

**D. APPOINTMENT OF THE SELECTED CANDIDATES IN THE POSTS OF SRA (Agri.) AND JRA (Agri.)**

(Vide Paras-629 to 864 and 1496 to 1640 of the Enquiry Report)

**i) Appointment of Dr.V.D. Patil, Dean/D.I./Chairman of the Selection Committee, as Acting Vice-Chancellor.**

(Vide paras 1496 to 1499 of the Enquiry Report)

**2075)** Vide earlier topic relating to “Handing over the Selection Lists”, Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University received the Selection Lists on 6.9.2005 from Dr.V.D. Patil, the Chairman of the Selection Committee which he sent to the Registrar’s office for taking further action. Accordingly, the concerned Section Assistant (Estt.), Shri D.P.Deshmukh, recorded the office note dated 6.9.2005 which was approved by the then Vice-Chancellor on the same date. Perusal of the said office note dated 6.9.2005 would show that the appointments of the selected candidates were to be made subject to availability of vacancies in these posts. Dr.S.A.Nimbalkar, the then Vice-Chancellor was to go on visit to China for about 15 days from 8.9.2005 to 24.9.2005. Therefore, in exercise of the power conferred upon the Vice-chancellor under the proviso to section 17 (9) of the Universities Act, he issued an order on 6.9.2005 itself (Ex.657) appointing as a measure of emergency Dr.V.D. Patil, the Dean/D.I./Chairman of the Selection Committee, as Acting Vice-Chancellor to look after the day-to-day work of his office and to attend to important and emergency work/meeting if any held during the aforesaid period of his absence from 8.9.2005 to 24.9.2005.

**2076)** There was an objection raised to the appointment of Dr.V.D.Patil, as Acting Vice-Chancellor in the affidavit dated 24.9.2007 (Ex.529), filed in this enquiry by Dr.B.S.Phadnaik and Dr.B.S.Chimurkar, on the ground that as per the normal convention the senior-most Director viz. Dr. S.V.Sarode, Director of Research should have been appointed as Acting Vice-Chancellor. Perusal of the proviso to sub-section-9 of section 17 of the Universities Act shows that in case of temporary vacancy of less than two months, the Vice-Chancellor can by order in writing entrust his duties to any Director/Dean or in their absence to the Registrar as a measure of emergency, vide para 1497 of the Enquiry Report. Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, justified the appointment of Dr.V.D. Patil, the Chairman of the Selection Committee as Acting Vice-Chancellor during his temporary absence because according to him, firstly seniority was not the criteria for entrusting the duties of the Vice-Chancellor to any Director/Dean during his temporary absence under the proviso to section 19 of the University Act and secondly, as per the practice followed in four Agricultural Universities in the State, if the service of Dr.V.D. Patil, the Chairman of the Selection Committee, as

Dean in Marathwada Agricultural University was taken into consideration, he would rank senior to Dr.S.V.Sarode. Even otherwise, according to him, since Dr.V.D. Patil, was Dean/Director of Instructions, he exercised direct control over the colleges and students, and was therefore properly given the charge of the office of the Vice-Chancellor during his absence.

**2077)** However, vide para 1498 of the Enquiry Report, the question to be considered regarding the appointment of Dr.V.D. Patil, as Acting Vice-Chancellor would be of propriety of his appointment particularly when he and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, had themselves increased the number of posts of SRA (Agri.) to be filled from 24 as advertised to 55 and the posts of JRA (Agri.) to be filled from 37 as advertised to 76 and had prepared the Selection Lists for the said posts, vide para 1413 of the Enquiry Report. Although it is stated in the office note dated 6.9.2005 approved by the regular Vice-Chancellor Dr.S.A.Nimbalkar that the appointments of the select list candidates were subject to availability of vacancies, it would only be an eye-wash as both Dr.V.D. Patil, Acting Vice-Chancellor and Dr.Vandan Mohod, the Registrar who were the Chairman and Member Secretary of the Selection Committee respectively would be keen to make appointment of all the selected candidates as per the Selection Lists prepared by them particularly when they included the favoured candidates which is clear from the fact that for accommodating all the candidates in the Selection Lists they had decided to utilize the posts in promotion quota of these posts, vide office notes dated 16.9.2005 of the Deputy Registrar Shri S.S.Suradkar and the Registrar Dr.Vandan Mohod, approved by Dr.V.D. Patil, the Acting Vice-Chancellor contained in the file Ex.42(O) although the recommendations of Shri D.P.Deshmukh, Section Assistant (Estt.) and Shri P.V.Behare, the Assistant Registrar (Estt.) were in respect of the vacancies in nomination quota only, the former pointing out in his note date 15.9.2005 that 10% of the posts in the nomination quota should not be filled for making adjustment in the event of closure of ICAR scheme and the latter pointing out in his note dated 16.9.2005 that if all the posts in nomination quota were filled, there would be no posts available in nomination quota in the next two years.

**2078)** Vide para 1499 of the Enquiry Report, it may be seen that, as per the office note dated 6.9.2005 approved by the Regular Vice-Chancellor, Dr.S.A.Nimbalkar, contained in the file Ex.35(O) when the appointment of all the selected candidates were made subject to availability of vacancies, ordinarily it meant the vacancies in nomination and not promotion quota since the appointments of the selected candidates were to be made by the mode of direct recruitment. As regards the nomination and promotion quota it is fixed by its resolution dated 18.3.1991 (Ex.595) by the Executive Council as per the first proviso to statute 77 (2) of the Statutes. The question, whether the posts of SRA (Agri.) and JRA (Agri.) in promotion quota should be utilized for making appointment of the candidates by

nomination i.e. by direct recruitment, therefore, needed to be considered by the Executive Council which fixed the said quota. At any rate, the said question needed to be considered in dispassionate manner by the independent Dean/Director as Acting Vice-Chancellor, or by the Regular Vice-Chancellor, when he came back from his tour of China particularly when as shown below, the team of Dr. V. D. Patil and Dr. Vandan Mohod were highly interested in making appointments of all the candidates selected by them in these posts. It was therefore necessary to appoint as Acting Vice-Chancellor an independent Dean/Director, who was not involved in selection of the candidates in these posts.

**2079)** Since the same team of Dr.V.D. Patil, and Dr.Vandan Mohod, as Chairman and Member Secretary of the Selection Committee had themselves increased the number of posts to be filled and prepared the Selection Lists for them which included the favoured candidates, they would be interested in accommodating all the selected candidates in these posts as had actually happened since they themselves as Acting Vice-Chancellor and Registrar had decided to utilize the posts in promotion quota for making appointment of all the selected candidates in these posts which is clear from the fact that in his office note dated 16.9.2005 recommending utilization of posts in promotion quota for making appointments of the selected candidates, Shri S.S.Suradkar, Deputy Registrar (Estt.) emphatically stated **“Discussed at length the issue with Assistant Registrar (Estt.), Registrar and Hon’ble (Acting) Vice-Chancellor. In order to give effect to the merit List prepared by the Selection Committee for the posts of SRA (Agril.) and JRA (Agri.), it is absolutely necessary to operate the promotion quota for the time being.....”** which would show that they had decided to appoint all the selected candidates despite the fact that the office note dated 6.9.2005 contained in the file Ex.35(O) approved by the Regular Vice-Chancellor Dr.S.A.Nimbalkar, permitted appointments of the selected candidates subject to availability of vacancies which would ordinarily mean vacancies in nomination quota. As pointed out in the earlier topic relating to “Handing over of the Selection Lists”, they had not only utilized the posts in promotion quota but had utilized the posts of other categories of SRA also such as SRA (Agri.Engg.), SRA (Bio-technology) and also two posts of Senior Technical Assistant (STA) as shown in paras-1608 to 1640 of the Enquiry Report, under the topic relating thereto. As held in the said earlier topic, it appears that Dr.S.A.Nimbalkar, the Regular Vice-Chancellor deliberately received the Selection Lists on 6.9.2005, when he was to go on tour to China for 15 days so as to avoid making appointments of the selected candidates himself in these posts as per the Selection Lists and instead enable Dr.V.D. Patil, the Chairman of the Selection Committee and Dr.Vandan Mohod, the Registrar and its ex-Officio Member Secretary who prepared the Selection Lists to make appointments of the candidates selected by them in these posts by appointing on the same day i.e. 6.9.2005, Dr.V.D. Patil, Dean/D.I. as the Acting Vice-Chancellor (vide Ex-657).

ii) **Note-sheets of the Registrar's office for making appointments of the selected candidates in the posts of SRA (Agri.) and JRA (Agri.) contained in the file Ex.42(O).**

(Vide paras 1500 to 1501-A of the Enquiry Report)

**2080)** It is already held in the earlier topic relating to “Handing over the Selection Lists to the then Vice-Chancellor”, that on 6.9.2005 the Selection Lists were handed over by Dr.V.D. Patil, the Chairman of the Selection Committee, to the then Vice-Chancellor who in turn handed them over to the Registrar's office for taking further action. Accordingly, Shri D.P.Deshmukh, Section Assistant (Estt.), wrote office note on the same day i.e. 6.9.2005 which was approved by the then Vice-Chancellor Dr.S.A.Nimbalkar, on the same day. As per the said office note dated 6.9.2005 it was proposed to make appointment of the selected candidates in these posts of SRA (Agri.) and JRA (Agri.) subject to availability of vacancy categorywise and in order of merit. As stated in the earlier topic about “Handing over the Selection Lists on 6.9.2005”, on the same day i.e. 6.9.2005, the then Vice-Chancellor Dr.S.A.Nimbalkar, appointed Dr.V.D. Patil, Dean/D.I./Chairman of the Selection Committee, as Acting Vice-Chancellor during his absence from 8.9.2005 to 24.9.2005 during which period he was on tour to China. It appears that no steps were taken by Dr.V.D. Patil, the Acting Vice-Chancellor and Dr.Vandan Mohod, the Registrar, about making appointment of the selected candidates till 15.9.2005 since as shown in the earlier topic relating to “Signing the Mark-sheet Ex.34(O)-A and the Selection Lists” both of them had gone to Rahuri and Parbhani and had taken the signatures of the two outside members of the Selection Committee, Dr.G.N.Dake and Dr.N.D. Pawar, on 14.9.2005 upon the Mark-sheet Ex.34(O)-A and the Selection Lists although Dr.N.D.Pawar, is not sure whether his signature was taken on that day or on 27.10.2005 or 15.12.2005 when Dr.V.D.Patil, visited Parbhani on the said dates also.

**2081)** Vide para 1500 of the Enquiry Report, it is on 15.9.2005 after Dr.V.D. Patil, and Dr.Vandan Mohod, returned from Parbhani to Akola at about 12.45 P.M. (See log book Ex.660) that Shri D.P.Deshmukh, Section Assistant (Estt.), must have written the office note dated 15.9.2005 contained in the file Ex.42(O) relating to “Position of filling the posts of SRA (Agri.) and JRA (Agri.)” in which he stated that in nomination quota of 71 posts of SRA (Agri.) (wrongly shown as 72), 43 ( actually 42) posts were available for being filled. In this regard, he pointed out in his note below Table-II on page N/1 of the said file Ex.42(O) that looking to the past experience, at least 10% vacancies are required to be maintained for adjustment in the event of closure of ICAR scheme and thus out of 43 (actually 42) vacant posts, according to him, 40 could be filled. He also gave vacancy position in promotion quota showing the vacant posts therein as 10 which, according to him, could be filled by promotion gradually on availability of the candidates within one or

two years i.e. on completion of condition of experience. As regards the posts of JRA (Agri.), he worked out the vacancy position as of 50 posts in nomination quota and of 38 posts in promotion quota in which according to him, there were 25 eligible candidates available for promotion from the next lower cadre of Agricultural Assistant (graduate) and the remaining 13 posts, according to him, would remain vacant till the Agricultural Assistants (Graduate) were available for promotion.

**2082)** The aforesaid office note of Shri D.P.Deshmukh, Section Assistant (Estt.), dated 15.9.2005 was forwarded to the Assistant Registrar (Estt.), Shri P.V.Behare, on 16.9.2005. He in his office note dated the same i.e. 16.9.2005 considered the vacant posts in nomination quota for appointment of the selected candidates in these posts and stated that if it was decided to fill all the vacant posts, there would be no available vacancy in nomination quota in these posts for being filled in the next 2 years. Thus, according to him, it was necessary to decide as to how many vacant posts out of the total number of the vacant posts in nomination quota should be filled as per the advertisement dated 14.8.2004 (Ex.2).

**2083)** Vide para 1501 of the Enquiry Report, when the aforesaid file Ex.42(O) was then forwarded to the Deputy Registrar, Shri S.S.Suradkar, on the same day i.e. 16.9.2005, he stated in his office note dated the same that the said question of number of posts to be filled was discussed by him at length with the Asst. Registrar (Estt.), the Registrar and the Hon'ble (Acting) Vice-Chancellor and according to him, in order to give effect to the merit list prepared by the Selection Committee for the posts of SRA (Agri.) and JRA (Agri.), **it was absolutely necessary to utilize the vacant posts in their promotion quota** for the time being for making appointment of the candidates selected in the said posts by nomination since according to him, some posts of SRA (Agri.) and JRA (Agri.) would be lying vacant for non-availability of qualified candidates in the next below cadre. Further, according to him, the excess strength in nomination quota because of utilization of the posts in promotion quota could be easily adjusted within three years duration because during the said period, the new recruits in the next below cadre of SRA for promotion to the post of Assistant Professor, and of JRA, for promotion to the post of SRA, would become eligible for promotion the period of 3 years being the minimum period of experience required for promotion. Therefore, according to him, if some posts of SRA (Agri.) and JRA (Agri.) in promotion quota were utilized for making appointment of the candidates selected in nomination quota of these posts, no injustice would be caused to any existing employees.

**2084)** The aforesaid office note of the Deputy Registrar (Estt.) dated 16.9.2005 about utilization of some vacant posts in promotion quota of these posts was approved by the then Registrar Dr.Vandan Mohod, on the same day i.e. 16.9.2005. In his office note dated 16.9.2005, he gave an additional reason that it would not be proper to keep the posts in promotion quota vacant for longer duration of 3 years and it would be in the fitness of

things to tag them to the nomination quota and proceed to make appointments of the candidates selected by the Selection Committee. According to him, the vacancies in promotion quota could be gradually restored within a period of 3 years.

**2085)** The Acting Vice-Chancellor Dr.V.D. Patil, Dean/D.I./Chairman of the Selection Committee “approved as proposed” the above office notes of the Dy.Registrar and the Registrar on the same day i.e. 16.9.2005 by his signature thereunder. Although no reason was given by Dr.V.D. Patil, the Acting Vice-Chancellor in the said file Ex.42(O) for approving the aforesaid office notes of the Deputy Registrar and the Registrar, the additional reason he gave in para 80 of his affidavit dated 25.12.2007 (Ex.645) filed in this enquiry was that there was necessity to fill these posts since they were lying vacant for a long time and they would have otherwise lapsed.

**a) Actual issue of appointment orders to the selected candidates**

(Vide para 1502 of the Enquiry Report)

**2086)** Having thus decided to utilize the posts in promotion quota of these posts of SRA (Agri.) and JRA (Agri.) to give appointment to all the selected candidates in the said posts, although according to the office note dated 6.9.2005 contained in the file Ex.35(O) approved by the then Regular Vice-Chancellor, Dr.S.A.Nimbalkar, the appointments of the selected candidates could be made subject to availability of vacancies which would ordinarily mean the vacancies in nomination quota as the appointments of the selected candidates were by direct recruitment, the appointment orders were issued to all the selected candidates i.e. 55 candidates selected in the posts of SRA (Agri.) and 76 candidates selected in the posts of JRA (Agri.) vide para 1502 of the Enquiry Report, by utilizing not only vacancies in promotion quota of these posts but by utilizing vacancies in other categories of posts of SRA such as SRA (Agril.Engg.) and SRA (Bio-technology) etc. also as would be shown in the later topics. Suffice it to say that the total number of vacancies in nomination and promotion quota of these posts i.e. 52 in SRA (Agri.) and 63 in JRA (Agri.) as worked out by Shri D.P.Deshmukh, Section Assistant (Estt.) in his office note dated 15.9.2005 in the file Ex.42(O) referred to above which was before the Acting Vice-Chancellor and the Registrar showed that they were not enough to accommodate all the candidates selected as per the Selection Lists of these posts.

**b) Appointments made in the posts of SRA (Agri.) and JRA (Agri.) are highly irregular**

(Vide paras 1503 and 1504 of the Enquiry Report)

**2087)** It is held in the topic relating to “Handing over the Selection Lists to the then Vice-Chancellor” that as stated by the then Registrar Dr.Vandan Mohod, in para 2 of his additional affidavit dated 2.4.2008 (Ex.713) and corroborated by the concerned Section

Assistant (Estt.) Shri D.P.Deshmukh, vide para 55 of his affidavit dated 15.11.2007 (Ex.598) read with para 1 of his additional affidavit dated 15.3.2008 (Ex.695), the Selection Lists annexed to the office note dated 6.9.2005 as Annexures-I to XI contained in the file Ex.35(O) which were sent to the Registrar's office by the then Vice-Chancellor on 6.9.2005 were the Selection Lists which did not bear the signatures of the Chairman and the Members of the Selection Committee. Further, according to both of them, the placement of the selected candidates in the Movement Register Ex.644(O) for their suitable posting in these posts of SRA (Agri.) and JRA (Agri.) was made and their appointment orders were also actually issued on the basis of the aforesaid Selection Lists Annexures-I to XI annexed to the aforesaid office note dated 6.9.2005 contained in the file Ex.35(O) i.e. the Selection Lists which did not bear the signatures of the Chairman and the Members of the Selection Committee, vide para 8 of the aforesaid additional affidavit of Dr.Vandan Mohod, dated 2.4.2008 (Ex.713) and the above paras of the affidavits of Shri D.P.Deshmukh, Section Assistant (Estt.), dated 15.11.2007 (Ex.598) and 15.3.2008 (Ex.695). They also stated therein that the file Ex.34(O) relating to the proceedings/minutes of the meeting of the Selection Committee to which the Selection Lists and the Mark-sheet Ex.34(O)-A signed by the Chairman and the Members of the Selection Committee were annexed as Annexures-IX to XIX at pages 66 to 76 and Annexure-XX at pages 77/1 to 92 thereof was received in the Registrar's office after the appointment orders were issued on 16.9.2005 and 17.9.2005. In fact, according to Shri D.P.Deshmukh, Section Assistant (Estt.) although in para 55 of his affidavit dated 15.11.2007 (Ex.598), he stated that he received the file Ex.34(O) containing the Selection Lists and the Mark-sheet Ex.34(O)-A signed by the Chairman and the Members of the Selection Committee on or about 15.10.2005, in para 1 of his additional affidavit dated 15.3.2008 (Ex.695), he stated that he received the said file containing the said signed documents in November or December 2005 when the persons concerned started making applications under the Right to Information Act.

**2088)** It is thus clear that the appointment orders were issued by Dr.V.D. Patil, Acting Vice-Chancellor and Dr.Vandan Mohod, the then Registrar although the Selection Lists signed by the Chairman and the Members of the Selection Committee were not received in the Registrar's office on or before 16.9.2005 and 17.9.2005. In fact, as pointed out in the topic relating to "Preparation of the proceedings/minutes of the meeting of the Selection Committee" when the Mark-sheet Ex.34(O)-A and the Selection Lists were signed by two outside Members of the Selection Committee, Dr.G.N.Dake and Dr.N.D.Pawar at Rahuri and Parbhani on 14.9.2005, although Dr.N.D.Pawar, is not sure whether he signed it on that date or on 27.10.2005 or 15.12.2005 on which dates also Dr.V.D. Patil, had come to Parbhani, the said file Ex.34(O) containing the said documents signed by the Chairman and the Members of the Selection Committee must have been received in the Registrar's office after the appointment orders were issued on 16.9.2005 and 17.9.2005, as stated by

Dr.Vandan Mohod, the Registrar, and Shri D.P.Deshmukh, Section Assistant (Estt.) in their aforesaid affidavits. The Acting Vice-Chancellor and the then Registrar therefore, acted in highly irregular manner in issuing the said appointment orders to the candidates selected in the posts of SRA (Agri.) and JRA (Agri.) on the basis of the Selection Lists annexed to the office note dated 6.9.2005 contained in the file Ex.35(O) i.e. the Selection Lists which did not bear the signatures of the Chairman and the Members of the Selection Committee.

**iii) Utilization of the posts in promotion quota for making appointment by nomination is illegal and improper**

**2089)** Vide Para 1505 of the Enquiry Report, as provided in the first proviso in Statute-77 (2) of the Statutes, the power to determine the number of posts to be filled by promotion upto 25% of the total number of posts only vests in the Vice-Chancellor but above the said Limit and upto the ceiling limit of 50% of the total number of posts to be filled by promotion the power vests in the Executive Council of the University. Accordingly, the Executive Council of the University has passed the resolution dated 18.3.1991 (Ex. 595) annexed to the affidavit dated 2.11.2007 (Ex.591) filed on behalf of the University fixing the said quota as 50:50. It was, therefore, necessary that if any vacancies in promotion quota of these posts were to be utilized for making appointments by nomination thus increasing the number of posts in nomination quota vis-à-vis promotion quota, it was necessary for the Acting Vice-Chancellor to obtain the sanction of the Executive Council for utilization of the said posts in promotion quota in making appointments of the selected candidates by nomination in the said posts as stated in the said para 1505. Had the said matter been placed before the Executive Council for its sanction, it would have considered the question, whether any qualified candidate was available in these posts in promotion quota or not and if not how long they would remain vacant and also the total number of posts in promotion quota which could be utilized for making appointments by nomination in these posts. All other relevant questions could also be considered by it before giving its sanction, if at all, for utilization of the posts in promotion quota for making appointment by nomination. The decision in this regard should have been thus left to the Executive Council of the University as the Acting Vice-Chancellor was not competent to take decision in this regard.

**a) Whether, decision to utilize the posts in promotion quota for making appointment by nomination of the candidates selected in these posts was a policy decision or not and even otherwise, whether such decision could be taken by the Acting Vice-Chancellor or not**

(Vide paras 1506 to 1509 of the Enquiry Report)

**2090)** Vide para 1506 of the Enquiry Report, Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, stated in para 55 of his affidavit dated 14.1.2008 (Ex.658) that the



utilization of the posts in promotion quota for making appointment by nomination of the selected candidates in these posts of SRA (Agri.) and JRA (Agri.) was not a policy decision and therefore, could be taken by the Acting Vice-Chancellor Dr.V.D. Patil, Dean/D.I./the Chairman of the Selection Committee. However, as shown above, the nomination and promotion quota fixed by the Executive Council under the first proviso to statute 77 (2) was 50:50. Apart from the fact that the Vice-Chancellor had no authority to make any appointment by nomination in the posts in promotion quota without the sanction of the Executive Council since making appointment in the posts in promotion quota would disturb the quota prescribed by it, it would be a policy decision which needed to be taken by it. Even otherwise, the order dated 6.9.2005 (Ex.657) by which Dr.V.D. Patil, Dean/D.I., Chairman of the Selection Committee was appointed as Acting Vice-Chancellor, by the then regular Vice-Chancellor Dr.S.A.Nimbalkar, made it clear that the Acting Vice-Chancellor was to look after the day-to-day work of the office of the Vice-Chancellor and to attend to the important and emergency works/meeting if any called during the period of his absence from 8.9.2005 to 24.9.2005. It is clear that the decision to utilize the posts in promotion quota for making appointment of the selected candidates in these posts by nomination was not the decision about carrying out day-to-day routine work of the office of the Vice-Chancellor; it was also not an important and emergency work which could not wait till the regular Vice-Chancellor would resume his duties. In the instant case, Dr.S.A.Nimbalkar, was to resume his duties in about 8 days time after 16.9.2005 when the decision to utilize the posts in promotion quota was taken by the Acting Vice-Chancellor. As there was already so much delay in making appointments in these posts which were advertised as far back as on 14.8.2004 (Ex.2), they could have easily waited for 8 days more for the regular Vice-Chancellor to resume his duties. As pointed out in the said para 1506 of the Enquiry Report, even otherwise, had Dr.V.D.Patil, the Acting Vice-Chancellor not made appointment in haste and followed the routine procedure in the University of calling for the office notes of the officers concerned to find out suitable posts for the selected candidates to make their posting orders, it would have easily consumed period of 8 to 10 days. Therefore, such decision to utilize the posts in promotion quota for making appointment of the selected candidates by nomination could not and should not have been taken by the Acting Vice-Chancellor.

