

Part- V

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

The entire selection process and selection of candidates in these posts of SRA (Agri.)/JRA (Agri.) is vitiated by illegalities, improprieties, other deficiencies and short-comings in carrying out the same. The appointments made pursuant thereto therefore need to be set aside.

(Vide the findings in paras 1810 to 2388 of the Enquiry Report)

2389) In the light of the findings and conclusions regarding the selection process followed in selection of candidates in these posts of SRA (Agri.)/JRA (Agri.) including the question whether the reservation policy of the Government was followed by the University or not in carrying out the said selection process and selecting in these posts favoured candidates recorded in paras 1810 to 2074 relating to “Selection process and selection”, paras 2214 to 2285 relating to “Reservation policy of the Government not followed by the University”, and paras 2286 to 2388 relating to “Selecting in these posts of SRA (Agri.)/ JRA (Agri.) favoured candidates” respectively, in part-IV of the Enquiry Report, the entire selection process and selection of candidates pursuant thereto is vitiated by illegalities, improprieties, other deficiencies and short-comings in carrying out the same. It is also vitiated because except taking interviews of the candidates, the Selection Committee did not discharge any of its duties and obligations in making selection of the candidates in these posts of SRA (Agri.) and JRA (Agri.). In particular, the following principal stages in the selection process are not carried out in legal and proper manner as per the findings recorded in regard to them. The entire selection of candidates and the appointments made pursuant thereto are therefore vitiated and should be set aside.

Even for not carrying out any one of the principal stages of the selection process in legal and proper manner, the entire selection of candidates is vitiated and is liable to be set aside. For instance, except taking interviews of the candidates, the Selection Committee did not discharge any of its duties and responsibilities as pointed out in subsequent paras 2422 to 2424 of the Enquiry Report because of which the entire selection of candidates is vitiated and needs to be set aside.

1) Criteria for short-listing of candidates to be called for interview laid down by Dr.V.D. Patil, the Chairman of the Selection Committee

(Vide findings in paras 1821 to 1849 of the Enquiry Report)

2390) Vide para 1824 of the Enquiry Report, the authority to take decision about the criteria to be applied for short-listing of candidates applying for the posts of SRA/JRA is the Chairman of the Selection Committee because under Statute 77 (1) (ii) the Registrar has to put-up applications received for the said posts before the Chairman of the Selection Committee for his consideration and as provided in sub-clause(iii) thereof, the said Chairman has to prepare a List of eligible candidates who shall be called for interview which would mean or in other words in which it is implicit that he can lay down the criteria for short-listing of candidates if he thought that the number of candidates eligible as per the advertisement is very large. As per the criteria laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, for short-listing of candidates to be called for interview, the large number of candidates viz. 1335 for both these posts of SRA (Agri.) and JRA (Agri.), besides 7 candidates of YCMOU eligible for the posts of JRA (Agri.) were called for common interview for only 24 posts of SRA (Agri.) and 37 posts of JRA (Agri.) which were advertised. No short-listing of candidates for these posts was done by him as per the G.R. dated 2.5.1995 (Ex.588) which was admittedly binding upon the University. According to the said G.R. dated 2.5.1995 (Ex.588), if the number of posts were 6 and above, short-listing of candidates to be called for interview had to be done in the ratio of 1:3 i.e. for one post, 3 candidates were to be called for interview. As regards the post of JRA (Agri.) which was group-C post, the G.R. dated 9.6.2004 (Ex.589) was admittedly applicable to it. The whole procedure for selection of the candidates was provided in the said G.R. dated 09.06.2004 (Ex. 589) which prescribed written test of 75% marks and interview of 25% marks in selection of the candidates for the said post. If the candidates who passed the written test were more than three times the number of posts to be filled then as per the aforesaid G.R. dated 2.5.1995 (Ex.588), short-listing of candidates for oral interview had to be done in the ratio of 1:3. Even the criteria of higher qualification which was alleged by Dr.V.D. Patil, the Chairman of the Selection Committee, to have been followed by him in short-listing of candidates in these posts was not properly laid down and followed by him as shown in paras 1846 to 1849 of the Enquiry Report. Short-listing of candidates to be called for interview was done by him in illegal and arbitrary manner without following the aforesaid binding G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589). Had he followed them, reasonable number of candidates who would include the most qualified amongst them would have been called for interview from amongst whom the most suitable candidates could have been selected. As large number of candidates were called for interview, it has led to selection of undeserving and less meritorious candidates by manipulation, favouritism and other mal-practices etc. in the selection of candidates as

pointed out in the topics relating to “Award of marks for academic performance”, vide paras 1913 to 1920 of the Enquiry Report, Manipulation of marks for interview by making changes even by erasing marks of some candidates originally shown against their names in the consolidated Mark-sheet Exc.112(O) and also the categorywise Mark-sheet Ex.34(O)-A, vide paras 1937 to 1945, the List of some favoured candidates ready, vide paras 1946 to 1948, and changes made in the consolidated Mark-sheet Ex.112(O) and the categorywise Mark-sheet Ex.34(O)-A by overwriting in marks awarded to some candidates for their interview and consequently the total marks awarded to them, vide paras 1949 to 1964 of the Enquiry Report.

2) Holding common interviews for both these posts of SRA (Agri.) and JRA (Agri.)

(Vide findings in paras 1850 to 1867 of the Enquiry Report)

2391) Although the posts of SRA (Agri.) and JRA (Agri.) belonged to two separate cadres with different pay-scales, different qualifications as laid down in Appendix-III of the Statutes, and different duties and responsibilities as shown in their duty Lists (Ex.26), for which reason they were separately advertised in the advertisement dated 14.8.2004 (Ex.2), common interviews for the said posts were held. Holding common interviews for the said posts has vitiated the selection of the candidates as their suitability could not have been properly judged in such interviews for the said posts.

