri.), vide para 16 of the affidavit of Dr.B.N.Dahatonde, dated 10.12.2007 (Ex.636). It would therefore lend support to the inference that the interviews were only a formality and a farce so that by manipulation of interview marks the favoured candidates could be selected in these posts. As shown in the subsequent topic about its duration, interviews of the candidates tended to be casual and farcical.

e) **Programme of interviews unwieldy, time consuming, tiresome and unmanageable not giving proper and reasonable time to judge the suitability of the candidates for these posts of SRA (Agri.) and JRA (Agri.)**

(Vide paras 1152 to 1158 of the Enquiry Report)

**1858)** Vide para 1152 of the Enquiry Report, as already pointed out there were large number of candidates i.e. 1335 for both the posts for SRA (Agri.) and JRA (Agri.) besides 7 YCMOU graduates for the post of JRA (Agri.) called for interview for 61 total posts of both SRA (Agri.) and JRA (Agri.) (i.e. 24 + 37) and according to the programme of common interviews, which was spread over from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005, the interviews of the candidates ranging between 119 to 123 were fixed on each day of interview. 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, and on an average it took about 5 minutes time for interview of each candidate. According to him, it thus took about 10 hours to complete the work of interview on each day with lunch break of 45 minutes to 1 hr. Further, according to him, the work of interview 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. He is broadly corroborated in this regard by the Members of the Selection Committee. Vide para 1154 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee stated therein that after the interviews were completed at about 8.30 P.M. to 9.00 P.M. on each day of interview, his work was not over because thereafter the process of calculation of the average of the marks for the interview of each candidate given by him and each member of the Selection Committee started and the said marks were entered in his additional chart in the proforma Ex.434-A which he then dictated to Shri D.P. Deshmukh, Section Assistant (Estt.), who entered the same in his data-sheet. Thus, according to him, it was at about 10.00 P.M. to 10.30 P.M. that he completed his work on each day of interview.

**1859)** It is clear from the above programme of interview that 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 is further clear that with such hectic programme of interviews, it would be 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.

**1860)** As held by the Supreme Court in para 20 of its judgment in the case of Ashok Kumar –Vs- State of Haryana (1985) 4 SCC 417, vide para 1155 of the Enquiry Report, the interviews of the candidates 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 candidate. Further, according to it, such programme of interview would widen the area of arbitrariness for even a candidate who was very much lower down in the List on the basis of marks obtained by him in written examination could gate-crash in the range of selection if awarded unduly high marks in interviews.

**1861)** Vide Para 1156 of the Enquiry Report, the affidavits filed by some of the non-selected candidates in these posts are referred to therein which would show that their interviews were over in one or two minutes and in the case of Shri Praful Bhagwantro Gore, he was asked only about his name and residence in his interview. As stated in para 1157 of the Enquiry Report, the affidavits of the non-selected candidates referred to above would show how the interviews tended to be casual or were farcical with a pre-determined mind not to select them in order to favour other candidates.

**1862)** Since the interviews of the candidates tended to be casual, superficial and sloppy in view of large number of candidates appearing for interview, there was 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 got selected by manipulation of his interview marks and vice-versa the candidate who had high marks in academic performance could 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 was to accommodate favoured candidates in one or the other post or select less meritorious candidates in a higher post and more meritorious candidates in the 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.598) 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.

**f) Separate interviews should have been held for the posts of SRA (Agri.) and JRA (Agri.)**

(Vide paras 1159 to 1173 of the Enquiry Report)

**1863)** As discussed in para 1159 of the Enquiry Report, the posts of SRA/JRA in the University belong 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 shown in their duty lists (Ex.26). Both these posts of SRA (Agri.) and JRA (Agri.) were separately advertised in the advertisement dated 14.8.2004 (Ex.2). Ordinarily, when the posts are separate, separate interviews are held for them. Even as regards these posts of SRA (Agri.) and JRA (Agri.), as stated by Shri R.B.Bali, the then Registrar of the University, in para 17 of his affidavit dated 11.10.2007 (Ex.585), it was the normal practice in the University to hold separate interviews for these posts of SRA/JRA and that it was also decided in discussion which Dr.V.D. Patil, the Chairman of the Selection Committee, had with him and other concerned officers of the University that separate interviews should be held for these posts of SRA (Agri.) and JRA (Agri.) which were advertised. However, as pointed out hereinbefore, for the reasons better known to Dr.V.D. Patil, the Chairman of the Selection Committee, he, on his own, had taken the decision to conduct common interviews of the said posts.

**1864)** It is clear even from the affidavit of Dr. V. D. Patil, the Chairman of the Selection Committee, that a candidate could not be properly evaluated for either of these separate posts of SRA (Agri.) and JRA (Agri.) by asking him common questions and awarding him



common marks for his performance in common interview of these posts. He admitted in para 90 of his affidavit dated 25.12.2007 (Ex.645) that the system which they had adopted for taking common interviews of both these 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. He made these observations when he was confronted with the chart in para 6.4 of the written statement (Ex.85) submitted in this Enquiry by Dr.B.G. Bathkal and others according to which, 5 candidates with only B.Sc. degree had received only 5 marks for their academic performance out of 40 but had received very high marks between 49 to 55 out of 60 in their interviews. When questioned about the same, he stated in the said para 90 of his aforesaid affidavit that they received very high marks in their interviews because 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. It is thus clear from his own admission that the system of holding common interviews suffered from the vice of manipulation of interview marks by putting simple questions to the favoured candidates, so that they could get higher marks in their interviews and could be selected even in higher post of SRA (Agri.) though they received poor marks in their academic performance. Similarly, by putting very difficult questions to highly qualified candidate because of which they would get lower marks they could either be excluded from being selected in any of these posts or would be selected in the lower post of JRA (Agri.).

**1865)** Although, initially in para 36 of his affidavit dated 14.1.2008 (Ex.658), Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University justified holding common interviews of the candidates applying for both the posts of SRA (Agri.) and JRA (Agri.) on second thought in para 37 thereof, he stated that in order to avoid any confusion 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 the nature of its duties and responsibility. He then stated that they should thus be evaluated by giving them separate marks in their interviews for these posts and accordingly by preparing separate Selection Lists for these posts. According to him, 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.

**1866)** It is thus clear that there was no reason to hold common interviews for these posts and in fact none is given by Dr.V.D. Patil, the Chairman of the Selection Committee, in deciding to hold common interviews for these posts. Therefore, as per the normal practice in the University, separate interviews should have been held for these separate posts of

SRA (Agri.) and JRA (Agri.). It is, however, made clear that even if separate interviews are held for these posts, it would not mean that they would not suffer from the vice of large number of candidates being called for interview of few posts in the absence of their proper short-listing because, as pointed out in para 1097 of the Enquiry Report relating to the topic about Short-listing of candidates in these posts which were advertised, there were as many as 859 candidates appearing for interview of 24 posts of SRA (Agri.) and 1136 candidates including 7 candidates of YCMOU appearing for interview of 37 posts of JRA (Agri.) requiring that their number should be reduced to a reasonable or manageable size by further short-listing of candidates in each of these posts in the ratio of 1:3 by applying the G.R. dated 2.5.1995 (Ex.588) which was applicable to the University as per its affidavit dated 28.05.2008 (Ex. 758) so that the most suitable candidates could be selected through their interviews leaving very little scope for manipulation and favouritism.

**1867)** There is another and most important reason why common interviews cannot be held for both the posts of SRA (Agri.) and JRA (Agri.). The post of JRA, as shown hereinbefore, is group-C post and therefore the selection 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 of the Enquiry Report relating to short-listing of candidate 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”. Although 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, even assuming that the same procedure of written examination / interview is made applicable for selection in the said posts of SRA, still common interviews cannot be held for these posts of SRA/JRA because the standard of written examination for the posts of SRA is higher than the standard of written examination for the posts of JRA and therefore, no common written examination can be held for these posts and no common list of candidates prepared for being called for common interviews for both these posts. Separate interviews ought to have therefore been held for these posts of SRA (Agri.) and JRA (Agri.) by putting them separate sets of questions looking to the nature of duties and responsibilities to be performed by them in these posts. Thus, by separately evaluating them by awarding separate marks to them for their separate interviews, separate Mark-Sheets and separate Selection Lists should have been prepared for selection in these posts.

**v) Criteria for academic evaluation of SRA/JRA laid down on 31.5.2005**

(Vide paras 1174 to 1266 of the Enquiry Report)

**1868)** As stated in para 1174 of the Enquiry Report, the criteria for academic evaluation of SRA/JRA was laid down by Dr.V.D. Patil, the Chairman/D.I., Dr.E.R. Patil, Associate Dean PGI and Shri R.B.Bali, the then Registrar, Dr.PDKV, Akola in their meeting held on 31.5.2005. The said criteria is contained at page C/35 (last page) of the file Ex.35(O) relating to interviews. A copy thereof is enclosed as Annexure 12 of the Enquiry Report. It

is necessary to see that when the said criteria for academic evaluation of SRA/JRA was fixed on 31.5.2005, the meeting of the Selection Committee for taking interviews of the candidates for these posts of SRA (Agri.) / JRA (Agri.) was already scheduled to be held shortly from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 and accordingly the notices dated 26.5.2005 of the said meeting containing its agenda were issued to the Members of the Selection Committee and even interview call letters were also sent to the candidates on 24.5.2005.

**1869)** Vide paras 1214 and 1215 of the Enquiry Report, the said criteria laid down on 31.5.2005 for academic evaluation of SRA/JRA is reproduced and explained in the said paras. Vide para 1216 of the Enquiry Report, the differences between the said criteria laid down for academic evaluation of SRA/JRA and the criteria for the post of Professor and above laid down in Statute-52 are pointed out in the said para. It may be seen that Statutes-51, 52 and 53 provide for assessment, evaluation and selection of the candidates for the posts of Professor and above since as stated in Statute 40, they are applicable to the said posts only. However, adopting the pattern of 40:60 i.e. 40 marks for academic performance (i.e. the same thing as past performance in statute 52), and 60 marks for interview, the distribution of 40 marks for academic performance i.e. educational qualifications, experience, research publications, etc. is made in the aforesaid criteria for academic evaluation of SRA/JRA. The said distribution is however different from the scheme in Statute-52 as pointed out in the said para 1216 of the Enquiry Report.

**a) Determination of criteria for academic evaluation of SRA/JRA illegal**

(Vide paras 1175 to 1213 of the Enquiry Report)

**a-1) Statute 76(6)(a) provides for rules to be framed by the University for assessment of candidates.**

**1870)** As regards the power to lay down the criteria for academic evaluation/assessment of SRA/JRA as per statute 76 (6) (a) of the Statutes, the University has to frame rules consistent with the provisions of the Act and the Statutes providing inter-alia for assessment of the candidates. As shown in para 1176 of the Enquiry Report, the power of the University to frame rules under Statute 76(6) (a) is exercised by the Executive Council and it is admitted by the University itself that no rules were framed by it for assessment of the candidates applying for the posts of SRA/JRA. What is, however, surprising is none of the important officers of the University including the then Vice-Chancellor Dr.S.A. Nimbalkar, Dr.V.D. Patil, the Chairman of the Selection Committee and the then Registrar appeared to be aware of provisions of Statute 76 (6) (a) requiring the University to frame rules for assessment of the candidates. The M.K.V. Statutes, 1990 applicable to the University including Statute 76(6) (a) came into force w.e.f. 12.7.1990. Although since then long time elapsed, no rules were framed by the University for assessment of the candidates

applying for the posts of SRA/JRA which are vital posts of academic staff Members as per the classification given in Statute 71 of the Statutes. In the absence of the rules, vide para 1177 of the Enquiry Report, the Executive Council could provide by way of its decision / resolution for assessment of the candidates for these posts of SRA/JRA pending framing of rules regarding the same but it did not do so.

**1871)** Vide paras 1180 to 1182 of the Enquiry Report, there was ample time for the Competent Authority/Officers of the University to act and take steps to lay down the appropriate criteria for assessment / evaluation of candidates applying for the posts of SRA/JRA. Even after the advertisement was issued as far back as on 14.08.2004 (Ex. 2), there was long gap of about 10 months before the interviews of candidates for these posts started on 13.06.2005. When the selection process for selection and appointment of candidates in these posts commenced, after the advertisement dated 14.08.2004 (Ex. 2) was issued, it was the duty of all the officers concerned, such as the Vice-Chancellor, the Chairman of the Selection Committee, the Registrar and the other concerned officers/employees in his office, to get them apprised of the relevant provisions of the University Act, the Statutes and the rules if any, and the procedure followed in that regard in the University and conduct the Selection process accordingly. It is not open to them to plead ignorance about the same. As held in para 1182 of the Enquiry Report, the then Vice-Chancellor, the then Chairman of the Selection Committee, the then Registrar and other concerned officers/employees of the University have failed to discharge their duties and responsibilities in this regard under the University Act and the statutes formed thereunder.

**1872)** After the advertisement dated 14.8.2004 (Ex.2) was issued for these posts of SRA/JRA, the Registrar and the concerned officers of his office, through their routine procedure of recording office notes, or even otherwise should have brought to the notice of Dr.V.D. Patil, the Chairman of the Selection Committee, and the then Vice-Chancellor, Dr. S. A. Nimbalkar, that the question of assessment of the candidates applying for the posts of SRA/JRA is regulated by the rules framed by the University in that regard under statute 76(6)(a) and therefore, the meeting of the Executive Council which was competent under the said Statute 76(6)(a) to frame rules or take appropriate decision in that regard should be called for the said purpose. No attempt was made in that regard by any of the officers concerned although, as stated above, after the said advertisement was issued on 14.8.2004 (Ex.2) there was a long gap of about 10 months before the interviews for these posts of SRA(Agri.) and JRA(Agri.) started on 13.6.2005 and therefore, adequate time for the Executive Council either to frame rules or to take appropriate decision in this matter pending framing of rules. At any rate when it was noticed, may be on or about 31.5.2005, that the criteria for academic evaluation of SRA/JRA has to be framed for assessment of the candidates, who applied for these posts of SRA (Agri.) and JRA (Agri.) the officers

concerned should have requested the Vice-Chancellor to take immediate action in that regard because he could determine the criteria for assessment of the candidates in his emergency power under Section 18 (16) of the University Act and could at the earliest opportunity thereafter report his action to the Executive Council whose power he was exercising but no such steps were taken and no criteria for assessment of the candidates applying for the posts of SRA/JRA was laid down by him.

**1873)** Vide para 1184 of the Enquiry Report, had the Executive Council framed the rules or taken decision to lay down the criteria for assessment/ evaluation of candidates for the posts of SRA/JRA, it would have been a well considered rule or the decision taken by it after considering all the relevant factors in that regard referred to in the said para. Even if the Vice-Chancellor were to take immediate action in that regard under his emergency power under section 18(16) of the University Act, he would have also considered all the relevant factors referred to above since he was exercising the powers of the Executive Council to which he had to report his action at the earliest opportunity.

**1874)** Vide para 1177 of the Enquiry Report, according to Dr.V.D. Patil, the Chairman of the Selection Committee, as stated by him in para 25 of his affidavit dated 25.12.2007 (Ex.645), in the absence of the rules or the decision of the Executive Council or the decision of the Vice-Chancellor in his emergency power u/s. 18 (16) of the University Act, laying down the criteria for assessment of the candidates, the Selection Committee upon which an obligation is cast to select the candidates for the posts of SRA (Agri.) and JRA (Agri.) could adopt appropriate criteria for evaluation of candidates in the said posts so as to select the best amongst them through its selection process. He however, admitted that the Chairman of the Selection Committee, on his own, had no power to determine the criteria for evaluation of the candidates applying for the posts of SRA/JRA. Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University agreed with his aforesaid view as is clear from para 27 of his affidavit dated 14.1.2008 (Ex.658).

**a-2) Selection Committee can lay down the criteria for evaluation of SRA/JRA as a last resort and in very exception circumstances.**

**1875)** As regards the question whether the Selection Committee can lay down the criteria for evaluation of SRA/JRA, the said question is considered in paras 1179 to 1184 of the Enquiry Report and it is held therein that the Selection Committee can lay down such criteria only as a last resort and in very exceptional circumstances and not as a general rule. It is pointed out therein that after the advertisement was issued for these posts of SRA/JRA on 14.8.2004 (Ex.2) there was ample time for the Executive Council to frame rules or at any rate to take the decision by passing resolution for laying down the criteria for academic evaluation of SRA/JRA pending rules to be framed in that regard because the interviews for these posts started after about a period of 10 months on 13.6.2005. At any rate, if there was

any emergency, the Vice-Chancellor could exercise his emergency power under section 18 (16) of the University Act to lay down the criteria for academic evaluation of SRA/JRA which could then be placed in the next meeting of the Executive Council as provided thereunder. Vide para 1183 of the Enquiry Report, ordinarily, therefore, the Selection Committee could not have exercised the power to lay down the criteria particularly when the Vice-Chancellor was available for exercising his emergency power under section 18 (16) of the University Act. As pointed out therein, it would be a rare case when the Vice Chancellor is not available since sub-sections 8 and 9 of section 17 of the University Act provided for making temporary arrangements for continuity in the office of the Vice Chancellor.