**2091)** Vide para 1508 of the Enquiry Report, if the Acting Vice-Chancellor were to make appointment then as per the office note dated 6.9.2005 in the file Ex.35(O) approved by the then Regular Vice-Chancellor, Dr.S.A.Nimbalkar, he should have given appointment to the candidates selected in these posts to the extent of vacancies available in nomination quota only since the said office note dated 6.9.2005 had itself made their appointment subject to availability of vacancies categorywise and in order of merit which would ordinarily mean

vacancies in nomination and not in promotion quota as the mode of appointment was by direct recruitment.

**2092)** Vide para 1509 of the Enquiry Report, the statement of Dr.S.S.Suradkar, Deputy Registrar (Estt.), in para 17 of his affidavit dated 1.12.2007 (Ex.634) that since there was no rule framed by the University that the promotion quota could not be utilized for appointment by nomination the posts in promotion quota could be utilized for making appointments of the selected candidates in these posts is misconceived because when quota is fixed, it would mean that the same has to be adhered to and used for the purpose for which it is fixed. In other words, the posts in promotion quota could be utilized for appointment of the candidates by promotion and similarly, the posts in nomination quota could be utilized for appointment by nomination for which there may be separate set of rules particularly about experience in the lower posts. If the said quota is to be used for some other purpose, the competent authority fixing the quota would have to take decision in that regard by considering all its pros and cons including the questions as to how many posts in the said quota could be allowed to be utilized for other purpose and the period in which the said quota could be restored.

**b) Whether no candidates were available in the lower post of Agril. Assistant for promotion to the next higher post of JRA (Agri.)**

(Vide paras 1510 and 1511 of the Enquiry Report)

**2093)** Vide para 1510 of the Enquiry Report, Shri S.S.Suradkar, the Deputy Registrar (Estt.), stated in para 17 of his affidavit dated 1.12.2007 (Ex.634) that the appointment by direct recruitment cannot be made in the posts in promotion quota if as per the channel of promotion, a candidate is available in the next lower cadre for promotion to the next higher cadre because it will result in injustice to him if instead of him a candidate is appointed by nomination to the post in promotion quota. Vide para 1216 of the Enquiry Report relating to topic about “Non-selection of YCMOU graduates”, the YCMOU graduates were eligible for selection by nomination and promotion as their graduate degree was held equivalent to the graduate degree of the Agricultural Universities in the State as per the G.R. dated 24.9.2003 (Annexure-20 of the Enquiry Report) which was admittedly binding upon all the Agricultural Universities in the State until it was superseded by the Government. The YCMOU graduates working in the posts of Agricultural Assistant were therefore, eligible for promotion to the posts of JRA (Agri.) and their names should have been included in the Seniority List of the said post of Agricultural Assistant (Graduate), as admitted even by the then Vice-Chancellor, Dr.S.A.Nimbalkar, and Dr.V.D. Patil, the Chairman of the Selection Committee himself, vide para 1511 of the Enquiry Report. Had the legitimate claims of the YCMOU graduates working in the posts of AA for promotion to the posts of JRA (Agri.) been not ignored, the vacancies in promotion quota of JRA (Agri.) could have been filled

by them and to that extent the posts in promotion quota could not have been utilized for making appointments of the selected candidates in the posts of JRA (Agri.).

**iv) Procedure followed in making appointment**

(Vide paras 1512 to 1519 of the Enquiry Report)

**a) The routine procedure for making appointment followed in the University; not followed in this case**

(Vide paras 1512, 1514 and 1515 to 1519 of the Enquiry Report)

**2094)** As regards the routine procedure followed in the University, vide paras-1512,1514 and 1515 of the Enquiry Report, Dr.V.D. Patil, Acting Vice Chancellor of the University and the Chairman of the Selection Committee, Dr.S.A.Nimbalkar, the then Vice-Chancellor and Shri S.S.Suradkar, Deputy Registrar (Estt.), who had long experience of working in the said post, described the said procedure in their affidavits. Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, stated in para 44 of his affidavit dated 14.1.2008 (Ex.658) that as regards the actual appointment of the selected candidates, the department/s concerned would place its/their requirements in the Registrar's office and accordingly taking into consideration such requirement/s, a note was prepared as per the normal practice by the Registrar's office showing which candidate could be appointed in which post and / or where his posting could be made and such a note was forwarded to the Vice-Chancellor for his approval whereafter the orders of appointment were prepared and signed by the Vice-Chancellor and the Registrar.

**2095)** Vide para 1515 of the Enquiry Report, as regards the office/routine procedure followed in making appointments in the University, Shri S.S.Suradkar, Deputy Registrar (Estt.), stated in para 18 of his affidavit dated 1.12.2007 (Ex.634) that the concerned Section Assistant would put-up an office note in writing mentioning therein the designation/description of each vacancy in the establishment/department which was available for appointment and also showing which candidate should be appointed in which post. According to him, alongwith such note was enclosed by him, the proceedings of the meeting of the Selection Committee containing the Selection Lists of candidates. Further, according to him, the said note was then forwarded through proper channel i.e. through the Assistant Registrar, Deputy Registrar and the Registrar to the Hon'ble Vice-Chancellor for his approval and it was after his approval that the appointment and posting orders were issued to the candidates concerned according to the suitable vacancies available in the establishments/departments in the University or its various schemes. In support of the above procedure followed in the University as described by Shri S.S.Suradkar, the Deputy Registrar (Estt.), the University produced two office notes, one dated 13.8.2007 and another dated 29.8.2007 marked as Exs. 638 and 640 in this Enquiry with the affidavit dated 8.12.2007 (Ex.637) filed on its behalf.

**2096)** Vide para 1512 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, admitted in para 81 of his affidavit dated 25.12.2007 (Ex.645) that the routine procedure of the Registrar's office giving an office note showing therein the department/s and the vacancy/ies therein available for making appointment/s as per Selection Lists and indicating also which candidate was suitable for which post was not followed in making appointments as per the Selection Lists in this case. Dr. Vandan Mohod, the Registrar/ Member Secretary of the Selection Committee, however, denied in para 44 of his affidavit dated 1.12.2007 (Ex.633), vide para 1513 of the Enquiry Report, that there was any such procedure followed in the University that the Registrar's office should put-up an office note showing where the vacancies were and in which department/s, appointment/s could be made and of whom and also the number of vacancies available for making appointments. According to him, when the appointments were to be made as per the Selection Lists, the Section Assistant (Estt.), who maintained the Movement Register Ex.644(O) would bring it to the Registrar to apprise him of the departments/establishments where the vacancies were available and then after deciding where the postings of the selected candidates could suitably be made the appointment orders were issued to them. In view of the above affidavits of the then Vice-Chancellor, Dr. S. A. Nimbalkar, Dr.V.D.Patil, the Chairman of the Selection Committee, and Shri S. S. Suradkar, Deputy Registrar (Estt.), and the aforesaid office notes (Exs.637 and 638) produced by the University, Dr.Vandan Mohod, the then Registrar was not right in stating that there was no such routine procedure followed in the University in making appointments.

**b) Actual procedure followed in making appointments in the posts of SRA (Agri.) and JRA (Agri.) as per their Selection Lists**

(Vide paras 1512, 1513, 1518 and 1519 of the Enquiry Report)

**2097)** As regards the actual procedure followed in making appointments, vide para 1512 of the Enquiry Report, according to Dr. V. D. Patil, the Acting Vice Chancellor, the Registrar's office had given them only the information about the total number of vacancies available for making appointments and accordingly in the instant case, the Registrar had made appointments of the selected candidates in these posts. Further, according to him, the format of the appointment order for making appointments in these posts was ready and only the information to be filled therein was to mention the name of the candidate, his address, officer under whom posted to work, category i.e. S.C., S.T. etc. and the remarks about the vacant post. He then stated that accordingly the appointment orders signed by him and the Registrar were issued to the candidates selected in 55 posts of SRA (Agri.) on 16.9.2005 itself and as regards the candidates selected in 76 posts of JRA (Agri.), their appointment orders were issued on the next day i.e. 17.9.2005. According to Dr. Vandan Mohod, the then Registrar, as stated by him in para 45 of his aforesaid affidavit, the Movement Register (Ex.644(O)) which contained the information regarding the appointment, posting, transfer,

retirement and death etc. of the appointees in the posts of SRA (Agri.) and JRA (Agri.) was brought to him by the concerned Section Assistant (Estt.), Shri D.P.Deshmukh, and they had issued appointment orders to 55 candidates selected in the posts of SRA (Agri.) on 16.9.2005 after seeing the departments shown in the said Movement Register (Ex.644(O)) and after taking into consideration the suitability of the candidates for particular posts therein. He also stated that similar procedure was followed on the next day i.e. 17.9.2005 in issuing orders of appointment to 76 candidates selected in the posts of JRA (Agri.). In this regard, vide paras 1518, and 1519 of the Enquiry Report, the actual procedure followed in preparing the appointment orders of the selected candidates on 16.9.2005 and 17.9.2005, is described in detail by Shri D.P.Deshmukh, Section Assistant (Estt.), who was, according to him, present with his movement Register Ex.644(O) in the meeting of the then Acting Vice-Chancellor Dr.V.D. Patil, the then Registrar, Dr.Vandan Mohod, and the Deputy Registrar (Estt.), Shri S.S.Suradkar, to assist them in showing from his Movement Register Ex.644(O) the department/s and the vacant posts therein for making appointment and posting of the candidates selected in these posts, vide para 95 of his affidavit dated 15.11.2007 (Ex.598).

c) **Reason why no such routine procedure was followed in making appointments in these posts of SRA (Agri.) and JRA (Agri.)**

(Vide paras 1516 and 1517 of the Enquiry Report)

**2098)** Vide para 1516 of the Enquiry Report, the above routine procedure was not followed in the instant case because Dr.V.D. Patil, the Acting Vice-Chancellor and also the Chairman of the Selection Committee and Dr.Vandan Mohod, the Registrar/its Member Secretary who themselves decided to increase the number of posts to be filled from 24 posts of SRA (Agri.) as advertised to 55 and 37 posts of JRA (Agri.) as advertised to 76 and prepared the Selection Lists for the said posts were in hurry to issue the appointment orders to all the candidates selected by them before the then Vice-Chancellor Dr.S.A.Nimbalkar, returned from his tour of China on 24.9.2005. As already pointed out, although, Dr.V.D. Patil, the Dean/D.I. was appointed as Acting Vice-Chancellor on 6.9.2005 itself as per the order of the then Regular Vice-Chancellor dated the same (Ex.657) and on which date the Selection Lists were approved by him, the work of filling-up the posts as per the Selection Lists prepared by them could not start till 15.9.2005 because it was only on 14.9.2005, that two outside members of the Selection Committee viz. Dr.G.N.Dake and Dr.N.D. Pawar, signed the Selection Lists and the Mark-sheet Ex.34(O)-A when Dr.V.D. Patil, the Acting Vice-Chancellor and the Chairman of the Selection Committee, and Dr.Vandan Mohod, the Registrar/its Member Secretary had gone to Rahuri and Parbhani and had taken their signatures upon the aforesaid documents. It is, thereafter, that the process for making appointment as per the Selection Lists started Shri D.P.Deshmukh, Section Assistant (Estt.) wrote an office note dated 15.9.2005 explaining the vacancy position in these posts. The

said office note dated 15.9.2005 contained in the file Ex.42(O) was forwarded to the Assistant Registrar, Deputy Registrar and the Registrar, who gave their recommendations regarding the vacant posts in which the candidates selected as per the Selection Lists could be appointed. The file Ex.42(O) was then forwarded to Dr.V.D. Patil, the Acting Vice-Chancellor and on the same day, he approved the office notes of the Deputy Registrar (Estt.), and the Registrar in which it was stated that some posts in promotion quota of these posts of SRA (Agri.) and JRA (Agri.) would have to be utilized for making appointments as per the Selection Lists of these posts.

**2099)** Vide para 1517 of the Enquiry Report, had the routine procedure of the Registrar's office putting an appropriate office note recorded by its Section Assistant, pointing out suitable posts and department/s for appointment and posting of the selected candidates forwarded through proper channel i.e. the Assistant Registrar, Deputy Registrar and the Registrar to the Vice-Chancellor for his approval been followed, it would have consumed more time and the said process of appointments of all the selected candidates would not have been over before the return of the Vice-Chancellor on 24.9.2005 from his tour of China in which case it was possible that he might have taken the view not to utilize the posts in promotion quota and not to appoint all the selected candidates on the ground that as stated in the said office note dated 6.9.2005 contained in the file Ex.35(O), there were no posts available for them considering only the posts vacant in nomination quota of these posts resulting in some favoured candidates not getting appointment in these posts. It is for this reason that it appears that the Acting Vice-Chancellor and the Registrar did not follow the usual routine procedure in making appointment of the selected candidates in these posts of SRA (Agri.) and JRA (Agri.).

**v) Total number of posts of SRA/JRA as shown in the Movement Register Ex. 644(O)**

(Vide paras 1520 and 1521 of the Enquiry Report)

**2100)** Vide para 1520 of the Enquiry Report, according to Dr.Vandan Mohod, the then Registrar and Shri D.P.Deshmukh, the concerned Section Assistant (Estt.), the Movement Register Ex.644(O) maintained by the Section Assistant (Estt.), contained all the relevant information about the appointment, posting, transfer, retirement etc. of SRA/JRA/AA and was therefore, the basis for making appointment of the candidates selected in these posts of SRA (Agri.) and JRA (Agri.). Shri D.P.Deshmukh, Section Assistant (Estt.), stated in para 60 of his affidavit dated 15.11.2007 (Ex.598) that he had prepared the aforesaid Movement Register Ex.644(O) and all entries therein were in his handwriting. According to him, on pages A to G of the Register which appear to be its index, he had mentioned the number of posts of SRA/JRA/AA in each department/scheme which were sanctioned posts. Further, according to him, on the said pages A to G, he had mentioned designation of the posts of

SRA which were of Agriculture Engineering and of computer and as regards the posts of JRA which were of computer. What is important to be seen is that according to him all the remaining posts of SRA/JRA although not specifically designated were of agriculture. As regards the total number of posts of SRA as shown in the Movement Register Ex.644(O), he stated that excluding farm group posts, the total number of posts of SRA was 159 out of which 148 were of SRA (Agri.), 7 were of SRA (Agril. Engg.) and 4 were of SRA (Computer). The above statement about the posts of SRA (Agri.) and SRA (Agri. Engg.) made by him is not actually borne out by the entries made by him in his Movement Register (Ex. 644(O)). Although the total number of posts of SRA excluding farm group posts i.e. 159 tallies with its total number posts sanctioned as per revised Akrutibandh 2003 (See the chart Ex. 756), verification of the total number of posts of SRA (Agri.) from the entries actually made by him in his aforesaid Movement Register (Ex. 644(O)) would show that their total number is 149 and not 145, vide para 1617 of the Enquiry Report and the chart incorporated therein. The total number of posts of SRA (Agri. Engg.) as shown therein are 6 and not 7 as stated by him in his affidavit. Even the posts of SRA (Agri. Engg.) in farm group actually shown by him in the said Register are 2 and not one as stated by him.

**2100-A)** The posts of JRA shown in his aforesaid Movement Register (Ex. 644(O)) as stated by Shri D. P. Deshmukh, Section Assistant (Estt.) in his aforesaid affidavit were 103 out of which 99 were of JRA (Agri.) and 4 were of JRA (Computer). In para 62 of his aforesaid affidavit, he however, corrected the above calculation of the posts of JRA (Agri.) while referring to his office note dated 15.9.2005 contained in the file Ex.42(O) relating to "Vacancy position at the time of appointment in the said posts". He stated that through oversight he had not included 15 posts of JRA (Agri.) created in Krushi Vigyan Kendra on 25.8.2004 including which the total number of posts of JRA (Agri.) would thereafter be 114 which would mean that at the time of appointment on 17.9.2005 in the said posts, the total number of posts of JRA (Agri.) would be 114. However, the above total number of posts of JRA i.e. 103 does not tally with the total number of sanctioned posts of JRA as per the revised Akrutibandh 2003 (Ex. 724). Perusal of the chart Ex. 756 filed by the University with the affidavit of its then Registrar, Shri G. K. Bhusare dated 17.09.2008 (Ex. 768) prepared from the said Akrutibandh, 2003 (Ex. 724) would show that the total number of posts of JRA were earlier 94 and remained the same as they were not reduced in the revised Akrutibandh 2003 (Ex.724). After excluding 4 posts of JRA (Computer), the total number of posts of JRA (Agri.) would be 90. Adding to them 15 posts of JRA (Agri.) created in Krushi Vigyan Kendras on 25.08.2004, the total number of posts of JRA (Agri.) would be 105 from that day which would mean at the time of interview and appointment also. Although, at page 2 of the revised Akrutibandh, 2003 (Ex. 724), the total number of

sanctioned posts of JRA are shown as 96, the total of the said posts sanctioned in each department/scheme would come to 94 posts as shown in the said chart (Ex. 756) and not 96.

a) **Whether the vacancy position is correctly shown in the office note dated 15.9.2005 contained in the file Ex.42(O).**

(Vide paras 1521 and 1522 of the Enquiry Report)

**2101)** Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, who had written the office note dated 16.9.2005 at the time of appointment in these posts contained in the file Ex.42(O) recommending the utilization of the posts in promotion quota for issuing appointment orders to all the candidates selected in these posts, stated in para 45 of his affidavit dated 1.12.2007 (Ex.633) that after perusing the office note of Shri D.P.Deshmukh, Section Assistant (Estt.), dated 15.9.2005 contained in the said file Ex.42(O) showing the vacancy position in the posts of SRA (Agri.) and JRA (Agri.) available for making appointments in the said posts as per the Selection Lists, it did not appear to him that there were 55 vacancies of SRA (Agri.) and 76 of JRA (Agri.) available for making appointments of all the candidates selected in the said posts, even after taking into consideration the total number of vacancies shown by him in nomination and promotion quota of these posts. Further, according to him, if the recommendations of the Selection Committee, about promotion from the posts of AA to JRA and JRA to SRA included in the file Ex.34(O) relating to the proceedings of the meeting of the Selection Committee were taken into consideration then the lesser number of vacancies would be available for making appointment of the candidates as per the Selection Lists of these posts. In fact, as shown in the finding on actual issue of appointment orders to selected candidates in para 2086 of the Enquiry Report, the total number of vacancies in nomination and promotion quota of these posts is 52 in SRA (Agri.) and 63 in JRA (Agri.) as worked out by Shri D.P.Deshmukh, Section Assistant (Estt.) in his office note dated 15.9.2005 in the file Ex.42(O) which was before the Acting Vice-Chancellor and the Registrar showing that they were not enough to accommodate all candidates selected as per the Selection Lists of these posts. Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, however, stated in para 45 of his affidavit dated 1.12.2007 (Ex.633) that they had given appointment and posting orders to all the selected candidates after seeing the vacancy position of these posts in the aforesaid Movement Register Ex.644(O).

**2102)** Vide para 1522 of the Enquiry Report, although Shri D.P.Deshmukh, Section Assistant (Estt.), prepared his office note dated 15.9.2005 contained in the file Ex.42(O) showing the vacancy position at the time of appointment actually from the said Movement Register Ex.644(O) which, as shown above, did not show enough vacancies to accommodate all the 55 candidates in the posts of SRA (Agri.) and 76 candidates in the posts of JRA (Agri.) but when the placement of each candidate from the said Selection



Lists was made in the said Movement Register Ex.644(O) all the candidates in the Selection Lists could be given appointment and posting orders in the said posts as stated by Dr. Vandan Mohod, the Registrar/Member Secretary of the Selection Committee. As there was thus difference in the calculation of the vacant posts made by Shri D.P.Deshmukh, Section Assistant (Estt.) in his aforesaid office note dated 15.9.2005 and the actual vacancy position in these posts in his Movement Register Ex.644(O), the University was directed to file proper affidavit showing the vacancy position in these posts on the date of advertisement dated 14.8.2004 (Ex.2), the date of interview i.e. 13.6.2005 and the dates of appointments 16.9.2005 and 17.9.2005. The said question about the actual vacancy position in these posts of SRA (Agri.) and JRA (Agri.) would however, be considered hereinafter in a separate topic relating thereto. Shri D.P.Deshmukh, Section Assistant (Estt.), after referring to all the relevant affidavits filed on behalf of the University showing therein the vacancy position in these posts as on the above dates stated that the vacancy position shown by him in the file Ex.40(O) i.e. at the time of advertisement and in the file Ex.42(O) i.e. at the time of appointments is approximate while in the affidavits filed in this regard, on behalf of the University, the vacancy position in each department is shown accurately. It is however, pertinent to notice that as regards the posts of JRA (Agri.) while showing the vacancy position in his office note dated 15.9.2005 i.e. at the time of appointment, Shri D.P.Deshmukh, Section Assistant (Estt.) had not taken into consideration 15 posts of JRA (Agri.) created in Krushi Vigyan Kendra on 25.8.2004 including which the total number of posts of JRA (Agri.) would be 114 and if the said posts were taken into account, the total number of vacant posts of JRA (Agri.) at the time of appointment in its nomination and promotion quota would be 78 and not 63 but the fact remains that what was before the Acting Vice-Chancellor and the then Registrar was the office note of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.9.2005 when they had taken the decision to utilize the posts in promotion quota of these posts for making appointment of all the candidates selected in these posts, vide the office notes of the Deputy Registrar (Estt.), and the then Registrar dated 16.09.2005 approved by the Acting Vice-Chancellor on the same date contained in the file Ex. 42(O).

**b) Movement Register not maintained properly**

**2103)** Vide para 1523 of the Enquiry Report, perusal of the aforesaid Movement Register Ex.644(O) which was the basis for giving placement to the candidates selected in these posts of SRA (Agri.) and JRA (Agri.) and which according to Dr.Vandan Mohod, the Registrar and Shri D.P.Deshmukh, the concerned Section Assistant (Estt.) who had prepared the said Movement Register Ex.644(O) by making entries therein in his own handwriting would show that the said Movement Register, and in fact all the Movement Registers produced in this enquiry are not properly maintained. Some entries therein are in ink and some in pencil. There are many erasers and it is difficult to understand the service

particulars of the employees given therein in regard to service matters such as appointment, transfer, promotion and retirement etc. As regards the Movement Register Ex.644(O) some posts in some departments are not shown therein. For instance, two posts of Senior Technical Assistant in independent Estate unit established under the control of the University Engineer as per the University order dated 25.06.2001 (Ex.780) approved by the Executive Council in its meeting held on 17.7.2001 (Ex.800) and sanctioned in the revised Akrutibandh, 2003 (Ex. 724) in the office of the University Engineer are not shown therein. Instead, he showed therein two posts of SRA although no post of SRA was ever created in the office of the University Engineer. Similarly, three posts of Bio-technology in the independent centre of Bio-technology established under the control of the head of the department of Botany as per the University order dated 25.06.2001 (Ex. 781) are also not shown therein. One post of SRA (Agril. Engg.) in the department of IDES is also not shown therein. Further, one post of SRA (Agril.Engg.) and one post of JRA (Agril.Engg.) are wrongly shown as posts of Agriculture in the department of Agricultural Engineering under the Dean, Faculty of Agriculture. See the findings in paras 2173 to 2213 of the Enquiry Report about the utilisation of other posts in making appointments of the candidates selected in these posts.