3) Criteria for academic evaluation of SRA/JRA fixed on 31.5.2005

(Vide findings in paras 1868 to 1882 of the Enquiry Report)

2392) The criteria for assessment of the candidates for the posts of SRA/JRA had to be fixed by the Executive Council by framing rules in that regard as provided in Statute-76 (6) (a) of the Statutes. If no rules were framed by it, it could by its resolution lay down the said criteria for assessment of the candidates pending framing of rules in that regard failing which the Vice-Chancellor, in his emergency power under section 18 (16) of the University Act, could take appropriate action in that regard. As pointed out in para 1875 of the Enquiry Report, it is only as a last resort in very exceptional cases that the Selection Committee could lay down the criteria for assessment of the candidates in the posts of SRA/JRA if no action was taken by the above Authorities in that regard. However, without calling the meeting of the Selection Committee as per rules, Dr.V.D. Patil, the Chairman of the Selection Committee, on his own, in consultation with Dr.E.R. Patil, Associate Dean (PGI) and Shri R.B.Bali, Registrar, Dr.PDKV, Akola, could not have laid down the criteria for academic evaluation of SRA/JRA, as he had no authority or power to do so. The assessment of the candidates in these posts of SRA (Agri.) and JRA (Agri.) on the basis of the said criteria laid down by him is therefore, illegal and has vitiated the entire selection

process. Moreover, as held in para 1882 of the Enquiry Report, as regards the post of JRA (Agri.) which is group-C post, the whole procedure for selection of the candidates in the said posts is laid down by the Govt. in its G.R. dated 9.6.2004 (Ex.589) which was admittedly binding upon the University. The selection of the candidates in the said posts of JRA (Agri.) should have therefore been made by holding the written test of 75% marks and personal interview of 25% marks as provided therein and if the number of candidates passing the written test was more than 3 times the number of posts to be filled, they should have been short-listed in the ratio of 1:3 as per G.R. dated 2.5.1995 (Ex.588) as pointed out in the topic relating thereto.

4) Awarding marks for Ph.D. degree acquired, Ph.D. thesis submitted , research papers/popular articles published and significant contribution made after the last date of application i.e. 15.9.2004 by allowing the candidates to submit certificates/publications/documents regarding them before the Assistant Professors/Associate Professor at the time of interview.

(Vide findings in paras 1883 to 1894 and paras 1914 to 1916 of the Enquiry Report)

2393) Vide para 1883 of the Enquiry Report, the cut off date for awarding marks for academic performance was the last date of application i.e. 15.9.2004 because according to the condition laid down in the advertisement in question dated 14.8.2004 (Ex.2), the applications received with incomplete information and documents and received after the last date of application could not be considered under any situation and circumstances. The said condition being mandatory, Dr.V.D. Patil, the Chairman of the Selection Committee, could not have instructed the Assistant Professors/Associate Professor to award marks for Ph.D. degree acquired, Ph.D. thesis submitted, research papers/ popular articles published, and significant contribution made, after the last date of application i.e. 15.9.2004 by allowing the candidates to submit the certificates/publications/documents in that regard before them at the time of interview. Apart from the fact that the marking system adopted by Dr.V.D. Patil, the Chairman of the Selection Committee, was contrary to the above condition in the advertisement, he had no authority or power to introduce on his own such illegal marking system for assessment of the candidates in the posts of SRA (Agri.) and JRA (Agri.). The said marking system adopted by him was not only illegal being contrary to the above mandatory condition in the advertisement dated 14.8.2004 (Ex.2) but was also arbitrary and discriminatory and was violative of Articles 14 and 16 of the Constitution of India since no publicity was given to it. As held in para 1894 of the Enquiry Report, the whole selection process is adversely affected because of the above illegal marking system adopted by Dr.V.D. Patil, the Chairman of the Selection Committee for assessment of the candidates in these posts of SRA (Agri.) and JRA (Agri.). It is pointed out in paras 1914 to

1916 and particularly para 1916 of the Enquiry Report, that out of 55 candidates selected in the posts of SRA (Agri.), 30 candidates, and out of 76 candidates selected in the posts of JRA (Agri.), 32 candidates, were illegally benefitted by the above Marking system thus adversely affecting the selection process because they had an unfair advantage over those who received lesser marks on the basis of the certificates/publications/documents which they had with them at the time of submission of their applications and which they submitted with them.

5) **Awarding 8 marks for thesis submission in the criteria for academic evaluation of SRA/JRA and adopting the above referred illegal marking system for awarding marks to the candidates for certificates/publications/documents submitted by them at the time of their interview**

(Vide findings in paras 1985 to 1903 of the Enquiry Report)

2394) The criteria adopted by Dr.V.D. Patil, the Chairman of the Selection Committee to award 8 marks for submission of Ph.D. thesis was not a definite criteria as it was defeasible because there was possibility of thesis being rejected in which case a candidate getting 8 marks for his thesis would get unfair advantage over others as he would not be entitled to the said marks if his thesis was rejected. Laying down the said criteria of awarding 8 marks for submission of thesis for Ph.D. was thus illegal and unfair. It also lacked bonafides and was biased because as held in paras 1898 and 1899 of the Enquiry Report, it was prompted because there were candidates related to prominent officers/employees in the University including the son of Dr.V.D. Patil, the Chairman of the Selection Committee, who had submitted their thesis and some of whom had acquired Ph.D. degree after the last date of application. The said criteria of awarding 8 marks for submission of thesis for Ph.D. degree coupled with the above illegal marking system of awarding marks to the candidates for their certificates/publications/documents submitted at the time of interview i.e. after the last date of application was evolved for their benefit although the other candidates who came to know about the said criteria and the said illegal Marking system were also benefitted by it. Fixing the criteria of thesis submission and awarding 8 marks for it was thus improper, unjustified and was not bonafide. In the absence of its publicity, it was also arbitrary, discriminatory, and was violative of Articles 14 and 16 of the Constitution of India. It is made clear that on perusal of the said charts annexures-42, 13 and 14 of the Enquiry Report there are 6 SRA/JRA candidates (3 each) whose names are given in para 1708 of the Enquiry Report, common in the said charts i.e. in the chart about Ph.D. degree and Ph.D. thesis (annexure-42) and the in charts about R.P./P.A. (annexures 13 and 14), and therefore actually 56 candidates whose names are included in the said charts received benefit of the above illegal marking system.

6) Giving higher weightage to the performance in interview as compared to academic performance.