**a-3) The Selection Committee did not actually lay down the criteria for academic evaluation of SRA/JRA**

**1876)** The next question to be considered is whether the Selection Committee in the instant case actually laid down the criteria for academic evaluation of SRA/JRA. The said question is considered in paras 1185 to 1213 of the Enquiry Report. Vide para 1185 of the Enquiry Report, in answer to the said question, the University stated in para C of its affidavit dated 17.7.2007 (Ex.48) that there was no resolution of the Executive Council or any other Competent Body except the Selection Committee for evaluation and assessment of the candidates applying for the posts of the Members of the academic staff other than the post of Professor and above to whom Statute 52 was applicable. It clarified its aforesaid stand in its subsequent affidavit dated 2.8.2007 (Ex.56) in which it is stated that as regards the aforesaid question, there were no specific guidelines provided in any statute for allotment of the marks for evaluation of the posts of SRA/JRA but in the absence of such provision since some criteria for evaluation of the candidates was necessary to be fixed, therefore, keeping in view the provision of Statute 52 of the Statutes, pattern of 60:40 i.e. 60 marks for personal interview and 40 for academic performance was applied for selection of the candidates in the posts of SRA/JRA. The said criteria according to it was drafted and decided by Dr.V.D. Patil, the Chairman/D.I., Dr.E.R. Patil, Associate Dean, PGI, and Shri R.B. Bali, the then Registrar, who were also the Members of the Selection Committee. It is further stated therein that before interviewing the candidates, the criteria drafted/decided was submitted to the Selection Committee which finally decided the same on the analogy of the provisions under Statute 52 as noted in the proceedings of its meeting held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 contained at pages 1 to 14 of the file relating to the said proceedings marked as Ex.34(O) in this Enquiry.

**1877)** Vide Para 1186 of the Enquiry Report, as regards the above stand of the University, Dr.V.D. Patil, who as Chairman of the Selection Committee conducts its proceedings, stated in para 26 of his affidavit dated 25.12.2007 (Ex.645) that in the absence of the rules since neither the Executive Council nor the Vice-Chancellor had determined the criteria for

evaluation of the candidates applying for these posts of SRA/JRA, the criteria for academic evaluation of SRA/JRA was determined by him as Chairman of the Selection Committee, in consultation with Senior most Member Dr.E.R. Patil, and the Registrar who was the Member Secretary of the Selection Committee by holding the meeting on 31.5.2005 in which they were present. He also stated in para 35 of his aforesaid affidavit that on 13.6.2005 at the outset before the meeting for taking interviews started he had explained the whole criteria determined by him for academic evaluation of SRA/JRA to the Members of the Selection Committee. The above statement in paras 26 and 35 of his aforesaid affidavit would clearly show that the criteria for academic evaluation of SRA/JRA was determined by him as the Chairman of the Selection Committee although according to him, he had consulted the above referred two members of the Selection Committee.

**1878)** However, surprisingly, it was stated at page 2 of the proceedings of the meeting of the Selection Committee held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 contained at pages 1 to 14 in the file Ex.34(O) relating to it that before interviewing the candidates the Selection Committee under analogy of the provision under Statute-52 decided and finalized the following criteria awarding marks for educational qualification/experience and publication. It is then stated that the Selection Committee decided to give 40 marks for qualification, experience etc. acquired by the applicant and 60 marks for personal interview, the break-up of which was given thereafter on page 2 of the said proceedings reproduced in para 1187 of Enquiry Report.

**1879)** Vide para 1188 of the Enquiry Report, after seeing the aforesaid minutes/proceedings of the aforesaid meeting of the Selection Committee, Dr.V.D. Patil, stated in para 67 of his affidavit dated 25.12.2007 (Ex.645) that as stated therein the Selection Committee as such by following the formal procedure of the meeting did not lay down the criteria for evaluation of the candidates for the posts of SRA/JRA but he had informed local members of the Selection Committee on phone, to come for the meeting on 31.5.2005 at 3.30 P.M to consider and decide the question of criteria to be applied in selection of the candidates for the posts of SRA/JRA and accordingly the criteria was fixed by him, Senior-most-member Dr.E.R.Patil, and the Registrar who were present on 31.5.2005 to determine the criteria. He further stated in the said para 61 that he had however, on 13.6.2005 at the outset “briefed” the Members of the Selection Committee about the said criteria”. After considering the said question in paras 1189 to 1203 of the Enquiry Report in the light of the affidavits of Dr.E.R. Patil, Associate Dean (PGI) dated 16.11.2007 (Ex.599), Shri R.B. Bali, the then Registrar/ Member Secretary of the Selection Committee dated 11.10.2007 (Ex.585) relevant provisions in Chapter-IV of the Statutes relating to “Meetings of the University” and in particular Statute-31 relating to the notice of the meetings of the various authorities and the Committees and the attendance Register of the meetings of the Selection Committee (Ex. 46(O)), in which the Chairman and Members of the Selection Committee

had to sign, required to be maintained under Statute 36, it is held in para 1203 of the Enquiry Report that the meeting held on 31.5.2005 for determination of criteria for evaluation of SRA/JRA was not the meeting of the Selection Committee and as rightly stated by Dr.V.D. Patil, the Chairman of the Selection Committee in paras 26 and 35 of his affidavit dated 25.12.2007 (Ex.645), the criteria for academic evaluation of SRA/JRA was determined by him as Chairman of the Selection Committee in consultation with its senior most member Dr. E. R. Patil, Associate Dean, PGI and the then Registrar/Member Secretary Shri R.B. Bali by holding the meeting on 31.5.2005 in which they were present. He also rightly admitted that on his own as the Chairman of the Selection Committee he did not have power to determine the criteria for academic evaluation of SRA/JRA. It is thus clear that the meeting held on 31.05.2005 in which the criteria for academic evaluation of SRA/JRA was determined was not the meeting of the Selection Committee.

**a-4) Whether the criteria for evaluation of SRA/JRA was decided and / or approved by any meeting of the Selection Committee including its meeting held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 before the interviews commenced on 13.6.2005.**

1880) The said question is considered in paras 1204 to 1212 of the Enquiry Report. There is no dispute that no meeting of the Selection Committee was held between 31.5.2005 to 13.6.2005 and therefore there was no question of either deciding or approving the said criteria in the meeting of the Selection Committee during the said period. The question which, therefore needs to be considered is whether it was determined and / or approved in the meeting of the Selection Committee held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 before the interviews commenced on 13.6.2005. After considering the relevant affidavits of Dr.V.D. Patil, the Chairman of the Selection Committee, Dr.Vandan Mohod, the Registrar/ its Member Secretary and also its other Members, it is held in the said paras that at the outset on 13.6.2005, Dr.V.D. Patil, the Chairman of the Selection Committee only explained the said criteria to the Members in order to show how they should proceed in the matter but the said criteria was neither determined nor approved in the said meeting of the Selection Committee on 13.6.2005. Vide para 1207 of the Enquiry Report, Dr.Vandan Mohod, the Registrar/ Member Secretary of the Selection Committee, who gave instructions to the Assistant Registrar Shri P.V.Behare, for drafting the proceedings of the said meeting of the Selection Committee categorically stated in unequivocal terms in para 34 of his affidavit dated 1.12.2007 (Ex.633) that on 13.6.2005 i.e. the first day of interview, Dr.V.D. Patil, the Chairman of the Selection Committee, explained to its members the aforesaid criteria framed on 31.5.2005 but no decision as such was taken by the Selection Committee to affirm or approve the said criteria. According to him, the information given by Dr.V.D. Patil, was only about how they should proceed in the matter and what criteria they should apply in selection of the candidates in their meeting.



**1881)** Even what Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 61 of his affidavit dated 25.12.2007 (Ex.645), after seeing the proceedings of the said meeting contained in the file Ex.34(O), was that he had briefed the Members about the criteria for evaluation of candidates framed on 31.5.2005. He did not state therein that the Selection Committee on 13.6.2005 either affirmed or approved the said criteria. As stated in para 1212 of the Enquiry Report, it is clear from the affidavits of the Chairman and the Members of the Selection Committee and particularly the Chairman and its Secretary, who had signed the said proceeding, that the criteria framed on 31.5.2005 was neither determined nor approved in the said meeting of the Selection Committee. It is thus clear that the Selection Committee did not determine the criteria for evaluation of SRA/JRA nor approved the criteria fixed on 31.5.2005 (Annexure No.12 of the Enquiry Report). The minutes in this regard are incorrectly recorded in the proceedings of the aforesaid meeting of the Selection Committee contained at page 2 of the file Ex. 34(O).

**a-5) At any rate, no criteria for academic evaluation of JRA could be fixed in the meeting held on 31.05.2005.**

**1882)** It is necessary to bear-in-mind that as already stated in earlier paras 1132 and 1133 of the Enquiry Report regarding short-listing of candidates, the post of JRA (Agri.) is group-C post, the criteria for selection in which is laid down by the Government in its G.R. dated 9.6.2004 (Ex.589) and therefore, as stated in para 1213 of the Enquiry Report, it was not open to the Chairman of the Selection Committee, Dr.V.D. Patil, to determine the criteria for academic evaluation of the candidates applying for the posts of JRA (Agri.) in consultation with Dr.E.R. Patil, Associate Dean, (PGI) and the then Registrar/Member Secretary of the Selection Committee in their meeting held on 31.5.2005. Even otherwise, as shown in paras 1175 to 1212 referred to above the criteria for academic evaluation of SRA/JRA laid down in the meeting held on 31.5.2005 was not laid down legally by the Competent Authority.

**b) Cut off date for awarding marks for academic performance**

(Vide paras 1217 to 1228 of the Enquiry Report)

**b-1) Cut off date for awarding marks for academic performance would be last date of application given in the advertisement dated 14.8.2004 (Ex.2)**

(Vide paras 1217 to 1219 of the Enquiry Report)

**1883)** In considering the question about cut off date for awarding marks for academic performance as per the criteria laid down for academic evaluation of SRA/JRA in the meeting dated 31.5.2005 (Annexure-12 of the Enquiry Report), perusal of the condition in the advertisement dated 14.8.2004 (Ex.2) would show that according to it “applications received with incomplete information and documents and received after the last date would

not be considered in any situation and circumstances". As held in para 1217 of the Enquiry Report, the expression "under any situation and circumstances" would show that the said condition is mandatory. It should not have, therefore been ignored by Dr.V.D. Patil, the Chairman of the Selection Committee, when he directed the Assistant Professors / Associate Professor to award marks for Ph.D. degree, Ph.D. thesis, research papers / popular articles and significant contribution even though acquired / submitted / published/ made, after the last date of application regarding which the relevant certificates/publications/ documents were allowed to be submitted by the candidates for the first time before them for verification / scrutiny at the time of their interviews because as per the above referred condition in the advertisement no information and no documents could be received after the last date of application.

**b-2) Awarding marks for Ph.D. degree, Ph.D. thesis, research papers/ popular articles and significant contribution acquired/ submitted/ published/made after the last date of application regarding which the relevant certificates / publications / documents were filed at the time of interview, illegal being contrary to the above condition in the advertisement**

(Vide paras 1218 and 1219 of the Enquiry Report)

**1884)** Vide para 1218 of the Enquiry Report, as stated in paras 30 and 31 of his affidavit dated 25.12.2007 (Ex.645), Dr.V.D. Patil, the Chairman of the Selection Committee had orally told the Assistant Professors/ Associate Professor and the officers/ employees of the Registrar's office present in the meeting called by him 3 or 4 days after laying down the criteria on 31.5.2005, that as regards Ph.D. degree, thesis submission, publication of research paper/ popular article and documents relating to significant contribution, marks should be awarded to the candidates for the same as per the aforesaid criteria laid down on 31.5.2005 after verification / scrutiny of their certificates/ publications/ documents produced in that regard before them at the time of their interviews even if the acquisition of qualification of Ph.D., thesis submission, publication of research paper/ popular article or their significant contribution was after the last date of submission of their applications for these posts of SRA/JRA i.e. 15.9.2004 since, according to him, long time had elapsed from the date of advertisement but as regards the B.Sc. (Agri.) and M.Sc. (Agri.) degrees of the candidates, he directed that they should be given marks for the same as per the aforesaid criteria if they had acquired them till the last date of application i.e. 15.9.2004 as according to him they were minimum qualification for the said posts.

**1885)** Vide para 1219 of the Enquiry Report, the above instructions given by Dr.V.D.Patil, the Chairman of the Selection Committee, except as regards B.Sc. (Agri.) and M.Sc. (Agri.) degrees were per se contrary to the above referred mandatory condition in the advertisement dated 14.8.2004 (Ex.2) and therefore, marks awarded to the candidates by

the Assistant Professors/ Associate Professor for Ph.D. degree, Ph.D. thesis, research paper/ popular article, or their significant contribution after verification / scrutiny of the certificates/ publications/ documents in that regard submitted by them at the time of their interviews were illegal, improper and had therefore adversely affected the selection process. The judgments of the Supreme Court cited in the said para 1219 of the Enquiry Report clearly support the above view.

**b-3) Neither the then Vice-Chancellor nor the Members of the Selection Committee corroborated the above marking system adopted by Dr.V.D. Patil, the Chairman of the Selection Committee**

(Vide paras 1220 to 1223 of the Enquiry Report)

**1886)** As discussed in paras 1220 to 1223 of the Enquiry Report, the Members of the Selection Committee did not support Dr.V.D. Patil, in regard to the above instructions given by him to the Assistant Professors/Associate Professor about awarding marks to the above referred certificates/ publications/documents submitted by the candidates after the last date of application. All of them including Dr.E.R. Patil, Associate Dean (PGI) and Shri R.B.Bali, the then Registrar who were associated with him in laying down the criteria for academic evaluation of SRA/JRA in the meeting held on 31.5.2005 (Ex.2) clearly stated in their affidavits discussed in the said paras that the certificates/ publications/ documents submitted by the candidates till the last date of application should alone be considered for giving them marks as per the criteria laid down on 31.5.2005.

**1887)** Even Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, stated in para 29 of his affidavit dated 14.1.2008 (Ex.658) that the marks for certificates/ publications/ documents were to be awarded if they were submitted till the last date of applications. He further stated therein that Dr.V.D. Patil, the Chairman of the Selection Committee, did not discuss the above question with him contradicting his statement in para 35 of his affidavit dated 25.12.2007 (Ex.645), that he had discussed the said question with him and that he had granted approval to it orally although according to him no note in that regard was written and was sent to him through proper channel by the Registrar's office for his approval. Dr.V.D. Patil, the Chairman of the Selection Committee however, admitted in the said para 32 that the decision in that regard had to be taken by the Vice-Chancellor who was the appointing authority after following the office procedure about taking decision in the University. It is thus clear that on his own showing the instructions given by Dr.V.D. Patil, the Chairman of the Selection Committee to award marks to the certificates/ publications/ documents submitted after the last date of applications were illegal since the decision in that regard had to be taken by the Vice-Chancellor, who was the appointing authority so far as these posts of SRA/JRA were concerned, after following the office procedure in that regard.

**1888)** Vide para 1222 of the Enquiry Report, it is pertinent to see that Dr.V.D. Patil, while explaining to the Members of the Selection Committee, the criteria about academic evaluation of SRA/JRA at the outset before the interviews commenced on 13.6.2005 did not tell them that he had asked the Assistant Professors/Associate Professor to award marks to the candidates about their Ph.D. degree, Ph.D. thesis, research papers/ popular articles and documents relating to significant contribution even though acquired/ submitted/ published / made, after the last date of applications about which they were allowed to file the relevant certificates/ publications/ documents at the time of their interviews. He had thus applied the said marking system in academic evaluation of SRA/JRA stealthily without the knowledge of the Vice Chancellor and the members of the Selection Committee who were under the impression that the marks were to be awarded to the candidates for the certificates/ publications / documents if they were filed till the last date of application.

- c) **Decision to award marks for certificates/ publications / documents etc. submitted after the last date of application should have been taken by the Vice-Chancellor after following the office procedure and not by the Chairman of the Selection Committee.**

(Vide para 1224 of the Enquiry Report)

**1889)** It is necessary to see that the Vice-Chancellor is the appointing authority under Statute 74 read with Statute-77 (1) (v) of the Statutes, so far as these posts of SRA/JRA are concerned. He is also the competent authority under statute 77 (1) (i) for issuing the advertisement of the posts to be filled in the University. As is clear from the procedure followed at the time of advertisement of these posts dated 14.8.2004 (Ex.2) contained in the file Ex.40(O) which also reflects the decision making process in the University, the routine office procedure of recording office notes by the concerned officers/employees was followed for approval of the Vice-Chancellor to the advertisement of the vacancies in the posts in question and after his approval to the draft advertisement, the aforesaid advertisement dated 14.8.2004 (Ex.2) was issued.