**c) Appointment of some selected candidates not made in appropriate posts**

(Vide paras 1524 to 1529 of the Enquiry Report)

**2104)** Vide para 1524 of the Enquiry Report, it is pertinent to see that in trying to accommodate all the candidates selected in these posts of SRA (Agri.) and JRA (Agri.), some candidates were appointed in such posts which were not meant for them or the duties of which they could not discharge for which reason some of them were given physical posting in other departments/schemes where they could work. For instance, there were two posts of Senior Technical Assistant which did not previously exist in the office of the University Engineer vide University Circular dated 27.2.1997 (Ex.723) which also shows that there was no post of even SRA in the said office. The two posts of Senior Technical Assistant in the office of the University Engineer were sanctioned as per the revised Akrutibandh (Ex.724) and as per the office order dated 25.6.2001 (Ex.780) approved by the Executive Council in its meeting held on 17.7.2001 (Ex.800), the two posts of Senior Technical Assistant were created in the independent Estate unit under the control of the University Engineer by deployment of two surplus posts of SRA as shown in the said order. The said post of Senior Technical Assistant was, however, not evaluated as to its duties and responsibilities after its creation in the independent Estate unit under the control of the University Engineer. Merely because the said post of Senior Technical Assistant was created in the said independent unit by the deployment of surplus posts of SRA, it would not mean that they were the posts of SRA, muchless of SRA (Agri.) unless they were created as the posts of SRA (Agri.) in the said unit or were shown as equivalent to the said

post. Even in the revised Akrutibandh (Ex.724) the said posts are not shown as the posts of SRA or equivalent to the said posts muchless SRA (Agri.).

**2105)** Vide para 1525 of the Enquiry Report, without evaluating the said posts of Senior Technical Assistant as stated above, Shri Bagde Ashish D., who was M.Sc. (Botany) and who was selected in the post of SRA (Agri.) was appointed in the post of Senior Technical Assistant by order dated 16.9.2005 but was given physical or actual work in the department of Horticulture, Dr.PDKV, Akola, which would show that he was not meant as per his qualification for discharging the duties of the said post of Senior Technical Assistant. As stated by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 5 of his additional affidavit dated 15.3.2008 (Ex.695), as there was no work in the office of the University Engineer according to his qualification, he was actually given work in the Department of Horticulture.

**2106)** Vide para 1526 of the Enquiry Report, it is interesting to see that in another vacant post of Senior Technical Assistant in the office of the University Engineer, Ku. K.J. Morey, who was M.Sc. A.H.D.S. and was working in the post of SRA (Agri.) in the College of Agriculture Nagpur since 21.7.2002, (See page 7 of the Movement Register Ex. 644(O)) was shown as transferred to the post of Senior Technical Assistant in the office of the University Engineer on paper only as she continued to work physically in the college of Agriculture, Nagpur (See pages 1 and 7 of the above Movement Register Ex. 644(O) and also paras 740 and 741 of the Enquiry Report). The reason clearly appears to be that Dr.V.D. Patil, the then Acting Vice-chancellor and Dr.Vandan Mohod, the then Registrar, who made these appointments did not want to show the appointment of Pravin Patil, son of Dr.V.D. Patil, in the said post of Senior Technical Assistant, which was not evaluated but wanted to appoint him in a post which was clearly of Agriculture, for which reason his appointment was made by order dated 16.9.2005 in the post of SRA (Agri.) in the College of Agriculture, Nagpur occupied by Ku. K.J. Morey, who was shown a day before on 15.9.2005 as transferred on paper only to the said post of Sr. Technical Assistant (STA) wrongly shown in the said Movement Register (Ex. 644(O)) as the post of SRA in the office of the University Engineer. That the appointment of Pravin V. Patil is in the post occupied by Ku. K. J. Morey is clear from the entry at page 7 of the Movement Register Ex. 644(O) where the name of Pravin Patil is shown at the same Sr. No. 3 where the name of Ku. K. J. Morey is shown.

**2107)** Vide paras 1527, 1527-A and 1528 of the Enquiry Report, as regards the Agricultural Engineering graduates who were selected in the posts of JRA (Agri.), Shri Dhongde Sanjay M. who was B.Tech. in Agricultural Engg. was appointed in the post of JRA (Agri.) by order dated 17.9.2005 in LRM Project under the University Department of Agricultural Chemistry and Soil Science, Dr.PDKV, Akola but was directed to work physically at CSPO CDF Wanirambapur which would show that there was no work for him

according to his qualifications in the post of JRA (Agri.) in LRM Project in which he was appointed. Similarly, Shri A.D.Deogirikar, M.E., Farm Power and Machinery, was also appointed in another post of JRA (Agri.) in the above referred LRM Project under the Head, Department of Agricultural Chemistry and Soil Science. Vide para 1021 of the Enquiry Report, perusal of his affidavit dated 28.9.2007 (Ex.561) would show that the duties he was assigned in the said department were mostly of clerical nature except duties in Soil Testing Laboratory which were not meant for the post graduate in Farm Power and Machinery, a technical subject in the faculty of Agricultural Engineering but were concerned with a graduate in Agriculture having knowledge in Agricultural Chemistry and Soil Science.

**2108)** Vide para 1527-A of the Enquiry Report, Ku.M.S.Supe, who was M.Tech. in Farm Power and Machinery was given appointment by order dated 17.9.2005 in the post of JRA (Agri.) in Oil Seed Research Centre, (Safflower), Dr.PDKV, Akola and was given work under the Junior breeder of the said unit to look after the breeding activities of SORP under his guidance and also to look after the computer unit as its Incharge person, vide para 1006 of the Enquiry Report. Dr.V.D.Patil, the Chairman of the Selection Committee, stated in para 97 of his affidavit dated 25.12.2007 (Ex.645) that the above work was not the work to be allotted to an Agricultural Engineering graduate although according to him, there was work for such graduate in the said centre. Shri D.P.Deshmukh, concerned Section Assistant (Estt.), who assisted the Registrar for making proper placement and posting of the selected candidates in his Movement Register (Ex.644(O)), however, stated in para 9 of his additional affidavit dated 15.3.2008 (Ex.695) that as there was no other post available which was suitable according to her educational qualifications, she was given appointment in the aforesaid post in Oil Seed Research Centre, which was not suitable according to her qualifications. What is important to be seen is that he also stated that he did not know why she was selected. If there was no other post available which was suitable according to her qualifications, it would mean that although it was not necessary as per the above referred office note dated 6.9.2005, she was appointed in the said post in the University only because she was daughter of former Associate Dean in the University.

**2109)** Vide para 1528 of the Enquiry Report, the other examples of appointment and posting in the posts which were not meant for appointees as per their qualifications were of Shri A.D.Thakre and Shri P.V.Singrup who were M.Sc. in Agronomy but were given appointment in the posts of JRA (Agri.) in the department of Agricultural Economics. Shri A.H.Bhople, who was M.Sc. in Economics, was appointed as JRA (Agri.) in the department of Extension Education and Shri A.P.Khandare, M.Sc. (Economics) was appointed as SRA (Agri.) in Beetlevine Research Station, Ramtek. A chart of such selected candidates for whom there were no appropriate vacant posts in the University reproduced in the said para 1528 of the Enquiry Report can be usefully seen.

**2110)** Vide para 1529 of the Enquiry Report, the above-referred chart would show that there were no appropriate posts available in the University for all the candidates who were selected in the posts of SRA (Agri.) and JRA (Agri.) because the candidates were not actually selected by first determining the vacant posts available for them and then selecting them according to the qualifications required for working in the said vacant posts. In fact the advertisement itself should have been given departmentwise / schemewise by looking into the vacant posts in each department/scheme and calling applications of the candidates with qualifications suitable for the said posts. Secondly, even if the candidates were selected in these posts pursuant to the advertisement dated 14.08.2004 (Ex. 2), it was not necessary for the appointing authority to make appointments of such candidates for whom there were no appropriate posts in the University since as stated in the office note dated 6.9.2005 contained in the file Ex.35(O) approved by the Regular Vice-Chancellor, the appointments of the candidates in the Selection Lists were subject to availability of vacancies which would mean vacancies suitable as per their qualifications.

**vi) Charts filed by the University showing the vacancy position in the posts of SRA (Agri.) and JRA (Agri.) at the time of advertisement i.e. as on 31.7.2004 at the time of interview i.e. as on 12.6.2005 and at the time of appointment i.e. as on 15.9.2005**

(Vide paras 1530 to 1536 of the Enquiry Report)

**2111)** Vide para 1530 of the Enquiry Report, as already pointed out in para 1521 of the Enquiry Report, Dr.Vandan Mohod, the then Registrar/Member Secretary of the Selection Committee, stated in para 44 of his affidavit dated 1.12.2007 (Ex.633) that after perusing the note-sheet of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.9.2005 contained in the file Ex.42(O) regarding the vacancies available for making appointments of SRA (Agri.) and JRA (Agri.) as per the Selection Lists, it did not appear to him that there were 55 vacancies of SRA (Agri.) and 76 vacancies of JRA (Agri.) available for making appointments as per the Selection Lists taking into consideration the vacancies in their nomination as well as promotion quota. He further stated that perusal of the statements about promotion of JRA (Agri.) to SRA (Agri.) and AA to JRA (Agri.) which they had recommended would show that there would be even lesser number of vacancies for making appointments in these posts. He however, stated that he had given appointment and posting orders to all the candidates selected in these posts after finding out vacant suitable posts for them in the Movement Register (Ex.644(O) maintained by the Section Assistant. Since Shri D.P.Deshmukh, Section Assistant (Estt.), had also prepared his office note dated 15.9.2005 contained in the file Ex.42(O) regarding vacancy position in these posts at the time of appointment from his aforesaid Movement Register Ex.644(O), there was some doubt about the actual number of vacant posts of SRA (Agri.) and JRA (Agri.) available for

making appointment of the selected candidates. The University was, therefore directed to file appropriate affidavit/s showing the vacancy position on the dates of advertisement, interview and appointment of the candidates selected in these posts. Accordingly, the University filed the affidavits in this enquiry with the charts showing the vacancy position as on 31.7.2004 i.e. at the time of advertisement, 12.6.2005 i.e. at the time of interview, and 15.9.2005 i.e. at the time of appointment. It is however, surprising that although the office notes contained in the file Ex.40(O) relating to advertisement and in the file Ex.42(O) relating to appointment, placement of the selected candidates for issuing appointment and posting orders to them, and the charts relating to vacancy position as on the aforesaid dates, filed with its affidavits by the University are all based upon the Movement Register (Ex.644(O)), they do not tally with one another.

**2112)** Vide para 1531 of the Enquiry Report, the relevant affidavit filed on behalf of the University showing the vacancy position in these posts of SRA (Agri.) and JRA (Agri.) as on the dates of advertisement and interview i.e. 31.7.2004 and 12.6.2005 is its affidavit dated 30.8.2007 (Ex.180) and its relevant affidavit showing the vacancy position in the said posts at the time of appointment i.e. as on 15.9.2005, is its affidavit dated 4.9.2007 (Ex.196). Vide paras 1532 to 1534 of the Enquiry Report, the charts enclosed by the University with its affidavit dated 30.8.2007 (Ex.180) marked as Exs.181 to 192 (Annexures 54 to 65 of the Enquiry Report) are referred to therein. Vide para 1536 of the Enquiry Report, the charts enclosed with the affidavit of the University dated 4.9.2005 (Ex.196) marked as Exs. 197 to 202 (Annexures 66 to 71 of the Enquiry Report) are referred to therein.

**2113)** The chart marked as Ex.181(Annexure 54 of the Enquiry Report) is about departmentwise vacancy position of SRA (Agri.) at the time of the advertisement i.e. as on 31.7.2004 and the chart marked as Ex.182 (Annexure 55 of the Enquiry Report) is about similar departmentwise vacancy position of SRA (Agri.) at the time of interview i.e. as on 12.6.2005. The charts Exs. 183 and 184 (Annexures 56 and 57 of the Enquiry Report) are similar charts showing the departmentwise vacancy position as on 31.7.2004 and 12.6.2005 in the posts of JRA (Agri.). It is necessary to see that there is increase in the total number of sanctioned posts of JRA (Agri.) at the time of interview from 99 to 114 because 15 posts of JRA (Agri.) were sanctioned for Krushi Vigyan Kendra, Sindewahi, Yavatmal, Sonapur, Hiwara and Sakoli on 25.8.2004. There are then four charts (Exs. 185 to 188) (Annexures 58 to 61 of the Enquiry Report) in which the University has given the names of SRA (Agri.) appointed by promotion and by direct recruitment as on 31.7.2004 i.e. the date of advertisement and as on 12.6.2005 i.e. at the time of interview. It has filed four similar charts Exs. 189 to 192 (Annexures 62 to 65 of the Enquiry Report) in respect of the posts of JRA (Agri.) i.e. about the names of the candidates appointed by promotion and by direct recruitment as on the aforesaid dates i.e. 31.7.2004 and 12.6.2005.

**2114)** The University filed the affidavit dated 4.9.2007 (Ex.196) to show the vacancy position in these posts of SRA (Agri.) and JRA (Agri.) as on 15.9.2005 i.e. at the time of appointment in these posts. It has enclosed with the said affidavit dated 4.9.2007 (Ex.196) 6 charts marked as Exs. 197 to 202 showing the vacancy position at the time of appointment. The chart Ex.197 (Annexure 66 of the Enquiry Report) is about departmentwise sanctioned posts, filled in posts, and vacant posts of SRA (Agri.) and the next two charts Exs.198 and 199 (Annexures 67 and 68 of the Enquiry Report) contain the names of appointees in the posts of SRA (Agri.) as on 15.9.2005 by promotion and by direct recruitment respectively. The next three charts enclosed with the said affidavit dated 4.9.2007 (Ex.196) marked as Exs.200 to 202 (Annexures 69 to 71 of the Enquiry Report) are similar charts about the posts of JRA (Agri.). The chart Ex.200 (Annexure 69 of the Enquiry Report) is in respect of the departmentwise sanctioned posts as on 15.9.2005 and the charts Exs.201 and 202 (Annexures 70 and 71 of the Enquiry Report) contain the names of the appointees in these posts of JRA (Agri.) as on 15.9.2005 by promotion and by direct recruitment respectively.

**2115)** Vide para 1535 of the Enquiry Report, there is discrepancy in the total number of filled in posts of SRA (Agri.) i.e. 112 shown in the departmentwise charts as on 31.07.2004 and 12.06.2005 (Exs. 181 and 182) and the total number of appointees as per their names given in the charts (Exs. 185 to 188) i.e. 81 by promotion and 28 by direct recruitment, their total number being 109 i.e. less than the total number of filled in posts 112 shown in the aforesaid charts (Exs. 181 and 182). There is also mistake in showing the serial numbers in the chart Ex.187 as on the date of interview i.e. 12.6.2005, as Shri P.A.Nahate, at S.no.23 in the chart of promotees at the time of advertisement i.e. on 31.7.2004 (Ex.185) had retired on 31.3.2005. Thus, the total number of promotees at the time of interview in the chart (Ex.187) would be 80 and not 81. Similarly, as regards the posts of JRA (Agri.), there is discrepancy in the total number of filled in posts shown in the departmentwise charts (Exs.183 and 184) i.e. 39 and 38 respectively as on 31.7.2004 and 12.6.2005 and the total number of appointees as per their names given in the charts (Exs. 189 to 192) on the aforesaid dates i.e. 28 by promotion and 7 by direct recruitment whose total comes to 35 and not 39 or 38 as shown in the departmentwise charts (Exs. 183 and 184). There is then mistake in giving serial nos. in the list of promotees in the posts of JRA (Agri.) as on 12.06.2005 (Ex. 191) and the total number of promotees in the said posts as on the said date which is 27 since R.M.Talokar, JRA (Agri.) at S.no.1, in the list of promotees as on 31.7.2004 (Ex.189) had retired on 31.8.2004. Thus, the total number of promotees and direct recruits in the posts of JRA (Agri.) as on 12.6.2005 would be 34 and not 35. The affidavit dated 30.8.2007 (Ex.180) filed on behalf of the University has not given any explanation for the above discrepancies in filled in posts of SRA (Agri.) and JRA (Agri.) as on 31.7.2004 and 12.6.2005.

**2116)** The tabular statement about the vacancy position contained in para 1536-A of the Enquiry Report is reproduced below.

**Departmentwise vacancy position**

**Re. SRA (Agri.)**

Date	Ex.No.	Total no. of posts	Filled in posts	Vacant posts
31.7.2004	Ex.181	148	112	36
After excluding 5 posts of Bio-technology		143	112	31
12.6.2005	Ex.182	Same Vacancy position As on 31.7.2004		
15.9.2005	Ex.197	148	91	57
After excluding 5 Posts of Bio-technology		143	91	52

**Re. JRA (Agri.)**

Date	Ex. No.	Total no. of posts	Filled in posts	Vacant posts
31.7.2004	Ex.183	99	39	60
12.6.2005	Ex.184	114	38	76
15.9.2005	Ex.200	114	33	81

**Names of SRA (Agri.) candidates appointed by promotion/ Direct Recruitment**

Date	Chart about promotion Exh.No.	Promotion	Chart about Nomination Exh.No.	Nomination	Total filled in posts	Total vacant posts
31.7.2004	Ex.185	81	Ex. 186	28	109	34 (39)**
12.6.2005	Ex.187	81 *(80)	Ex. 188	28	109 *(108)	34 (39)**
15.9.2005	Ex.198	70	Ex. 199	21	91	52 (57)**

\*For bracketed figures see previous para

\*\* Vacant posts after including 5 posts of Bio-Technology



**Names of JRA (Agri.) candidates appointed by promotion and direct recruitment**

Date	Chart about promotion Exh.No.	Promotion	Chart about nomination Exh.No.	Direct Recruitment	Total filled in posts	Total vacant posts
31.7.2004	189	28	190	7	35	64
12.6.2005	191	28 *(27)	192	7	35 *(34)	79
15.9.2005	201	29	202	4	33	81

\*For bracketed figures see previous para

- vii) **Verification of the charts about vacant position filed by the University referred to in the previous topic to see whether due to selection of SRA (Agri.) and JRA (Agri.) in the posts of Assistant Professor, 55 vacant posts of SRA (Agri.) and 76 posts of JRA (Agri.) were available.**

(Vide paras 1537 to 1549-B of the Enquiry Report)

**2117)** Vide para 1537 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 49 of his affidavit dated 25.12.2007 (Ex.645) that since he was associated as Member of the Selection Committee for selection of the candidates in the posts of Assistant Professor/Associate Professor whose selection lists were ready a few months prior to the dates of interviews in these posts of SRA (Agri.) and JRA (Agri.), he knew that due to selection of some SRAs (Agri.) and JRAs (Agri.) in the post of Assistant Professor either by nomination or promotion, there would be more vacancies in the posts of SRA (Agri.) and JRA (Agri.). Accordingly, as stated by him in para 50 read with para 73 of his aforesaid affidavit, on the last day of interview i.e. 25.6.2005, he and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee decided on their own to increase the number of posts of SRA (Agri.) to be filled from 24 as advertised to 55 and 37 posts of JRA (Agri.) as advertised to 76. For taking the above decision, apart from the Selection Lists of the candidates selected in the posts of Assistant Professor from amongst the employees working as SRA (Agri.) and JRA (Agri.) the other material before them on 25.6.2005 i.e. the last day of interview was the office note of Shri D.P.Deshmukh, Section Assistant (Estt.), dated 15.7.2004 contained in the file Ex.40(O) showing the vacancy position in the said posts at the time of advertisement which was almost the same at the time of interview i.e. on 25.6.2005.

**2118)** Vide para 1538 of the Enquiry Report, in order to find out whether 55 vacant posts of SRA (Agri.) and 76 vacant posts of JRA (Agri.) which were near about double the number of vacancies in the said posts which were advertised, were available due to

selection of some SRAs (Agri.) and JRAs (Agri.) in the posts of Assistant Professor, the University was directed to produce the List of the names of such candidates who were appointed as Assistant Professors with their dates of interview and appointment. Accordingly, the University filed with its affidavit dated 14.9.2007 (Ex.432) the subject-wise List of 94 candidates selected in the posts of Assistant Professors with their dates of interview and appointment. Perusal of the said Lists about selection of the candidates in the posts of Assistant Professor would show that their dates of interview and selection were much prior to 13.6.2005 i.e. the date on which the interviews for these posts of SRA (Agri.) and JRA (Agri.) commenced but their dates of appointment were after the last date of interviews of the said posts i.e. 25.6.2005, their dates of appointment being either 27.6.2005, 29.6.2005, or 12.9.2005.

**2119)** Vide para 1539 of the Enquiry Report, perusal of the said lists of 94 candidates selected by nomination and promotion in the posts of Assistant Professor would show that 46 amongst them were from the posts of SRA and 1 candidate Shri S.M.Potkile, was from the post of JRA (Agri.). As there was only one candidate Shri S.M.Potkile, who was selected by direct recruitment in the post of Assistant Professor from the post of JRA (Agri.), it could not be a reason for raising the number of posts of JRA (Agri.) to be filled from 37 as advertised to 76. Moreover, verification of the Lists showing the vacancy position in the posts of JRA (Agri.) filed by the University would show that his name is taken into consideration while showing the vacancy position in said post as in the Lists of promotees as on 31.7.2004 and 12.6.2005 (Exs.189 and 191), his name is included whereas his name is excluded in the List of promotees in the posts of JRA (Agri.) as on 15.9.2005 since he was already appointed as Assistant Professor on 29.6.2005 i.e. prior to 15.9.2005. However, enquiry is necessary to be made whether by reason of selection of 46 SRAs in the posts of Assistant Professor, 55 vacancies amongst others were available in the posts of SRA (Agri.).

**2119-A)** As regards the question whether 55 vacancies amongst others were available in the post of SRA (Agri.), it may be seen that Shri D.P.Bundhe, and T.P.Kolhe, from amongst these 46 SRAs were appointed as Assistant Professors in computer science by nomination and promotion respectively which would show that they possessed qualification in Computer Science and not Agriculture. Shri R.R. Shelke appointed as Assistant Professor in AH & Dairy was from the independent Veterinary University established w.e.f. 1.4.2001. In order to determine the number of candidates in the posts of SRA (Agri.) selected and appointed by nomination and promotion in the posts of Assistant Professor, the names of the above three candidates will have to be excluded. Vide para 1540 of the Enquiry Report, excluding the names of the above three candidates viz. Shri D.T.Bundhe, T.P.Kolhe, and Shri R.R.Shelke, the List of the remaining 43 candidates who were appointed by

nomination or promotion in the higher posts of Assistant Professor from the posts of SRA (Agri.) is given in the said para.

**2120)** Vide para 1541 of the Enquiry Report, the scrutiny of the said List of 43 appointees in the posts of Assistant Professor would show that it included the names of 32 candidates who were appointed on regular basis in the posts of SRA (Agri.), their names being at S.no.1 to 33 of the said List of 43 appointees except the name of Shri P.P.Khode, at S.no.25 in the said List. That the above 32 candidates were appointed on regular basis in the posts of SRA (Agri.) is clear from the Seniority list of SRA as on 31.12.2003 (Ex.671) filed by Shri D.P.Deshmukh, Section Assistant (Estt.), with his additional affidavit dated 15.3.2008 (Ex.695). The remaining 11 appointees as Assistant Professors whose names are at S.nos.25 and 34 to 43 of the said List of 43 appointees in the posts of Assistant Professors were from amongst 77 candidates who were promoted w.e.f. 5.11.2004 on officiating basis to the posts of SRA (Agri.) and were recommended by the Selection Committee for their regular promotion in the said posts, vide annexure-III at pages 28 to 35 of the file Ex.34(O).