(Vide findings in paras 1904 to 1910 of the Enquiry Report)

2395) Fixing higher marks for performance in interview as compared to the marks for academic performance i.e. 60 : 40 by giving higher weightage to the performance in interview, has resulted in manipulation and abuse or misuse of higher marks fixed for interview particularly when there were unduly large number of candidates viz., 1335 for both these posts, besides 7 YCMOU graduates for the post of JRA (Agri.) called for interview in the absence of their proper short-listing as per GR dated 02.05.1995 (Ex. 588). Had it been followed, reasonable number of candidates who were most qualified could be called for interview leaving little scope for manipulation, favouritism and other malpractices in the selection of candidates. As shown in the topic relating to “Manipulation of marks for interview by making changes even by erasing the marks of some candidates originally shown against their names in the consolidated Mark-sheet Ex.112(O) and also the categorywise Mark-sheet Ex.34(O)-A, vide paras 1323 to 1336 of the Enquiry Report, the Manipulation of marks for interview was both ways in the sense that the candidates who received lower marks in their academic performance were given high marks in their interviews so that they could be selected in these posts of SRA/JRA and the Manipulation was also done for not selecting the candidates who had received high marks in their academic performance by giving them low marks in their interview. As held in paras 1946 to 1948 of the topic about “the list of some favoured candidates ready”. Dr. V. D. Patil, the Chairman of the Selection Committee, had himself in his own handwriting entered interview and total marks of some candidates in the consolidated Mark-Sheet (Ex. 112(O)) who were all selected in the posts of SRA (Agri.) when it was not necessary for him to do so as the work of entering marks for interview in the said consolidated Mark-Sheet (Ex.112(O)) was done by Shri D. P. Deshmukh, Section Assistant (Estt.). There were also changes made in the consolidated Mark-sheet Ex.112(O) and the categorywise Mark-sheet Ex.34(O)-A by overwriting in marks awarded to some candidates for their interview and consequently the total marks awarded to them, vide paras 1949 to 1964 of the Enquiry Report. As held in the said paras 1904 to 1910 of the Enquiry Report, giving higher weightage to the personal interview as compared to the academic performance was improper and had adversely affected the selection process.

7) The criteria for academic evaluation of SRA/JRA and the illegal marking system of awarding marks for certificates/publications/documents submitted after the last date of application i.e. 15.9.2004 suffers from bias of Dr.V.D.Patil, the Chairman of the Selection Committee and is thus vitiated

(Vide findings in paras 1911 and 1912 of the Enquiry Report)

2396) Admittedly, Pravin Patil, son of Dr.V.D. Patil, the Chairman of the Selection Committee, was a candidate for these posts of SRA/JRA. Dr.V.D. Patil, the Chairman of the Selection Committee had himself laid down the criteria for academic evaluation of SRA/JRA in consultation with Associate Dean (PGI) Dr.E.R. Patil, and the then Registrar Shri R.B.Bali, and had on his own adopted the illegal marking system of awarding marks for certificates/publications/documents submitted after the last date of application i.e. 15.9.2004. His son Pravin Patil was the beneficiary of the above criteria of academic evaluation of SRA/JRA and the above referred illegal marking system because he had submitted his thesis for Ph.D. degree after the last date of application i.e. 15.9.2004. He is also the beneficiary of additional marks being given to him because as shown in chart Ex. 38(O), he was awarded 10 marks meant for acquiring Ph.D. degree although at the time of his interview he had not acquired Ph.D. degree but had produced his Ph.D. thesis for which he should have been awarded 8 marks only. Similarly, although he produced at the time of interview 4 research papers, 1 technical bulletin, and 1 popular article, for which he should have been awarded 8.4 marks as per the criteria, he was awarded 10 marks for the same. He had thus illegally received benefit of 3.6 total marks as stated above. As shown in paras 1911 and 1912 of the Enquiry Report, the criteria of academic evaluation of SRA/JRA and the above referred illegal marking system clearly suffer from bias of Dr.V.D. Patil, who occupied the important position in the Selection Committee as its Chairman. At any rate there is reasonable likelihood of bias in laying down the said criteria and adopting the above referred illegal marking system. The entire selection process is therefore, adversely affected and is vitiated.

8) Awarding marks for academic performance

(Vide findings in paras 1913 to 1923 of the Enquiry Report)

2397) As regards the criteria for academic evaluation of SRA/JRA laid down on 31.5.2005 for judging the academic performance of the candidates, it is already held that it was illegal and invalid. It is also held that the marking system of awarding marks to the candidates for the certificates/publications/documents submitted by them after the last date of application i.e. 15.9.2004 before the Assistant Professors/Associate Professor at the time of their interviews was also illegal and invalid. It is shown in paras 1914 to 1916, and, in particular,

para 1916 of the Enquiry Report, how the candidates who knew about the said marking system and therefore submitted the certificates/publications/documents for the first time at the time of their interviews had unfair advantage over those who were unaware of the above illegal marking system, which was not given any publicity, and received lesser marks on the basis of the certificates/publications/documents which they had with them at the time of submission of their applications and which they submitted with them. As pointed out in paras 1917 to 1919 of the Enquiry Report, there were discrepancies / mistakes admittedly committed, deliberate or otherwise, by the Assistant Professors/Associate Professor in awarding marks to the candidates for the certificates/publications/documents produced before them as seen from the chart Ex.38(O) in which they had awarded the said marks. For instance, as shown in the earlier para 2396 of the Enquiry Report, Shri Pravin Patil, son of Dr.V.D. Patil, the Chairman of the Selection Committee, received 3.6 marks more than what he was entitled to as per the criteria. The candidates who received more marks due to discrepancies/mistakes committed by the Assistant Professors/Associate Professor, thus received unfair advantage in their selection. Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.Vandan Mohod, the Registrar/its Member Secretary, who had actually prepared the Selection Lists admitted in their affidavits that there were discrepancies/ mistakes committed by the Assistant Professors/Associate Professor in awarding marks to some candidates as seen from the Chart Ex.38(O) because of which some candidates who obtained higher marks than some other candidates might not have been selected by them.