**1890)** Dr.V.D. Patil, the Chairman of the Selection Committee, could not have taken the decision on his own orally and instructed the Assistant Professors/Associate Professor to award marks to the candidates regarding certificates/ publications/ documents submitted by them after the last date of application for the first time before them at the time of interviews. For all the reasons given in the previous topic relating to criteria for academic evaluation of SRA/JRA, since the above marking system was about the assessment of the candidates for which, in fact, as provided in Statute 76 (6) of the Statutes rules should have been framed by the University, he had no power to introduce the aforesaid marking system. In the absence of the rules, such a decision, if at all, could have been taken only by the Vice-Chancellor, who was the appointing authority so far as these posts were concerned,

and had power to issue the advertisement as stated above, after following the office procedure of submission of office note in that regard by the concerned Section Assistant / Clerk and forwarding it to him for his approval through proper channel i.e. after its consideration by the Assistant Registrar, Deputy Registrar and the Registrar and Director of Instructions/ Chairman of the Selection Committee, more so when it involved change in the condition in the original advertisement dated 14-8-2004 (Ex. 2). If such decision was taken after the approval of the Vice-Chancellor it needed to be advertised by issuing amendment to the original advertisement dated 14.8.2004 (Ex.2) since it contained the condition that the information and documents received after the last date of application could not be considered under any situation and circumstances. The above decision taken orally on his own by Dr.V.D. Patil, Chairman / D.I. instructing the Assistant Professors/Associate Professor to award marks to the candidates regarding certificates/ publications/ documents submitted by them after the last date of applications for the first time before them at the time of interviews was thus illegal and improper.

**c-1) The above marking system of awarding marks to the candidates regarding certificates/ publications / documents etc. submitted by them after the last date of application for the first time at the time of their interviews was not only illegal but was arbitrary and was violative of Articles 14 and 16 of the Constitution of India.**

(Vide paras 1225 to 1227 of the Enquiry Report)

**1891)** As already pointed out, the condition in the advertisement dated 14.8.2004 (Ex.2) referred to above was that the applications received with incomplete information and documents and received after the last date would not be considered under any situation and circumstances, which condition as held above was mandatory. It thus prohibited the candidates from submitting any certificates/ documents/ publications etc. after the last date of applications. They could not have therefore, submitted any certificates/ documents/ publications etc. at the time of their interviews. If the said certificates/ documents/ publications etc. were to be entertained at the time of their interviews, even though not submitted on or before the last date of application, it was obligatory upon the University to amend the original advertisement dated 14.8.2004 (Ex.2) by publishing the said change in the news paper/s. so that all the candidates applying for these posts of SRA/JRA could have equal opportunity to submit their documents/ certificates/ publications etc. at the time of their interviews i.e. after the last date of application for awarding marks to them. Dr.V.D. Patil, the Chairman of the Selection Committee also admitted in para 32 of his affidavit dated 25.12.2007 (Ex.645) that if “the evaluation as per the criteria for assessment of the candidates was for his acquisition of educational qualifications, and other attainments till the date of interview, it should have been so mentioned in the advertisement. The decision taken by Dr.V.D. Patil, the Chairman of the Selection Committee, on his own, to allow the

candidates to submit the certificates/ documents/publications etc. for the first time at the time of their interviews i.e. after the last date of application was over, for awarding marks to them without any publicity to the same was therefore, wholly arbitrary, discriminatory, and was violative of Articles 14 & 16 of the Constitution of India.

**1892)** It may be seen that as regards M.Sc. degree, it was not minimum but higher qualification for the post of JRA. Dr.V.D. Patil, the Chairman of the Selection Committee, should not have, therefore, disallowed the candidates from submitting M.Sc. degree at the time of interview on the ground that it was minimum qualification for the posts in question, vide paras 30 and 31 of his affidavit dated 25.12.2007 (Ex.645). There was thus infringement of Articles 14 and 16 of the Constitution of India on this ground also.

**1893)** Vide Para 1227 of the Enquiry Report, the aforesaid decision of Dr.V.D. Patil, the Chairman of the Selection Committee, lacked bonafides because it could benefit largely only such candidates who were related to or close to the University officers/employees because in the absence of its advertisement they could alone be aware of or get information about such decision. This question is however, considered in the next topic relating to criticism of criteria of “thesis submission” in evaluation of the candidates for the posts of SRA/JRA (see para 1235 of the Enquiry Report) where it is shown that the above marking system was adopted by Dr.V.D. Patil, the Chairman of the Selection Committee, for the benefit of the candidates who were related to the University officers/ employees including him to enhance their merit by getting marks for the certificates/ publications / documents etc. submitted by them for the first time at the time of their interviews. It is a different thing that some other candidates who came to know about it also became favoured candidates as understood in this Enquiry Report (see Explanatory note in para 1699) as they were also benefited by it.

**c-2) Selection process is adversely affected because of above illegal marking system**

(Vide Para 1228 of the Enquiry Report)

**1894)** As per the criteria of evaluation of the candidates for the posts of SRA/JRA laid down on 31.5.2005, the marks awarded to the candidates for acquisition of Ph.D. 10, for thesis submission 8, for research papers / publications 2, for popular article 0.2, maximum marks for such publications being 10 and for significant contribution marks upto 5 as shown in the said criteria laid down on 31.5.2005. As held above, if the marks could not be but were awarded to the candidates under the above heads in the said criteria on the basis of the certificates/ publications/ documents submitted by them at the time of their interviews i.e. after the last date of application, there cannot be any doubt that the selection process was adversely affected because such candidates who were not entitled to but who received marks under the above heads of the said criteria had an unfair advantage in their selection over those who received lesser marks on the basis of the certificates/ publications./

documents etc. which they had with them at the time of submission of their applications and which they submitted with them (see in this regard para 1279 of the Enquiry Report).

**d) Criticism of the criteria laid down for academic evaluation of SRA/JRA**

(Vide Paras 1229 to 1243 of the Enquiry Report)

A criteria laid down for academic evaluation of SRA/JRA in the meeting held on 31.5.2005 ( Annexure No.12 of the Enquiry Report) is criticized for :-

- 1) Awarding 8 marks for thesis submission
- 2) For fixing higher marks for performance in interview as compared to marks for academic performance.

**d-1) Awarding 8 marks for thesis submission illegal and unjustified**

(Vide paras 1230 to 1243 of the Enquiry Report)

**1895)** In 40 marks allotted for academic performance out of 100, 20 i.e. 50% marks are allotted under the head “Qualification” in which 8 marks out of it are fixed for the submission of thesis for Ph.D. Awarding 8 marks for thesis submission thus makes much difference in considering the candidates for selection in these posts of SRA/JRA in descending order of merit and if after awarding 8 marks for thesis submission, thesis is rejected it would adversely affect the selection process as awarding the marks for the same would be giving unjust benefit to such candidates.

**1896)** As regards awarding 8 marks for thesis submission, three questions as shown in para 1230 of the Enquiry Report are considered. The first question which is considered in paras 1231 and 1232 of the Enquiry Report is whether it is “qualification” within the meaning of the said expression as it is ordinarily understood because under the criteria for evaluation of SRA/JRA laid down on 31.5.2005, 20 marks are fixed under the head “qualification”. After considering the dictionary meaning of the said expression “qualification” and also its use in ordinary parlance, it is held therein that thesis submission is merely one of the stages out of three stages viz. course work, qualifying examination, and thesis submission after successful completion of which only Ph.D. degree is awarded. Thesis submission is thus not any “Qualification”, as it is ordinarily understood for fixing and awarding marks under the said head.

**1897)** The second question considered in that regard in para 1233 of the Enquiry Report is whether thesis submission is definite and certain criteria for which the marks should be fixed in evaluation of the candidates for any academic post. It is pointed out therein that the said criteria of thesis submission is not a definite or certain criteria like acquisition of degree, diploma, certificate etc. which criteria is certain in the sense that it is not defeasible and the selection process is thereby not adversely affected. However, the criteria of thesis

submission is defeasible as there is a possibility of its being rejected thereby adversely affecting the selection process as awarding of marks for thesis submission would then be improper, unjust and of no value as admitted by Dr.V.D. Patil, himself, the Chairman of the Selection Committee, in para 28 of his affidavit dated 25.12.2007 (Ex.645). No such criteria of thesis submission is therefore thought to be fixed, much less fixed for any academic posts. It may be seen that no such criteria is fixed in Statute-52 whose pattern of 40:60 i.e. 40 marks for past performance and 60 marks for interview is adopted in fixing the criteria for academic evaluation of the posts of SRA/JRA although it is not in terms applicable to the said posts but is applicable to the higher posts of Professor and above.

**1898)** The third and the most important question considered about the criteria of thesis submission in paras 1234 to 1236 of the Enquiry Report is whether such criteria of thesis submission is prompted because some favoured candidates submitted their thesis in the University after the last date of application i.e. 15.9.2004 and thus lacked bonafides and whether it suffers from personal bias of Dr.V.D. Patil, the Chairman of the Selection Committee. It is pointed out in para 1234 of the Enquiry Report that the thought of fixing such criteria for thesis submission which is defeasible because it can be rejected can occur in the mind of the person fixing it when he finds that the candidates for the said post who are close to him or other officers or VIPs, who matter, have not acquired the Ph.D. degree on or before the last date of application but some such candidates have submitted their thesis after it and may or may not get Ph.D. degree on or before their interviews. It is to enable them to enhance their merit by getting marks for the same that such criteria of thesis submission was fixed and the illegal marking system of awarding marks for the same or for Ph.D. degree acquired after the last date of application was adopted in support of which proof was allowed to be produced before the Assistant Professors/ Associate Professor at the time of their interviews.

**1899)** In the instant case, as shown in para 1235 of the Enquiry Report, the criteria for academic evaluation of the candidates for the posts of SRA/JRA was fixed on 31.5.2005 i.e. about 9 months after the last date of application i.e. 15.9.2004 and just before the interviews started on 13.6.2005 and as shown in the said para 1235, there were such favoured candidates in this case who filed their thesis for Ph.D. after the last date of application and therefore for whose benefit it appears that the criteria of thesis submission was laid down on 31.5.2005. The said candidates whose names are discussed in the said para are (1) Pravin V.Patil, son of Dr.V.D. Patil, himself, the Chairman of the Selection Committee, (2) Ku. Swati G. Bharad, daughter of the former Vice-Chancellor of the University, (3) Shri Pawan Kulwal, son of Dr. L.V. Kulwal, Head of the Department of Horticulture, although he was not actually selected in these posts since he was already selected in the higher post of Assistant Professor, (4) Shri Vikas Goud son of Dr.V.R.Deshmukh, the Assistant Professor and (5) Shri Vijay Raut son of Senior Clerk in



the University. It is also observed in the said para 1235 that the case of Ku. Swati G. Bharad is discussed in detail in paras 1722 to 1802 of the Enquiry Report, in the topic about glaring instances of the favoured candidates under the head “Selecting in the posts of SRA (Agri.)/ and JRA (Agri.) the favoured candidates as understood in this Enquiry Report” (Vide para 1699 of the Enquiry Report). The finding rendered in para 1236 of the Enquiry Report is that fixing criteria of thesis submission for the benefit of close relations of the higher officers and the employees of the University who filed their thesis after the last date of applications and adopting for them the marking system of awarding marks for Ph.D. degree acquired, Ph.D. thesis submitted, research papers/ popular articles published and significant contribution made after the last date of applications for which certificates/ publications/ documents were allowed to be submitted before the Assistant Professors/Associate Professor at the time of their interviews lacked bonafides. Some other candidates not related to the University officers/employees who came to know about the said criteria and the marking system were also benefited by it. All such candidates are treated as favoured candidates, vide Explanatory note in para 1699 of the Enquiry Report. It is also held in the said para 1236 of the Enquiry Report that fixation of the said criteria of thesis submission is also vitiated by bias or at any rate reasonable likelihood of bias as held in the subsequent topic (5) of the Enquiry Report because the said criteria and the said marking system was determined by Dr.V.D. Patil, the Chairman of the Selection Committee whose son was the candidate for both the posts of SRA (Agri.) and JRA (Agri.)

**d-1-i) Since criteria of thesis submission is not published, it is violative of Articles 14 & 16 of the Constitution of India**

(Vide para 1237 of the Enquiry Report)

**1900)** In the absence of due publicity, the criteria of thesis submission is violative of Articles 14 & 16 of the Constitution of India as discussed in para 1237 of the Enquiry Report.

**d-1-ii) Selection process adversely affected by reason of fixing the criteria of thesis submission and adopting the above illegal marking system**

(Vide para 1238 of the Enquiry Report)

**1901)** Vide para 1238 of the Enquiry Report, it is pointed out therein that the total number of candidates having Ph.D. degree who had applied for these posts of SRA/JRA was 77 out of whom 46 had acquired Ph.D. degree on or before the last date of application and the remaining 31 candidates had either acquired Ph.D. degree or submitted Ph.D. thesis after the last date of applications and filed proof about the same before the Assistant Professors/Associate Professor at the time of their interviews. A chart of such 31 candidates, who had acquired Ph.D. degree or submitted their thesis for Ph.D. was filed with this Enquiry Report as **Annexure-42**. As shown in the said chart, these 31 candidates

therein had received either 8 or 10 marks according to whether they had submitted proof of submitting their thesis or PDC before the Assistant Professors/Associate Professor at the time of their interviews. Out of them 6 candidates as shown in the said chart were not selected in the posts of SRA/JRA and 2 candidates viz. Hadole Sandeep S., S.no.10, and Kulwal Pawan, S.no.15 were selected in the higher posts of A.P. Thus the remaining 23 candidates were selected for these posts of SRA/JRA because of which the selection process is adversely affected since large number of candidates out of these 31 candidates are selected in the said posts (78%).

**d-1-iii) Justification of the criteria for thesis submission by Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University cannot be accepted**

(Vide Paras 1239 to 1243 of the Enquiry Report)

**1902)** Vide paras 1239 and 1240 of the Enquiry Report respectively, Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, justified the criteria of thesis submission on the ground that while fixing the said criteria of thesis submission they had taken into consideration the course work, and the qualifying examination for submission of thesis which a candidate is required to undergo as per the provisions of the Regulations AC/8 relating to examinations for PG and Ph.D. degree. They however, admitted that there is possibility of thesis being rejected although according to them, it is done in a rare case. After considering their justification in para 1242 of the Enquiry Report, it is pointed out that completion of course work, qualifying examination to be eligible to submit thesis, and submission of thesis for Ph.D. are 3 stages which a candidate has to undergo successfully before he can get Ph.D. degree. It is also pointed out therein that in the criteria for evaluation of SRA/JRA marks are not fixed for successful completion of course work but they are fixed for submission of Ph.D. thesis which admittedly can be rejected even though as stated by the then Vice-Chancellor and the then Chairman of the Selection Committee, there is rare possibility of its being rejected. The said criteria cannot therefore be treated as definite and certain criteria which can be fixed for awarding of marks in academic evaluation of the candidates for the posts of SRA/JRA although they may be lower posts in the hierarchy of posts of academic staff members. If a thesis of a Ph.D. candidate is rejected, he gets unfair advantage by getting marks for thesis submitted by him to which he is not entitled if his thesis is rejected.

**1903)** To conclude, vide para 1243 of the Enquiry Report, fixing the criteria of thesis submission and awarding 8 marks for it cannot be justified. It is improper, unjust and is not bonafide. It is arbitrary, discriminatory, biased and is therefore, violative of Articles 14 and 16 of the Constitution of India.

**d-2) Fixing higher marks for performance in interview as compared to the marks for academic performance**

(Vide Paras 1244 to 1263 of the Enquiry Report)

**d-2-i) Change could be made in the pattern of 40:60 in laying down the criteria for academic evaluation of SRA/JRA**

(Vide Paras 1244 and 1245 of the Enquiry Report)

**1904)** When questioned about the high weightage being given to the interview in the pattern of 40:60 i.e. 40 marks for academic performance and 60 marks for personal interview adopted for selection of the candidates for the posts of SRA (Agri.) and JRA (Agri.), Dr.V.D.Patil, stated in para 27 of his affidavit dated 25.12.2007 (Ex.645) that he adopted the said principle from Statute-52 applicable to the posts of Professors and above. Statute-52 of the Statutes as is clear from Statute-40 is not in terms applicable to the lower posts of SRA/JRA but is applicable only to the higher posts of Professors and above as stated in para 1244 of the Enquiry Report. It is, not, therefore, necessary to consider the question whether the higher marks for interview laid down for the said posts was proper or not. It is clear from comparison of the criteria for evaluation of the posts of professors and above laid down in Statute-52 with the criteria laid down on 31.5.2005 for academic evaluation of SRA/JRA that the said criteria in Statute-52 was not in terms laid down for these posts of SRA/JRA although the pattern of 40:60 was followed in the said criteria also. However, there are qualitative changes made in the criteria laid down for academic evaluation of SRA/JRA while adopting the pattern of 40:60. For instance, in the said criteria laid down for SRA/JRA more marks were allotted for qualifications of the candidates and lesser marks for publication of research papers/popular articles contrary to the criteria in that regard laid down in Statute-52 for the higher posts of Professors and above. There were also other changes made as pointed out in the topic (2) under the head (d) "Criteria for academic evaluation of SRA/JRA laid down on 31.5.2005" relating to differences between the said criteria laid down for academic evaluation of SRA/JRA and the criteria laid down in Statute 52 for the posts of Professors and above (Vide Para 1216 of this Enquiry Report). It was, therefore, open to Dr.V.D. Patil, the Chairman of the Selection Committee to make the change in the pattern of 40:60 also if he was of the view that comparatively more weightage should be given to the academic performance rather than personal interview.