**2121)** Vide para 1542 of the Enquiry Report, since these 43 SRA (Agri.) were appointed by nomination or promotion in the posts of Assistant Professor prior to 15.9.2005, there should have been ordinarily these 43 vacancies in the posts of SRA (Agri.) amongst others if any as on 15.9.2005 i.e. at the time of appointment of the candidates selected in these posts of SRA (Agri.). Therefore, although the names of these 43 SRAs (Agri.) need not have been included in the Lists of promotees and direct recruits as on 15.9.2005 i.e. at the time of appointment of the candidates selected in the posts of SRA (Agri.) (Exs. 198 and 199), their names should have been included in the Lists of promotees and direct recruits as on 31.7.2004 i.e. at the time of advertisement and as on 12.6.2005 i.e. at the time of interview (Exs. 185 to 188) since they were appointed by nomination or promotion in the higher posts of Assistant Professor much later i.e. either on 27.6.2005, 29.6.2005 or 12.9.2005. However, the said Lists of promotees and direct recruits as on 31.7.2004 and 12.6.2005 (Exs. 185 to 188) included the names of 10 SRAs only out of the aforesaid 32 SRAs who were appointed on regular basis in the posts of SRA (Agri.) vide para 1541 of the Enquiry Report. The names of the said 10 SRAs appointed on regular basis which are in the lists of either promotees or direct recruits as on 31.7.2004 and 12.6.2005 (Exs. 185 to 188) are given in the next para 1543 of the Enquiry Report.

**2122)** Vide para 1544 of the Enquiry Report, as regards 11 officiating SRAs (Agri.) at S.nos. 25, and 34 to 43 of the above List of 43 SRAs (Agri.) appointed as Assistant Professors (Vide para 1540 of the Enquiry Report), they were from the category of JRA (Agri.) who were promoted on officiating basis in the posts of SRA (Agri.), and whose names were included in the List of 77 officiating SRAs (Agri.) recommended by the Selection Committee for regular promotion in the said post of SRA (Agri.) in its meeting held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 vide annexure-III at pages 28

to 35 of the file Ex.34(O). The names of 11 officiating SRAs (Agri.) appointed as Assistant Professors are given in the said para. It may however, be seen that except the name of Dr.M.H.Dahale, the names of other 10 SRAs are included in the List of promotees in the post of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 185 and 187).

**2123)** Vide para 1545 of the Enquiry Report, the aforesaid Lists of promotees and direct recruits in the post of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 185 to 188) included the names of 20 SRAs appointed as Assistant Professors as shown above i.e. 10 SRAs (Agri.) appointed on regular basis and 10 SRAs (Agri.) appointed on officiating basis but they did not include the names of the remaining 23 SRAs out of the aforesaid List of 43 SRAs who were appointed by nomination or promotion in the posts of Assistant Professor. As regards the remaining 23 SRAs, 22 amongst them at S.nos. 1 to 22 of the said List of 43 SRAs (Agri.) were appointed on regular basis in the said posts of SRA (Agri.) and one i.e. Dr.M.H.Dahale, at S.no.36 on officiating basis.

**2124)** Vide para 1546 of the Enquiry Report, a notice was therefore issued to Shri D.P.Deshmukh, Section Assistant (Estt.), to appear in this enquiry and explain on affidavit why the names of the aforesaid 23 SRAs (Agri.) did not find place in the aforesaid Lists of promotees and direct recruits (Exs. 185 to 188) enclosed with the affidavit of the University dated 30.8.2007 (Ex.180). He was also directed to file the List of SRAs who were working as Assistant Professors at the time of advertisement dated 14.8.2004 (Ex.2) since he stated in his office note dated 15.7.2004 written at the time of the aforesaid advertisement contained in the file Ex.40(O) that at least 15 SRAs were working as Assistant Professors on temporary basis and would be regularized, resulting in 15 vacancies in the posts of SRA which could be advertised in addition to 20 clear vacancies. As referred to in the said para 1546 of the Enquiry Report, he filed in this enquiry certain orders of appointment of SRA (Agri.) as Asstt. Professors on temporary and officiating basis. As concluded therein the said orders of appointment of SRAs. as Assistant Professors issued from time to time included the names of 21 out of the said 23 SRAs in the above referred List of 43 SRAs appointed as Assistant Professors. As regards the remaining two SRAs out of the said 23 SRAs., viz Shri V.P.Babhulkar, at S.no.20 and Dr. M.H.Dahale, at S.no.36 of the said List of 43 SRAs (Agri.) given in para 1540 of the Enquiry Report, Shri V.P.Babhulkar was appointed as SRA (Agri.) on regular basis and as regards Ku. M.H.Dahale, she was appointed on officiating basis as SRA (Agri.) but both of them were appointed directly as Assistant Professors by order dated 29.6.2005 meaning thereby that like the aforesaid 21 SRAs (Agri.) they were not promoted on temporary officiating basis as Assistant Professors at any time before their aforesaid regular appointment as Assistant Professors by the order dated 29.6.2005.

**2125)** Vide para 1547 of the Enquiry Report, Shri D.P.Deshmukh, Section Assistant (Estt.), admitted in paras 3 and 5 of his affidavit dated 12.10.2009 (Ex.690) that since the

above two candidates viz. Dr.M.H.Dahale, and Shri V.P.Babhulkar were never appointed as Assistant Professors on temporary officiating basis, their names should have been shown in the Lists of promotees and direct recruits respectively in the posts of SRA (Agri.) as on 31.7.2004, at the time of advertisement and 12.6.2005 i.e. at the time of interview (Exs. 185 to 188). Their names were, however, rightly not included in the Lists of promotees and direct recruits in the posts of SRA (Agri.) as on the date of appointment i.e. 15.9.2005 (Exs.198 and 199) because they were already appointed by nomination in the posts of Assistant Professor on 29.6.2005.

**2126)** Vide para 1548 of the Enquiry Report, as regards the remaining 21 SRAs at S.nos. 1 to 19 and 21 and 22 in the said List of 43 SRAs who were appointed on temporary officiating basis in the posts of Assistant Professor before their regular appointment in the said posts as per the orders dated 27.6.2005, 29.6.2005, and/or 12.9.2005, their names were not shown in the Lists of promotees and direct recruits in the posts of SRA (Agri.) as on 31.7.2004 i.e. at the time of advertisement and 12.6.2005 i.e. at the time of interview (Exs.185 to 188). In this regard, perusal of the Movement Register (Ex.881) which was prior to the Movement Register (Ex.644(O)) would show that they were working in the posts of Assistant Professor on temporary basis since 2002. The said Movement Register (Ex.881) as well as the Movement Register Ex.644(O) would further show that all their sanctioned posts of SRA (Agri.) in the departments in which they were working were occupied by JRA (Agri.) who were promoted in the posts of SRA (Agri.) on officiating basis from 5.11.2004 and whose names were recommended by the Selection Committee for regular appointment vide Annexure-III at pages 28 to 35 of the file Ex.34(O). It is pertinent to see that instead of the above 21 SRAs working temporarily as Assistant Professor, the names of these officiating SRAs were given in the Lists of promotees as on 31.7.2004 (Ex.185) and 12.6.2005 (Ex.187) which would show that these 21 posts of SRA (Agri.) were blocked by them and were not open for appointment of the selected candidates in the said posts. Shri D.P.Deshmukh, Section Assistant (Estt.) has given in para 7 of his additional affidavit dated 12.10.2009 (Ex.690) the aforesaid reason for not including the names of the said 21 SRAs working temporarily as Assistant Professors in the aforesaid Lists of Promotees and direct recruits in the post of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 185 to 188). The said reason given by him has to be accepted because the purpose in preparing the said Lists is to show whether there is vacancy in the said post for making appointment of the candidate selected in the said post.

**2127)** Vide para 1549 of the Enquiry Report, as already observed in the above para, the posts of 21 regular SRAs working on temporary basis in the higher posts of Assistant Professor were not vacant for making appointment of the selected candidates therein as they were blocked by JRAs who were promoted on officiating basis in the said posts of SRAs and were recommended by the Selection Committee for their regular promotion in

the said posts. There is, however, mistake committed in not including in the said Lists of promotees and direct recruits as on 31.7.2004 and 12.6.2005 (Exs. 185 to 188) respectively the names of Dr.M.H.Dahale, at S.no.36 and Shri V.P.Babhulkar, at S.no.20 in the List of 43 SRAs (Agri.) given in para 1540 of the Enquiry Report because they never worked on temporary basis in the higher posts of Assistant Professor and from their posts of SRA (Agri.), were directly appointed in the posts of Assistant Professor by the order dated 29.6.2005.

**2128)** Vide para 1549-A of the Enquiry Report, after inclusion of the aforesaid name of Ku.M.H.Dahale, in the list of promotees in the post of SRA (Agri.) as on 31.7.2004 (Ex.185) i.e. at the time of advertisement the total number of promotees would be 82 and not 81 as shown therein. As regards the List of promotees at the time of interview i.e. as on 12.6.2005 (Ex.187), there is mistake in the said List. Since Shri P.A.Nahate, at S.no.23 in the List of promotees as on 31.7.2004 (Ex.185) had retired on 31.3.2005, the total number of promotees at the time of interview i.e. 12.6.2005 (Ex.187) would be 80 and not 81 as shown therein but after addition of the name of Ku. M.H.Dahale, whose name is missing in the said List as admitted by the concerned Section Assistant (Estt.), Shri D.P.Deshmukh, the total number of promotees would still be 81 as shown therein. It may be seen that as shown in paras 1554 to 1559 of the next topic relating to “Vacancy Position in the posts of SRA (Agri.) at the time of appointment i.e. as on 15.9.2005”, the names of 6 officiating SRAs viz. Shri D.S.Gahane, Ku. M.S.Gaikwad, Shri V.D.Hedau, Sau. V.B.Kalamkar, S.S.Tayade, and A.S.Tingre needed to be included in the Lists of promotees as on 31.7.2004 and 12.6.2005 (Ex.185 and 187) and the total number of promotees as on 12.6.2005 i.e. at the time of interview would be 87 and not 81. As regards the List of direct recruits in the posts of SRA (Agri.) at the time of advertisement i.e. as on 31.7.2004 (Ex.186) and at the time of interview i.e. as on 12.6.2005 (Ex.188), the name of Shri V.P.Babulkar, will have to be added in the said Lists Exs. 186 and 188 and therefore, the total number of direct recruits as on the said dates would be 29 instead of 28 as shown therein.

**2129)** Thus, the revised vacancy position in the posts of SRA (Agri.) as shown in Para 1549-B of the Enquiry Report is as follows.

**Revised chart of departmentwise vacancy position for the post of SRA (Agri.) after excluding 5 posts of Bio-technology**

Date	Ex.No.	Total no. of posts	Filled in posts	Vacant posts
31.7.2004	Ex.181	143	114	29
12.6.2005	Ex.182	143	113	30
15.9.2005	Ex.197	143	91	52

**Revised chart in the light of the finding in the above para 1549-A about the names of SRA (Agri.) to be included in the list of promotees and direct recruits.**

Date	Chart about promotion Exh.No.	Promotion	Chart about Nomination Exh.No.	Nomination	Total	Vacant posts
31.7.2004	Ex.185	88	Ex. 186	29	117	26
12.6.2005	Ex.187	87	Ex. 188	29	116	27
15.9.2005	Ex.198	70	Ex. 199	21	91	52

**a) Verification and calculation of the vacancy position in the posts of SRA (Agri.) as on the last day of interview i.e. 25.6.2005**

(Vide para 1550 of the Enquiry Report)

**2130)** Vide para 1550 of the Enquiry Report, Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, calculated on the last day of interview i.e. 25.6.2005, the vacant posts of SRA(Agri.) to be filled as 55. For verifying the said vacancy position as on the last day of interview i.e. 25.6.2005 in the light of the above referred charts (Exs.182, 187 and 188) filed by the University although the said charts are filed as on 12.6.2005, there is no difference in the vacancy position as on 12.6.2005 and 25.6.2005 i.e. the last day of interview.

**2131)** As shown in the chart (Ex.182) filed by the University, the total number of posts of SRA (Agri.) excluding 5 posts of Bio-technology is 143 and therefore, the quota of nomination and promotion in the said posts is 71 and 72 respectively. As held in para 1549-A and as shown in the chart in para 1549-B of the Enquiry Report, the lists of promotees and direct recruits as on 12.06.2005 i.e. at the time of interview (Exs. 187 and 188) would show that in promotion quota the posts filled are 87 and in nomination quota 29. Since the promotion quota is of 72 posts, 15 posts in excess of that quota are filled, which would mean that 15 posts in nomination quota are utilized for filling the posts in promotion quota. Since the nomination quota is of 71 posts and the posts filled in that quota are 29, the vacant posts therein would be 42 and after deducting 15 posts utilised in promotion quota, actually the vacant posts in nomination quota are 27 which would reflect the actual total vacancy position in nomination and promotion quota in the said posts of SRA (Agri.) as on 25.6.2005 i.e. the last date of interview. Even including 5 posts of SRA (Bio-technology) which are admittedly utilized in filling the posts of SRA (Agri.) in question, the total number of vacant posts would be 32 which would mean that 55 posts of SRA (Agri.) were not vacant and were not available on the last day of interview i.e. 25.6.2005 and therefore

the decision could not have been taken on its basis on the last day of interview i.e. 25.06.2005 to raise the number of posts of SRA (Agri.) to be filled from 24 as advertised to 55.

The vacancy position in the post of SRA (Agri.) as on 25.06.2005 i.e. the last day of interview which is the same as on 12.06.2005 is worked out as follows;

Total number of post of SRA (Agri.) as on 12.06.2005 – 143

Nomination and promotion quota – 71 : 72.

Promotees as on 12.6.2005	Vacant posts in promotion quota	Direct Recruits as on 12.6.2005	Vacant posts in nomination quota	Total vacant posts as on 12.6.2005
87	(-) 15	29	42	27 (32)*

\* After adding 5 posts of Biotechnology.

**2132)** However, as Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, took into account future vacancies which would be available in the said posts due to selection and appointment of some SRAs (Agri.) in the posts of Assistant Professor, the question whether 55 vacant posts of SRA (Agri.) were available as on 15.09.2005 i.e. at the time of the appointment of the candidates selected in the said posts is considered in the next topic.

**b) Verification of the Vacancy position in the posts of SRA (Agri.) as on 15.9.2005 i.e. at the time of appointment**

(Vide paras 1551 to 1564 of the Enquiry Report)

**2133)** It is shown in the previous topic (f-1) relating to “Vacancy Position in the posts of SRA (Agri.) as on the last day of interview i.e. 25.6.2005”, that when Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, decided on 25.6.2005 i.e. the last day of interview to fill upto 55 posts of SRA (Agri.) instead of 24 as advertised, the total number of vacant posts of SRA (Agri.) including 5 posts of Bio-technology were only 32 as on that day and were not enough for selection of 55 candidates in the said posts. However, according to Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee, they had taken into account the future vacancies which would be available in the said posts due to selection and appointment of SRAs (Agri.) in the posts of Assistant Professor and had therefore decided to fill 55 posts of SRA (Agri.) and prepare Selection Lists accordingly.

**2134)** Considering, therefore, the vacancy position at the time of appointment i.e. as on 15.9.2005, which is after the appointments were actually made in the posts of Assistant



Professor from amongst the SRAs (Agri.) it has to be seen that the total number of posts of SRA(Agri.) filled by promotion and direct recruitment at that time i.e. as on 15.9.2004 is 70 by promotion as per the chart of promotees (Ex.198) and 21 by direct recruitment as per the chart of direct recruits (Ex.199) which charts give the names of the candidates appointed by promotion and by direct recruitment respectively.

**2135)** For verifying the List of promotees as on 15.9.2005 i.e. at the time of appointment it has to be compared with the List of promotees as on 12.6.2005 i.e. at the time of interview (Ex.187) to see as to how many candidates in the said List (Ex.187) are left out in the List of promotees at the time of appointment (Ex.198) and whether any new candidates are added in the said List of promotees as on 15.9.2005 (Ex.198).

**2136)** For the sake of above comparison, examining first the List of 80 promotees as on 12.6.2005 i.e. at the time of interview (Ex.187) filed by the University, what has to be seen is as to how many SRAs (Agri.) who were appointed as Assistant Professors prior to 15.9.2005 but after 25.6.2005 i.e. the last day of interview were included in the said List of promotees as on 12.6.2005 (Ex.187) as seen from the List of 43 SRAs (Agri.) given in para 1540 of the Enquiry Report since they were not at that time appointed as Assistant Professors. Perusal of the said List (Ex.187) would show that it contains the names of 10 SRAs given in the List of 11 officiating SRAs appointed as Assistant Professors contained in para 1544 of the Enquiry Report. The name of Dr.M.H.Dahale, at S.no.4, in the aforesaid List is not included in the List of promotees as on 12.6.2005 (Ex.187) through mistake. The said List of promotees as on 12.6.2005 (Ex.187) also includes at its S.nos. 51 and 80 the names of Shri R.M.Zinjarde and Shri W.P.Morey, regular SRAs (Agri.) who were appointed by nomination and promotion respectively in the posts of Assistant Professor before 15.9.2005 , vide the List of 10 regular SRAs (Agri.) appointed as Assistant Professors given in para 1543 of the Enquiry Report. There are thus the aforesaid names of 12 SRAs (Agri.) included in the List of promotees as on 12.6.2005 (Ex.187) which names are not included in the List of promotees as on 15.9.2005 i.e. at the time of appointment as they were in the meanwhile appointed as Assistant Professors before that date.

**2137)** Vide para 1552 of the Enquiry Report, apart from the above 12 SRAs (Agri.) whose names are not included in the List of promotees as on 15.9.2005 (Ex.198) as they were appointed as Assistant Professors before that date, the names of 3 SRAs viz. Shri H.R.Khawaja, P.V. Pakhode, and N.R. Kotamwar, whose names were included in the List of promotees as on 12.6.2005 also do not find place in the List of promotees as on 15.9.2005 (Ex.198), the reason being that they had retired from service prior to 15.9.2005. Thus, the names of 15 SRAs which are included in the List of promotees as on 12.6.2005 (Ex.187) are rightly excluded in the List of promotees as on 15.9.2005 (Ex.198). As regards, non-inclusion of the name of Ku. M.H.Dahale, in the list of promotees as on 12.6.2005 (Ex.187), it would not make any difference so far as the question of verification

of the List of promotees as on 15.9.2005 i.e. at the time of appointment (Ex.198) with reference to the List of promotees as on 12.6.2005 (Ex.187) is concerned because her name is also not included in the List of promotees as on 15.9.2005 (Ex.198) as she was already appointed as Assistant Professor prior to 15.9.2005. Excluding therefore, the names of 15 SRAs referred to above, the names of 65 SRAs in the List of promotees as on 12.6.2005 (Ex.187) are included in the List of 70 promotees as on 15.9.2005 (Ex.198).

**2138)** It is thus clear that the List of promotees as on 15.9.2005 (Ex.198) includes the names of 5 SRAs (Agri.) which are not included in the List of promotees as on 12.6.2005 (Ex.187). Vide para 1554 of the Enquiry Report, the names of 5 SRA (Agri.) with their serial nos. in the List of promotees as on 15.9.2005 (Ex.198) and in the List of 77 officiating SRAs (Agri.) recommended for regular promotion in the said posts by the Selection Committee contained in the said para are reproduced below.

Names	As per list of promotees (Ex.198)	As per List of 77 officiating SRAs referred to above
Sau.V.B. Kalamkar	8	72
D.S. Gahane	10	4
Ku. M.S. Gaikwad	30	68
A.S. Tingre	38	52
V.D. Hedau	57	73

As pointed out in the said para although the names of Sau. V.B.Kalamkar, and Shri A.S.Tingre are not included in the aforesaid Lists of promotees as on 31.7.2004 and 12.6.2005 (Ex.185 and 187), their names are included in the Lists of direct recruits in their substantive posts of JRA (Agri.) as on the said dates (Exs. 190 and 192). Vide paras 1555 to 1558 of the Enquiry Report, as regards the names of SRAs, Shri D.S.Gahane, and Ku. M.S.Gaikwad, included in the List of promotees as on 15.9.2005 (Ex.198), Shri D.P.Deshmukh, admitted in paras-23 and 24 of his additional affidavit dated 12.10.2009 that there was mistake committed in not including their names in the List of promotees in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 185 and 187). As regards the name of Shri V.D.Hedau rightly included in the List of promotees in the posts of SRA (Agri.) as on 15.9.2005 (Ex.198), Shri D.P.Deshmukh, Section Assistant (Estt.), stated in para 26 of his aforesaid affidavit that his name was wrongly included in the List of promotees in the posts of JRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 189 and 191) and, in fact, if, at all, his name should have been shown in the List of direct recruits in the posts of JRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 189 and 191) because he was not an Agricultural Assistant promoted to the post of JRA (Agri.) but was by nomination

directly appointed in the said post of JRA (Agri.). However, according to him, since he was promoted on officiating basis in the post of SRA (Agri.) with effect from 5.11.2004 as shown in the aforesaid Lists of 77 officiating SRAs (Agri.) whose names were recommended by the Selection Committee for regular promotion in the said posts, his name should have been shown in the List of promotees in the post of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 185 and 187).

**2139)** Vide para 1558 of the Enquiry Report, the names of Shri D.S.Gahane, Ku. M.S.Gaikwad, and Shri V.D. Hedau, as shown above, should have been thus included in the Lists of promotees in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 185 and 187). If their names were included in the said Lists, the vacancy position of the said post of SRA (Agri.) which was before Dr.V. D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee on 25.6.2005 would get reduced by three and would become 35 at the time of interview i.e. as on 25.6.2005 inclusive of 5 posts of SRA (Bio-technology).

**2140)** Vide para 1559 of the Enquiry Report, there is no uniform principle followed by the University in preparing the said Lists to show the vacancy position in these posts as on 31.7.2004 and 12.6.2005 because as shown therein in some cases the University had included the names of officiating SRAs in the List of promotees as in the case of 10 officiating SRAs referred to in para 1544 of the Enquiry Report who were appointed as Assistant Professors and in some other cases in the List of their substantive posts of JRA (Agri.) as in the case of Sau. V.B.Kalamkar, Shri S.S.Tayade and Shri A.S.Tingre, as on 31.7.2004 and 12.6.2005 (Exs. 190 and 192). As held in the said para 1559 of the Enquiry Report, their names should have been included in the Lists of promotees in the post of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 185 and 187) as they were officiating in the said post at-least from 5.11.2004 and their names were recommended for regular promotion by the Selection Committee, vide pages 28 to 35 of the file Ex.34(O) and thus their posts of SRA (Agri.) were blocked and were not open for any new recruitment. Their names should have been excluded from the Lists of direct recruits in the posts of JRA (Agri.) as on the aforesaid dates (Exs. 189 and 191).

**2141)** However, Vide para 1559-A of the Enquiry Report, the List of promotees in the post of SRA (Agri.) as on 15.9.2005 (Ex.198) rightly included the names of Sau.V.B.Kalamkar, and Shri A.S.Tingre, as they were promoted on 15.9.2005 on regular basis to the post of SRA (Agri.) in which they were officiating w.e.f. 5.11.2004 as stated above. As regards Shri S.S.Tayade, he was already appointed by nomination in the post of Assistant Professor in Agronomy as per the order dated 29.6.2005 as shown at S.no.39 in the List of 43 SRAs appointed as Assistant Professors given in para 1540 of the Enquiry Report. His name was therefore rightly not included in the List of promotees in the post of SRA (Agri.) as on 15.9.2005.