2398) As held in para 1920 of the Enquiry Report, the work done by the Assistant Professors/Associate Professor of awarding marks to the certificates/ publications/ documents produced before them is not transparent and is open to the charge of arbitrariness, and lack of bonafides since the said documents to which they had awarded marks in the Chart (Ex.38(O)) were not retained by them and, therefore, the Selection Committee or the appointing authority or any other higher authority including judicial or quasi-judicial authority when called upon to do so in appeal or any other proceeding had no opportunity to verify them and determine whether the marks were correctly awarded to them or not by the Assistant Professors/Associate Professor.

2399) Vide paras 1921 to 1923 of the Enquiry Report, it was the duty and the work of the Selection Committee to award the said marks itself or if others had done it, to verify them in its properly convened meeting because it was on the basis of the marks for academic performance and interview that it had to prepare the Selection Lists in descending order of merit as required by Statute 77(1) iv of the Statutes. If as per the criteria for academic evaluation of SRA/JRA, the marks for degrees and experience were entered in the Mark-Sheet by the staff of the Registrar's office, and the marks for Ph.D. degree acquired and Ph.D. thesis submitted after the last date of application i.e. 15.09.2004, and the research papers/popular articles, published and the significant contribution made, whether before or

after the said last date of application were awarded by the Assistant Professors/Associate Professor in the chart (Ex. 38(0), it was the duty of the Selection Committee to verify them in its properly convened meeting. However, neither the said chart Ex.38(O), nor any other chart about the marks awarded for academic performance of the candidates appearing for interview for the posts of SRA (Agri.) and JRA (Agri.) was admittedly not placed before the meeting of the Selection Committee and was considered by it. The Selection Committee has thus failed to discharge its duty in this regard. Since it had not applied its mind in its properly convened meeting to the chart Ex. 38(O) or any other chart for academic performance, the marks awarded for the same cannot be accepted as legal and valid, particularly when apart from the marks illegally received by the candidates for certificates/publications/documents submitted by them for the first time before the Assistant Professors/Associate Professor at the time of their interviews there were also discrepancies/mistakes admittedly committed by the Assistant Professors/Associate Professor in awarding them marks as per the criteria which could have been rectified had the Selection Committee considered them in its properly convened meeting.

9) Award of marks for performance in interview

(Vide findings in paras 1924 to 1970 of the Enquiry Report)

2400) According to Dr.V.D. Patil, the Chairman of the Selection Committee, after the marks for common interview of the candidates for these posts of SRA (Agri) and JRA (Agri.) were given by him and the Members of the Selection Committee in the chart in the proforma Ex-434-A supplied to them by the office on each day of interview, each member of the Selection Committee told him the marks for interview given by him to each candidate on that day which he entered in the additional chart in the said proforma Ex-434-A supplied to him by the office on each day of interview. The said charts supplied to him and the members of the Selection Committee for giving interview marks to the candidates were then destroyed by them on each day of interview. Further, according to him, he, with the help of the Member Secretary of the Selection Committee, made the total of the marks received by each candidate from him and the members of the Selection Committee and entered them in the said additional chart in the proforma Ex.434-A whereafter they also worked out the average of the said interview marks given by him and the members of the Selection Committee which were entered by him in his additional chart in the column “rank of merit” as there was no specific column therein for entering the average of the interview marks. As stated by Dr.V.D. Patil, the Chairman of the Selection Committee, in para 47 of his affidavit dated 25.12.2007 (Ex. 645) the consolidated Mark-Sheet of the candidates Ex. 112(O) and their categorywise Mark-sheet Ex. 34(O)-A, separate for the posts of SRA (Agri.) and JRA (Agri.) were prepared by showing the marks given to each candidate for his academic performance as per the criteria, and average of the marks for interview awarded to each candidate by him and the members of the Selection Committee, and their

total. What is important to be seen is, according to him, the said additional chart in the proforma Ex.434-A supplied to him was destroyed after the said average marks for interview awarded to each candidate as shown in his additional chart were entered by Shri D. P. Deshmukh, Section Assistant (Estt.) in the categorywise Mark-sheet Ex.34(O)-A as dictated by him.

2401) As the charts in the proforma Ex. 434-A supplied to the Chairman and the members of the Selection Committee in which they had given interview marks to each candidate and the additional chart in the said proforma Ex. 434-A supplied to the Chairman of the Selection Committee in which, besides the interview marks given by them to each candidate, the total and the average of the interview marks given by them to him were entered were destroyed, there was no material on the basis of which the correctness or otherwise of the said average of the interview marks given to each candidate by them could be verified either by the Selection Committee or the appointing authority or any higher authority including the judicial or quasi-judicial authority called upon to do so either in appeal or any other proceeding before it. Vide para 1933 of the Enquiry Report, in the absence of the said original charts, there was no transparency in award of average of the marks for interview given to each candidate by the Chairman and each Member of the Selection Committee, which was open to charge of arbitrariness and lack of bonafides particularly when there was material to show that there was manipulation of marks for interview with a view to select the favoured candidates by giving higher marks to them for their interviews although they received low marks in their academic performance and vice-versa giving low marks for interview to the candidates, who had high marks in their academic performance with a view not to select them, vide topic about “Manipulation of interview marks by making changes even by erasing marks of some candidates originally shown against their names in the consolidated Mark-sheet Ex.112(O) and also the categorywise Mark-sheet Ex.34(O)-A”, considered in paras 1937 to 1945 of the Enquiry Report. Even otherwise, there were changes made in the marks of the candidates with a view to select them as shown in paras 1949 to 1963 of the Enquiry Report. See also the topic “List of some favoured candidates ready” vide paras 1946 to 1948 of the Enquiry Report which shows that Dr.V.D. Patil, the Chairman of the Selection Committee, admitted in para 3 of his affidavit dated 24.06.2009 (Ex. 946), that he, himself in his own handwriting, recorded in the consolidated Mark-sheet Ex. 112(O) interview and total marks of some candidates selected in the posts of SRA (Agri.), although, as stated by him in para 42 read with para 47 of his earlier affidavit dated 25.12.2007 (Ex. 645), all the entries in the Mark-Sheets Ex. 112(O) and Ex. 34(O)-A were made in his own handwriting by Shri. D. P. Deshmukh, Section Assistant (Estt.).