**d-2-ii) Whether it was proper to give higher weightage to interview vis-à-vis academic performance**

(Vide Paras 1246 to 1263 of the Enquiry Report)

**1905)** Dr.V.D. Patil, the Chairman of the Selection Committee, Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, Dr.Vandan Mohod, the Registrar/ Member Secretary of the Selection Committee, Dr.E.R. Patil, Associate Dean (PGI) its Senior most member, and Dr.N.D. Pawar, outside member of the Selection Committee were questioned regarding the weightage to be given to personal interview vis-à-vis written test or academic performance of the candidates. As shown in paras 1246 to 1249 of the Enquiry Report they are very senior academicians having put in long service in Agricultural Universities and having also long experience of its administrative side including the experience of working upon the Selection Committees for recruitment in the posts in the Agricultural Universities including the posts of SRA/JRA. They have stated in their affidavits referred to in paras 1246 to 1248 of the Enquiry Report that looking to the nature of duties and responsibilities of the posts of SRA/JRA what was material was the knowledge of the candidate about the subject as he had to work as per the directions given to him by the Assistant Professor or the Head of the Department and not on his own initiative. Further, according to them, the written test was the best way to judge the knowledge of the candidates for the posts of SRA/JRA and therefore more weightage should be given to it as compared to personal interview but if the written test was not prescribed, then between academic performance and personal interview comparatively more weightage should be given to academic performance rather than personal interview which was of short duration, was subjective, and there was possibility of its abuse. In this regard, Dr.N.D.Pawar, outside Member of the Selection Committee, stated that what could be judged in interview was whether the candidate was talented, intelligent or not but for judging the knowledge of the candidate from the stand point of duties and responsibilities of the posts of SRA/JRA comparatively higher weightage should be given to academic performance rather than interview although written test was the best way of judging the knowledge of the candidate. Dr.Vandan Mohod, stated in para 20 of his affidavit dated 1.12.2007 (Ex.633) that maximum weightage should be given for academic performance rather than personal interview which should be given minimum weightage i.e. 15% to 20% marks out of total marks fixed for academic performance and interview.

**1906)** Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, however, stated in para 16 of his affidavit dated 14.1.2008 (Ex.658) vide para 1248 of the Enquiry Report, although he agreed that between written test and personal interview and similarly between academic performance of the candidates and personal interview higher weightage should be given to written test and academic performance respectively rather than personal interview, he, however, felt that personal interview was also necessary because the candidate who was

highly qualified i.e. M.Sc. or Ph.D. might know more about his own subject but might have forgotten the basic knowledge of other subjects which was necessary for working in lower post. Similarly, Dr.N.D. Pawar, outside Member of the Selection Committee, stated in para 11 of his affidavit dated 1.11.2007 (Ex.590) vide para 1247 of the Enquiry Report, that although higher qualification of the candidates would show his better knowledge, according to him, his experience was that as regards some candidates who appeared for interview before them, it was found that they had acquired their degrees much earlier i.e. about 3 or 4 years back and that they had forgotten the knowledge about the subject/s particularly if they were working in the post such as Gram Sewak where the knowledge of subject was not necessary and therefore their interviews showed less knowledge about the subject/s with which the posts of SRA/JRA were concerned. Therefore, according to him, it was in such cases that the knowledge of the candidates could be judged better from their personal interview rather than their qualification. However, according to both of them viz. Dr.S.A. Nimbalkar, the then Vice-Chancellor of the University, and Dr.N.D.Pawar, the outside Member of the Selection Committee, by and large knowledge of the candidates could be better judged by their academic performance and therefore more weightage should be given to it as compared to interview.

**1907)** Vide Para 1249 of the Enquiry Report, when Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.E.R. Patil, its senior most member were both of the view that what was material from the point of view of nature of duties and responsibilities of the posts of SRA (Agri.) and JRA (Agri.), was the knowledge of the candidates about their subject which according to them could be better judged from their academic performance rather than personal interview and when both of them were associated alongwith the then Registrar Shri R.B.Bali in laying down the criteria for academic evaluation of SRA/JRA on 31.5.2005, it was open to them to change the pattern of 40:60 by giving higher weightage/marks for academic performance and less weightage/marks for personal interview of the candidates particularly when the said pattern in Statute-52 was admittedly not applicable to these lower academic posts of SRA (Agri.) / JRA (Agri.) but was applicable to higher posts of Professors and above. It may be seen that they had not adopted the criteria in Statute-52 in to but had made certain changes in the said pattern in laying down the criteria for these posts of SRA/JRA. It was open to them even to adopt the criteria of written test which according to them, was the best way to judge the knowledge of the candidates by discussing the same with the then Vice-Chancellor and by prevailing upon him to change his view and adopt the said test for short-listing of candidates also.

**1908)** In fact, vide Para 1263 of the Enquiry Report, as regards the posts of JRA which was group-C post as already shown in the topic (5) relating to "Procedure prescribed in G.R. dated 9.6.2004 (Ex.589) is not only for short-listing of candidates but for their selection also" (See paras 1131 to 1133 of the Enquiry Report) under the head (iii) "Criteria

for short-listing of candidates”, selection of candidates in the said posts had to be made on the basis of the written examination of 75% marks and interview of 25% marks as laid down in G.R. dated 9.6.2004 (Ex.589) where as compared to the written examination less weightage was given to the test of interview. Further, for both the posts of SRA (Agri.)/JRA (Agri.), the University was bound to follow the G.R. dated 9.5.1988 (Ex.588) in which the ratio about short-listing of candidates was given. They could have therefore introduced the above criteria of written test of 75% marks and interview of 25% marks for selection in the post of SRA (Agri.) also as was done in Rahuri University.

**1909)** In paras 1250 to 1262 of the Enquiry Report, the relevant case law on the question of precise weightage to be given to interview test is considered including the Judgments relied upon by Shri R.L.Khapre, Advocate, appearing on behalf of 16 selected candidates, vide paras 1256 to 1259 of the Enquiry Report. It was pointed out in para 1260 of the Enquiry Report that the selection of the candidates for the posts of SRA/JRA in the instant case was not solely on the basis of interview as urged by Shri R.L.Khapre, Advocate for 16 selected candidates, but that twofold test of academic performance and interview was adopted by Dr.V.D. Patil, the Chairman of the Selection Committee, in selection of the candidates for these posts of SRA/JRA. It was thus held that the question of relative weightage to be attached to academic performance and interview was relevant in applying the said criteria in selection of the candidates for these posts of SRA/JRA. As the academicians and the experts in the Agricultural Universities, Dr.S.A. Nimbalkar, the then Vice-Chancellor, Dr.V.D. Patil, the Chairman of the Selection Committee, Dr.E.R. Patil, Associate Dean (PGI), its senior most member, who was associated with Dr.V.D. Patil, the Chairman of the Selection Committee, in determination of criteria for academic evaluation of SRA/JRA, Dr.Vandan Mohod, the Registrar/its Member Secretary, and Dr.N.D. Pawar, its outside member, Associate Dean/Principal, Agriculture College, Ambejogai were of the view that between the academic performance and interview, comparatively higher weightage should be given to academic performance rather personal interview considering the nature of the duties and responsibilities of the said posts, giving higher weightage to interview vis-à-vis academic performance was illegal and improper.

**1910)** Further, vide para 1254 of the Enquiry Report after pointing out therein that there were unduly large number of candidates i.e. 1342 for both these posts of SRA/JRA even after short-listing them as compared to the number of posts advertised and even as compared to the number of posts which were filled, it was pointed out that there was manipulation and abuse or misuse of higher marks fixed for interview as seen from the topic-c, under the head “Award of marks for performance in interview”, relating to “Manipulation of marks for interview by making changes even by erasing the marks of some candidates originally shown against their names in the consolidated Mark-Sheet Ex.112(O) and also the categorywise Mark-Sheet Ex.34(O)-A, Vide paras 1323 to 1336 of

the Enquiry Report showing that the inference that the favoured candidates were selected by manipulation of the marks could be drawn in the instant case. It was pointed out in the above paras 1323 to 1336 of the Enquiry Report that the manipulation of marks was both ways in the sense that the candidates receiving lower marks in their academic performance were given high marks in their interviews so that they could be selected in the posts of SRA/JRA and the manipulation was also done for not selecting the candidates who had received very high marks in their academic performance by giving them low marks in their interviews. There were also changes made in the consolidated Mark-sheet Ex.112(O) and the categorywise Mark-sheet Ex.34(O)-A by overwriting in marks awarded to some candidates for their interview and consequently the total marks awarded to them, vide paras 1949 to 1964 of the Enquiry Report. Giving higher weightage to personal interview as compared to academic performance was therefore, improper and had adversely affected the selection process

- e) **Criteria laid down for academic evaluation of SRA/JRA is biased and is vitiated, so also the marking system of awarding marks for Ph.D. degree, thesis, research papers/ popular articles, and significant contribution acquired/submitted/ published/made after the last date of application i.e. 15.9.2004**

(Vide Paras 1264 to 1266 of the Enquiry Report)

**1911)** Dr.V.D.Patil, himself stated in para 26 of his affidavit dated 25.12.2007 (Ex.645) that the criteria for academic evaluation of SRA/JRA was determined by him as Chairman of the Selection Committee in consultation with senior most member Dr.E.R. Patil and the Registrar, Shri R. B. Bali who was the Member Secretary of the Selection Committee in their meeting held on 31.5.2005. It is thus clear that the criteria for academic evaluation of SRA/JRA is framed by Dr.V.D. Patil, the Chairman of the Selection Committee. At any rate his participation in framing the said criteria is clear and cannot be disputed. It also cannot be disputed that the son of Dr.V.D. Patil by name Pravin V. Patil, was the candidate for the posts of SRA/JRA in question as shown in para 1264 read with para 1265 of the Enquiry Report. Dr.V.D. Patil, was aware on 31.5.2005 when the said criteria was framed that his son was a candidate for these posts. Dr.V.D. Patil, the Chairman of the Selection Committee, had himself instructed the Assistant Professors/Associate Professor that the marks as per the criteria should be awarded to the candidates for Ph.D. degree, thesis for Ph.D., research papers/popular articles and significant contribution submitted /published /made after the last date of application i.e. 15.9.2004 on the basis of the certificates/ publications/ documents submitted by them before them for the first time at the time of their interviews. As already shown hereinbefore in para 1235 of the Enquiry Report, the above marking system was adopted for the benefit of the favoured candidates including Shri Pravin V.Patil, the son of, Dr.V.D. Patil.

**1912)** It is thus clear as held in para 1266 of the Enquiry Report that the criteria laid down for academic evaluation of SRA/JRA on 31.5.2005 was vitiated by bias or at any rate there was reasonable likelihood of bias because Dr.V.D. Patil, had himself framed or at any rate he was associated with framing the said criteria. Similarly, the above marking system which he instructed the Assistant Professors/Associate Professor to follow was also vitiated by his bias or reasonable likelihood of his bias since his son Pravin V. Patil was beneficiary of the said marking system as he had also submitted his thesis for Ph.D. after the last date of applications i.e. 15.9.2004. Since the selection of the candidates in these posts of SRA/JRA is made on the basis of the above criteria laid down for academic evaluation of the candidates for these posts of SRA/JRA to which Dr.V.D. Patil, is a party and the above marking system is introduced by him, the whole selection of the candidates in these posts of SRA/JRA is vitiated. Moreover, as held in para 1804 of the Enquiry Report relating to the glaring instances of favoured candidates Pravin Patil, the son of Dr. V. D. Patil, the Chairman of the Selection Committee, was, as shown in chart Ex. 38(O), awarded 10 marks meant for acquiring Ph.D. degree although at the time of his interview he had not acquired Ph.D. degree but had produced his Ph.D. thesis for which he should have been awarded 8 marks only. Similarly, although he produced at the time of interview 4 research papers, 1 technical bulletin, and 1 popular article, for which he should have been awarded 8.4 marks as per the criteria, he was awarded 10 marks for the same. He had thus illegally received benefit of 3.6 total marks as stated above.

**vi) Award of marks for academic performance**

(Vide Paras 1267 to 1297 of the Enquiry Report)

**1913)** It is held under the topic (v) relating to criteria for academic evaluation of SRA / JRA laid down on 31.5.2005 that the said criteria was illegal and invalid for the reasons given therein. It was also held therein that the marking system of awarding marks to the candidates for the certificates/ publications/documents produced by them for the first time at the time of their interviews for awarding marks to the same by the Assistant Professors/ Associate Professor as per the aforesaid criteria which marking system Dr.V.D. Patil, the Chairman of the Selection Committee adopted and instructed the Assistant Professors/Associate Professor to follow was also held as illegal and invalid. Further, perusal of the marks actually awarded by the Assistant Professors/Associate Professor for acquiring Ph.D. degree, submission of thesis for Ph.D., publication of research papers/ popular articles and making significant contribution under the said heads in the chart Ex.38(O) would show that the said marks awarded by them to the candidates are written in pencil which would raise doubt about their authenticity (Vide para 1274 of the Enquiry Report).



- a) **Candidates who were illegally benefitted by the marks awarded to them for Ph.D. degree acquired, Ph.D. thesis submitted, research papers/ popular articles, and significant contribution made after the last of application i.e. 15.9.2004 had unfair advantage over others.**

(Vide Paras 1276 to 1279 of the Enquiry Report)

**1914)** It is already held in paras 1225, 1236 and 1237 of the Enquiry Report in the topic (v) relating to criteria for academic evaluation of SRA/JRA that the award of marks for Ph.D. degree acquired, Ph.D. thesis submitted, research papers/popular articles or significant contribution made after the last date of application i.e. 15.9.2004 was illegal, improper and lacked bonafides and was biased. The said marking system was also held violative of Articles 14 and 16 of the Constitution of India. Vide para 1277 of the Enquiry Report, a chart showing the names of 31 candidates who were awarded marks for Ph.D. degree acquired or for thesis submitted for Ph.D. after the last date of application i.e. 15.9.2004 (Annexure No.42 of the Enquiry Report, vide its para 1238) would show that out of the said 31 candidates, 23 candidates were selected in the posts of SRA/JRA and they had illegally received benefit of either 8 marks for submission of Ph.D. thesis or 10 marks for acquiring Ph.D. degree after the last date of application i.e. 15.9.2004. There are also candidates who were illegally benefitted by the award of marks to them for research papers/popular articles published by them after the last date of application. The chart of the selected candidates in the posts of SRA (Agri.) and JRA (Agri.) showing their marks for research papers/ popular articles submitted by them with their applications based on the chart about the particulars of the candidates Ex.45(O) and the research papers/ popular articles submitted by them at the time of their interviews and accepted as such by the Assistant Professors/ Associate Professor awarding marks to the same based on the chart Ex.38(O) are filed as Annexure Nos. 13 and 14 of the Enquiry Report respectively, vide its para 295-A. Perusal of the said charts (Annexure Nos.13 and 14) would show that the candidates therein had illegally received the benefit of additional marks, one of them in JRA chart (Annexure-14 of the Enquiry Report) received as many as 9.2 additional marks as shown in its last column. The said charts relating to SRA (Agri.) and JRA (Agri.) (Annexure Nos.13 and 14 of the Enquiry Report) contained respectively the names of 15 candidates selected in the posts of SRA (Agri.) and 24 candidates in the posts of JRA (Agri.).

**1915)** Vide Para 1278 of the Enquiry Report, the number of selected candidates who thus received the benefit of the above illegal marking system was thus 23 + 15 + 24 i.e. = 62 out of 131 candidates who were selected and appointed for these posts of SRA (Agri.) and JRA (Agri.). Separate calculation of each of these posts would show that the total number of candidates selected in the posts of SRA (Agri.) who were benefitted by the above marking system was 30 out of whom 15 were in the chart of Ph.D. candidates (Annexure No.42 of

the Enquiry Report) and the remaining 15 in the chart of RPPA (Annexure No.13 of the Enquiry Report). As regards the benefit of additional marks to the selected candidates in the posts of JRA (Agri.), their number was 32, 8 from the chart of Ph.D. candidates (Annexure No.42 of the Enquiry Report) and 24 from the chart of RPPA (Annexure No.14 of the Enquiry Report) referred to above. The said para 1278 also contains the names of 6 candidates who illegally received the benefit of marks for both i.e. Ph.D. or Ph.D. thesis and also marks for research papers/ popular articles produced after the last date of application for the first time at the time of interview. As shown above, out of 55 candidates selected for the posts of SRA (Agri.), 30 have received benefit of illegal marking system and out of 76 candidates selected in the posts of JRA (Agri.), 32 have received its benefit.

**1916)** Vide para 1279 of the Enquiry Report, award of marks to the above referred documents submitted after the last date of application for the first time at the time of interview by some candidates who knew about the said marking system the number of such selected candidates in both these posts of SRA/JRA being 62, 30 out of 55 selected in the posts of SRA (Agri.) and 32 out of 76, in the posts of JRA (Agri.) adversely affected the selection process because such candidates who were not entitled to but who received benefit of marks under the above heads of the said criteria had an unfair advantage in their selection over those who were unaware of the above illegal marking system and therefore received lesser marks on the basis of the certificates/ publications/documents which they had with them at the time of submission of their applications and which they submitted with them. It is made clear that on perusal of the said charts annexures-42, 13 and 14 of the Enquiry Report there are 6 SRA/JRA candidates (3 each), whose names are given in para 1708 of the Enquiry Report, common in the said charts i.e. in the chart about Ph.D. degree and Ph.D. thesis (annexure-42) and in the charts about R.P./P.A. (annexures 13 and 14), and therefore actually 56 candidates whose names are included in the said charts received benefit of the above illegal marking system.