**2142)** As stated in para 1560 of the Enquiry Report, there were thus 70 filled in posts of SRA (Agri.) by promotion at the time of appointment i.e. as on 15.9.2005 as shown in the List of promotees (Ex.198) i.e. after there was selection and appointment of some SRAs in the posts of Assistant Professor prior to that date.

**2143)** Vide paras 1561 to 1564 of the Enquiry Report, considering the next question of verification of the List of 21 direct recruits in the post of SRA (Agri.) as on 15.9.2005 i.e. at the time of appointment (Ex.199) its comparison with the List of direct recruits in the said post at the time of interview i.e. as on 12.6.2005 (Ex.188) would show that the List of direct recruits as on 12.6.2005 (Ex.188) is of 28 SRAs (Agri.) which would mean that the names of 7 SRAs (Agri.) included therein are not included in the List of direct recruits as on 15.9.2005 (Ex.199). Their names are :-

1) R.G.Deshmukh, 2) P.C.Pagar, 3) A.K.Sadavarte, 4) D.P.Wahile, 5) R.S.Thakre, 6) P.P.Bhople 7) J.P.Deshmukh. The reason for non-inclusion of their names in the list of direct recruits as on 15.9.2005 i.e. at the time of appointment (Ex.199) is that they were all appointed as Assistant Professors prior to the said date i.e. either on 27.6.2005 or 29.6.2005 as shown in the List of regular SRAs included in para 1543 of the Enquiry Report. Their names were therefore, not rightly included in the List of direct recruits in the post of SRA (Agri.) as on 15.9.2005 (Ex.199).

**2144)** As regards the name of H.R.Bhagwat which is included at S.no.18 in the aforesaid List of 21 direct recruits in the post of SRA (Agri.) as on 15.9.2005 (Ex.199), he was also appointed as Assistant Professor, vide S.no.4 of the List given in para 1543 of the Enquiry Report, but the explanation given by Shri D.P.Deshmukh, Section Assistant (Estt.) for his inclusion in the said List of 21 direct recruits as on 15.9.2005 (Ex.199) is that he did not join the post of Assistant Professor and continued to work in the post of SRA (Agri.) till his retirement vide para 8 of his affidavit dated 12.10.2009 (Ex. 960). His name, is therefore, rightly included in the List of direct recruits in the post of SRA (Agri.) as on 15.9.2005 (Ex.199).

**2145)** Vide paras 1562 to 1564 of the Enquiry Report, as stated by Shri D.P. Deshmukh, Section Assistant (Estt.) in para 28 of his aforesaid affidavit dated 12.10.2009 (Ex. 960), there is mistake committed by the University in including the name of Shri S.D.Chavan, at S.no.7 in the Lists of direct recruits in the post of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 186 and 188) since he was already appointed before the said dates as Assistant Professor as per the order dated 1.4.2003 (Ex.959). The name of Ku.U.R. Dongarwar, is included at S.no.2 in the List of direct recruits in the post of SRA (Agri.) as on 15.9.2005 (Ex.199) but is not included in the Lists of direct recruits in the said post as on 31.7.2004 and 12.6.2005 (Exs. 186 and 188). Shri D.P.Deshmukh, Section Assistant (Estt.), admitted in para 27 of his aforesaid affidavit that there was mistake committed in

not including her name in the Lists of direct recruits as on 31.7.2004 and 12.6.2005 (Exs. 186 and 188) as she was appointed by nomination in the post of SRA (Agri.) on 12.12.1996, vide Seniority List as on 31.12.2003 (Ex. 671) The name of Shri S.D.Chavan, was therefore, rightly excluded and the name of Ku. U.R.Dongarwar, rightly included in the List of direct recruits in the post of SRA (Agri.) as on 15.9.2005 (Ex.199). As regards the Lists of direct recruits as on 31.7.2004, and 12.6.2005 (Exs.186 and 188) the above referred mistakes do not affect the total number of direct recruits in the post of SRA (Agri.) as on the aforesaid dates i.e. 31.7.2004 and 12.6.2005.

It is, therefore, clear that the List of 70 promotees (Ex.198) and the List of 21 direct recruits (Ex.199) in the post of SRA (Agri.) as on 15.9.2005 i.e. at the time of appointment were correctly prepared by the University.

c) **Calculation of the actual vacancy position in the posts of SRA (Agri.) at the time of appointment i.e. as on 15.9.2005**

(Vide para 1565 of the Enquiry Report)

**2146)** Vide para 1565 of the Enquiry Report, as already pointed out the total number of posts of SRA (Agri.) excluding 5 posts of Bio-technology is 143 and therefore, the quota of nomination and promotion in the said posts is 71 and 72 respectively. In promotion quota since the posts filled as shown in the List of promotees in the post of SRA (Agri.) as on 15.9.2005 (Ex.198) are 70 the vacant posts are 2 and in nomination quota since the posts filled are 21, vide List of direct recruits (Ex.199), the vacant posts are 50. The vacant posts in nomination quota are thus 5 short of 55 posts of SRA (Agri.) to be filled and even the total vacant posts in nomination and promotion quota are 52, thus 3 short of 55 posts of SRA (Agri.) to be filled. But, as 5 posts of SRA (Bio-technology) were admittedly utilized in making appointments of the selected candidates in these posts of SRA (Agri.), they could all be accommodated in these posts without leaving any posts vacant for any future contingency in nomination quota. It is, however pertinent to see that as shown in para 1639 of the Enquiry Report, regarding the topic about “Utilization of other categories of the posts of SRA such as SRA (Agril.Engg.), SRA (Bio-technology) and also two posts of Senior Technical Assistant, the University utilized 6 posts other than the posts of SRA (Agri.) in making appointments of the candidates selected in the posts of SRA (Agri.) and as held in para 1565 of the Enquiry Report, if the said posts are excluded, the University could not have accommodated 55 candidates in the posts of SRA (Agri.) even if the posts in its promotion quota were utilized. See also subsequent paras 2173 to 2212 of the Enquiry Report and the chart in para 2212-A of the Enquiry Report.

The vacancy position in the post of SRA (Agri.) as on 15.09.2005 i.e. at the time of appointment is worked out as follows;

Total number of post of SRA (Agri.) as on 15.09.2005 – 143

Nomination and promotion quota – 71 : 72.

Promotees as on 15.09.05	Vacant posts in promotion quota	Direct recruits as on 15.09.05	Vacant Posts in nomination quota	Total vacant posts as on 15.09.05
70	02	21	50	52 (57)*

\*After adding 5 posts of Biotechnology.

- d) **Verification of the Lists of promotees and direct recruits in the posts of JRA (Agri.) as on 31.7.2004 i.e. at the time of advertisement, 12.6.2005 i.e. at the time of interview and 15.9.2005 i.e. at the time of appointment to see whether 76 posts of JRA (Agri.) were available at the time of interview and appointment in these posts of JRA (Agri.)**

(Vide paras 1566 to 1571 of the Enquiry Report)

**2147)** Vide para 1566 of the Enquiry, as regards the reason given by Dr.V.D. Patil, the Chairma of the Selection Committee, in para 50 read with para 73 of his affidavit dated 25.12.2007 (Ex.645) that on 25.6.2005 i.e. the last day of interview he and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee decided to increase the posts of JRA (Agri.) to be filled from 37 as advertised to 76 because there were some JRAs (Agri.) who were selected by nomination as Assistant Professors, it is held that no substantial increase could be made in the number of posts of JRA (Agri.) to be filled on that ground because as shown in para 1539 of the Enquiry Report only Shri S.M. Potikle who was officiating in the post of JRA (Agri.) was selected in the post of Assistant Professor.

**2148)** Although there could be no substantial increase made in the posts of JRA (Agri.) to be filled on the basis of the above reason given by Dr.V.D. Patil, the Chairman of the Selection Committee, considering still the question whether 76 vacant posts of JRA (Agri.) were available to accommodate the candidates selected in the said posts, it is first necessary to see the vacancy position shown by the concerned Section Assistant (Estt.), Shri D.P.Deshmukh, in his office note dated 15.7.2004 i.e. at the time of the advertisement dated 14.8.2004 (Ex.2) contained in the file Ex.40(O) and also by the creation of 15 additional posts of JRA (Agri.) on 25.8.2004 by ICAR for Krishi Vigyan Kendra, Sindewahi, Yavatmal, Sonapur, Hiwara and Sakoli thus increasing the total number of posts of JRA (Agri.) from 99 to 114. Vide paras 1567 and 1568 of the Enquiry Report, it was held that there were not still enough posts of JRA (Agri.) to increase them from 37 as advertised to 76 as stated by Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, in para 45 of his affidavit dated 1.12.2007 (Ex.633). However, as further stated by him therein since they had given appointment and posting orders to all the selected

candidates in these posts after finding out the vacant posts for them in the movement Register Ex.644(O) maintained by Shri D.P.Deshmukh, Section Assistant (Estt.) whose office notes recorded in the files Exs. 40(O) and 42(O) at the time of advertisement and appointment not showing enough number of vacant posts of JRA (Agri.) to accommodate all the 76 candidates selected in the said posts were also based upon it, vide para 1569 of the Enquiry Report, the vacancy position was not thus clear and therefore, the University was directed to clarify it at the time of advertisement i.e. as on 31.7.2004, interview i.e. as on 12.6.2005, and appointment i.e. as on 15.9.2005.

**2149)** Vide para 1570 of the Enquiry Report, accordingly the University filed the affidavits dated 30.8.2007 (Ex.180) and 4.9.2007 (Ex.196) in this enquiry annexing to them the relevant charts showing the vacancy position in the said posts as on the above dates. The relevant charts regarding the Departmentwise vacancy position in the posts of JRA (Agri.) as on 31.7.2004 i.e. at the time of advertisement and 12.6.2005 i.e. at the time of interview annexed to the affidavit of the University dated 30.8.2007 (Ex.180) are marked as Exs.183 and 184. The Lists giving the names of promotees and direct recruits in the said posts of JRA (Agri.) are marked as Exs. 189 to 192 as on the aforesaid dates. As regards the vacancy position in the posts of JRA (Agri.) as on 15.9.2005 i.e. at the time of appointment, the charts annexed to the affidavit of the University dated 4.9.2007 (Ex.196) are marked as Exs.200 to 202, the chart Ex.200 showing the departmentwise vacancy position of JRA (Agri.) as on 15.9.2005, and the charts Exs. 201 and 202 containing the Lists showing the names of promotees and direct recruits as on 15.9.2005.

**2150)** Vide para 1571 of the Enquiry Report, the departmentwise vacancy position in the posts of JRA (Agri.) as on 31.7.2004, 12.6.2005 and 15.9.2005 shown in the charts Exs. 183, 184 and 200 filed by the University is as follows :-

As on Ex.No. 31.7.04 (Ex.183)	Total number of posts	Filled in posts	Vacant posts
	99	39	60
12.6.05 (Ex.184)	114	38	76
15.9.05 (Ex.200)	114	33	81

N.B. the total no. of posts of JRA (Agri.) had increased to 114 as on 12.6.2005 and 15.9.2005 because 15 additional posts of JRA (Agri.) were created on 25.8.2004 by ICAR for Krishi Vigyan Kendra Sindewahi, Yavatmal, Sonapur, Hiwara and Sakoli.

**d-1) Verification of the Lists of promotees and direct recruits in the post of JRA (Agri.) as on 12.6.2005 to see the vacancy position as on 25.6.2005 i.e. the last day of interview**

(Vide paras 1572 and 1573 of the Enquiry Report)

**2151)** As regards the question of verification of the Lists of promotees and direct recruits as on 12.6.2005 to see the vacancy position as on 25.6.2005 i.e. the last day of interview, it is pertinent to see that the total number of filled in posts of JRA (Agri.) as on 31.7.2004 and 12.6.2005 shown in the departmentwise charts Exs. 183 and 184 were 39 and 38 respectively, whereas the actual number of total filled in posts from the Lists of the promotees and direct recruits as on the said dates (Exs.189 to 192) were 35 and 34 respectively which discrepancy the University did not explain in its affidavit dated 30.8.2007 (Ex.180), vide para 1535 of the Enquiry Report. As pointed out in para 1572 of the Enquiry Report, it was not necessary to verify the Lists of promotees and direct recruits at the time of advertisement and interview separately because the names of the candidates therein were common except that the name of Shri R.M.Talokar is not included in the List of promotees as on 12.6.2005 since in the meanwhile he had retired on 31.8.2004. The List of promotees as on 12.6.2005 (Ex.191) therefore consisted of 27 candidates and not 28 as shown therein, the mistake occurring because S.no.16 was omitted therein. The Lists of promotees and direct recruits as on 12.6.2005 (Exs. 191 and 192) were therefore verified to ascertain the vacancy position in the posts of JRA (Agri.) as on 25.6.2005 i.e. the last day of interview which is the material date to ascertain the vacancy position as Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee, decided to increase the number of posts of JRA (Agri.) to be filled from 37 as advertised to 76 on that date. As stated in the said para 1572 of the Enquiry Report, the vacancy position as on 12.6.2005 and as on 25.6.2005 was the same.

**2152)** Vide para 1573 of the Enquiry Report, for verification of the Lists of promotees and direct recruits in the posts of JRA (Agri.) at the time of interview i.e. as on 12.6.2005 (Exs. 191 and 192) pursuant to notice issued to Shri D.P.Deshmukh, Section Assistant (Esstt.), to appear in this enquiry and explain the said Lists of promotees and direct recruits, he had brought with him two Registers which he produced in this enquiry; one Register containing the copies of the orders relating to “in service training schemes for Ph.D. M.Sc. Agriculture” i.e. the Register in which copies of the orders relating to study leave of the candidates were pasted and the other Register containing the information regarding promotion and reversion of SRA, JRA and AA which was given therein by pasting the copies of the orders regarding the same. He also filed in this Enquiry three orders dated 15.7.2003, 15.11.2003 and 16.8.2004 relating to temporary and officiating promotions of some Agricultural Assistants to the posts of JRA (Agri.) (Exs. 954 to 956) included in the aforesaid Register relating to promotion and reversion. In fact all the relevant orders



relating to promotion, reversion and study leave referred to by Shri D.P.Deshmukh, Section Assistant (Estt.) in his additional affidavit dated 12.10.2009 (Ex.960), whether filed in this enquiry or not, included in the aforesaid Registers were verified by this office whereafter the said two Registers were returned to him.

**d-2) Verification of the List of promotees in the post of JRA (Agri.) as on 12.6.2005 i.e. at the time of interview (Ex.191)**

(Vide paras 1574 to 1582 of the Enquiry Report)

**2153)** Vide para 1574 of the Enquiry Report, as stated by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 11 of his additional affidavit dated 12.10.2009 (Ex.960) the List of 27 promotees as on 12.6.2005 i.e. at the time of interview (Ex.191) wrongly included the name of Shri V.D.Hedau, as he was never appointed in the lower post of Agricultural Assistant and promoted to the post of JRA (Agri.) but was directly appointed by nomination in the said post of JRA (Agri.). Therefore, excluding his name there would be 26 promotees in the said List as on 12.6.2005 (Ex.191).

**2154)** Vide paras-1575 and 1575-A of the Enquiry Report, the names of 7 regular and 19 officiating promotees in the posts of JRA (Agri.) included in the List of promotees as on 12.6.2005 (Ex.191) are given in the said para. The said Lists of regular and officiating promotees are prepared as on 12.6.2005 on the basis of the Lists of regular and officiating promotees given by Shri D.P.Deshmukh, Section Assistant (Estt.) in paras 9 and 10 of his affidavit dated 12.10.2009 (Ex.960) which he had prepared from the List of 28 promotees in the posts of JRA (Agri.) as on 31.7.2004 i.e. at the time of advertisement. Although the List of regular promotees as on 31.7.2004 given in para 10 of his aforesaid affidavit consists of 9 promotees, the List of regular promotees as on 12.6.2005 i.e. at the time of interview consists of 7 regular promotees since Shri R.M.Talokar had retired on 31.8.2004 and Shri V.D.Hedau was wrongly included in the said List of promotees as he was directly appointed by nomination in the said post of JRA (Agri.) vide paras 1572 and 1574 of the Enquiry Report.

**2155)** Vide para 1575-B of the Enquiry Report, the List of 7 regular promotees in the posts of JRA (Agri.) given in its para 1575-A stands verified from the Seniority List of JRA (Agri.) as on 31.12.2003 (Ex.675) annexed to the additional affidavit of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.3.2008 (Ex.695) except that as regards the regular promottee Shri C.N.Mohod against whose name at S.no.62 in the said Seniority List, there is no remark showing whether he was appointed by nomination or promotion, Shri D.P.Deshmukh, Section Assistant (Estt.), stated in para 11 of his affidavit dated 12.10.2009 (Ex.960) that he was appointed by promotion.

**2156)** Vide para 1576 of the Enquiry Report, as regards the names of JRAs (Agri.) in the Lists of promotees as on 31.7.2004 (Ex.189) and 12.6.2005 (Ex.191) who were appointed

on temporary and officiating basis as shown in para 1575-A of the Enquiry Report, Shri D.P.Deshmukh, Section Assistant (Estt.) stated in para 2 of his affidavit dated 2.7.2010 (Ex.964) that there was typing error in showing the name of Shri S.R.Deshmukh, mentioned at S.nos.9 and 8 in the said Lists of promotees as on 31.7.2004 (Ex.189) and 12.6.2005 (Ex.191) respectively and instead the name mentioned therein should have been of “Shri S.N.Deshmukh”. As stated in para 1 of his additional affidavit dated 2.7.2010 (Ex.964) all JRAs (Agri.) whose names were shown in para 1575-A of the Enquiry Report (reading the name of Shri S.N.Deshmukh in place of Shri S.R.Deshmukh) were working on temporary and officiating basis in the posts of JRA (Agri.) as per the orders dated 15.7.2003 (Ex.954), 15.11.2003 (Ex.955) and 16.8.2004 (Ex.956).

**2157)** Vide para 1576-A of the Enquiry Report, as referred to by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 12 of his affidavit dated 12.10.2009 (Ex.960) although the names of the following JRAs were included in the List of promotees recommended by the Selection Committee for promotion to the posts of JRA (Agri.) from the post of Agricultural Assistant, vide pages 40 to 42 of the file Ex.34(O) relating to its proceedings and its resolution no.AS/2/2005 at pages 5 and 6 of the said file Ex.34(O), their names were not included in the Lists of promotees as on 31.7.2004 (Ex.189) and 12.6.2005 (Ex.191). The names of the said JRA (Agri.) are as follows :-

- i) R.I.Khobragade
- ii) V.P.Deokar
- iii) K.T.Lahariya
- iv) V.B.Iratkar
- v) S.R.Deshmukh

Except S.R.Deshmukh, the names of the other 4 promotees given above were however included in the List of promotees as on 15.9.2005 i.e. at the time of appointment (Ex.201).

**2158)** Vide para 1577 of the Enquiry Report, as regards Shri R.I.Khobragade, who was also promoted on temporary and officiating basis in the post of JRA (Agri.) as per the above referred order dated 15.11.2003 (Ex.955), Shri D.P.Deshmukh, Section Assistant (Estt.) admitted in para 12 of his additional affidavit dated 12.10.2009 (Ex.960) itself that there was mistake committed in not including his name in the Lists of promotees in the post of JRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.189 and 191). Similarly, he also admitted in para 13 of his aforesaid affidavit that there was mistake committed in not including the name of Shri V.P.Deokar, in the aforesaid Lists of promotees in the post of JRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.189 and 191) although he was also promoted temporarily on adhoc basis from 19.7.2004 to 18.7.2005 by the above referred order dated 16.8.2004 (Ex.956). However, as regards Shri K.T.Lahariya, and Shri

V.B.Iratkar, who were also promoted on temporary basis as per the order dated 15.11.2003 (Ex.955) he justified non-inclusion of their names in the said Lists of promotees in the post of JRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.189 and 191) in paras 14 and 15 of his affidavit dated 12.10.2009 (Ex.960).

**2159)** Vide para 1578 of the Enquiry Report, as regards Shri K.T.Lahariya, Shri D.P.Deshmukh, Section Assistant (Estt.), justified the non-inclusion of his name in the Lists of promotees in the post of JRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 189 and 191) on the ground that as stated by him in para 14 of his aforesaid affidavit (Ex.960) he was sanctioned study leave from 5.1.2004 to 4.1.2006 but he actually joined the post of JRA (Agri.) on 20.7.2005 without first joining the duties in the post of Agricultural Assistant to which he stood reverted since according to him, as per the University rules when he went on study leave, he was reverted to his original post of Agricultural Assistant by order dated 12.2.2004. He therefore, stated that as he was not working as JRA (Agri.) on officiating basis as on 31.7.2004 and 12.6.2005 his name was not shown in the Lists of promotees in the post of JRA (Agri.) as on the aforesaid dates (Exs. 189 and 191). As per the recommendations of the Selection Committee about regular promotion to the post of JRA (Agri.) from the post of Agricultural Assistant referred to above, he was given regular promotion with effect from 20.7.2005, vide order of promotion dated 15.9.2005 contained at pages 79 to 81 of the file Ex.47(O).

**2160)** Vide para 1579 of the Enquiry Report, as regards Shri V.B.Iratkar, as stated by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 15 of his aforesaid affidavit (Ex.960), he was also on study leave from 20.11.2003 to 31.1.2006 and directly joined the post of JRA (Agri.) on 1.12.2006 without first joining the duties in the post of Agricultural Assistant to which he was reverted as per the order dated 11.5.2006. He therefore, stated that his name was not included in the Lists of promotees in the post of JRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.189 and 191), since during the said period he stood reverted to his original post of Agricultural Assistant as he was on study leave as on the said dates. As per the recommendations of the Selection Committee referred to above, he was given regular promotion to the post of JRA (Agri.) from the post of Agricultural Assistant w.e.f. 01.02.2006 by the order dated 29.04.2006 contained at page C/271 of the said file Ex.47(O).

**2161)** Vide para 1580 of the Enquiry Report, as regards Shri S.R.Deshmukh, Shri D.P.Deshmukh, Section Assistant (Estt.) stated in para 16 of his affidavit dated 12.10.2009 (Ex.960) that although his name was included in the List of Agricultural Assistants recommended by the Selection Committee for promotion to the post of JRA (Agri.) at pages 40 to 42 of the file Ex.34(O) relating to its proceedings and also as per its resolution no.AS/2/2005 in that regard contained in the said file Ex.34(O), his selection was effective from the date of joining the post of JRA (Agri.) as stated therein. He further stated that he

never worked in the post of JRA (Agri.) in officiating capacity and pursuant to his order of regular promotion in the post of JRA (Agri.) dated 15.9.2005, vide pages 79 to 81 of the aforesaid file Ex.47(O) he joined the said post on 14.8.2006 from which date the said order was effective. Therefore, according to him, his name was rightly not included in the Lists of promotees as on 31.7.2004 (Ex.189) and 12.6.2005 (Ex.191) and also on 15.9.2005 i.e. at the time of appointment (Ex.201).