2402) As shown in paras 1937 to 1945 and 1949 to 1963 of the Enquiry Report, there were changes made in the average of the interview marks originally shown against the names of

some candidates in the said Mark-Sheets Ex. 112-O and Ex. 34(O)-A which would make them dubious. Vide para 1964 of the Enquiry Report, in fact, the Mark-sheet of the candidates needed to be prepared carefully without any mistake because selection of the candidates depended upon it. They should therefore, be precise and not dubious. Vide paras 1965 to 1968 of the Enquiry Report, if the total of the marks for interview of each candidate awarded by the Chairman and each Member of the Selection Committee and their average was calculated by the Chairman and the Member Secretary of the Selection Committee with the help of the calculator and then entered in the additional chart in the proforma (Ex.434-A) with the Chairman of the Selection Committee from which as dictated to him by him they were entered in the Mark-Sheet (Ex. 112(O) and Ex. 34(O)-A) by Shri D.P.Deshmukh, Section Assistant (Estt.), there was no reason why there should be so many mistakes and so many corrections required to be made in the said Mark-sheets Ex.112(O) and Ex.34(O)-A. It was, therefore, very much necessary that as held in para 1934 of the Enquiry Report, the original sheets i.e. the charts in the proforma (Ex.434-A) supplied to the Chairman and each Member of the Selection Committee in which interview marks were given by them to each candidate and the additional chart in the said proforma Ex.434-A with the Chairman of the Selection Committee in which he had entered total of the marks awarded to each candidate by him and the Members of the Selection Committee and their average should have been preserved for reasonable time as held by the Supreme Court in para 19 of its Judgment in Atul Khullar & Ors. –Vs- State of J.K., AIR 1986 S.C. 1224 and also as provided in rule 1 relating to classification, preservation, and destruction of records framed by the University according to which, the original work-sheets in which the Chairman and the Members of the Selection Committee had given interview marks to the candidates being Class-C documents had to be preserved for 10 years. At any rate, they should have been preserved till the Selection Committee or the appointing authority or any other higher authority including any judicial or quasi-judicial authority, if called upon to do so either in appeal or in any other proceeding, verified it.

2403) In the absence of the above referred original sheets, the conclusion drawn on the basis of material on record in para 1970 of the Enquiry Report is that the Mark-sheets Ex.112(O) and Ex.34(O)-A do not reflect the average of the interview marks given to the candidates by the Chairman and the Members of the Selection Committee but they reflect the marks given to them in their discretion by the Chairman and the Member Secretary of the Selection Committee, with a view to select or not to select them.

10) Preparation of the Mark-sheets (Ex.112(O)) and Ex.34(O)-A of the candidates

(Vide findings in paras 1971 to 1989 of the Enquiry Report)

2404) There were two Mark-sheets prepared in which admittedly there were entries made by Shri D.P.Deshmukh, concerned Section Assistant (Estt.), in his own handwriting. One was Consolidated Mark-sheet i.e. for both these posts of SRA (Agri.) and JRA (Agri.) and in all categories i.e. S.C., S.T. etc. prepared in alphabetical order marked as Ex.112(O) in this Enquiry, described by Dr.V.D. Patil, the Chairman of the Selection Committee, as rough Mark-sheet. Another was categorywise Mark-sheet (Ex.34(O)-A) separate for the posts of SRA (Agri.) and JRA (Agri.) treated as final Mark-sheet on the basis of which the Selection Lists were prepared.

2405) According to the version of Dr.V.D. Patil, the Chairman of the Selection Committee, supported by Dr.Vandan Mohod, the Registrar/its Member Secretary and Dr.E.R. Patil, its Senior-most-Member, the Mark-sheet Ex.34(O)-A was ready and was signed by them and the other Members of the Selection Committee at night on 25.6.2005 i.e. the last date of interview and thereafter the Selection Lists of the candidates for 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.) were also prepared by them and were signed by them and the other Members of the Selection Committee either at night on 25.6.2005 or in the morning on 26.6.2005. It is, however, proved beyond doubt that the consolidated Mark-sheet Ex.112(O) and the categorywise Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) consisting of 1335 candidates for both these posts, besides 7 graduates of YCMOU eligible for the post of JRA (Agri.) were not ready at night on 25.6.2005 much less that the Selection Lists could be and were prepared on that day. The version of Shri D.P.Deshmukh, concerned Section Assistant (Estt.), who admittedly made entries in the said Mark-sheets (Ex.112(O) and Ex.34(O)-A, shows that although he made the entries therein about degrees and experience of the candidates for these posts from their particulars in the charts Ex.45(O) before their interviews commenced on 13.6.2005, he made entries therein about their Ph.D. degree acquired and Ph.D. thesis submitted after the last date of application i.e. 15.9.2004 and research papers/popular articles published and significant contribution made, whether before or after the said last date of application in 2 or 3 days time after he received the chart Ex.38(O) in the evening on 25.6.2005 i.e. the last day of interview. He, thereafter, sat with Dr.V.D. Patil, the Chairman of the Selection Committee, and made entries in the said Mark-sheets Ex.112(O) and Ex.34(O)-A about the average of the interview marks awarded to them as dictated to him by him from his additional chart in the proforma Ex.434-A. According to him, it took 8 or 10 days time after 25.6.2005 i.e. the last date of interview, to make all the entries in the said Mark-sheets Ex.112(O) & Ex.34(O)-A.