**b) Discrepancies/mistakes in the chart (Ex.38(O))**

(Vide Paras 1280 to 1286 of the Enquiry Report. Also see paras 563, 571 and 572 under the topic about Discrepancies / mistakes and overwriting/ applying white ink in the category-wise Mark-Sheet Ex.34(O)-A, consolidate Mark-Sheet Ex.112(O), and the Chart Ex.38(O) about marks awarded by the Assistant Professors/Associate Professor).

**1917)** Vide para 1281 of the Enquiry Report, the discrepancies/mistakes committed by the Assistant Professors/Associate Professor in awarding marks to the candidates who appeared for interview for the posts of SRA (Agri.) and JRA (Agri.) are specifically pointed out in paras 227 to 295 of the Enquiry Report in which their affidavits are referred to in detail. The said discrepancies/ mistakes in the chart Ex.38(O) are included in the chart prepared by this office and enclosed as Annexure No.22 of the Enquiry Report, vide its para 563.The

said discrepancies / mistakes committed in awarding marks to the candidates are specifically referred to in paras 1284 and 1285 under this topic in the Enquiry Report.

**1918)** Perusal of the said paras would show that there are mistakes committed by the concerned Assistant Professors/Associate Professor in awarding 10 marks to some candidates instead of 8 for submission of thesis for Ph.D., and to some candidates 8 marks instead of 10 for acquiring Ph.D. in support of which they had filed provisional degree certificates (P.D.C.). As regards the research papers/popular articles, it is pointed out in the said para 1284 that although Shri Patil Pravin V. was entitled to 8.4 marks for the same, he was awarded 10 marks for the same in the chart Ex.38(O). On the other hand, Shri Ghatol Prakash V. and Ghawade Raju S. were given less marks for research papers and popular articles produced by them before the concerned Assistant Professors / Associate Professor at the time of their interview as shown in the said para 1284.

**1919)** Vide para 1285 of the Enquiry Report, as regards “Significant contribution” it is shown that one mark for significant contribution awarded by the concerned Assistant Professors/Associate Professor should have been added to the total marks of either Shri Paul Avinash M. or Paulkar Prashant K. calculated by them as shown in the chart Ex.38(O) but was not added to the total marks of either of them. As shown therein, it should have been added to the total marks awarded by them to Paulkar Prashant K. Similarly, three marks awarded to Gite Bharat D. for significant contribution were not added to the total marks awarded to him in the chart Ex.38(O) as instead of showing his total marks as 13, they were shown as 10 in the chart (Ex.38(O)). All the discrepancies/ mistakes in the chart Ex.38(O) are admitted by the Assistant Professors/Associate Professor in their affidavits, vide paras 227 to 295 of the Enquiry Report. Similarly, as stated in para 1286 of the Enquiry Report under this topic (also see its para 572), Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr. Vandan Mohod, the Registrar/ its Member Secretary, who had actually prepared the Selection Lists admitted in their affidavits that there were above referred discrepancies/ mistakes committed by the Assistant Professors/Associate Professor in awarding marks to the candidates as seen by them in the chart Ex.38(O) because of which some candidates who obtained higher marks than some other candidates might not have been selected by them. As regards the other members of the Selection Committee, their affidavits would show that they were not aware of the chart Ex.38(O) i.e. about the marks awarded therein by the Assistant Professors/ Associate Professor and even about the marks being fixed under various heads for academic performance. It is thus clear that because of discrepancies/ mistakes committed by the Assistant Professors / Associate Professor, in awarding marks to some candidates in the chart Ex.38(O), the selection process is adversely affected because as stated by the Chairman of the Selection Committee, and the Registrar/ its Member Secretary, some candidates obtaining higher

marks than some other candidates might not have been selected by them (vide para 1286, and also see para 571 of the Enquiry Report ).

- c) **Awarding marks by the Assistant Professors/Associate Professor to the above referred documents verified by them is not transparent and is open the charge of arbitrariness and lack of bonafides since the said documents were not retained by them**

(Vide Paras 1287 to 1289 of the Enquiry Report)

**1920)** Vide para 1288 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, who instructed the Assistant Professors/Associate Professor to verify and award marks to the certificates/ publications/ documents relating to Ph.D. degree of the candidates, thesis for Ph.D. submitted by them, research papers/ popular articles submitted by them and significant contribution, if any, made by them after the last date of applications did not instruct them to retain such certificates/ publications/documents produced before them for the first time at the time of interview to which marks were awarded by them as per the criteria laid down on 31.5.2005 (Annexure No.12 of the Enquiry Report). The Assistant Professors/Associate Professor therefore, stated in their affidavits that since there were no such instructions they did not retain such certificates/ publications / documents (Vide paras 1287 and 1288 of the Enquiry Report). Since the said certificates/ publications / documents produced by the candidates at the time of their interviews for verification and award of marks by the Assistant Professors/Associate Professor were not retained by them, the Selection Committee had no opportunity to verify them and also to determine whether the marks were correctly awarded to them or not by the Assistant Professors/Associate Professor. Even otherwise the said certificates / publications/documents formed part of the record of the proceedings of the Selection Committee which needed to be maintained for some reasonable period so that the award of marks to such certificates/ publications/documents could be verified by the Selection Committee, the appointing authority or any other higher authority including any judicial, quasi-judicial authority when called upon to do so in appeal or other proceedings. Award of marks by the Assistant Professors/ Associate Professor thus suffers from the vice of lack of transparency, arbitrariness and lack of bonafides.

- d) **Chart Ex.38(O) or any other chart about academic performance of the candidates not sent in the meeting of the Selection Committee and hence not considered by it**

(Vide paras 1290 to 1297 of the Enquiry Report)

**1921)** Vide para 1290 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, in para 85 of his affidavit dated 25.12.2007 (Ex.645), Dr.Vandan Mohod, the Registrar/ its Member Secretary, in para 35 of his affidavit dated 1.12.2007 (Ex.633),

Dr.E.R. Patil, its senior most member, in para 34 of his affidavit dated 16.11.2007 (Ex.599), and Dr.N.D. Pawar, its outside member, in para 25 of his affidavit dated 1.11.2007 (Ex.590) admitted that it was the duty and responsibility and the work of the Selection Committee to conduct the whole selection process commencing with receipt of applications for the posts and ending after the Selection Lists were handed over to the appointing authority i.e. the Vice-Chancellor so far as these posts were concerned. It was thus its duty and responsibility to give marks to the candidates according to the criteria laid down for their selection. They thus admitted that it was the duty of the Selection Committee to award marks to the candidates for their academic performance as per the criteria laid down for the same and if the said work was assigned to the Assistant Professors/ Associate Professor and the officers of the Registrar's office, it was necessary for it to verify the said work because it was its duty and responsibility to award marks correctly as per the criteria laid down for the same. As there were discrepancies and mistakes admittedly committed by the Associate Professor /Assistant Professors as shown in earlier paras 1280 to 1286 of the Enquiry Report adversely affecting the selection process and preparation of the Selection Lists, the said discrepancies/ mistakes could have been corrected, had the Selection Committee verified their work in its properly convened meeting when a duty was cast upon it under Statute 77 (1)(iv) to prepare the Selection Lists of the candidates in descending order of merit on the basis of which the Vice-Chancellor made appointment strictly in descending of merit as arranged by it. It was, therefore, necessary for it to either itself give marks for academic performance of the candidates or if the said work was assigned to others, it was its duty and responsibility to verify the said work in its properly convened meeting. It is pertinent to see in this regard that the Selection Committee is not merely an interview Committee.

**1922)** Vide Paras 1295, of the Enquiry Report, the affidavits of Dr.V.D. Patil, the Chairman of the Selection Committee, Dr.Vandan Mohod, the Registrar/ its Member Secretary, Dr.E.R. Patil, its senior most member and Dr.N.D. Pawar, its outside member, referred to therein, would clearly show that the marks for academic performance given to the candidates by the employees of the Registrar's office and the Associate Professor/Assistant Professors were not circulated to the Members of the Selection Committee and were not considered by them in any of its meeting, much less its separate meeting was called to consider the said marks Dr. V. D. Patil, the Chairman of the Selection Committee, further admitted that even he did not verify the said marks awarded by them for academic performance of the candidates. As pointed out in the said para 1295 of the Enquiry Report, the Chairman and the above Members of the Selection Committee had also admitted the discrepancies / mistakes committed by the Assistant Professors/Associate Professor in awarding marks to the candidates in the chart Ex.38(O) which discrepancies/mistakes could have been corrected had the meeting of the Selection

Committee been held for verifying the said marks awarded for academic performance of the candidates.

**1923)** The Selection Committee had thus failed to discharge its duty in awarding marks for academic performance to the candidates appearing for interview for the posts of SRA (Agri.) and JRA (Agri.) as it failed to verify in its properly convened meeting the marks awarded to the candidates by the Staff of the Registrar's office for degrees and experience as per the certificates/ documents enclosed by them with their applications and by the Assistant Professors/Associate Professor for Ph.D. acquired, Ph.D. thesis submitted and significant contribution made after the last date of application i.e. 15.09.2004 and research papers/ popular articles published before or after the said date. The selection of the candidates recommended by it on the basis of the marks awarded for academic performance to which it had not applied its mind in its properly convened meeting cannot, therefore, be accepted as legal and valid, particularly when, apart from the illegalities of awarding marks to the candidates for the certificates/ publications / documents submitted by them after the last date of application for the first time at the time of their interviews, there were also discrepancies / mistakes admittedly committed by the Assistant Professors/Associate Professor as shown in the earlier paras 1280 to 1286 of the Enquiry Report which discrepancies/ mistakes could have been corrected by the Selection Committee in its properly convened meeting.

**vii) Award of marks for performance in interview**

(Vide Paras 1298 to 1361 of the Enquiry Report)

**a) Procedure followed in awarding of marks for interviews of the candidates**

(Vide paras 1298 to 1314 of the Enquiry Report)

**a-1) Documents supplied to the Chairman and Members of the Selection Committee for recording their interview marks awarded to the candidates**

(Vide Paras 1298 to 1301 of the Enquiry Report)

**1924)** Common interviews of the candidates for the posts of SRA (Agri.) and JRA (Agri.) were fixed from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 by convening the meeting of the Selection Committee on the said dates. As pointed out hereinbefore there were 1335 candidates called for common interviews of the said posts, besides 8 candidates of YCMOU who were called for interview for the posts of JRA (Agri.) only. The total number of candidates whose interviews were fixed on each day ranged between 119 to 123.

**1925)** As regards the material supplied to the Members of the Selection Committee regarding the interviews of the above candidates, each of them was supplied with two documents, two plain papers, pencil and pad on each day of interview. One of the documents supplied to them on each date was the chart in the proforma Ex.434-A in which

there were separate columns for the Chairman and each Member of the Selection Committee to give their marks for performance of each candidate in his interview on that day. The other document supplied to them on each date was another chart relating to the particulars of the candidates appearing on that day for interview prepared on the basis of their applications for these posts of SRA /JRA marked as Ex.45(O) in this enquiry. There was column in the aforesaid chart in the proforma Ex.434-A about the total marks obtained by each candidate from the Chairman and each Member of the Selection Committee. The last column therein was about "rank of merit". Dr.V.D. Patil, the Chairman of the Selection Committee was however, provided with an additional chart in the said proforma Ex.434-A on each day of interview. Besides the above two documents i.e. 2 charts, no other document was supplied to the Chairman and the Members of the Selection Committee either with the notice of the meeting issued to them or in the meeting itself. However, according to Shri D.P.Deshmukh, Section Assistant (Estt.), vide para 1301 of the Enquiry Report, the concerned staff of the Registrar's office was available to assist the Selection Committee and all the necessary papers / documents relating to interviews of the candidates were placed on the table in the interview room.

**a-2) Procedure followed after awarding marks to the candidates**

(Vide paras 1303 to 1314 of the Enquiry Report)

**1926)** Vide para 1303, according to Dr.V.D. Patil, the Chairman of the Selection Committee, after the interviews of the candidates appearing on each day of interview were over and the marks were allotted to them by Dr.V.D. Patil, the Chairman, and the Members, of the Selection Committee, each member of the Selection Committee told him the marks given by him out of 10 to each candidate for his performance in interview and after converting them into marks out of 60 and taking round figure wherever necessary, he entered in his additional chart in the proforma Ex-434-A the said marks given by each member and he himself out of 60 against the names of each candidate who was interviewed on that day. Further, according to him, calculating the total of the marks given by him and each member of the Selection Committee to each candidate who was interviewed on that day, he also entered the said total marks obtained by each candidate in the column meant for it in the said additional chart with him. He then stated that he worked out with the help of the Registrar/ its Member Secretary, average of the marks received by each candidate from the Chairman and the Members of the Selection Committee and entered it in the column about "rank of merit" in the said additional chart with him.

**1927)** Dr.Vandan Mohod, the Registrar/ Member Secretary of the Selection Committee, and Dr.E.R. Patil, its senior most member corroborated him regarding the above procedure being followed by the Selection Committee on each day of interview except that as regards taking round figure while Dr.V.D. Patil, stated in para 41 of his affidavit dated 25.12.2007

(Ex.645) that in converting the marks given by each member of the Selection Committee out of 10 to each candidates into marks out of 60, round figure was taken whenever necessary. Dr.Vandan Mohod, stated in para 15 of his affidavit dated 1.12.2007 (Ex.633) that if the calculation of the average of the total marks received by the candidates from the Chairman and Members of the Selection Committee was in fraction, the said faction was converted into round figure. After seeing the above statement of Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, Dr.V.D. Patil, the Chairman of the Selection Committee changed his version and stated in para 2 of his recent affidavit dated 24.6.2009 (Ex.946) that since the above work of converting the interview marks out of 10 to marks out of 60 and taking average of the total of the marks awarded to each candidate by him and each member of the Selection Committee was done principally by the Registrar / Member Secretary his aforesaid statement that at the time of working out the average of the marks for interview, the fraction was converted into round figure was correct.

**1928)** In fact, when there was keen competition for selection in a post, there was no reason for them to convert the marks in fraction to round figure and thus increase the marks of some candidates particularly when perusal of the marks awarded to the candidates for their academic performance would show that the marks of some candidates were in fraction. The case of Bhongale Santosh A. on OBC candidate who received total marks 51.2 is in point as he received 0.2 marks more than the last three candidates in the Selection List of JRA (Agri.) OBC category who received total marks 51. Vide para 1344 of the Enquiry Report, Dr. V.D. Patil, the Chairman of the Selection Committee, Dr. Vandan Mohod, Registrar/its Member Secretary, Dr. E.R. Patil, its Senior-most Member, Dr. N.D. Pawar, its outside Member, and Shri D.P. Deshmukh, concerned Section Assistant (Estt.) admitted their mistake in not selecting him in the said post of JRA(Agri.) OBC category.

**1929)** It may be seen that perusal of the proforma Ex.434-A would show that it is prepared in the light of the provisions of Statute-52 about evaluation of the candidates for the posts of Professors and above as per the Statute 40. Perusal of Statute-52 would show that the marks for past performance i.e. academic performance and the marks for interview are both given to the candidates by the Chairman and each member of the Selection Committee and after totalling them they are arranged in descending order. The column regarding the total marks therein is about the total of the marks received by each candidate from the Chairman and the Members of the Selection Committee for his past performance as well as interview. The last column regarding the “rank of merit” in the said proforma Ex. 434-A requires entry therein about the rank of each candidate from their merit list prepared in descending order as stated therein. However, the said proforma Ex-434-A was used in the selection of candidates for these posts of SRA (Agri.) and JRA (Agri.) only for giving interview marks to the candidates by the Chairman and the Members of the Selection Committee as the



marks for their academic performance as per the criteria for their academic evaluation were not given by them. The column “rank of merit” therein was used for showing the average of the interview marks given by them to each candidate as there was no separate column for it in the said chart, vide para 41 of the affidavit of Dr.V.D. Patil, the Chairman of the Selection Committee, dated 25.12.2007 (Ex.645).