**2162)** Vide para 1581 of the Enquiry Report, Shri D.P.Deshmukh, Section Assistant (Estt.), however, admitted in para 19 of his aforesaid affidavit dated 12.10.2009 (Ex.960) that although the names of the above candidates viz. V.P.Deokar, K.T.Lahariya, V.B.Iratkar, R.I.Khobragade and S.R.Deshmukh, were not included in the Lists of promotees as on 31.7.2004 and 12.6.2005 (Exs. 189 and 191) and as regards S.R.Deshmukh, on 15.9.2005 (Ex. 201) also, their posts of JRA (Agri.) were blocked and were not vacant as on 31.7.2004, 12.6.2005 and 15.9.2005 for making any new appointment in the said posts as per the Selection Lists. It is however, pertinent to see that when Shri S.R.Deshmukh, never worked in the post of JRA (Agri.) even in officiating capacity and was for the first time promoted on regular basis to the said post as per the order dated 15.9.2005 pursuant to which he joined on 14.8.2006 as stated by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 16 of his aforesaid affidavit (Ex. 960) although his post was blocked and was not open for any new appointment as per the Selection Lists as on 15.9.2005, it cannot be said to be blocked and not vacant as on 31.7.2004 and 12.6.2005 when he did not occupy the same even in officiating capacity. Shri D.P.Deshmukh, Section Assistant (Estt.) recently admitted it, vide ordersheet dated 28.6.2010 in this enquiry.

**2163)** Vide para 1582 of the Enquiry Report, as regards the vacancy position as on 25.6.2005 i.e. the last day of interview which was the same as on 12.6.2005 i.e. at the time of interview, it may be seen that the List of promotees in the posts of JRA (Agri.) as on 12.6.2005 (Ex.191) is of 27 JRA (Agri.) from which the name of Shri V.D.Hedau who was never a promotee in the post of JRA (Agri.) but was appointed by nomination in the said post has to be excluded but then the names of Shri V.P.Deokar, K.T.Lahariya, V.B.Iratkar and R.I.Khobragade as discussed above have to be included in the said List for showing the true vacancy position as their posts of JRA (Agri.) were blocked and were not vacant for making any new appointments as on 12.6.2005 i.e. at the time of interview. The said List of promotees as on 12.6.2005 (Ex.191) would be of 30 instead of 27 JRAs (Agri.) which would also be the position as on 25.6.2005 i.e. the last day of interview on which day Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, took the decision to increase the number of posts of JRA (Agri.) from 37 as advertised to 76.

**d-3) Verification of the List of direct recruits in the post of JRA (Agri.) as on 12.6.2005 i.e. at the time of interview**

(Vide paras 1583 and 1584 of the Enquiry Report)

**2164)** Vide para 1583 of the Enquiry Report, as regards the Lists of direct recruits in the posts of JRA (Agri.) as on 31.7.2004 (Ex.190) and 12.6.2005 (Ex.192), they contained the names of 7 direct recruits. They included the names of Sau.V.B.Kalamkar, Shri S.S.Tayade and Shri A.S.Tingre, whose names were included in the List of 77 officiating SRAs (Agri.) who were recommended by the Selection Committee for regular promotion in the said posts, vide pages 28 to 35 of the file Ex.34(O) but their names were not included in the Lists of promotees in the posts of SRA (Agri.) on the aforesaid dates (Exs. 185 and 187) but were included in the Lists of their substantive posts of JRA (Agri.) as on the aforesaid dates. As observed in para 1583 of the Enquiry Report, the University has included in the Lists of promotees in the said posts as on 31.7.2004 and 12.6.2005 (Exs.185 and 187) the names of some officiating SRAs such as 10 officiating SRAs (Agri.) who were lateron appointed as Assistant Professors and in case of some others like the officiating SRAs (Agri.) referred to above, in the Lists of direct recruits in their substantive posts of JRA (Agri.) as on the aforesaid dates (Ex.190 and 192). As rightly stated by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 19 of his affidavit dated 12.10.2009 (Ex.960) even when there was temporary and officiating appointment in the post as in the case of JRAs (Agri.) referred to in the said para, their posts were blocked and were not vacant for making any new appointment in the said post as per the Selection Lists. In fact as regards the lists of promotees in the post of SRA (Agri.) as on 31.07.2004 (Ex. 185) and 12.06.2005 (Ex. 187) they included the names of 10 officiating SRAs who were lateron appointed in the post of Assistant Professor vide para 1544 read with para 1540 of the Enquiry Report. Sau.V.B.Kalamkar, Shri S.S.Tayade, and Shri A.S.Tingre, were working on officiating basis in the posts of SRA (Agri.) at least w.e.f. 5.11.2004 as shown in the List of 77 officiating SRAs (Agri.) who were recommended by the Selection Committee for regular promotion in the said posts, vide pages 28 to 35 of the file Ex.34(O). Their names should have been therefore included in the Lists of promotees in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.185 and 187) as the purpose of the said Lists was to show whether the posts occupied by them were blocked or were vacant for making new appointment as per the Selection Lists. Their names should not have been therefore included in the Lists of direct recruits as on the aforesaid dates (Exs.190 and 192).

**2165)** Vide para 1584 of the Enquiry Report, as regards Shri V.D.Hedau, who was not a promotee in the post of JRA (Agri.) as shown in the Lists of promotees as on 31.7.2004 (Ex.189) and 12.6.2005 (Ex.191) but was a direct recruit in the said post, his name should have been, if at all, shown in the lists of direct recruits in the said post as on the aforesaid dates (Exs. 190 and 192). But, as stated by Shri D.P.Deshmukh, Section Assistant (Estt.) in

para 26 of his aforesaid affidavit dated 12.10.2009 (Ex.960), his name which is shown at S.no.57 in the List of promotees in the post of SRA (Agri.) as on 15.9.2005 (Ex.198), should have been shown in the Lists of promotees in the post of SRA (Agri.) as on 31.7.2004 (Ex.185) and 12.6.2005 (Ex.187) also as he was officiating in the post of SRA (Agri.) and his name was included at S.no.73 in the List of 77 officiating SRAs (Agri.) recommended by the Selection Committee for regular promotion in the said post w.e.f. 5.11.2004, vide pages 28 to 35 of the file Ex.34(O). His post was thus blocked and was not open for any new recruitment in the said post. It is thus already taken into consideration and counted in the Lists of promotees in the post of SRA (Agri.) as on 31.7.2004 (Ex.185) and 12.6.2005 (Ex.187). It cannot, therefore be and is not rightly included in the Lists of direct recruits as on 31.7.2004 and 12.6.2005 (Exs. 190 and 192). Since the names of Sau.V.B.Kalamkar, Shri S.S.Tayade and Shri A.S.Tingre, have to be included in the Lists of promotees in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.185 and 187) as stated above, their names have to be excluded from the Lists of direct recruits as on the said dates (Exs.190 and 192) which Lists would therefore consist of 4 JRAs (Agri.) and not 7.

**d-4) Verification of the Lists of promotees and direct recruits in the posts of JRA (Agri.) as on 15.9.2005 (Exs. 201 and 202)**

(Vide paras 1585 to 1589 of the Enquiry Report)

**2166)** Vide para 1585 of the Enquiry Report, as regards the question of verification of the Lists of promotees and direct recruits in the posts of JRA (Agri.) as on 15.9.2005 (Exs. 201 and 202), the said Lists are of 29 and 4 names respectively. As regards the List of promotees as on 15.9.2005 (Ex.201) it includes the names of Shri R.L.Khobragade, V.B.Iratkar, Shri K.T.Lahariya and Shri V.P.Deokar, but does not include the names of Shri V.T.Kogde and Shri S.R.Deshmukh. It however, wrongly includes the name of Shri V.D.Hedau who, as already pointed out above was directly appointed by nomination in the post of JRA (Agri.) and was not promoted to the said post from the post of Agricultural Assistant. Moreover, as shown in para 1584 of the Enquiry Report, his name was included in the List of promotees in the posts of SRA (Agri.) as on 15.9.2005 (Ex.198) as he was officiating in the post of SRA (Agri.) w.e.f. 5.11.2004, vide S.no.73 in the List of 77 SRAs (Agri.) recommended for regular promotion in the said post by the Selection Committee (See file Ex.34(O)). His name has therefore to be excluded from the List of promotees in the post JRA (Agri.) as on 15.9.2005 (Ex.201).

**2167)** Vide para 1586 of the Enquiry Report, as regards Shri S.R.Deshmukh, as per the order of promotion dated 15.9.2005, he was promoted on regular basis to the post of JRA (Agri.) from the post of Agricultural Assistant with effect from the date he would join the said post, pursuant to which he joined it on 14.9.2006. His name should have been therefore

included in the List of promotees as on 15.9.2005 (Ex.201), although he joined the said post much later on 14.9.2006, because as admitted in para 19 of his aforesaid additional affidavit dated 12.10.2009 (Ex.960) by Shri D.P.Deshmukh, Section Assistant (Estt.) his post was blocked and was not vacant as on 15.9.2005 for making any appointment of JRA (Agri.) in his post as per the Selection Lists. His name should have therefore been included in the List of promotees in the post of JRA (Agri.) as on 15.9.2005 (Ex.201) since the purpose of preparing the said List was to show the vacancy position in the said post as on 15.9.2005.

**2168)** Vide para 1587 of the Enquiry Report, as regards the name of Shri V.T.Kogde, his name was included in the Lists of promotees in the post of JRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 189 and 191). His name was also recommended by the Selection Committee for regular promotion in the post of JRA (Agri.) from the post of Agricultural Assistant w.e.f. 5.11.2004 vide S.no.17 at pages 40 to 42 of the file Ex.34(O). The reason given by Shri D.P.Deshmukh, Section Assistant (Estt.), in para 17 of his aforesaid additional affidavit dated 12.10.2009 (Ex.960) for not including his name in the List of promotees in the post of JRA (Agri.) (Ex.201) as on 15.9.2005 is that he did not submit his caste validity certificate about the reserved category of S.T. to which he belonged although his name was recommended for regular promotion to the said post but on the contrary was reverted by order dated 27.7.2006 w.e.f. 20.6.2006. It is clear that he continued to officiate in the post of JRA (Agri.) till he was reverted, vide para 1588 of the Enquiry Report. He was given regular promotion by order dated 15.9.2005 included at page C/121 of the file Ex.47(O) according to which also he continued to work in the said post as he was given time to submit the caste validity certificate. It was only when he did not submit his caste validity certificate, although he was given sufficient time to submit it, that he was reverted to the post of Agricultural Assistant. The above facts would clearly show that as on 15.9.2005 i.e. at the time of appointment or when the appointment orders of selected candidates in the posts of JRA (Agri.) were actually issued on 17.9.2005, his post of JRA (Agri.) was blocked and was not vacant for making any new appointment in his post as per the Selection Lists as admitted even by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 19 of his aforesaid affidavit dated 12.10.2009 (Ex.960).

**2169)** In the light of the above findings the names of Shri V.T.Kogde and Shri S.R. Deshmukh, have to be included and the name of Shri V.D. Hedau which is wrongly included has to be excluded from the List of promotees in the post of JRA (Agri.) as on 15.9.2005 (Ex.201). The said List, therefore would consist of 30 JRAs (Agri.) instead of 29.

**2170)** Vide para 1589 of the Enquiry Report, as regards the verification of the List of direct recruits in the posts of JRA (Agri.) as on 15.9.2005 i.e. at the time of appointment (Ex.202), the said List consists of 4 JRAs (Agri.). Even as regards the List of direct recruits as on 12.6.2005 i.e. at the time of interview (Ex.192) which consisted of 7 JRAs (Agri.), it is held in the above topic about “Verification of the List of direct recruits in the post of JRA

(Agri.) as on 12.6.2005 i.e. at the time of interview” that the names of Sau. V.B.Kalamkar, A.S.Tingre, and Shri S.S.Tayade, should be excluded from the said List of direct recruits as on 12.6.2005 (Ex.192) and should be included in the List of promotees in the post of SRA (Agri.) as on that day i.e. 12.6.2005 (Ex.187) as they were officiating in the said post w.e.f. 5.11.2004 and their names were included in the List of 77 officiating SRAs (Agri.) who were recommended for regular promotion in the said post w.e.f. that date by the Selection Committee, vide pages 28 to 35 of the file Ex.34(O) and their posts were thus blocked and were not open for any new recruitment in their posts. As regards the names of Sau.V.B.Kalamkar and Shri A.S.Tingre, their names were correctly excluded in the List of direct recruits as on 15.9.2005 (Ex.202) as they were promoted on 15.9.2005 on regular basis to the post of SRA (Agri.) in which they were officiating w.e.f. 5.11.2004 as stated above. As regards Shri S.S.Tayade, he was already appointed by nomination in the post of Assistant Professor in Agronomy as per the order dated 29.6.2005 as shown at S.no.39 in the list of 43 SRAs appointed as Assistant Professors given in para 1540 of the Enquiry Report. Thus, the names of Sau.V.B.Kalamkar, Shri A.S.Tingre, and Shri S.S.Tayade, were rightly excluded thus showing only 4 direct recruits in the said List of direct recruits in the posts of JRA (Agri.) as on 15.9.2005 (Ex.202).

**e) Calculation of the vacancy position in the posts of JRA (Agri.) as on 25.6.2005 i.e. the last day of interview**

(Vide para 1590 of the Enquiry Report)

**2171)** The vacancy position in the posts of JRA (Agri.) as on 25.6.2005 i.e. the last day of interview which, as already observed, is the same as on 12.6.2005 is worked out as follows :-

According to the University, the total Number of posts of JRA (Agri.) as on 12.6.2005-114

Nomination and Promotion Quota - 57 : 57

Promotees as on 12.6.2005	Vacant posts in promotion quota	Direct Recruits as on 12.6.2005	Vacant posts in nomination quota	Total vacant posts as on 12.6.2005
30	27	4	53	80

The vacant posts in nomination quota can not but the vacant posts in nomination and promotion quota can accommodate all the 76 candidates selected in the posts of JRA(Agri.) without providing for any future contingencies in nomination quota. As per the office note of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.9.2005 contained in the file Ex.42(O) 10% vacancies should be maintained in case of closure of ICAR schemes and as observed by the Assistant Registrar, Shri P.V.Behare in his office note dated 16.9.2005



contained therein if all the posts in nomination quota are utilized for making appointment of the selected candidates, there would be no vacancies therein for the next two years. Further, one post of JRA in the department of Agricultural Engineering under Dean, Agriculture, utilized in making appointments is actually of JRA (Agril.Engg.) and not of JRA (Agri.) as shown in subsequent para 2200 of the Enquiry Report relating to the topic about the number of posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) utilized in making appointments of the candidates selected in these posts.

**e-1) Re : Calculation as per revised Akrutibandh-2003 (Ex.724)**

**2171-A)** Vide para 2100-A, of the Enquiry Report, as per the revised Akrutibandh-2003 (Ex.724), the total number of sanctioned posts of JRA (Agri.) are 94 out of which 4 posts are of Computer and 90 posts are of JRA (Agri.). (See chart Ex. 756 filed by the University) Adding to them 15 posts of JRA (Agri.) created on 25.8.2004 by ICAR for Krushi Vigyan Kendra's, the total number of posts of JRA (Agri.) would be 105 as on 12.6.2005.

Hence nomination and promotion quota would be 52 : 53.

Promotees as on 12.6.2005	Vacant posts in promotion quota	Direct Recruits as on 12.6.2005	Vacant posts in nomination quota	Total vacant posts as on 12.6.2005
30	23	4	48	71

Not only the vacant posts in nomination quota but even the total number of vacant posts included in nomination and promotion quota are not enough to accommodate all the candidates selected in the posts of JRA (Agri.) apart from the fact that one post of JRA as shown above is wrongly treated and filled as the post of JRA (Agri.) although it is actually the post of JRA (Agril.Engg.)

**f) Calculation of the vacancy position in the post of JRA (Agri.) as on 15.9.2005 i.e. at the time of appointment.**

(Vide para 1591 of the Enquiry Report)

**2172)** Total No. of posts of JRA (Agri.) as on 15.9.2005 : 114

Nomination & Promotion quota : 57 : 57

Promotees as on 15.9.05	Vacant posts in promotion quota	Direct recruits as on 15.9.05	Vacant Posts in nomination quota	Total vacant posts as on 15.9.05
30	27	4	53	80

The vacant posts in nomination quota can not but the vacant posts in nomination and promotion quota can accommodate all the 76 candidates selected in the posts of JRA(Agri.) without providing for any future contingencies in nomination quota. As per the office note

of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.9.2005 contained in the file Ex.42(O) 10% vacancies should be maintained in case of closure of ICAR schemes and as observed by the Assistant Registrar, Shri P.V.Behare in his office note dated 16.9.2005 contained therein if all the posts in nomination quota are utilized for making appointment of the selected candidates, there would be no vacancies therein for the next two years. Further, one post of JRA in the department of Agricultural Engineering under Dean, Agriculture, utilized in making appointments is actually of JRA (Agril.Engg.) and not of JRA (Agri.) as shown in subsequent para 2200 of the Enquiry Report relating to the topic about the number of posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) utilized in making appointments of the candidates selected in these posts.

**f-1) Re : Calculation as per revised Akrutibandh-2003 (Ex.724)**

**2172-A)** Vide para 2100-A, of the Enquiry Report, as per the revised Akrutibandh-2003 (Ex.724), the total number of sanctioned posts of JRA (Agri.) are 94 out of which 4 posts are of Computer and 90 posts are of JRA (Agri.) (See the chart Ex. 756 filed by the University). Adding to them 15 posts of JRA (Agri.) created on 25.8.2004 by ICAR for Krushi Vigyan Kendra's, the total number of posts of JRA (Agri.) would be 105 as on 15.9.2005.

Hence nomination and promotion quota would be 52 : 53.

Promotees as on 15.9.2005	Vacant posts in promotion quota	Direct Recruits as on 15.9.2005	Vacant posts in nomination quota	Total vacant posts as on 15.9.2005
30	23	4	48	71

Not only the vacant posts in nomination quota but even the total number of vacant posts included in nomination and promotion quota are not enough to accommodate all the candidates selected in the posts of JRA (Agri.) apart from the fact that one post of JRA as shown above is wrongly treated and filled as the post of JRA (Agri.) although it is actually the post of JRA (Agril.Engg.)

**viii) Whether the posts other than the posts of SRA (Agri.) and JRA (Agri.) were utilized for making appointment of the candidates selected in the said post, if so how many**

(Vide paras 1592 to 1640 of the Enquiry Report)

**a) Need to make Enquiry to find out whether the posts in other than the posts of SRA (Agri.) and JRA (Agri.) were utilized for making appointment of all the candidates selected in the said posts**

(Vide paras 1592 to 1596 of the Enquiry Report)

**2173)** Vide paras 1592 to 1596 of the Enquiry Report, it was held that there was need to make detailed enquiry to find out whether the posts other than the posts of SRA (Agri.) and JRA (Agri.) were utilized for making appointment of all the candidates selected in the said posts. After making detailed enquiry in the University set-up of the posts of SRA/JRA, vide paras 712 to 864 of the Enquiry Report, it was revealed that the posts of the following categories of SRA/JRA, and two posts of Senior Technical Assistant which posts were not of SRA (Agri.) and JRA (Agri.) were utilized for making appointment of the candidates selected in the said posts.

**b) Re-post of SRA (Bio-technology/Bio-chemistry)**

(Vide paras 1597 to 1603 of the Enquiry Report)

**2174)** Vide para 1597 of the Enquiry Report, by the University order dated 25.6.2001 (Ex.781) an independent Bio-technology Centre was established in the University under the control of the Head, Department of Agricultural Botany with the posts given in the table therein which would show that two surplus posts of SRA, one each from STRU, Akola or Seed Monitoring Cell (See para 1603 of the Enquiry Report), and ARS Sindewahi i.e. the posts of SRA (Agri.) were withdrawn and were allotted to the said Bio-technology Centre thus creating two posts of SRA (Bio-technology) therein. Perusal of the said order dated 25.6.2001 (Ex.781) itself shows that there was Bio-technology Centre already functioning in the said Department of Agricultural Botany in the University in which the staff working therein included one SRA and it was for the effective functioning of the said centre that the additional staff was provided to it as stated in the said order dated 25.6.2001 (Ex.781). There were thus three sanctioned posts of SRA (Bio-technology) in the said Centre. That there were 3 posts of SRA (Biotechnology) in the said Biotechnology Centre is admitted even by Dr. D. L. Sale, Dean (Agri.), in his affidavit dated 27.08.2008 (Ex. 764) and by the Registrar Shri . G. K. Bhusare, in his affidavit dated 17.09.2008 (Ex. 768).

**2175)** Vide the said para 1597 of the Enquiry Report, there were 5 posts of SRA (Bio-technology/Bio-chemistry) which were separately advertised in the advertisement in question dated 14.8.2004 (Ex.2) with separate qualifications for the said posts. However,

without making any appointment in the said posts they were admittedly utilized by the University in making appointment of the candidates selected in the posts of SRA (Agri.). The reason appears to be that, vide para 1598 of the Enquiry Report, according to Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, Dr.V.D. Patil, Dean (Agri.) and the Chairman of the Selection Committee, and Shri G.K.Bhusare, the Registrar, there were no sanctioned posts of SRA (Bio-technology/Bio-chemistry) and 5 posts of SRA (Bio-technology/Bio-chemistry) which were advertised for being filled as stated above were carved out from the sanctioned strength of the posts of SRA (Agri.) in order to develop the branch of Bio-technology. Dr.V.D. Patil, the Chairman of the Selection Committee, who was also Acting Vice-chancellor at the time of appointment of the candidates selected in the posts of SRA (Agri.) and JRA (Agri.) and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee must have treated these 5 posts of SRA (Bio-technology/Bio-chemistry), which were not filled as per the above-referred advertisement, as the posts of SRA (Agri.)

**2176)** As regards the question of sanction to the posts of SRA (Bio-technology) in the Bio-technology Centre, vide paras 1598-A and 1598-B of the Enquiry Report, the decision to allow the Agricultural Universities to utilize surplus posts from research schemes/stations/departments by allotting them to the new centres/units established in the University and also to the educational institutions, where they were necessary, was taken by all the authorities/officers concerned including the State Govt., MCAER, and the Vice-Chancellors of the Agricultural Universities which decision was communicated to the University by letter of the State Govt. dated 1.12.2000 referred to at S.no.1, under the head "Read", in the said University orders dated 25.6.2001 (Exs.777 to 783). The Executive Council of the University thereafter approved the aforesaid orders dated 25.6.2001 (Exs. 777 to 783) by its resolution dated 17.9.2001 (Ex.800) by taking note of the said decision incorporated in schedule 48 annexed to it. It cannot therefore be said that there is no sanction to the posts of SRA (Bio-technology) in the said Bio-technology centre under the Head, Department of Agricultural Botany.

**2177)** Vide para 1599 of the Enquiry Report, when two surplus posts of SRA (Agri.) were withdrawn, one each from STRU or Seed Monitoring Cell (See para 1603 of the Enquiry Report), and ARS Sindewahi and were allotted to the independent Bio-technology Centre as shown in the University order dated 25.6.2001 (Ex.781), they ceased to be the posts of SRA (Agri.) and became the posts of SRA (Bio-technology) for which separate qualifications were required as shown in the advertisement dated 14.8.2004 (Ex.2). Thus including one post of SRA (Bio-technology) existing in the Bio-technology Centre which was already functioning in the department of Agricultural Botany as shown in the University order dated 25.6.2001 (Ex.781) itself, there were three sanctioned posts of SRA (Bio-technology) in the said Centre in the University which posts could not have been

utilized for filling the posts of other categories of SRA including SRA (Agri.) without the sanction of the competent authority which would be the State Govt. which sanctioned the arrangement about establishment of new centres/units in the University and utilization of surplus posts from the research schemes/stations/departments therein, vide paras 1598-A and 1598-B of the Enquiry Report, or at any rate the Executive Council of the University which approved the said order dated 25.6.2001 (Exs. 777 to 783) by its resolution dated 17.9.2008 (Ex.800) as stated above. Dr.V.D. Patil, the Chairman of the Selection Committee, who was also Acting Vice-Chancellor at the time of appointment of the candidates selected in these posts of SRA (Agri.) and JRA (Agri.), and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee acted illegally in utilizing these 3 posts of SRA (Bio-technology) in making appointment of 55 candidates selected in the posts of SRA (Agri.)