2406) The above version of Shri D.P.Deshmukh, Section Assistant (Estt.), stands supported by Dr.B.N.Dahatonde, and Dr.N.D.Jogdande, both local members of the Selection Committee and Dr.G.N.Dake, and Dr.N.D. Pawar, its outside members according to whom the meeting of the Selection Committee was over on each day of interview including its last day i.e. 25.6.2005 after they had handed over to its Chairman or the Member-Secretary, the charts in which they had awarded marks for interview to the candidates for both these posts and that they left the meeting thereafter. According to Dr.G.N.Dake, its outside Member, he left for Rahuri, at about 10.00 P.M. on the same day i.e. 25.6.2005. In fact, they did not know when and how the categorywise Mark-sheet Ex.34(O)-A was prepared and who prepared them except that according to Dr.N.D. Pawar, its outside member, it was prepared in the Registrar's office. They categorically stated in their affidavits that the Mark-sheet Ex.34(O)-A and the Selection Lists were not signed by them at night on 25.6.2005 or in the morning on 26.06.2005. According to Dr.B.N.Dahatonde, and Dr.N.D. Jogdande, its local members, on one day, 10 to 15 days after the last day of interview i.e. 25.6.2005, they were called for signing the Mark-sheet Ex.34(O)-A and the Selection Lists and they signed them on that day. According to Dr.G.N.Dake, he signed them on 14.9.2005 at Rahuri when Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.Vandan Mohod, its Member Secretary had visited it and obtained his signatures upon them. According to Dr.N.D.Pawar, another outside member of the Selection Committee, he signed them on any of the three dates 14.9.2005, 15.10.2005, and 17.12.2005 at Parbhani on which dates Dr.V.D.Patil, the Chairman of the Selection Committee, visited it and obtained his signatures upon them. The version of Shri D.P.Deshmukh, Section Assistant (Estt.) that the Mark-sheets Exs.112(O) and Ex.34(O)-A were not prepared and were not ready at night on 25.6.2005, is therefore, credible and is accepted. The said Mark-sheets were prepared and were ready in 8 or 10 days time thereafter after which the Selection Lists were prepared and were signed by the Chairman and the Members of the Selection Committee.

2407) Perusal of the consolidated Mark-sheet Ex.112(O) and the categorywise Mark-sheet Ex.34(O)-A would show that they contained many discrepancies, mistakes, and overwriting/by applying white ink to the original entries or otherwise by erasing them in the said Mark-sheets (Ex.34(O)-A) and Ex.112(O). As pointed out earlier as there were discrepancies/mistakes in the chart Ex.38(O) in which the Assistant Professors/Associate Professor had awarded marks to the candidates for certificates/publications/ documents produced before them, the said discrepancies/mistakes were also contained in the said Mark-sheets Ex.112(O) and Ex.34(O)-A, vide para 1981 of the Enquiry Report. They also contained the marks illegally awarded by them in the said chart Ex.38(O) to the candidates for certificates/publications/documents produced before them for the first time after the last date of application i.e. at the time of their interviews. As regards the question whether the marks for interview shown therein reflect the average of the interview marks given to them

by the Chairman and the Members of the Selection Committee, it is already shown in the topics relating to “Manipulation of Marks for interview by making changes even by erasing marks of some candidates originally shown against their names in the said Mark-sheet Ex.112(O) and Ex.34(O)-A, vide findings in paras 1937 to 1945, List of favoured candidates ready, vide paras 1946 to 1948 and Changes made in the consolidated Mark-sheet Ex.112(O) and the Mark-sheet Ex.34(O)-A by overwriting in the marks awarded to some candidates for their interviews, and consequently changing also the total marks awarded to them, vide findings in paras 1949 to 1968 of the Enquiry Report, on the basis of which the conclusion drawn in paras 1969 and 1970 is that the Mark-sheets Ex.112(O) and 34(O)-A do not reflect the average of the marks given to the candidates by the Chairman and the Members of the Selection Committee but they reflect the marks given to them in their discretion by the Chairman and the Member Secretary of the Selection Committee, with a view to select or not to select them.

11) Mark-sheets Ex.112(O) and Ex.34(O)-A were not prepared in the meeting of the Selection Committee and they were also not placed before any of its meeting for its consideration and approval.

(Vide finding in para 1978 of the Enquiry Report)

2408) As held above the said Mark-sheets Ex.112(O) and 34(O)-A were not prepared and were not ready in the meeting of the Selection Committee on 25.6.2005 i.e. the last day of interview and were prepared in 8 or 10 days time thereafter admittedly by Shri D. P. Deshmukh, Section Assistant (Estt.) as stated above. No meeting of the Selection Committee was thereafter called to consider the said Mark-sheets Ex.112(O) and 34(O)-A and they were not therefore considered and approved by it. As already held, the chart Ex.38(O) or any chart for academic performance, and any chart showing the average of the interview marks awarded to the candidates by the Chairman and the Members of the Selection Committee were not placed before any meeting of the Selection Committee and were not considered and approved by it. The aforesaid Mark-sheets Ex.112(O) and Ex.34(O)-A which contained both i.e. the marks for academic performance and for interview, were also not considered and approved by it. As would be shown in the next topic “Preparation of the Selection Lists of the candidates in these posts of SRA (Agri.) and JRA (Agri.)” the Selection Lists of the candidates in the said posts were not prepared by the Selection Committee in its meeting held on 25.06.2005, in fact from 13.06.2005 to 17.06.2005 and 20.06.2005 to 25.06.2005, for taking interviews of the candidates in these posts of SRA/JRA. The Selection Lists of these posts of SRA/JRA prepared by Dr. V. D. Patil, the Chairman, and Dr.Vandan Mohod, the Member Secretary, of the Selection Committee were also not considered and approved in any properly convened meeting of the Selection Committee which has thus failed to discharge its principal duties.

12) Preparation of the Selection Lists

(Vide findings in paras 1990 to 2014 of the Enquiry Report)

2409) As regards the question of preparation of the Selection Lists, vide para 1990 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.Vandan Mohod, the Registrar/its Member Secretary, on their own, without any authority or power in them 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 i.e. more than double the number of posts advertised. Vide paras 1995 and 1996 of the Enquiry Report, the said decision was also arbitrary and was violative of Articles 14 and 16 (1) of the Constitution of India since as held in the Judgment of the Supreme Court in Rakhi Ray and others Vs High Court of the Delhi and others (2010) 2 SCC 637 the recruitment of the candidates in excess of the notified/advertised vacancies was denial and deprivation of the constitutional right thereunder of those persons who acquired eligibility for the posts in question in accordance with the statutory rules subsequent to the date of notification/advertisement of the vacancies. It also held that it amounts to improper exercise of power and that only in a rare and exceptional circumstance and in emergent situation such a rule can be deviated which is permissible only after adopting the policy decision based on some rational. Therefore, in view of the above Judgment although the advertisement dated 14.8.2004 (Ex.2) provides that the posts can increase or decrease looking to the above constitutional guarantee, it can be done only in exceptional circumstances and that too on taking policy decision based on some rational. In the instant case, after the advertisement was issued on 14.8.2004 (Ex.2), the said decision to fill more than double the number of posts was taken on 25.06.2005 i.e. after a long time of about 8 or 9 months thereafter. In the meanwhile, there would be other candidates who must have become eligible for the said posts. It was therefore necessary to issue fresh advertisement for these posts. The said decision to fill 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.) was thus not only illegal, unjustified but was constitutionally invalid also.