**a-3) Charts in the proforma Ex.434-A provided to the Chairman and each Member of the Selection Committee for recording their marks for interview of each candidate and the additional chart in the said proforma Ex.434-A with the Chairman of the Selection Committee destroyed, vide para 1303 of the Enquiry Report**

**1930)** Vide para 1303 of the Enquiry Report, according to Dr.V.D. Patil, the Chairman of the Selection Committee, after the marks given by him and each member of the Selection Committee were entered by him in the additional chart with him, he and each member of the Selection Committee destroyed on each day of interview, the chart given to each of them for recording the marks for interview of each candidate who appeared for interview on that day. As regards the additional chart in the proforma Ex.434-A provided to him for recording the marks for interview awarded out of 60 to each candidate by him and each member of the Selection Committee on each day of interview, the total of the marks awarded by them to each candidate and the average of the said marks received by him. Dr.V.D. Patil, stated in para 42 of his aforesaid affidavit dated 25.12.2007 (Ex.645) that he kept all such charts with him in an envelope till the last date of interview i.e. 25.6.2005 (Vide para 1305 of the Enquiry Report). According to him, he or the Registrar/ its Member Secretary would dictate to Shri D.P. Deshmukh, Section Assistant (Estt.), from the additional chart with him the said average of the marks for interview received by each candidate appearing for interview on that day which he would enter on each day of interview in two data sheets prepared by the Registrar’s office, one was the categorywise-Mark-Sheet Ex.34(O)-A separate for the posts of SRA (Agri.) /JRA (Agri.) and another was alphabetical consolidated Mark-Sheet Ex.112(O) in which the marks for academic performance and interview were first entered in pencil and thereafter from it in the categorywise and postwise Mark-Sheet Ex.34(O)-A which was final Mark-Sheet as stated by Shri D.P. Deshmukh, Section Assistant (Estt.). What is important to be seen is that after the average of the marks for interview were entered in the final Mark-Sheet Ex.34(O)-A on the last day of interview i.e. 25.6.2005, according to Dr.V.D. Patil, the Chairman of the Selection Committee, all the additional charts in the proforma Ex.434-A were destroyed by Shri D.P.Deshmukh, Section Assistant (Estt.).

**1931)** Shri D.P.Deshmukh, Section Assistant (Estt.), however, did not accept that he destroyed the said additional chart because as stated by him in para 30 of his affidavit dated 15.11.2007 (Ex.598), the said additional charts in the proforma 434-A were not handed

over in his office after the interviews were over on each day or on the last day i.e. 25.6.2005. It is however, observed in para 1309 of the Enquiry Report that as categorically stated by Dr.V.D. Patil, the Chairman of the Selection Committee, with whom the said charts remained till the last date of interview, the said charts were destroyed, whether, by he himself, or by Shri D.P. Deshmukh, Section Assistant (Estt.) as stated by him, or by anybody else is immaterial. The fact that the said Additional charts with the Chairman of the Selection Committee, were destroyed stands supported by the affidavit filed by the University because when it was specifically asked to produce the said sheets of the marks supplied to the Chairman and the Members of the Selection Committee on each day in which they had given the marks to each candidate for his interview and the aforesaid additional charts which were supplied to the Chairman of the Selection Committee on each day of interview, the reply given by the University in its affidavit dated 20.8.2007 (Ex.100) is that the office of the Registrar had received only the final Mark-sheet which was produced in this Enquiry on 18.7.2007 i.e. the Mark-sheet separate for the posts of SRA (Agri.) and JRA (Agri.) included in the file relating to the proceedings of the meeting of the Selection Committee Ex.34(O) and marked as Ex.34(O)-A as clarified by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 57 of his affidavit dated 15.11.2007 (Ex.598)

**b) No transparency in award of marks for interview by the Chairman and each Member of the Selection Committee**

(Vide Paras 1315 to 1317 of the Enquiry Report)

**1932)** The charts in the proforma Ex-434-A supplied to the Chairman and each Member of the Selection Committee on each day of interview in which they awarded interview marks to each candidate appearing for interview on that day were destroyed by them on each day of interview after the marks for interview given by them were entered in the Additional chart with the Chairman of the Selection Committee. Similarly, the additional charts in the same proforma Ex-434-A supplied on each day of interview to the Chairman of the Selection Committee in which he entered the marks given by him and each member of the Selection Committee to each candidate, the total of their marks awarded to each candidate, and their average, on each day of interview were destroyed on the last day of interview i.e. 25.6.2005 after the average of the interview marks of each candidate was entered in the Mark-Sheet Ex.34(O)-A as stated by Dr.V.D. Patil, the Chairman of the Selection Committee, because according to him, there was practice in the University to keep only the final Mark-Sheet in which the marks for academic performance and interview were entered and to destroy all other documents on which they were based, vide para 1315 of the Enquiry Report. There was, therefore, no material with the University to verify whether the marks for interview entered in the consolidated Mark-Sheet Ex.112(O) and the categorywise Mark-Sheet Ex.34(O)-A against the name of each candidate were the average

of the marks for interview awarded to him by the Chairman and the Members of the Selection Committee. It is pertinent to see that although according to Dr.V.D. Patil, the Chairman of the Selection Committee, as stated by him in para 43 of his affidavit dated 25.12.2007 (Ex.645) there was practice in the University to keep only final Mark-Sheet and destroy all other documents on which they were based, vide para 1305 of the Enquiry Report, he admitted that the original chart Ex.38(O) in which the Assistant Professors/Associate Professor had given marks for Ph.D. degree, thesis submitted for Ph.D., research papers/popular articles and significant contribution and the original alphabetical consolidated Mark-Sheet of the candidates for both the posts of SRA/JRA and in all categories i.e. S.C. , S.T. etc. (Ex.112(O)) in which the entries were made in pencil were not destroyed.

**1933)** In the absence of the above-referred original charts in the proforma Ex.434-A, since the marks for interview of the candidates entered in the Mark-Sheets Ex.112 (O) and Ex.34(O)-A to each candidate could not be verified to find out whether they reflected the average of the marks awarded to them by the Chairman and the Members of the Selection Committee, there was no transparency in the award of marks to the candidates for their interviews which were, therefore, open to charge of arbitrariness and lack of bonafides particularly when there was material to show that there was manipulation of the marks for interview with a view to select the favoured candidates by giving higher marks to them for their interviews although they received low marks in their academic performance and vice-versa giving low marks for interview to the candidates who had high marks in academic performance with a view not to select them (Vide paras 1323 to 1336 of the Enquiry Report). Even otherwise, there were changes made in the marks of the candidates with a view to select them as shown in paras 1341 to 1356 of the Enquiry Report. See also the topic “List of some favoured candidates ready” vide paras 1337 to 1340 of the Enquiry Report which shows that Dr.V.D. Patil, the Chairman of the Selection Committee himself in his own handwriting recorded in the consolidated Mark-sheet Ex. 112(O) interview and total marks of some candidates selected in the posts of SRA (Agri.).

**b-1) Entire record of viva-voce test conducted by the Selection Committee needed to be maintained by it**

(Vide Paras 1318 to 1320 of the Enquiry Report)

**1934)** Vide para 1318 of the Enquiry Report, the Supreme Court held in para 19 of its judgment in Atul Khullar and Others –Vs- State of J.K. AIR (1986) SC 1224 that the record of Viva Voce test must be maintained by the Selection Committee and it should not be destroyed immediately. It further observed that the Selection Committee conducting viva-voce test should maintain the entire record including original work-sheet on which the marks have been recorded by each member separately for a minimum period of 1 year after

the viva-voce examination is over and failure to do so can strengthen an allegation of malafides against the Selection Committee. In this case since the original charts in which the marks for interview were given to each candidate by the Chairman and the Members of the Selection Committee and the additional charts with the Chairman of the Selection Committee in which the average of the marks given by them to each candidate was entered were destroyed as stated above upon the specious plea that there was practice in the University to maintain only final Mark-Sheet in which the marks of the candidates for academic performance and interview were entered and to destroy all other documents on which they were based, the original charts were not available to verify whether the marks for interview entered in the Mark-sheets Ex.112(O) and Ex.34(O)-A reflected the average of the marks for interview given by them. Even otherwise, such a plea about practice in the University cannot be countenanced in the face of rule-1 of the Rules for classification, preservation and destruction of records framed by the University itself as per its circular dated 21.1.1985 (Ex.806). According to the said rule-1, vide para 1319 of the Enquiry Report, the original work-sheets in which the Chairman and the Members of the Selection Committee had given to the candidates marks for their interview are Class-C documents which need to be preserved for 10 years. The said plea cannot also be countenanced since the principles of natural justice require that such original sheets need to be maintained for some reasonable period as the appointing authority or the higher authority including judicial or quasi-judicial authority can require them for verifying the interview marks of the candidates entered in the Mark-Sheet. Moreover, in this case, since the Chairman and the Member Secretary prepared the Selection Lists of these posts, the Selection Committee could itself require them for verifying the said interview marks had the said Selection Lists been placed before it for its consideration and approval. Further, the fact that the original chart Ex.38(O) in which the Assistant Professors / Associate Professor had given marks for Ph.D. degree, thesis submission, research papers/ popular articles and significant contribution was not destroyed and was available after the said marks for academic performance were recorded in the final Mark-Sheet Ex.38(O)-A would go against the aforesaid plea of practice alleged to be followed in the University.

**1935)** As regards the question of maintenance of record, it was clear that it was the duty of the Registrar to maintain the record of the Selection Committee as its Member Secretary under Statute 29 of the Statutes in the absence of the relevant rules being framed in that regard by the University for keeping the record of the proceedings of the meeting of the Selection Committee as provided under Statute 76 (6) (a). Even otherwise, the Registrar is responsible for due custody of the record of the University under section 19 (2) of the University Act. As shown in para 1320 of the Enquiry Report in not maintaining properly the records of the proceedings of the meeting of the Selection Committee, the University

has acted in a casual and irresponsible manner, making selection process open to manipulation or being tampered with.

**b-2) No verification of marks could be done in the absence of the aforesaid record of the Selection Committee**

(Vide Paras 1321, 1322-A and 1322-B of the Enquiry Report)

**1936)** Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Member Secretary of the Selection Committee in paras 47 and 25 of their affidavits dated 25.12.2007 (Ex.645) and 1.12.2007 (Ex.633) respectively stated that the average of the marks for interview awarded to each candidate by the Chairman and the Members of the Selection Committee were entered in the consolidated Mark-Sheet Ex.112(O) and the categorywise Mark-sheet Ex.34(O)-A vide para 1321 of the Enquiry Report. Further, as stated by Dr.V.D. Patil, the Chairman of the Selection Committee, since the charts in the proforma Ex.434-A supplied to him and each member of the Selection Committee on each day of interview for recording the marks given by them to each candidate appearing for interview on that date and the additional chart in the said proforma supplied to him on each day of interview for recording the said marks, the total of the said marks given by them to each candidate and their average, were destroyed, it was not possible to verify whether the marks entered in the consolidated Mark-Sheet for both these posts of SRA/JRA in alphabetical order Ex.112(O) and the categorywise Mark-Sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) reflected the average of the marks for interview awarded to each candidate by the Chairman and the Members of the Selection Committee. In support the affidavit of Dr.G.N.Dake, outside Member of the Selection Committee dated 23.11.2007 (Ex.600) and the affidavit of Dr.B.N.Dahatonde dated 10.12.2007 (Ex.636) are referred to in paras 1322-A and 1322-B of the Enquiry Report. In the absence of the said original sheets in which the interview marks were recorded, it would not be possible for the appointing authority or any higher authority including judicial or quasi judicial authority to verify whether the marks for interview recorded in the aforesaid Mark-sheets Ex.112(O) and Ex.34(O)-A reflected the average of the interview marks given by the Chairman and the members of the Selection Committee particularly when there is material to show that the interview and consequently total marks of some candidates were manipulated and / or changed as shown in the subsequent topics relating to the same.

- c) **Manipulation of marks for interview by making changes even by erasing marks of some candidates originally shown against their names in the consolidated Mark-Sheet Ex.112(O) and also the categorywise Mark-Sheet Ex.34(O)-A.**

(Vide Paras 1323 to 1336 of the Enquiry Report)

**1937)** Careful scrutiny of the marks for interview awarded to the candidates for these posts of SRA/JRA, would show that the said marks were manipulated with a view to select the favoured candidates by giving them higher marks in interview although they had low marks in their academic performance and the manipulation was also done for not selecting the candidates who received high marks in their academic performance by giving them low marks in interview. In support, certain charts prepared by this office from the above-referred Mark-sheets are enclosed with the Enquiry Report. As the charts in the proforma Ex.434-A in which the Chairman and the Members of the Selection Committee had awarded marks for interview to each candidate on each day of interview and the absence of the additional charts in the same proforma Ex-434-A which were with the Chairman of the Selection Committee, and in which apart from the marks awarded for interview to each candidate by the Chairman and each Member of the Selection Committee, the total of the marks awarded by them to each candidate and their average was entered were destroyed, the absence of the said charts would strengthen the charge of Manipulation of interview marks entered in the Mark-sheets Ex.112(O) and Ex.34(O)-A, vide the judgment of the Supreme Court, in Atul kumar and Ors. .Vs. State of J.K. AIR 1986 S.C. 1224 cited supra since it was not possible to verify the interview marks of the candidates entered in the said Mark-sheets.

**1938)** A chart of 37 candidates selected in these posts of SRA / JRA, who had received low marks in academic performance but were awarded very high marks in interview is enclosed with the Enquiry Report as Annexure No.43. The said chart shows that the candidates who received low marks for academic performance i.e. between 5 to 15 out of 40 received high marks for interview i.e. between 35 to 59 out of 60 i.e. more than 50%, 9 candidates receiving 50 marks or more for their interview out of 60. The cases of Shri Gadge Ramesh M, at S.no.11 and Ku. Jagtap Amrapali P. at S.no.15 in the said chart (Annexure No.43 of the Enquiry Report) highlighted the extent of manipulation done in selection in these posts.

**1939)** Although Shri Ghadge Ramesh M. received only 9 marks for his academic performance, he is shown to have received 59 marks ( only one less) out of 60 in the categorywise Mark-sheet Ex-34(O)-A for the post of JRA (Agri.) open category in which he was selected. According to Dr.V.D. Patil, there was mistake in showing him 59 marks and they were therefore corrected to 50. But the said correction was made only in the

categorywise Mark-sheet Ex.34(O)-A for the post of SRA (Agri.) open category and not in the post of JRA (Agri.) open category in which he was selected. Surprisingly, in the consolidated Mark-sheet Ex.112(O), from which, according to Dr.V.D. Patil, the Chairman of the Selection Committee, the categorywise Mark-sheet Ex.34(O)-A was prepared, originally the interview marks shown were 50 which were corrected to 59. If award of 50 marks to him for his interview was correct, it is difficult to see why his marks therein were corrected as 59. There is no further correction made in the said marks to show his marks again as 50. Be that as it may, whether 50 or 59 award of either of them for interview of a candidate who received only 9 marks for his academic performance is very much on the higher side. It appears that initially when he was given 50 marks for interview as shown in the Mark-sheet Ex.112(O), the intention appears to be to select him in the post of JRA (Agri.) but when the said marks were changed/increased to 59 it appears that he was intended to be selected in the post of SRA (Agri.) but when he was ultimately selected in the post of JRA (Agri.) the change/correction was made not in the Mark-sheet Ex.34(O)-A for the post of JRA (Agri.) in which he was selected but in the said Mark-sheet Ex.34(O)-A for the post of SRA (Agri.) open category in which his interview marks 59 were changed to 50 and consequently his total to 59. His interview and total marks 59 and 68 respectively were also not changed in the original Selection List of the post of JRA (Agri.) open category, S.no.24 at page-76 of the file Ex.34(O). The copies of the original Selection Lists of the posts of SRA (Agri.) and JRA (Agri.) in all their categories such as S.C., S.T. etc. are filed cumulatively as Annexure-25 of the Enquiry Report. Even in the categorywise List of candidates selected by the Selection Committee with marks for Bio-data and personal interview filed by the University (Ex.25), his interview and total marks shown by it in the post of JRA (Agri.) open category in which he was selected are 59 and 68 respectively. No change/correction is made in the said marks either in the original Selection List of the said post and category or in the List of candidates selected in the said post filed by the University in this enquiry (Ex.25) enclosed with the Enquiry Report as Annexure-52. The question about manipulation of his marks is considered in detail in paras 1352 to 1354 of the Enquiry Report under the subsequent topic relating to “Changes made by overwriting in interview and total marks of some candidates in the Mark-sheets Exs.112(O) and 34(O)-A”.

**1940)** Ku. Jagtap Amrapali P. at S.no.15 in the said chart ( Annexure-43 of the Enquiry Report), selected in the post of SRA (Agri.) open category who received only 10 marks for academic performance out of 40 received as many as 54 marks out of 60 for her interview. It is pertinent to see that as pointed out in paras 1337 to 1340 of the Enquiry Report under the caption “List of some favoured candidates ready” she was a favoured candidate for the post of SRA (Agri.) as her name is contained in the List of such favoured candidates ( Annexure No.49 of the Enquiry Report) who were selected in the posts of SRA (Agri.) and to whom the marks were awarded by Dr.V.D. Patil, the Chairman of the Selection

Committee in his own handwriting in the consolidated alphabetical Mark-Sheet (Ex.112(O)). The said topic is discussed in detail in paras 1337 to 1340 of the Enquiry Report.