**2178)** Vide paras 1600 and 1601 of the Enquiry Report, although there were three sanctioned posts of SRA (Bio-technology) as held above in 5 posts thereof which were advertised, as regards remaining two posts out of them they appeared to be the posts in Bio-chemistry from the note of the Assistant Registrar (Estt.), Shri P.V.Behare at page C/7 of the file Ex.40(O) relating to the advertisement showing final position of the advertisement to be issued. As regards the above-referred 3 posts of SRA (Bio-technology), Dr.D.L.Sale, Dean (Agri.), in his affidavit dated 27.8.2008 (Ex.764), and Shri G.K.Bhusare, the Registrar, in his affidavit dated 17.9.2008 (Ex.768) admitted there were three posts of Bio-technology in the Bio-technology Centre as referred to above but as regards 2 posts of SRA (Bio-chemistry), Dr.D.L.Sale, Dean (Agri.), stated in his aforesaid affidavit that there were no sanctioned or redeployed posts of SRA (Bio-chemistry). Similarly, the Registrar, G.K.Bhusare, in his aforesaid affidavit and the Assistant Registrar (Estt.), Shri P.V.Behare, in para 4 of his affidavit dated 16.9.2008 (Ex.767) stated that there were no formal orders issued by the University for deployment of posts in SRA (Bio-chemistry).

**2179)** Vide para 1602 of the Enquiry Report, it is thus clear that although 5 posts of SRA (Bio-technology/Bio-chemistry) were admittedly utilized for making appointment of the candidates selected in the posts of SRA (Agri.), 3 posts of SRA (Bio-technology) could not have been utilized for filling the said posts of SRA (Agri.) without the sanction of the Competent Authority as held in para 1599 of the Enquiry Report (See also earlier finding in that regard), but as regards the remaining two posts of SRA (Bio-chemistry), as stated in para 1602 of the Enquiry Report, legally speaking, there was no restriction upon the University for utilizing the said two posts in making appointment of the candidates selected in the posts of SRA (Agri.) as they technically remained the posts of SRA (Agri.) since no formal order was issued for their deployment as the posts of SRA (Bio-Chemistry). However, when 5 posts of SRA (Bio-technology/Bio-chemistry) including the said two posts of SRA (Bio-chemistry) were advertised for development of the branch of Bio-

technology as stated by Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, and Dr.V.D.Patil, the Dean (Agri.) and the Chairman of the Selection Committee, vide para 1598 of the Enquiry Report, and for which an independent Bio-technology Centre was established as per the University order dt. 25.6.2001 (Ex.781), propriety required that these two posts to be deployed for Bio-chemistry should not have been utilized for making appointment of the candidates selected in these posts of SRA (Agri.) only because the formal order in that regard had remained to be issued.

**2180)** Vide para 1603 of the Enquiry Report, the Movement Register (Ex.644(O)) maintained by Shri D.P.Deshmukh, Section Asstt. (Estt.), on the basis of which the appointments and posting orders were given to the candidates selected in these posts of SRA (Agri.) did not show independent Bio-technology Centre under the control of the Head, Dept. of Agril. Botany with three posts of SRA (Bio-technology ), two created under the University order dated 25.6.2001 (Ex.781), and one already existing in the said Centre as stated therein. Instead, it showed 4 posts of SRA (Agri.) under the Head, Dept. of Agril. Botany filled by persons having qualifications in Agriculture. It is thus clear that three sanctioned posts of SRA (Bio-technology) were utilized for appointment of the candidates selected in these posts of SRA (Agri.) as also admitted by the University.

**2181)** Dr.V.D. Patil, the Chairman of the Selection Committee, who was also Acting Vice-Chancellor at the time of appointment of the candidates selected in these posts of SRA (Agri.) and JRA (Agri.), and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee acted illegally in utilizing these three posts of SRA (Bio-technology) for making appointments of the candidates selected in the posts of SRA (Agri.). In fact, as already pointed out, propriety required that they should not have utilized for appointment of the candidates selected in the posts of SRA (Agri.) two posts of SRA (Bio-chemistry) which were proposed to be created for development of the branch of Bio-technology only because formal orders remained to be issued in that regard.

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

(Vide paras 1604 to 1625 of the Enquiry Report)

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

(Vide paras 1604 to 1609 of the Enquiry Report)

**2182)** As observed hereinbefore, the appointments of the candidates selected in the posts of SRA (Agri.) and JRA (Agri.) were made by finding out vacant posts for them from the Movement Register (Ex. 644(O) maintained by the Section Assistant (Estt.) Shri D.P. Deshmukh, who stated in para 60 of his affidavit dated 15.11.2007 (Ex. 598) that in his

Movement Register (Ex. 644(O) he had shown the posts of SRA (Agri. Engg.) and SRA (Computer), and JRA (Computer) with their specific designations and except the said posts all the remaining posts of SRA/JRA were the posts of Agriculture although not specifically designated. For determining the total number of posts of SRA (Agri.), it is thus necessary to determine first the total number of posts of SRA (Agri. Engg.) as the total number of posts of SRA (Computer) as correctly shown therein was 4. As regards, the posts of SRA (Agri.Enggg.), there is difference amongst the concerned officers of the University about the total number of the said posts and the Departments/Schemes in which they exist.

**2183)** Vide para 1604 of the Enquiry Report, although Shri D.P.Deshmukh, Section Assistant (Estt.) stated in para 67 of his aforesaid affidavit that the total number of posts of SRA (Agril.Engg.) was 7 including one farm group post. His Movement Register Ex.644(O) actually shows two farm group posts under the Project Engineer, LFD Wanirambapur. The Registrar, Shri G.K.Bhusare, also stated in para 5 of his affidavit dated 8.5.2008 (Ex.733) on the basis of copies of the actual orders annexed by him to his aforesaid affidavit that there were 7 posts of SRA (Agril.Engg.) which included 2 farm group posts in LFD Wanirambapur. However, the Dean, Faculty of Agricultural Engineering had shown the total number of posts of SRA (Agril.Engg.) in his letter dated 7.4.2008 (Ex.722) as 14 and after excluding the posts in the schemes relating to Agricultural Engineering, he had shown the total number of the said posts in the departments under him as 7. The Dean (Agri.) had shown one post of SRA (Agril.Engg.) and one post of JRA (Agril.Engg.) in the department of Agricultural Engineering under him. Although the posts of SRA sanctioned by the Government were shown in the revised Akrutibabndh 2003 (Ex.724) with their general designation of SRA, the posts shown in the departments relating to Agricultural Engineering therein would show that the total number of posts of SRA (Agri.Engg.) was 9. The University Circular dated 27.2.1997 (Ex.723) showed 12 posts of SRA (Agril.Engg.) including the posts which were not specifically designated as SRA (Agri. Engg.) but were in the departments relating to Agricultural Engineering, bracketed figures showing the designated posts. All the posts referred to above were inclusive of farm group posts. Accordingly the chart prepared by this office was shown to Shri D.P.Deshmukh, Section Assistant (Estt.), who admitted the same in his affidavit dated 3.11.2008 (Ex.773) and was then marked as Ex.775-A in this enquiry annexed to the Enquiry Report as Annexure-32.

**c-2) Whether any posts of SRA (Agril. Engg.) existed in the department of SWCE and what about one post of SRA (Agril. Engg.) in the department of IDES.**

(Vide paras 1605 to 1609 of the Enquiry Report)

**2184)** Perusal of the above referred chart (Ex. 775-A) would show that the difference in the total number of posts of SRA (Agri. Engg.) given by the concerned officers of the

University is mainly because of 3 posts of SRA (Agri.Engg.) shown by Dr. P.M. Nimkar, Dean, Faculty of Agril. Engg., in the Department of Soil and Water Conservation Engineering (SWCE) and one post shown by him in the Department of Irrigation, Water Management, and Drainage Engineering (IDES). The said chart (Ex. 775-A) also shows that there is difference amongst the concerned officers of the University on the question whether one post of SRA and one post of JRA in the Department of Agricultural Engineering are the posts of Agricultural Engineering, or the posts of Agriculture.

**2185)** The question therefore, considered in paras 1605 to 1609 of the Enquiry Report, is whether there existed three posts of SRA (Agril.Engg.) in the department of SWCE and one post of SRA (Agril.Engg.) in the department of IDES as shown by Dr.P.M.Nimkar, Dean, Faculty of Agricultural Engineering, vide chart (Ex.775-A) annexed as Annex.-32 to the Enquiry Report. The University circular dated 27.2.1997 (Ex.723), also showed three posts of SRA in the department of SWCE, two of them with general designation as SRA and one with designation of SRA (Agril.Engg.). It also showed one post of SRA (Agril.Engg.) in the department of IDES Shri D.P.Deshmukh, Section Assistant (Estt.) who prepared his Movement Register (Ex.644(O)) from the Staff position Register (Ex.881) did not show the said departments at all in his Movement Register (Ex.644(O)) on the ground that there were no posts of SRA / JRA in the said departments as according to him the said departments were not shown in the previous Register (Ex.881) from which he prepared his own Movement Register (Ex.644(O)).

**2186)** When further enquiry was made about the existence of 3 posts of SRA (Agril.Engg.) in the department of SWCE and one post of SRA (Agril.Engg.) in the department of IDES, Shri S.S.Suradkar, Deputy Registrar (Estt.) filed with his affidavit dated 2.1.2009 (Ex.825) the letter of the Deputy Registrar (Estt.) dated 4.4.1997 (Ex.880) addressed to Professor Cum Head of the said Department of SWCE with regard to his office note no.69/1997 dated 18.3.1997. It was stated in the said letter dated 4.4.1997 (Ex.830) that there was misprint in the entries at S.nos. 4, 5, 6 and 7 relating to the said department of SWCE in the University Circular dated 27.2.1997 (Ex.723) which is issued to show the staff position as on 1.1.1997. According to him, there were no posts of SRA/JRA/AA in the said department. There was however, no corrigendum issued to the said University Circular dated 27.2.1997 (Ex.723) to correct the staff position in the department of SWCE pursuant to the said letter dated 4.4.1997 (Ex. 830)

**2187)** Vide para 1606 of the Enquiry Report, the said letter of the Dy. Registrar (Estt.) dated 4.4.1997 (Ex.830) was based upon the remarks of Shri B. M. Kathiwale, the then Section Officer of D-Unit in the establishment section of the University, dealing with service matters relating to SRA/JRA/AA. Shri B. M. Kathiwale, Ex. Section Officer 'D' Unit, to whom the said office note no. 69 of the Professor-cum-Head of the Department of SWCE was referred for verification of the position about the posts of SRA/JRA/AA in the



said department stated in his office note dated 04.04.1997 marked as Ex. 846 collectively with the office note no. 69 dated 18.03.1997 that there were no posts of SRA (Agri.), SRA (Agril.Engg.), JRA and AA in the said department

**2188)** Vide para 1607 of the Enquiry Report, when Shri B.M.Kathiwale, concerned Section Officer (Estt.) of the relevant D and B Units of the establishment section was asked to explain the basis on which he had made the above remarks although the University Circular dated 27.2.1997 (Ex.723) showed three posts of SRA in the said department of SWCE, he took pains to bring on record all the old Movement Registers relating to SRA/JRA/AA titled “Staff position Registers 1 to 3” and marked as Exs. 871 to 873 in this enquiry and also his own staff position Register of D-Unit marked as Ex.875 in this Enquiry.

**2189)** Vide para 1608 of the Enquiry Report, after detailed discussion of the affidavit of Shri B.M.Kathiwale, dated 17.4.2009 (Ex.928) and other relevant affidavits and the documents filed with them including the old staff position Registers Exs.871 to 873 and the Staff position Register of D-Unit Ex.875 maintained by Shri B.M.Kathiwale, himself, in paras-789 to 804 of the Enquiry Report, it was held in para 799 of the Enquiry Report, that there was only one post of SRA (Agril.Engg.) in the original department of Soil & Water Management Engineering and after its bifurcation into the departments of SWCE and IDES, the said post of SRA (Agril. Engg.) which existed in the said original department was allotted to the department of IDES. It was also held that there were no posts of SRA/JRA/AA in the department of SWCE. Shri B.M.Kathiwale, ex-Section Officer of D-Unit, therefore, rightly stated in his office note dated 4.4.1997 (Ex.846) that they were no posts of SRA/JRA/AA in the department of SWCE. Although no corrigendum was issued in this regard to the University circular dated 27.2.1997 (Ex.723), the next University Circular dated 18.3.1998 (Ex.880) showed no posts of SRA/JRA/AA in the said department of SWCE.

**2190)** Vide para 1609 of the Enquiry Report, as already stated, Shri D.P.Deshmukh, Section Assistant (Estt.), did not show the department of IDES and one post of SRA (Agril.Engg.) therein in his Movement Register (Ex.644(O)) on the basis of which the appointments in question of the candidates selected in the posts of SRA (Agri.) were made. It is material to see that the total number of posts of SRA including the posts of SRA (Agril.Engg.), and SRA (Computer) as shown by him in his Movement Register (Ex. 644(O)) was 159. Vide charts annexed as Ex. 756 to the affidavit of the Registrar, Shri G. K. Bhusare, dated 17.09.2008 (Ex. 768) the total number of posts of SRA sanctioned by the State Government as per the revised Akrutibandh, 2003 (Ex. 724) was 154 and 5 posts of SRA were sanctioned by ICAR on 100% grant basis. If one post of SRA (Agril. Engg.) existing in the department of IDES was not shown by showing the said department in his Movement Register Ex.644(O), the total number of posts shown in his Movement Register

(Ex. 644(O)) should have been 158 i.e. one less but still the total number of posts of SRA shown by him was 159 which would mean that he had shown the said post of SRA (Agril. Engg.) in the department of IDES elsewhere as the post of Agriculture, particularly when as stated by him in para 60 of his affidavit dated 15.11.2007 (Ex.598) after excluding the posts of SRA (Agril.Engg.), and SRA (computer) specifically designated by him in his Movement Register (Ex.644(O)), all the remaining posts of SRA shown therein were the posts of SRA (Agri.) although not specifically designated.

**c-3) Whether one post of SRA and one post of JRA in the department of Agricultural Engineering are posts of Agriculture or are posts of Agril. Engineering.**

(Vide paras 1610 to 1614 of the Enquiry Report)

**2191)** Vide para 1613 of the Enquiry Report, according to Shri D.P.Deshmukh, Section Assistant (Estt.), one post of SRA and one post of JRA in the department of Agricultural Engineering is of SRA (Agri.) and JRA (Agri.) because as stated by him in para 60 of his affidavit dated 15.11.2007 (Ex.598) read with para 3 of his additional affidavit dated 17.05.2008 (Ex. 753), all the posts of SRA/JRA shown by him in his Movement Register Ex.644(O) which are not specifically designated as SRA (Agril. Engg.), SRA (Computer), JRA (Computer) are the posts of SRA (Agri.) and JRA (Agri.). He stated in the said para 3 of his additional affidavit dated 17.05.2008 (Ex. 753) that he had given designations of the posts in his Movement Register Ex.644(O) by seeing the previous Movement Register but he did not know on what basis the designations of these posts of SRA/JRA were given. Shri B.M.Kathiware, ex-Section Officer, D-Unit also showed the said posts as the posts of Agriculture in the staff position Register of 'D' Unit (Ex. 875) maintained by him, vide para 12 of his affidavit dated 17.04.2009 (Ex. 928). As regards the Registrar, Shri G.K.Bhusare, although he stated in para 3 of his affidavit dated 08.05.2008 (Ex.733) that the said posts of SRA/JRA in the department of Agricultural Engineering were the posts of Agriculture, he further stated in para 4 thereof that for the said posts of SRA/JRA in the department of Agricultural Engineering, the intensive knowledge of Agricultural Engineering was necessary for the person who was to be appointed in the said posts in the said department. He, therefore, stated that the said posts should have been the posts of Agricultural Engineering in the said department and a graduate possessing the degree in Agricultural Engineering should have been appointed in the said posts.

**2192)** Vide para 1610 of the Enquiry Report, it may be seen that the department of Agricultural Engineering is shown in Statute-99 (1) of the Statutes under the control of the Dean, Faculty of Agriculture which perhaps may be the reason why the Registrar's office is treating one post of SRA and one post of JRA therein as the posts of Agriculture. Although technically the said department is under the control of the Dean, Faculty of Agriculture as

stated by Dr.S.A.Nimbalkar, the then Vice-chancellor of the University in para 5 of his affidavit dated 29.4.2008 (Ex.731), the physical and actual control of the said department is of Dean, Faculty of Agricultural Engineering. Dr.P.M.Nimkar, Dean, Faculty of Agricultural Engineering stated in para 8 of his affidavit dated 18.10.2008 (Ex.772) that he had additional charge of the said department of Agricultural Engineering and according to him, one post of SRA and one post of JRA in the said department are the posts of Agricultural Engineering since the nature of the work in the said posts requires intensive knowledge of Agricultural Engineering which the graduate/post graduate in Agril. Engineering alone possesses. Therefore, according to him, SRA/JRA of other disciplines including Agriculture cannot work in the said department. Even the Dean, Faculty of Agriculture had shown the said posts of SRA and JRA in the department of Agricultural Engineering under him as the posts of SRA (Agril.Engg.) and JRA (Agril.Engg.). The Assistant Registrar (Estt.) Shri V.J.Chawre, admitted in para 4 of his affidavit dated 9.4.2008 (Ex.725) that the said posts of SRA/JRA in the department of Agricultural Engineering were correctly shown as the posts of Agricultural Engineering in his letter dated 7.4.2008 (Ex.722) by the Dean, Faculty of Agricultural Engineering.

**2193)** Vide para 1611 of the Enquiry Report, when the Deans of Faculty of Agriculture and Faculty of Agricultural Engineering both stated that one post of SRA and one post of JRA in the department of Agricultural Engineering are the posts of Agricultural Engineering their statement are authoritative and must be accepted. Even according to the Registrar, Shri G.K.Bhusare, the intensive knowledge of engineering is necessary for the person who is to be appointed in the said post in the department of Agricultural Engineering. It however, appears that the staff position Registers were never checked or verified by the superior officer to see whether the posts of SRA/JRA shown therein were the posts of the categories in which they were shown therein. In particular, Shri D.P.Deshmukh, Section Assistant (Estt.), admitted in para 2 of his affidavit dated 3.11.2008 (Ex.773) that his Movement Register (Ex.644(O)) was not checked or verified by the Superior officers. He also admitted that while preparing his Movement Register Ex.644(O) or after it was prepared he did not make any enquiry about the categories of posts of SRA/JRA in various depts./schemes in the University including their strength therein. However, what is important to be seen in his aforesaid affidavit is that according to him, all the matters relating to vacancy position, appointment, transfer, promotion etc. are determined on the basis of the information supplied to the higher officers from his aforesaid Movement Register Ex.644(O). In fact, it does not appear that the posts of SRA/JRA required in the departments/schemes etc. were properly evaluated as to their duties and responsibilities looking to the nature of work therein and their categorywise requirement in each department/scheme etc. was properly determined by the University.

**2194)** It is trite to say that the requirement in the department of Agricultural Engineering would be of the person having intensive knowledge and qualification in the discipline of Agricultural Engineering. It is possible that initially when the Faculty of Agricultural Engineering had not developed as stated by Dr. S. A. Nimbalkar, the then Vice Chancellor, in para 5 of his aforesaid affidavit dated 29.04.2008 (Ex. 731), and there was dearth of the Agricultural Engineering graduates to man the posts of SRA/JRA in the departments under the faculty of Agril. Engineering, by such graduates the said posts might have been given the general designation of SRA/JRA at that time which, it appears, was understood by the concerned Section Assistant of D-Unit as the SRA (Agri.) and JRA (Agri.) as per their above referred practice of giving nomenclature to the said posts. The said posts which require Agril.Engg. graduates / post graduates to man them could not have been treated as the posts of Agriculture. As stated by the Deans of Agricultural Engineering and Agriculture, one post of SRA and one post of JRA in the department of Agricultural Engineering were the posts of Agricultural Engineering and not of Agriculture.

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

**2195)** Vide para 1614 of the Enquiry Report, a chart showing the actual position of the posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) in their appropriate departments/schemes in the University is given in the said para. It shows that excluding farm group posts, there are 8 posts of SRA (Agril.Engg.) and one post of JRA (Agril.Engg.) in the University as shown therein. As regards the farm group posts, there are two posts of SRA (Agril.Engg.) in LFD, Wanirambapur.

**c-5) No. of posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) utilised in making appointment of the candidates selected in these posts of SRA (Agri.) and JRA (Agri.)**

(Vide paras 1615 to 1625 of the Enquiry Report)

**2196)** Vide para 1620 of the Enquiry Report, the total number of posts of SRA (i.e. of all categories) sanctioned in various departments/schemes in the University as per the revised Akrutibandh 2003 (Ex.723) is 154 and after including 5 posts of ICAR on 100% grant basis, the total number of posts of SRA in the University is 159 excluding 26 farm group posts, vide chart Ex.756 annexed to the affidavit of the Registrar, Shri G.K.Bhusare, dated 17.9.2008 (Ex.768). Since the appointments of the candidates selected in the posts of SRA (Agri.) and JRA (Agri.) are made after finding out the vacant posts for them in the Movement Register Ex.644 (O) maintained by Shri D.P.Deshmukh, Section Assistant (Estt.), it is necessary to see the total number posts of SRA and their distribution in various departments/schemes as shown therein. A chart of the posts of SRA prepared from the said Movement Register Ex.644(O) is given in para 1617 of the Enquiry Report in which the

sanctioned posts of SRA (Agri.), SRA (Agril.Engg.), SRA (Computer), and the farm group posts in the various departments/schemes in the University are shown. The said chart would show that according to the said Movement Register Ex.644(O), the total number of posts of SRA (Agri.) is 149, SRA (Agril.Engg.) 6, SRA (Computer) 4 and farm group posts of SRA 26 including two posts of SRA (Agril.Engg.) in LFD Wanirambapur. The total number of posts of SRA thus shown therein excluding the farm group posts is 159 which includes the sanctioned strength of 154 posts of SRA as per the revised Akrutibandh-2003 (Ex.724), and 5 posts of ICAR on 100% grant basis as referred to above. However, perusal of the said chart would show that at sr.no.22 in the department of Agricultural Engineering, one post of SRA is shown as SRA (Agri.) instead of Agricultural Engineering as held above. Further, the department of IDES in which, as held hereinbefore, there is one post of SRA (Agril.Engg.) is not shown therein at all.

**2197)** Perusal of the chart (Ex.756) annexed to the affidavit of the Registrar, Shri G. K. Bhusare dated 17.09.2008 (Ex. 768) would show that as regards the posts of SRA sanctioned as per the revised Akrutibandh-2003 (Ex.724), there are three posts of SRA sanctioned at S.no.7 for the college of Agricultural Engineering, Akola. It may be seen that for sanction of the posts of SRA in the University by the State Govt. as per the revised Akrutibandh 2003 (Ex.724), the file showing the requirement of the posts of SRA in various departments/ schemes in the University marked as Ex.900 in this Enquiry was taken to the State Govt. according to which the posts were sanctioned by it, vide para 823 of the Enquiry Report. Shri B.M.Kathiwale, ex-Section Officer, stated in para 18 of his affidavit dated 17.4.2009 (Ex.928) that in the chart No. 2 relating to “Higher Education group” there were 3 posts of SRA (Agril. Engg.) shown, one each in the department of farm structure Engineering, Irrigation and Drainage Engineering, and Agriculture process Engineering, at pages 239/C, 241/C and 243/C of the said file (Ex.900) respectively. It is these three posts of SRA (Agril.Engg.) which were sanctioned by the State Government in the College of Agricultural Engineering, Akola, as per the revised Akrutibandh-2003 (Ex.724) as stated by Shri B.M.Kathiwale, in the aforesaid para 18 of his affidavit dated 17.4.2009 (Ex.928), vide para 826 of the Enquiry Report.