2410) It would have been proper for the Selection Committee and in the instant case the Chairman and the Member Secretary of the Selection Committee, who prepared the Selection Lists, to prepare them for the exact number of these posts which were advertised and then give wait lists of reasonable number of candidates, to tide over the situation such as selected candidate not joining his post after his appointment or to fillup near future vacancies in exceptional circumstances and emergent situation as held in the judgment cited supra. The Chairman and the Member Secretary of the Selection Committee, who actually prepared the Selection Lists, did not give any wait Lists and directly recommended the candidates for appointment in these posts by increasing themselves more that double the number of vacancies which were advertised as stated above which would show that they wanted to accommodate as many favoured candidates as possible.

2411) Vide para 1994 of the Enquiry Report, as regards the decision to fill-up 76 posts of JRA (Agri.), it was per se in breach of its nomination quota of 57 posts on the basis of nomination and promotion quota of 50:50 fixed by the Executive Council of the University, as the total number of posts of JRA (Agri.) were 114. The said decision to fill up 76 posts of JRA (Agri.) by nomination was thus illegal and without jurisdiction.

a) **Categorywise distribution of 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.), not made according to the prescribed percentage for each of the backward classes in the relevant G.R. dated 16.3.1999 (EX.703) and in open**

(Vide findings in paras 1997 to 2002 of the Enquiry Report)

2412) Vide paras 1997 to 2002 of the Enquiry Report, the Categorywise distribution of these 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.) was admittedly made by Dr. Vandan Mohod, the Registrar/Member Secretary of the Selection Committee. According to him, he made the categorywise break-up of these posts i.e. S.C., S.T. etc. and open on the basis of the percentage of each reserved category prescribed in the relevant G.Rs. about the reservation of posts for backward classes supplied to them by the Registrar's office. Perusal of the number of candidates selected in each reserved category and in open, would, however, show that the reservation of posts was not made by him according to the prescribed percentage of each reserved category and open. This office had prepared the chart (Ex.712) showing the prescribed percentage of each reserved category and the number of posts falling therein according to its prescribed percentage in the relevant G.R. dated 16.3.1999 (Ex.703) and in open. The correctness of the said chart (Ex. 712) was admitted by him who also admitted that the appointments made by them were not according to the prescribed percentage of each reserved category and open and that in some categories they were more and in other categories they were less than their prescribed percentages, although, as seen from the Mark-sheet Ex.34(O)-A, the candidates were available for selection to the extent of the prescribed percentage of each reserved category and open. The Selection Lists were thus prepared in most arbitrary manner and were therefore violative of Articles 14, 16 (1) and 16(4) of the Constitution. The findings regarding the general question about the Reservation Policy of the Government being not followed by the University are given in a separate topic, vide paras 2214 to 2243 of the Enquiry Report.

b) **Selection Lists of the posts of SRA (Agri.) and JRA (Agri.) were not prepared and were not ready at night on 25.06.2005, the last day of interview**

(Vide findings in paras 2004 to 2007 of the Enquiry Report)

2413) Vide paras 2004 to 2007 of the Enquiry Report, as held in the previous topic relating to "Preparation of the Mark-sheets", if the categorywise Mark-sheet (Ex.34(O)-A) separate for the posts of SRA (Agri.) and JRA (Agri.) on the basis of which admittedly the Selection Lists were prepared, was not ready at night on 25.6.2005 i.e. the last date of interview, the

Selection Lists could not have been and were not prepared on that day muchless signed by the Chairman and the Members of the Selection Committee as shown in the said topic. As further held therein, the said categorywise Mark-sheet Ex.34(O)-A was prepared in 8 or 10 days time after 25.6.2005 i.e. the last day of interview whereafter only the Selection Lists could be and were prepared and according to Dr.B.N.Dahatonde, and Dr.N.D.Jogdande, local members of the Selection Committee, they were called on one day 10 to 15 days after the last date of interview i.e. 25.6.2005 to sign the categorywise Mark-sheet Ex.34(O)-A and the Selection Lists and they signed them on that day. However, according to Dr.G.N.Dake, outside member of the Selection Committee, he signed them at Rahuri on 14.9.2005 when Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.Vandan Mohod, the Registrar/its Member Secretary, visited it and according to Dr.N.D. Pawar, its another outside member, he signed them on any of the three dates i.e. 14.9.2005, 15.10.2005, 17.12.2005 at Parbhani when Dr. V. D. Patil, the Chairman of the Selection Committee, visited it. All these facts would show that the Selection Lists were not ready and were not signed by the Chairman and the Members of the Selection Committee at night on 25.6.2005 i.e. the last day of interview or in the morning on 26.06.2005 but were prepared and signed by them much later.

c) Selection Lists of these posts of SRA (Agri.) and JRA (Agri.) were prepared by the Chairman and the Member Secretary of the Selection Committee

(Vide findings in paras 2008 to 2013 of the Enquiry Report)

2414) Vide paras 2008 to 2013 and in particular para 2013 of the Enquiry Report, as stated by Dr.Vandan Mohod, the Registrar / Member Secretary of the Selection Committee, in para 23 of his affidavit dated 1.12.2007 (Ex.633), vide para 2011 of the Enquiry Report, the Selection Lists were prepared by the Chairman and he himself, whose aforesaid statement stands supported by the other members of the Selection Committee viz. Dr.E.R. Patil, Dr.B.N.Dahatonde, and Dr.N.D.Jogdande, Dr.N.D. Pawar, and Dr.G.N.Dake, whose affidavits clearly showed that they did not participate in the process of preparation of the Selection Lists. Except Dr. E. R. Patil all the above members stated in their affidavits that the meeting of the Selection Committee was over on 25.06.2005 i.e. the last day of its meeting for taking interviews of the candidates after they handed over to the Chairman or the Member Secretary the charts in which they had given interview marks to the candidates appearing for interview on that day and that they had left the meeting thereafter. Admittedly, no meeting of the Selection Committee was held thereafter for preparation of the Selection Lists which would show that as stated by Dr. Vandan Mohod, the Member Secretary, the Selection Lists were prepared by the Chairman and he himself.