**1941)** Vide para 1325 of the Enquiry Report, separate charts of the candidates who were not selected for both the posts of SRA (Agri.) and JRA (Agri.) because they were awarded very low marks in interview although they had very good marks in academic performance were prepared by this office and enclosed with this Enquiry Report as Annexures 44 and 45. The chart (Annexure No.44 of the Enquiry Report) about SRA (Agri.) contains the names of as many as 100 candidates including 19 candidates who received 30 marks or more out of 40 for their academic performance, M.W. Marawar receiving highest marks i.e. 37 out of 40. In the chart about JRA (Agri.) (Annexure No.45 of the Enquiry Report) containing the names of 78 candidates, there were 14 candidates receiving 30 marks or more out of 40, 3 candidates at S.nos. 1 to 3 viz. Gite Bharat D, Lambe Sandeep P, Kulkarni Upendra S, receiving highest marks i.e. 35 out of 40. In fact, three marks awarded to Gite Bharad D, for significant contribution were admittedly not taken into calculation by the Assistant Professors/Associate Professor concerned while calculating the total of the marks given by them to him. Had the said marks been calculated, he would have received 38 marks which would mean that he had received highest marks for academic performance amongst the candidates in both the charts of non-selected candidates relating to the posts of SRA (Agri.) and JRA (Agri.) (Annexure Nos. 44 and 45 of the Enquiry Report ), perhaps amongst all the candidates who appeared for interview of these posts of SRA (Agri.) and JRA (Agri.).

**1942)** Vide Paras 1326 of the Enquiry Report, the cases of some specific candidates in the above charts regarding non-selected candidates for both the posts of SRA (Agri.) and JRA (Agri.) (Annexure Nos.44 and 45 of the Enquiry Report) are discussed therein and the conclusion drawn is that the marks for interview which they were given were such that the total marks which they received were mostly around 40 out of 100 i.e. 37 to 45 so that they should not be able to compete with the candidates who were to be selected with the exception of two candidates viz. Khatod Jitendra P. and Dhole Vinod J. who received total 52 and 53 marks respectively but were not selected in the posts of either SRA (Agri.) or JRA (Agri.) both in open category, in which they had applied, as the last candidates in their Selection Lists had received 64 and 54 marks respectively. Vide para 1327 of the Enquiry Report, the cases of three candidates referred to therein are discussed in detail in the subsequent topic about the changes made in the Mark-sheets Ex.112(O) and 34(O)-A by overwriting in the original interview marks awarded to some candidates and consequently in their total marks. Suffice it to state that Bhongale Santosh A. who received total marks 51.2 deserved to be selected in the post of JRA (Agri.) OBC category as the last three candidates in the Selection List of JRA (Agri.) OBC category received total marks 51 only.



**1943)** Vide Para 1328 of the Enquiry Report, a separate chart of 33 Ph.D. candidates i.e. of those who acquired Ph.D. degree as well as those who only submitted thesis for Ph.D. was enclosed with the Enquiry Report as Annexure No.46 to show how they were not selected for the posts of SRA / JRA by awarding them poor marks in their interview although they had received very high marks in their academic performance. Perusal of the said chart (Annexure No.46) would show that they were awarded such marks for their interviews that their total marks were around 40. Out of the said 33 Ph.D. candidates, 16 were selected for the higher post of Assistant Professor at the same time and the remaining 17 candidates were not selected for any of the posts of AP/SRA/JRA. Their common chart showing their bio-data, interview, and total marks are annexed to this Enquiry Report as Annexure 47. Perusal of the said chart (Annexure 47 of the Enquiry Report) would show that two candidates viz. Kapse P.S. and Mane P.D. amongst those who were not selected for any of the posts of A.P./SRA/JRA had received as high as 32 marks out of 40 for their academic performance but they were awarded only 8 marks for their interview out of 60 keeping their total marks around 40 so as not to select them.

**1944)** Vide Paras 1329 to 1332 of the Enquiry Report, annexures to the written statement of Dr.B.G. Bathkal, former Vice-Chancellor of the University and others (Ex.85) enclosed with the affidavit of Dr.B.S. Phadnaik and Dr.B.S. Chimurkar, dated 13.8.2007 (Ex.84) referred to in paras 6.1 to 6.7 of the said written statement (Ex.85) relating to the topic “Indiscriminate use of 60 marks for interview is made in selection of the candidates” and the tables included in the said paras would show that according to them, the interview marks were in inverse proportion to the marks for academic performance of the candidates meaning thereby that the candidates having good bio-data marks were awarded low marks for interview and the candidates having low bio-data marks were awarded high marks for interview by manipulation of their interview marks i.e. by giving them respectively low or high marks in their interview.

**1945)** It is thus clear that the interview marks were manipulated with a view to select the favoured candidates by giving them higher marks for interview although they had low marks in their academic performance and vice versa the manipulation was also done for not selecting the candidates who had high marks in their academic performance by giving them low marks in interview.

**c-1) List of some favoured candidates ready**

(Vide paras 1337 to 1340 of the Enquiry Report)

**1946)** Although all entries about the marks awarded to the candidates made in the consolidated alphabetical Mark-Sheet Ex.112(O) were made in his handwriting by Shri D.P. Deshmukh, Section Assistant (Estt.), on careful scrutiny of the said Mark-Sheet Ex.112(O) it was found that there were some entries which were not in his handwriting.

This office therefore, prepared the List of such candidates, their total number being 45, marked as Annexure no.49 of the Enquiry Report. All the said candidates were found to be selected in the posts of SRA (Agri.). In pursuance to the notice issued to him in this regard, Shri D.P. Deshmukh, Section Assistant, admitted that the entries regarding the candidates in the said List (Annexure no.49 of the Enquiry Report) were not in his handwriting and that it appeared to him to be the list of selected candidates in the posts of SRA (Agri.) in all categories such as S.C., S.T. etc. consisting of 45 candidates, vide para 5 of his recent affidavit dated 22.6.2009 (Ex.945). Since he was unable to state in whose handwriting the said entries were made, notice was issued to Dr.V.D. Patil, the Chairman of the Selection Committee who had dictated to him the marks for interview entered in the said consolidated alphabetical Mark-Sheet Ex.112(O). After he was shown the List of 45 candidates (Annexure No.49 of the Enquiry Report) and after he verified the handwriting in interview and total marks of the candidates in the said list from the Mark-Sheet Ex.112(O), he admitted in para 3 of his recent affidavit dated 24.6.2009 (Ex.946) that the said entries were in his handwriting and that according to him, the said List was of selected candidates.

**1947)** It is thus clear that the interview marks were awarded to the candidates in the said List (Annexure-49 of the Enquiry Report) personally by Dr.V.D. Patil, the Chairman of the Selection Committee in his own discretion so as to select them in the posts of SRA (Agri.). If their marks for interview to be entered in the Mark-sheet Ex.112(O) were the average of the interview marks awarded to them by the Chairman and each Member of the Selection Committee, there was no reason for him to enter in his own hand-writing the said average of their interview marks in the Mark-sheet Ex.112(O) which work was done by Shri D.P.Deshmukh, Section Assistant (Esstt.). It was thus a List of favoured candidates whose interview and total marks were written by him personally in the consolidated alphabetical Mark-sheet Ex.112(O) so as to make their selection in the post of SRA (Agri.). The candidates in the said list (Annexure-49 of the Enquiry Report) belong to all categories such as Open, S.C., S.T. etc. The said List (Annexure-49 of the Enquiry Report) is not an exhaustive list of favoured candidates because there were other favoured candidates selected not only in the posts of SRA (Agri.) but also in the posts of JRA (Agri.) by “Manipulation of or by changing the interview and total marks in the Mark-sheets Exs.112(O) & 34(O)-A as shown in the topics relating to them.

**1948)** It cannot therefore, be said that the marks for interview awarded to the candidates as shown in the consolidated Mark-Sheet Ex.112(O) and the categorywise Mark-Sheet Ex.34(O)-A were the average of the marks awarded by the Chairman and the Members of the Selection Committee. On the contrary, it appeared that they were marks awarded in their discretion by Dr.V.D.Patil, the Chairman and Dr.Vandan Mohod, the Registrar/ Member Secretary of the Selection Committee who prepared the Selection Lists for these

posts, vide paras 1379 and 1413 of the Enquiry Report relating to the topics about “Preparation of Mark-sheets and Preparation of Selection Lists” respectively.

**d) Changes made in the consolidated Mark-Sheet Ex.112(O) and the Mark-Sheet Ex.34(O)-A by overwriting in marks awarded to some candidates for their interview and consequently changes also made in the total marks awarded to them**

(Vide Paras 1341 to 1356 of the Enquiry Report)

**1949)** Vide para 1341 of the Enquiry Report, according to Dr.V.D. Patil, the Chairman of the Selection Committee, there were two data-sheets prepared by the Registrar’s office ; one was the categorywise Mark-Sheet of the candidates Ex.34(O)-A, separate for the posts of SRA (Agri.) and JRA (Agri.), another was consolidated Mark-Sheet of the candidates in alphabetical order for both these posts and in all categories such as S.C., S.T. etc. prepared at the same time by the Registrar’s office marked as Ex.112(O) in this Enquiry. According to him, the marks for academic performance and the average marks for interview were first entered in pencil in the consolidated alphabetical Mark-Sheet Ex.112(O) and thereafter in the categorywise Mark-Sheet Ex.34(O)-A.

**1950)** Vide para 1342 of the Enquiry Report, after careful scrutiny of the consolidated alphabetical Mark-Sheet Ex.112(O), this office had prepared a chart annexed as Annexure no.23 of the Enquiry Report containing the names of 32 candidates whose marks for interview and consequently total marks awarded to them were changed by erasing the marks originally shown against their names in the consolidated alphabetical Mark-Sheet Ex.112(O). Wherever the change in interview and / or total marks of the candidates in the said list could not be clearly seen it is so mentioned in the remarks column in the said chart (Annexure no.23 of the Enquiry Report). As stated in the said para 1342 of the Enquiry Report, out of 32 candidates in the said chart (Annexure-23 of the Enquiry Report) 8 candidates whose marks for interview were changed, were not selected for either of these two posts but the rest were. From the said chart (Annexure no.23 of the Enquiry Report) about overwriting in interview and total marks in the Mark-Sheet Ex.112(O), this office prepared two charts; one containing the names of the candidates who were either relations of the University officers/ employees or were recommended by VIPs. marked as Annexure no.50 of the Enquiry Report, and another containing the names of the candidates who received also the benefit of the marks for Ph.D./Ph.D. thesis/ RP/PA acquired/ submitted/published after the last date of application marked as Annexure no.51 of the Enquiry Report. The candidates in both the charts annexure-50 and 51 are favoured candidates as explained in the explanatory note in para 1699 of the Enquiry Report.

**1951)** Vide para 1343 of the Enquiry Report, Shri D.P. Deshmukh, Section Assistant (Estt.) who admittedly recorded entries in pencil about the marks for academic

performance, interview, and total marks of each candidate for both these posts and in all categories such as S.C., S.T. etc. in the consolidated alphabetical Mark-Sheet Ex.112(O) admitted the overwriting in the said consolidated alphabetical Mark-Sheet Ex.112(O) regarding 32 candidates in the chart (Annexure no.23 of the Enquiry Report) after verifying such overwriting in their interview and total marks from the said Mark-Sheet Ex.112(O). He then stated in his affidavit dated 22.6.2009 (Ex.945) that the said chart about overwriting in interview and total marks in the consolidated alphabetical Mark-Sheet Ex.112(O) (Annexure-23 of the Enquiry Report ) was correctly prepared and wherever the original interview and / or total marks i.e. before overwriting were not clear it was so stated in the remarks column in the said chart. The reason he gave for changing in the consolidated alphabetical Mark-sheet Ex.112(O) the original interview and total marks of the candidates in the said chart (Annexure-23 of the Enquiry Report) was that Dr.V.D. Patil, had again dictated to him the interview marks of the above candidates and therefore as the original interview marks dictated by him had changed, he erased the original interview marks by using rubber and made entries in the said Mark-Sheet Ex.112(O) about the interview marks dictated to him again. Further, according to him, since the interview marks had changed, he had to change the total marks of the above candidates also by erasing earlier total marks recorded against their names. The reason given by Dr.V.D. Patil, the Chairman of the Selection Committee for the changes made in the interview and total marks of the said candidates in the chart (Annexure-23 of the Enquiry Report) was that since the total of their interview marks given by him and the members of the Selection Committee was found wrong when it was checked again the average of their interviews marks had changed, and hence the changes had to be made in their interview and total marks in the Mark-sheet Ex.112(O). The question whether the above reason given by him can be believed is considered in the next topic “No need to make so many corrections in the Mark-sheets Ex.112(O) and Ex.34(O)-A.

**1952)** Vide paras 1344 to 1350 of the Enquiry Report, the cases of the candidates whose interview marks and consequently total marks were changed as shown in the aforesaid chart (Annexure-23 of the Enquiry Report) are discussed therein. Perusal of para 1344 of the Enquiry Report would show that Shri Bhongle Santosh A. OBC candidate was entitled to be selected in the post of JRA (Agri.) OBC category as the total marks which he received after his interview marks were increased from 20 to 30 were 51.2 which were 0.2 marks more than the last three candidates in the Selection List of the said post and category as they had received total marks 51 only. As stated therein, Dr.V.D. Patil, the Chairman, Dr.Vandan Mohod, the Registrar/ its Member Secretary, Dr.E.R. Patil, its senior most member, Dr.N.D. Pawar, its outside Member, and Shri D.P. Deshmukh, concerned Section Assistant (Estt.) who made the entries in the Mark-Sheet Ex.112(O) admitted their mistake in not selecting him in the said post of JRA (Agri.) OBC category.

**1953)** Vide para 1345 of the Enquiry Report, although the interview marks of the candidates Lande Gajanan K. and Mahatale Pravin V. both OBC candidates shown in the said chart (Annexure no.23 of the Enquiry Report) were increased by changing them they were still unfortunate in finding place in the Selection List of the posts of JRA (Agri.) OBC category, as the last candidate therein had received total marks 51 whereas both the above candidates had received total marks 49.

**1954)** Vide paras 1346 and 1347 of the Enquiry Report, it appears from para 1346 of the Enquiry Report that the interview marks of Hussain Irfan Razak Z. in the said chart (Annexure no.23 of the Enquiry Report) were increased from 20 to 43 ( 23 marks more ) with the result that instead of 30 his total marks became 53. It thus appears that initially it was intended to select him in the post of JRA (Agri.) open category but he could not find place in the Selection List of the said post and the said category because later on it appears that Wankhade Rajendra S. whose name is included in the said chart (Annexure no.23 of the Enquiry Report) was intended to be selected in the said post.

**1955)** It is interesting to see that Wankhade Rajendra S. had applied for JRA (Agri.) open category, JRA (Agri.) OBC category, SRA (Agri.) OBC Category, and SRA (Agri.) open category as stated in para 1347 of the Enquiry Report. Perusal of S.no.609 of the categorywise Mark-Sheet Ex.34(O)-A for the post of JRA (Agri.) open category, would show that by applying white ink to his original interview and total marks, his interview marks were changed/increased from 23 to 37 ( 14 more ) and consequently his total marks from 40 to 54. However, in other remaining three categories i.e. in the post of JRA (Agri.) OBC category, S.no.378, SRA (Agri.) OBC category, S.no.313, and SRA (Agri.) Open category, S.no.414 in the categorywise Mark-Sheet Ex.34(O)-A, his interview and total marks were shown as 23 and 40 respectively i.e. they were not changed, although there were common interviews and common marks given for both these posts and in all categories such as S.C., S.T. etc. It appears that it is after making change in the marks in JRA (Agri.) open category in the Mark-Sheet Ex.34(O)-A that similar change is made in his marks in the consolidated alphabetical Mark-Sheet Ex.112(O) in which common marks are shown for both the posts and in all categories i.e. S.C., S.T. etc. Since Wankhade Rajendra S. was given thus one mark more than Hussain Irfan Razak Z., he was selected in the said post of JRA (Agri.) open category and Hussain Irfan Razak Z. could not therefore find place in the selection List of the said post. However, as per the original total marks which were 30 and 40 respectively, it appears that both of them were not initially intended to be selected and could not have been selected in any category in these posts of SRA (Agri.)/ JRA (Agri.).

**1956)** Vide para 1348 of the Enquiry Report, the cases of three candidates Joshi Milind S. for JRA (Agri.) open category, Khobragade Hitendra M. for JRA (Agri.) S.C. category, and Tiwari Vijay A. for JRA (Agri.) open category are referred to therein. As regards Joshi

Milind Kumar S. his original interview and total marks entered against his name in the Mark-Sheet Ex.112(O) were 30 and 40 respectively by which he would not have been selected in any post or in any category but when it was intended to include his name in the post of JRA (Agri.) open category, his interview marks were increased from 30 to 48 (increase of 18 marks) and the total to 58. As regards Khobragade Hitendra M., his original interview marks were 30 and total 52 as stated in the said para 1348 of the Enquiry Report. However, since he could not have been selected in the post of JRA (Agri.) S.C. category in which the last candidate in its selection list had received 54.2 marks, his interview marks were increased from 30 to 34 so that the total marks he received were 56 by reason of which, he was selected in the post of JRA (Agri.), S.C. category. As regards Tiwari Vijay A. when it was decided to select him in the post of JRA (Agri.) open category, his interview marks shown in the consolidated Mark-Sheet Ex.112(O) were changed/increased from 48 to 50 and consequently his total marks were changed from 53 to 55 to facilitate his selection in the said post and category.