**2198)** If the department of IDES which had one post of SRA (Agril.Engg.) was not shown in the said Movement Register Ex.644(O) maintained by Shri D.P.Deshmukh, Section Assistant (Estt.), then the total number of posts of SRA excluding farm group posts shown by him should have been less by one i.e. 158 instead of 159 but the total number of posts which would include the posts of SRA (Agri.), SRA (Agril.Engg.), SRA (Computer) as shown therein is 159. Shri D.P.Deshmukh, Section Assistant (Estt.), in para 5 of his additional affidavit dated 3.11.2008 (Ex.773) and Shri S.S.Suradkar, Dy. Registrar (Estt.), also in para 5 of his affidavit dated 2.1.2009 (Ex.825) admitted that even after excluding the posts of SRA (Agril.Engg.) in the aforesaid department of IDES, the total number of posts

shown in the Movement Register Ex.644(O) is 159 which clearly mean that he had shown the said post as the post of SRA (Agri.) elsewhere and utilized it for making appointment of the candidates selected in these posts of SRA (Agri.), vide para 1621 of the Enquiry Report.

**2199)** As regards the post of SRA in the department of Agricultural Engineering which is the post of SRA (Agril.Engg.) and not of SRA (Agri.), as held in paras 1610 to 1613, and, in particular, para 1613 of the Enquiry Report, and as shown in the chart about the actual position of SRA (Agril.Engg.) and JRA (Agril.Engg.) in the University given in para 1614 of the Enquiry Report, the said post is shown as the post of SRA (Agri.) at S.no.22 of the chart in para 1617 of the Enquiry Report. Perusal of the Movement Register Ex.644(O) would show that initially Shri S.B.Shinde, B.Sc. (Agri.) was shown as appointed in the said department of Agricultural Engineering but then it was shown that he was physically working in CDF Wanirambapur and had retired on 30.11.2004 whereafter the said post was vacant, vide para 1622 of the Enquiry Report. Therefore, as stated therein, since none of the candidates selected in the posts of SRA (Agri.) was appointed in the said post in the department of Agricultural Engineering, it cannot be said that the said post of SRA (Agril. Engg.) was utilized for making appointment of the candidates selected in these posts of SRA (Agri.).

**2200)** Vide para 1625 of the Enquiry Report, as regards one post of JRA in the department of Agricultural Engineering held as the post of Agricultural Engineering, vide paras 1613 and 1614 of the Enquiry Report, the said post was utilized as the post of JRA (Agri.) by making appointment of the candidate selected in the posts of JRA (Agri.) pursuant to the advertisement dated 14.8.2004 (Ex.2) as amended by addendum dated 6.9.2004. However, the candidate appointed in the said post Shri A.K.Kamble, was M.Tech and had thus qualification in Agricultural Engineering, but vide para 1065 of the Enquiry Report, his appointment was held illegal since the posts of JRA (Agril.Engg.) were not advertised by the University but the posts which were advertised were the posts of JRA (Agri.) for which the additional qualification prescribed in the advertisement was of graduate in Agricultural Engineering by its amendment which was illegal, being contrary to the qualifications laid down in Appendix-III read with Statute-73 of the Statutes which required the qualification of degree in Agriculture for the posts of JRA (Agri.), vide the above-referred para 1065 of the Enquiry Report.

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

(Vide paras 1626 to 1638 of the Enquiry Report)

**2201)** By the University order dated 25.6.2001 (Ex.780) an independent Estate unit was established in the University under the control of the University Engineer with the posts mentioned in the table given in the said order which showed that two posts of Senior

Technical Assistant (STA) were created in the said Estate unit by withdrawing two posts of SRA, one each from HD Agronomy and Chilli Research Unit, Akola, and allotting them to the said Estate unit with the revised designation as Senior Technical Assistant (STA). The said two posts of STA were thereafter sanctioned in the revised Akrutibandh-2003 (Ex.724) in the set-up of the posts sanctioned in the office of the University Engineer. It is pertinent to see that prior to issue of the University order dated 25.6.2001 (Ex.780) there were no posts of STA in the office of the University Engineer. There were no posts even of SRA/JRA in the said office, vide University circular dated 27.2.1997 (Ex.723).

**2202)** Vide paras 1632 to 1634 of the Enquiry Report, although two posts of STA were created as per the University order dated 25.6.2001 (Ex.780) in the independent Estate unit under the control of the University Engineer, the said two posts of STA created therein were not shown in the Movement Register (Ex.644(O) maintained by Shri D.P.Deshmukh, Section Assistant (Estt.). According to him, he had prepared his aforesaid Movement Register from the previous Staff position Register (Ex.881) maintained by Shri A.B.Raut, who was Senior Clerk of D-Unit of the establishment section. As stated in para 1633 of the Enquiry Report, the previous Staff position Register (Ex.881) showed two posts of SRA under the head “Establishment of Estate Unit under the University Engineer” in which in one post, posting of Shri P.A.Kahate, who was transferred from G.T.C., Buldhana was shown and it was also shown that he was relieved from this post and was transferred under the Senior Research Scientist (SRS) Sorgum. The other appointee shown in the other post of SRA in the office of the University Engineer was Shri V.R.Vaidya who was shown to be physically working in CSPO, CDF, Wanirambapur.

**2203)** However, vide para 1634 of the Enquiry Report, in his Movement Register Ex.644(O), Shri D.P.Deshmukh, Section Assistant (Estt.) did not show the said two posts of STA created in the independent Estate Unit under the control of the University Engineer. Instead, he showed two posts of SRA, which meant SRA (Agri.), in the office of the University Engineer, Akola (Estate Unit) at page-1 of his Movement Register Ex.644(O), vide S.no.1 in the chart in para 1617 of the Enquiry Report about the posts of SRA shown in the said Movement Register Ex.644(O). In one of the said two posts of SRA (Agri.) which in fact are the posts of STA, he showed the transfer of Ku.K.J.Morey, SRA (AHD) on 15.9.2005 from the College of Agriculture, Nagpur, on paper only as she was shown physically working in the said college at Nagpur as before. As shown hereinbefore, vide para 1526 of the Enquiry Report, it was done in order to accommodate Pravin Patil son of Dr.V.D. Patil, the Chairman of the Selection Committee, in her post at Nagpur which was indubitably the post of SRA (Agri.). Similarly, in the other post of SRA (Agri.) in the said office of the University Engineer, he showed appointment as per the order dated 16.9.2005 of the new candidate Shri Ashish B. Bagde, M.Sc. (Botany) selected in the post of SRA (Agri.) but the said appointment was also shown on paper only as he was physically

working in the department of Horticulture. As stated by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 5 of his additional affidavit dated 15.3.2008 (Ex.695), as there was no work in the office of the University Engineer according to his qualification, he was actually given work in the Department of Horticulture. Perusal of his appointment order dated 16.9.2005 shows that it is camouflaged in so far as the post in which he is appointed is mentioned therein as the post of “Senior Research Assistant (Agriculture) (Technical Assistant)” although his selection is in the post of SRA (Agri.) and the words “Technical Assistant” are not mentioned even in the aforesaid Movement Register (Ex.644(O) which shows two posts in the said office as SRA (Agri.) only.

**2204)** Vide para 1635 of the Enquiry Report, although the posts created in the independent Estate unit under the control of the University Engineer as per the University order dated 25.6.2001 (Ex.780) were of STA, the posts shown in the aforesaid Movement Register (Ex.644(O)) were of SRA (Agri.) but, as shown above, none of the appointees in the said posts had actually worked as STA or SRA (Agri.) in the said Estate Unit but they were physically working elsewhere in the departments relating to Agriculture. These posts were therefore, utilized for making appointment of the candidates selected in the posts of SRA (Agri.). As observed in para 1638-A, it gives an impression that although these posts of STA were created in the Estate Unit under the control of the University Engineer, what the University needed were the posts of SRA (Agri.) for doing the work of the said posts in the departments relating to Agriculture, although the Registrar, Shri G.K.Bhusare, stated in his affidavit dated 17.9.2008 (Ex.768) that due to paucity of the staff under the University Engineer specially for Estate section and maintenance of University property records, the said posts of STA were created.

**2205)** As regards the question whether the posts of Senior Technical Assistant (STA) created in the Estate Unit under the control of the University Engineer were in the cadre of SRA as stated by the Registrar, Shri G.K.Bhusare, in his affidavit dated 17.4.2008 (Ex.768), it is necessary to see that when two surplus posts of SRA which meant SRA (Agri.) were withdrawn one each from HD Agronomy, Akola, and Chilli Research Unit, Akola, and were allotted to the Estate Unit with the revised designation as Sr. Technical Assistant (STA), they ceased to be the posts of SRA since it was not stated in the said University order dated 25.6.2001 (Ex.780) or in any other order issued by the University that the said posts were in the cadre of SRA, muchless that they were posts of SRA (Agri.) or SRA (Agril.Engg.).

**2206)** It is necessary to see that when new post is created, it has to be evaluated as to its duties and responsibilities looking to the nature of the work in the establishment in which it is created and accordingly its qualifications need to be laid down. The Registrar, of the University, Shri G.K.Bhusare, admitted in his aforesaid affidavit dated 17.9.2008 (Ex.768) that the duties and responsibilities of the posts of Senior Technical Assistant (STA) borne



on the establishment of the University Engineer were not specified. He however, stated therein that as regards the duties of the said post in the office of the University Engineer some duties of the said posts which were of administrative nature were expected to be performed by SRA provided in the office of the University Engineer specially related to Estate Unit. According to him, their services were also utilized for surveying land etc. It may be seen that vide para 1628 of the Enquiry Report, when the post of STA is principally a technical post, the fact that SRA can perform the duties of the said post which are administrative in nature and which may be incidental to his principal duties would not mean that SRA is fit to be appointed in the said post.

**2207)** Vide para 1629 of the Enquiry Report, Dr.S.M.Tale, Associate Professor and Head, Department of Soil & Water Conservation Engineering (SWCE) who was holding the additional charge of the post of University Engineer since 17.8.2007, stated in para 2 of his affidavit dated 20.9.2008 (Ex.770) that the work in the office of the University Engineer was about planning, preparing estimate of the development and infrastructure work of the University, to prepare the proposal for funding, to give technical sanction to the estimate, to make budgetary provisions for various works, estate management and various maintenance works. As regards the duties of Senior Technical Assistant (STA), he stated in paras-3 and 4 of his aforesaid affidavit that two posts of STA were included in its field staff and that their duties were about land surveying, estate management and assessment of loss, fixing of boundary etc. and his help was taken for farm side development also. He further stated that although the qualifications for the post of STA and their duties and responsibilities were not laid down by the University, the said posts were treated as the posts of SRA (Agri.).

**2208)** Vide para 1630 of the Enquiry Report, Dr.S.M.Tale, Associate Professor and Head, Dept. of SWCE, holding charge of the post of University Engineer, stated in para 5 of his aforesaid affidavit dated 20.9.2008 (Ex.770) that a graduate / post graduate in Agriculture or Agricultural Engineering, particularly in Agricultural Engineering who had better knowledge about the work and activities carried out in the office of the University Engineer, land surveying and estate management could do the work of land surveying and estate management upon the farms. He however, promptly admitted in para 7 of his aforesaid affidavit dated 20.9.2008 (Ex.770) that since the time he had taken the additional charge of the office of the University Engineer, he had not seen any SRA working in the said department doing duties of the post of STA relating to land survey and estate management referred to above ( also see para 1629 of the Enquiry Report). He also admitted in para 8 thereof that as regards the question whether the graudate in Agriculture can perform the said duties of STA, he had no personal knowledge about it because during the time he had additional charge of the said office, no SRA (Agri.) actually worked as STA in the said office. What is however, material to be seen is that as shown hereinbefore, the appointees i.e. SRAs (Agri.) who were appointed in the said posts of STA in the office

of the University Engineer were appointed on paper only because they were physically or actually working elsewhere i.e. in other department/schemes relating to Agriculture.

**2209)** In fact, as already stated, the said posts of STA created in the independent Estate unit which are technical posts should have been evaluated first as to their duties and responsibilities looking to the nature of work to be performed by them in the said Estate unit and accordingly their qualifications should have been fixed. If their qualifications thus fixed were graduate/post graduate in Agriculture or Agril.Engg. or both, SRA (Agri.) or SRA (Agril.Engg.) was then eligible to be appointed in the said posts of STA. Merely because SRAs (Agri.) or SRAs (Agril.Engg.) can discharge some duties of the said posts of STA it does not mean that they possess the qualifications necessary for the said posts which are technical posts, and can therefore be appointed in the said posts. Dr.S.M.Tale, Professor, and Head, Dept. of SWCE, holding additional charge of the post of University Engineer, candidly admitted in para 5 of his affidavit dated 20.9.2008 (Ex.770) that no thought was given to the post of STA and the said post was yet to be evaluated and its duties and responsibilities fixed.

**2210)** The above referred affidavits/note of the officers of the University are not uniform in stating that the SRA (Agri.) possesses the necessary qualifications for the posts of STA created in the Estate Unit under the control of the University Engineer, Akola, looking to their nature of work therein and are competent to discharge the duties of the said posts. According to the Registrar, Shri G.K.Bhusare, SRA (Agri.) can discharge the administrative duties of the said posts although they are technical posts and are included in field staff of the office of the University Engineer, Dr.P.D.K.V.Akola, as stated by Dr.S.M.Tale, holding charge of the post of University Engineer. Dr. S.M. Tale also stated that between SRA (Agri.) and SRA (Agril.Engg.), SRA (Agril.Engg.) is, by reason of his knowledge, better suited to do the work of Land Surveying and Estate management upon the farm. He, however, admitted that since the time he had taken charge of the post of University Engineer, he had not seen any SRA working in the office of the University Engineer and discharging the above duties of the post of STA. Dr.P.M.Nimkar, Dean, Faculty of Agricultural Engineering firmly stated in para 11 of his affidavit dated 18.10.2008 (Ex.772) that SRA (Agril.Engg.) can but SRA (Agri.) can not discharge the duties in the office of the University Engineer, muchless work in the post of STA which is a technical post. Vide para 1636 of the Enquiry Report, although Dr.S.N.Mendhe, stated para 4 of his note (Ex.801) that the persons having qualifications in Agriculture or Agricultural Engineering are necessary for carrying out farm side activities of the Estate Unit, perusal of the said para 4 of his note (Ex.801) would show that the person to be appointed in the said post should have knowledge of Agril.Engg. whether from the faculty of Agriculture or Agril.Engg. However, as held in the said para 1636 of the Enquiry Report, he also does not have any personal knowledge about the activities actually carried in the

Estate Unit which is in Akola, under the control of the University Engineer. As shown above since there is no uniformity in the views expressed by the above officers of the University as regards the qualifications needed for the persons to be appointed in the post of STA in the Estate Unit under the control of the University Engineer, Akola, it was all the more necessary to evaluate first the said post of STA created in the said Estate Unit and fix its duties, responsibilities, and qualifications and thereafter determine if a graduate in Agri. or Agril.Engg. or both are eligible to be appointed in the said post.

**2211)** It is thus clear that two posts of STA were clearly utilized as the posts of SRA (Agri.) by showing in the office of the University Engineer (See the Movement Register (Ex.644(O)) two posts of SRA (Agri.) instead of STA for making appointment of the candidates selected in the posts of SRA (Agri.).

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

(Vide paras 1639 and 1640 of the Enquiry Report)

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

**2212) Re.SRA** : As shown above, the following posts of SRA and two posts of S.T.A. which were not of SRA (Agri.) were utilized for making appointments of the candidates selected in the posts of SRA (Agri.)

3 Posts of SRA ( Bio-technology)

1 Post of SRA (Agril.Engg.)

2 Posts of Senior Technical Assistant

-----

Total : 6 Posts

As regards the posts of SRA (Bio-technology), it is admitted by the University that it has utilized 5 posts of SRA (Bio-technology), which were advertised and not 3 in making appointments of the candidates selected in the posts of SRA (Agri.). However, as pointed out regarding the said posts, since no formal order was issued for creation of two posts of SRA (Bio-chemistry), the said 2 posts out of 5 posts of SRA (Bio-technology) which were advertised, legally speaking, could be utilized as the posts of SRA (Agri.) although propriety required that they should not have been utilized as the posts of Agriculture awaiting the formal order to be issued in that regard as they were to be created for development of the branch of Bio-technology as stated by Dr.S.A.Nimbalkar, the then Vice-Chancellor, and Dr.V.D. Patil, Dean (Agri.) in their affidavits referred to hereinbefore, vide para 1598 of the Enquiry Report, and for which the aforesaid independent Bio-technology centre was established as per the University order dt.

25.6.2001(Ex.781). As held in para 1565 of the Enquiry Report, if the above 6 posts which are not posts of SRA (Agri.) were not utilized, the University could not have accommodated 55 selected candidates in the vacant posts of SRA (Agri.).

**2212-A)** The vacancy position in the post of SRA (Agri.) as on 15.09.2005 i.e. at the time of appointment after excluding 6 posts other than the posts of SRA (Agri.) from the total posts of SRA 148 inclusive of 5 posts of SRA (Bio-technology) is worked out as follows;

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

Nomination and promotion quota – 71 : 71.

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

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

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

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

**2213) Re.JRA:** As shown above, there was one post of JRA (Agril.Engg.) in the dept. of Agricultural Engineering which was wrongly treated and utilized as the post of JRA (Agri.). However, although the candidate appointed in the said post was post graduate in Agricultural Engineering his appointment was illegal as the post of JRA (Agril. Engg.) was not advertised but the post which was advertised was the post of JRA (Agri.) for which as per Appendix-III read with Statute-73 of the Statutes the qualification described was of graduate in Agriculture vide para 1065 of the Enquiry Report. Hence the total number of posts of JRA (Agri.) and consequently the vacancy position therein would less by one.

**2213-A)** Vide para 2172-A, of the Enquiry Report, as per the revised Akrutibandh-2003 (Ex.724), the total number of sanctioned posts of JRA (Agri.) are 94 out of which 4 posts are of Computer and 90 posts are of JRA (Agri.). (See the chart Ex. 756 filed by the University). Adding to them 15 posts of JRA (Agri.) created on 25.8.2004 by ICAR for Krushi Vigyan Kendra's, the total number of posts of JRA (Agri.) would be 105 as on 15.9.2005. But one post of JRA is of JRA (Agril. Engg.) as stated above but is wrongly

treated as post of JRA (Agri.). Reducing therefore further 1 post, the total number of posts JRA (Agri.) would be 104 as on 15.09.2005.

Hence nomination and promotion quota would be 52 : 52.

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

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

**f) Inference drawn about the vacancy position in these posts of SRA (Agri.) and JRA (Agri.) as on 25.6.2005 i.e. the last date of interview and 15.9.2005 i.e. at the time of appointment**

**2213-B)** The above exercise of calculating the number of vacant posts of SRA (Agri.) and JRA (Agri.) as on 25.6.2005 i.e. the last day of interview and as on 15.9.2005 i.e. at the time of appointment by requiring the University to file in this enquiry the charts about vacancy position including the Lists of names of promotees and direct recruits as on 31.7.2004 i.e. at the time of advertisement, 12.6.2005 i.e. at the time of interview and 15.9.2005 i.e. at the time of appointment was undertaken with a view to show that the said task was complicated and it was therefore difficult to predicate on the last day of interview i.e. 25.6.2005, the exact increase in the number of the said posts to be filled solely on the basis that there would be vacancies in the said posts since some SRAs (Agri.) and JRAs (Agri.) were selected in the said posts particularly when even the said charts about the vacancy position filed by the University in this enquiry, were not before them and the only material before them viz. the office note of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.7.2004 recorded at the time of advertisement contained in the file Ex.40(O) showed that all the posts included in their nomination and promotion quota were not enough to accommodate all the candidates selected in the said posts.

**2213-C)** As regards the reason given by Dr.V.D. Patil, the Chairman of the Selection Committee, in para 49 of his affidavit dated 25.12.2007 (Ex. 645) for increasing the number of vacancies in the posts of SRA (Agri.) and JRA (Agri.) to be filled, since he was member of the Selection Committee for selection of the candidates in the higher posts of the Assistant Professors, he might have known that there were some SRAs (Agri.) and JRAs (Agri.) included in the List of selectees in the posts of Assistant Professor consisting of 94 candidates but it does not appear that he knew how many of them were from the posts of SRA (Agri.) and JRA (Agri.). As shown hereinbefore there were 43 SRAs (Agri.) who were selected in the said posts of Assistant Professors but there was only one JRA (Agri.)

who was selected in the said post. Therefore, on the last day of interview i.e. 25.6.2005 the decision could not have been taken to increase the number of posts of JRA (Agri.) to be filled from 37 as advertised to 76 on that ground as there was only one JRA (Agri.) who was selected in the post of JRA (Agri.).

**2213-D)** As regards the appointment of 43 SRAs in the higher posts of Assistant Professors, it did not result in creating 43 vacancies in the posts of SRA (Agri.) because as shown in para 2121 of the Enquiry Report, only 20 amongst them, 10 regular and 10 officiating SRAs, were in the Lists of promotees or direct recruits as on 31.7.2004 and 12.6.2005 (Exs.185 to 188). As regards the rest of the SRAs out of 43 who were appointed as Assistant Professors, in their places, JRAs who were promoted on officiating basis in the posts of SRA (Agri.) and whose names were included in the List of 77 officiating SRAs who were recommended for regular promotion in the said posts of SRA (Agri.) by the Selection Committee, vide pages 28 to 35 of the file Ex. 34(O), were working and their names were included in the Lists of promotees as on the said dates (Exs.185 and 187) and also on 15.9.2005 as they were appointed on regular basis in the said posts as per the order dated 15.9.2005. Their posts were thus blocked and were not open for any new recruitment. As seen from the earlier paras regarding verification of the Lists of promotees and direct recruits as on 12.6.2005 i.e. at the time of interview and as on 15.9.2005 i.e. at the time of appointment, it was not possible for Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Member Secretary, of the Selection Committee, to take on the last day of interview i.e. 25.06.2005 the decision about the exact number of the said posts to be increased.

**2213-E)** As shown above, as it was not possible for Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Member Secretary, of the Selection Committee, to take the decision about the exact number of posts of SRA (Agri.) and JRA (Agri.) to be increased for being filled over and above the number of the said posts as advertised, apart from the fact that they had no power to do so, they should have left the said question to the then Vice-Chancellor, i.e. the appointing authority, who would have considered it by following the routine procedure in that regard according to which the concerned Section Assistant (Estt.) in the Registrar's office would collect the relevant details about the vacancy position and prepare an office note about it to be submitted to the Vice-Chancellor for his approval showing how much increase, if at all, should be made in the number of the said posts to be filled. The said office note would then be forwarded to him through proper channel i.e. the Assistant Registrar, Deputy Registrar and the Registrar who would also give their opinions/recommendations about it. It therefore, appears that they had themselves determined the exact number of posts to be filled by increasing the posts of SRA (Agri.) from 24 as advertised to 55 and the posts of JRA (Agri.) from 37 as advertised to 76 in order to accommodate therein all the favoured candidates in the said posts by even using posts in promotion quota and other posts as shown above.