**1957)** Vide para 1349 of the Enquiry Report, it refers to the names of the candidates in the said chart (Annexure no.23 of the Enquiry Report) whose interview and total marks earlier given were reduced although they were still selected in their post, the reason being that had their marks been as shown earlier in the said Mark-Sheet Ex.112(O), they would have been required to be selected in the post of SRA (Agri.) open category because of which the favoured open category candidates would have lost their places in the selection list of SRA (Agri.) open category. Morey Suhas D. was selected in the post of SRA (Agri.) S.C. category. His interview marks were reduced from 47 to 45 and the total from 65 to 63. Sonune Bhagwan A. was selected in the post of SRA (Agri.) OBC category. His total marks were reduced from 47 to 44 and consequently total marks from 80 to 77. The candidates Peshettiwar Prashant B. and Rathod Rajesh R. were selected in the posts of SRA (Agri.) NT (B) category and VJ(A) category respectively. In the case of Peshettiwar Prashant B. his interview and total marks were 45 and 76 which were reduced to 32 and 63 respectively (i.e.13 less). As regards Rathod Rajesh his original interview and total marks were 47 and 76 which were reduced to 33 and 62 respectively (i.e. 14 less). It may be seen in this regard that Dr.V.D. Patil, stated in para 99 of his affidavit dated 15.12.2007 (Ex.645) that if the candidate had applied in more than one category, he would be selected first in open category. As stated above had their total marks not been reduced they would have found place in the Selection List of SRA (Agri.) open category because of which the favoured open category candidates would have lost their places in the Selection List of SRA (Agri.) open category. As regards Sonune Bhagwan A. who was OBC candidate, another reason appears to be that he would have topped the Selection List of SRA (Agri.), whether open or OBC category, with his original total marks 80.

**1958)** Vide para 1350 of the Enquiry Report, the interview and total marks of Wankhede Bhawana R., S.C. candidate were changed from 40 and 64.4 to 44 and 68.8 respectively in order to ensure her selection and give her higher place in the Selection List of SRA (Agri.), S.C. category but perhaps through mistake she was not shown the higher place in the said Selection List which she should have got on the basis of 68.8 total marks. There is however, genuine mistake committed regarding calculation of the total marks of Ganesh J. His total marks were corrected by overwriting in alphabetical Mark-Sheet Ex.112(O) to 73 by erasing the original total calculated as 83.

**1959)** Vide para 1351 of the Enquiry Report, as regards the categorywise Mark-Sheet Ex.34(O)-A, there were also changes made in the interview and total marks of some candidates by applying white ink to the earlier marks received by them. A chart of such candidates prepared by this office is already annexed as Annexure-21 vide para 563 of the Enquiry Report. The said changes in interview and total marks are admitted by Dr.V.D. Patil, the Chairman of the Selection Committee, Dr.Vandan Mohod, the Registrar/its Member Secretary, Dr.E.R. Patil, its senior most member, Dr.N.D. Pawar, its outside Member and Shri D.P.Deshmukh, the concerned Section Assistant (Estt.) as pointed out in the said para. The explanation given by the Chairman, the Member Secretary and Senior most member of the Selection Committee, is that there were cases of overwriting in interview marks of the candidates because there were mistakes in the earlier marks shown against their names and therefore corrections were made therein. The above reason given by them cannot be accepted, vide 1<sup>st</sup> para in the next topic about “No need to make so many corrections in the Mark-Sheet Ex. 112(O) and Ex. 34(O)-A” As regards Dr.N.D. Pawar, outside Member of the Selection Committee, he stated that he would not be able to explain as to how the discrepancies and mistakes occurred in preparation of the Mark-Sheet Ex.34(O)-A for the posts of SRA/JRA.

**1960)** Glaring cases of Ghadge Ramesh M. and Wankhade Rajendra S. in the said chart (Annexure no.21 of the Enquiry Report) are considered in paras 1352 to 1355 of the Enquiry Report. As regards Ghadge Ramesh M., he is shown to have received 59 as interview marks, 9 marks for academic performance and total marks 68 in the categorywise Mark-Sheet Ex.34(O)-A for the post of JRA (Agri.) Open category in which post he is selected. However, in the post of SRA (Agri.) open category for which also he had applied, his 59 interview marks earlier given were corrected as 50 and the total as 59. There was not only no change made in interview and total marks i.e. 59 and 68 respectively shown against his name in the Mark-Sheet Ex.34(O)-A for the post of JRA (Agri.) open category in which he was selected but in the Selection List of the said post of JRA (Agri.) open category also reference in the column “as per annexure” is to S.no.189 in the said Mark-Sheet Ex.34(O)-A of JRA (Agri.) open category where his interview and total marks shown are 59 and 68 respectively. Even the University itself has shown his interview and total marks as 59 and

68 at S.no. 24 in the categorywise List of candidates selected by the Selection Committee for the post of JRA (Agri.) open category showing inter-alia marks for biodata and personal interview which it filed in this Enquiry Report with its affidavit dated 18.7.2007 (Ex.1) alongwith such lists of other categories in this post and for all categories in the post of SRA (Agri.) marked collectively as Ex.25 in this Enquiry (See Annexure-52 of the Enquiry Report).

**1961)** It is then interesting to see that in the consolidated alphabetical Mark-Sheet Ex.112(O), careful scrutiny of the entry at S.no.419 regarding Ghadge Ramesh M. would show that the original interview marks recorded therein were 50 which were erased and his interview marks were changed / increased to 59. Consequently his original total marks were also changed/ increased to 68 therein. It is difficult to see why the said correction was made if the interview marks 50 awarded to him were correct. It is pertinent to see that no change was made at S.no.419 of the consolidated alphabetical Mark-Sheet Ex.112(O) regarding him in which the interview and total marks shown were still 59 and 68 respectively. It appears that originally when the correction was made increasing his marks from 50 to 59 in the consolidated Mark-Sheet Ex.112(O) the intention was to select him in the post of SRA (Agri.) but subsequently it appears to have changed and therefore in the categorywise Mark-Sheet Ex.34(O)-A for the post of SRA (Agri.) open category his interview marks were reduced from 59 to 50. As held in para 1354 of the Enquiry Report, it is thus a clear case of manipulation of interview marks awarded according to choice and discretion of those who prepared the selection list/lists depending upon the post and the category in which the candidate was to be selected.

**1962)** It is admitted by Dr.V.D. Patil, the Chairman, Dr.Vandan Mohod, the Registrar/Member Secretary, Dr. E. R. Patil, senior most member, Dr.N.D.Pawar, outside Member, of the Selection Committee, and Shri D.P. Deshmukh, concerned Section Assistant (Estt.), in paras 98, 53, 36, 28 and 93 of their affidavits referred to above in para 1351 of the Enquiry Report that if his interview marks were 59 and total marks 68, he should have been selected in the post of SRA (Agri.) open category since the last candidate in the Selection List of SRA (Agri.) open category, Ku. Jagtap Amrapali P., had received total marks 64 only. Even otherwise, 50 marks out of 60 to a low merit candidate who received only 9 marks out of 40 would show manipulation of interview marks with a view to select him in the post of JRA (Agri.) open category, if not in the post of SRA (Agri.) open category by awarding him 59 marks for interview.

**1963)** Similarly, the case of Wankhade Rajendra S. at S.no.17 of the said Chart (Annexure No.21 of the Enquiry Report) is a clear case of manipulation of interview marks by changing the same and consequently his total marks also by applying white ink to his original interview and total marks. Wankhade Rajendra S. had applied for the post of JRA (Agri.) open category, JRA (Agri.) OBC category, SRA (Agri.) OBC category, and SRA



(Agri.) open category. He was however, selected in the post of JRA (Agri.) open category. In the categorywise-Mark-Sheet Ex.34(O)-A for the post of JRA (Agri.) open category, his original interview marks were changed/increased by applying white ink to the same increasing them from 23 to 37 (14 more). Consequently, by applying white ink, his total marks were also changed/ increased from 40 to 54. However, no change / increase was made in his interview and total marks in the categorywise Mark-sheet Ex.34(O)-A for the posts of JRA (Agri.) OBC, SRA (Agri.) OBC and SRA (Agri.) open category where the marks shown against his name remained the same i.e. 23 for interview and total 40. It appears that as he was to be selected in the post of JRA (Agri.) open category, the increase was shown in interview and total marks in the categorywise Mark-Sheet Ex.34(O)-A for the said post and category only although common interviews were held and common marks awarded for both the posts and in all the categories such as S.C., S.T. etc. It further appears that after his interview and total marks were changed/increased in the categorywise Mark-sheet Ex.34(O)-A for the post of JRA (Agri.) open category they were changed/increased in the consolidated Mark-sheet Ex.112(O) by erasing the original marks.

**1964)** As observed in para 1356 of the Enquiry Report, the Mark-Sheet of the candidates needs to be carefully prepared without any mistake as the Selection of the candidates depends upon it. They should therefore, be precise and not dubious. The entries regarding the marks of some candidates made in the categorywise Mark-Sheet Ex.34(O)-A and also in the consolidated alphabetical Mark-Sheet Ex.112(O) would show that the marks are awarded or changes are made in the marks of the candidates with a view to select or not to select them. In the absence of the relevant charts in the proforma Ex.434-A in which the marks given to each candidate by the Chairman and each Member of the Selection Committee, total of their marks and their average are recorded as the said charts are destroyed, it is difficult to believe that there were mistakes in interview marks of some candidates and hence the changes were made in interview and total marks of such candidates in the Mark-sheets Ex.112(O) and Ex.34(O)-A. At any rate the said Mark-Sheets would show serious negligence on the part of the persons concerned particularly when there is keen competition for selection in the posts where even small mistake would affect the selection process adversely. All the above facts relating to topics about Manipulation and Change in interview marks of the candidates would show that the marks recorded in the aforesaid Mark-Sheets Ex. 112(O) and Ex. 34(O)-A were not really the average of the marks for interview received by the candidates from the Chairman and the Members of the Selection Committee.

**d-1) No need to make so many corrections in the consolidated alphabetical Mark-sheet Ex.112(O) and the Categorywise Mark-sheet Ex.34(O)-A**

(Vide paras 1357 to 1360 of the Enquiry Report)

**1965)** Vide para 1357 of the Enquiry Report, as already pointed out the average of the interview marks of each candidate recorded in the additional charts in the proforma Ex.434-A which were with the Chairman of the Selection Committee were dictated by him to Shri D.P.Deshmukh, Section Assistant (Estt.) who first entered them in the consolidated alphabetical Mark-sheet Ex.112(O) from which he then entered them in the categorywise Mark-sheet Ex.34(O)-A, separate for the posts of SRA/JRA. If the average of the marks awarded by the Chairman and the Members of the Selection Committee to each candidate was only to be entered in the consolidated Mark-sheet Ex.112(O) and the final Mark-sheet Ex.34(O)-A separate for the posts of SRA/JRA, it is difficult to see why there should be so many mistakes and therefore, corrections required to be made in the interview and total marks of some candidates entered in the said Mark-sheets. It is further difficult to see why in spite of corrections being made in the so called rough consolidated Mark-sheet Ex.112(O) there were further corrections required to be made in the final categorywise Mark-sheet Ex.34(O)-A prepared from it. The reason that there were mistakes and therefore the corrections were required to be made in the Mark-sheets Ex.112(O) and Ex.34(O)-A can not thus be accepted.

**1966)** Vide paras 1358 and 1359 of the Enquiry Report, the reason given by Dr.V.D. Patil, the Chairman of the Selection Committee, in para 4 of his recent affidavit dated 24.6.2009 (Ex.946) for making changes in interview and total marks of the candidates as shown in the chart relating to overwriting in the consolidated Mark-sheet Ex.112(O) (Annexure-23 of the Enquiry Report) is that since the total of the interview marks of the said candidates given by him and the Members of the Selection Committee was found wrong when it was checked again the average of the interview marks received by them had changed and therefore the changes had to be made in their interview and total marks in the consolidated Mark-sheet Ex.112(O). As held in para 1358 of the Enquiry Report, the above reason given by him is clearly an afterthought. As stated therein, if the additional charts with him in the proforma Ex.434-A which contained the interview marks given to each candidate by the Chairman and each Member of the Selection Committee, the total of the marks for interview received by him from them, and their average, and also the original charts in which the Chairman and each Member of the Selection Committee had given their interview marks to each candidate were destroyed, it is open to doubt on what basis he found that the total of the interview marks of each candidate given by the Chairman and each member of the Selection Committee was wrong in respect of the candidates in the chart relating to overwriting in the consolidated Mark-sheet Ex.112(O) (Annexure-23 of the Enquiry Report) and hence as the average of their marks had changed, corrections

were required to be made in their interview and total marks in the said consolidated Mark-sheet Ex.112(O) as shown in the said chart (Annexure-23 of the Enquiry Report).

**1967)** Further, as held in para 1359 of the Enquiry Report, it can hardly be believed that there can be a mistake in calculating the simple total of the interview marks given to each candidate by him and each member of the Selection Committee, particularly when, as stated by him in para 5 of his recent affidavit dated 24.6.2009 (Ex.946), the said calculations which were according to him, first made manually in respect of each candidate were checked with the help of the calculator. Surely, the said total of the interview marks and its average made manually would be verified with the help of the calculator before entering the same in the additional chart in the proforma Ex.434-A and from it in the consolidated Mark-sheet Ex.112(O). As observed in the said para it is pertinent to see that the work of entering interview marks in the Mark-sheets Ex.112(O) and Ex.34(O)-A had to be done carefully as any mistake therein, even if bonafide, would adversely affect the selection process.

**1968)** Vide para 1360 of the Enquiry Report, when the facility of the computer was available, which was convenient and time saving also, the consolidated alphabetical Mark-Sheet Ex.112(O) and categorywise Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) should have been prepared on computer particularly when the marks for interview of large number of candidates for both the posts i.e. 1335 besides 7 YCMOU candidates for the posts of JRA (Agri.) were to be entered therein unless the intention of those who prepared the Mark-sheet Ex.112(O) by making entries in pencil therein and Ex.34(O)-A by making entries in ink therein was to give marks for interview to the candidates as per their discretion with a view to either select them or not to select them. The reason given by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 3 of his recent affidavit dated 22.6.2009 (Ex.945) for not using the computer for preparation of the said Mark-sheets is that the then Assistant Registrar (Estt.) Shri P.V.Behare, had told him not to use computer in preparing them because it was confidential work and the material regarding marks of the candidates should not be fed to the computer. Similar reason is given by Dr.V.D. Patil, the Chairman of the Selection Committee in para 5 of his recent affidavit dated 24.6.2009 (Ex.946). The said reason given by them needs to be stated for being merely rejected only particularly when the Selection Lists of the candidates for these posts which were more confidential in nature were prepared on computer.

**d-2) Marks entered in the Mark-Sheets Ex.112(O) and Ex.34(O)-A do not reflect the average of the marks for interview given to the candidates by the Chairman and the Members of the Selection Committee but are marks given to them in their discretion by the Chairman and the Member Secretary.**

**1969)** Dr.V.D. Patil, the Chairman of the Selection Committee stated in para 47 of his affidavit dated 25.12.2007 (Ex.645) referred to hereinbefore that he and the Registrar had dictated to the concerned Section Assistant (Estt.) Shri D.P.Deshmukh, the average of the marks received by each candidate from them and other members of the Selection Committee which he entered in the consolidated Mark-sheet of the candidates for both these posts in alphabetical order and in all the categories Ex.112(O) and from it in the categorywise Mark-sheet Ex.34(O)-A, separate for the posts of SRA (Agri.) and JRA (Agri.). It is thus clear that the marks for interview entered in the aforesaid Mark-sheets Ex.112(O) and Ex.34(O)-A by Shri D.P.Deshmukh, Section Assistant (Estt.) are the marks dictated by the Chairman and the Member Secretary of the Selection Committee. As regards the question whether the marks entered in the said Mark-sheets Ex.112(O) and Ex.34(O)-A reflect the average of the marks given by the Chairman and the Members of the Selection Committee to each candidate in the absence of charts in the proforma Ex.434-A in which the Chairman and the members of the Selection Committee had given marks for interview to each candidate and the additional charts in the same proforma with the Chairman of the Selection Committee in which, apart from the marks for interview referred to above, the total of the marks given by them to each candidate and its average were recorded, as the said charts were destroyed, it is not possible to verify whether the average of the marks for interview of each candidate were entered in the said Mark-sheets Ex.112(O) and Ex.34(O)-A or not.

**1970)** As pointed out hereinbefore in the topics relating to “Manipulation of marks for interview entered in the Mark-sheets Ex.112(O) and Ex.34(O)-A”, “the List of some favoured candidates ready”, and “the changes made in the consolidated Mark-Sheet Ex.112(O) and the Categorywise Mark-Sheet Ex.34(O)-A by overwriting in interview and total marks of some candidates”, there is strong reason to believe that the marks are awarded by the Chairman and the Member Secretary of the Selection Committee in their own discretion either to select or not to select the candidates which would mean that the marks for interview given to the candidates in the Mark-Sheets Ex.112(O) and Ex.34(O)-A do not reflect the average of the marks for interview given to the candidates by the Chairman and the Members of the Selection Committee but are the marks given to them in their discretion by the Chairman and the Member Secretary of the Selection Committee, vide also para 1379 of the Enquiry Report relating to it under the next topic about “Preparation of Mark-sheets of all the candidates”. Vide para 1378 of the Enquiry Report, relating to the aforesaid topic about preparation of Mark-sheets, the said Mark-sheets