- d) **The Selection Lists for the posts of SRA (Agri.) and JRA (Agri.) were not prepared or considered and approved in the meeting of the Selection Committee.**

(Vide findings in para 2013 of the Enquiry Report)

2415) Vide para 2013 of the Enquiry Report, as held hereinbefore, if the Selection Lists were not prepared on 25.6.2005 i.e. the last day of interview, they needed to be placed before properly convened meeting of the Selection Committee for its consideration and approval after they were prepared by Dr. V. D. Patil, the Chairman and Dr. Vandan Mohod, the Member Secretary of the Selection Committee. Admittedly no meeting of the Selection Committee was called after it was over on 25.6.2005 and therefore, the said Selection Lists were not considered and approved by it although it was its duty and work to prepare them.

- e) **Lacunae, deficiencies, or illegalities, and irregularities committed in preparation of the Selection Lists.**

(Vide finding in para 2014 of the Enquiry Report)

2416) Vide para 2014 of the Enquiry Report, the above questions are considered in paras 1661 to 1698 of the Enquiry Report under the topic “Illegalities, flaws, consequential reshuffling of Selection Lists and other infirmities in preparation of Selection Lists of these posts of SRA (Agri.) and JRA (Agri.)” and the findings in that regard are rendered in paras 2244 to 2285 of the Enquiry Report).

13) Non-Selection of YCMOU graduates

(Vide the findings in paras 2015 to 2019 of the Enquiry Report)

2417) Vide para 2019 of the Enquiry Report, it appeared that because the high officers in the University considered YCMOU graduates who had graduate degree in Agriculture from the said University as below standard as compared to the graduates in Agriculture from the Agricultural Universities in the State, YCMOU graduates were not considered in the University for appointment and promotion in the posts of JRA (Agri.) and their names were not even included in the Seniority List of the posts of Agricultural Assistant on the basis of which promotions were made to the posts of JRA (Agri.). However, vide paras 2016 to 2018 of the Enquiry Report, as regards the question of equivalence of the graduate degree in Agriculture of YCMOU, the State Govt. had issued the G.R. dated 24.9.2003 (Annexure-20 of the Enquiry Report) in which the graduate degree in Agriculture of YCMOU was held equivalent to the graduate degree in Agriculture of the Agricultural Universities in the State. Dr.V.D. Patil, the Chairman of the Selection Committee, to whom the matter was referred by Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University held in his report that 7 YCMOU graduates who had applied for the posts of JRA (Agri.) were eligible for interview of the said posts, and accordingly they were interviewed and their names were

included in the categorywise Mark-sheet Ex.34(O)-A for the posts of JRA (Agri.) although they were shown separately in the List of each reserved category and in open in which they had applied. Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.Vandan Mohod, the Registrar/its Member Secretary who prepared the Selection Lists admitted that the aforesaid G.R. dated 24.9.2003 (Annexure-20 of the Enquiry Report) regarding equivalence of YCMOU graduate degree in Agriculture with the graduate degree in Agriculture of the Agricultural Universities in the State was binding upon them i.e. the Agricultural Universities in the State unless and until the said G.R. was cancelled, superseded or changed by the State Government. They thus admitted that YCMOU graduates were eligible for selection in the posts of JRA (Agri.) and since no cut off or minimum marks were fixed in the criteria for academic evaluation of SRA/JRA for selection of any candidate in the said posts, the YCMOU graduates, even though they received low marks, could be selected for the posts of JRA (Agri.) if the posts were available for them for selection in descending order of merit. Vide para 2019 of the Enquiry Report, Dr. V. D. Patil, the Chairman of the Selection Committee, also admitted that Shri D.P.Solanki, YCMOU graduate, belonging to S.T. category should have been recommended by them as the third candidate for the post of JRA (Agri.) in S.T. category in the absence of cut off marks being laid down by them for selection of any candidates in these posts. It is, therefore, clear that injustice was done to him for his non-selection in the post of JRA (Agri.) S.T. category.

14) Waiting Lists not given in preparation of the Selection Lists for the posts of SRA (Agri.) and JRA (Agri.)

(Vide findings in paras 2020 to 2023 of the Enquiry Report)

2418) Although the advertisement dated 14.8.2004 (Ex.2) specifically provided for Wait Lists to be prepared for the near future vacancies, no Wait Lists were prepared by Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.Vandan Mohod, the Registrar/ its Member Secretary, in preparing the Selection Lists for these posts of SRA (Agri.) and JRA (Agri.). Even otherwise, when the Selection List of any post is prepared, waiting List of reasonable number of candidates is also prepared to tide over the situation such as selected candidate not joining his post after his appointment or the post becoming vacant in the near future after the advertisement was issued. Although Dr.V.D. Patil, the Chairman of the Selection Committee, sought to justify his action of not giving waiting Lists in preparing the Selection Lists on the ground that according to him, it was for the Vice-Chancellor to fill-up the vacancies available in the said posts in the University, Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, admitted that when they did not know the exact position of the vacancies at the time of preparation of the Selection Lists for these posts of SRA/JRA, they should have thought of giving Waiting Lists while preparing

the Selection Lists of each of these posts instead of giving the Selection Lists of the exact number of candidates for 55 vacancies in the posts of SRA (Agri.) and 76 vacancies in the posts of JRA (Agri.). Dr.G.N.Dake, Dr.E.R. Patil, the members of the Selection Committee, admitted that there was mistake committed in not giving waiting Lists of the candidates in preparation of the Selection Lists for these posts of SRA / JRA prepared by them.

2419) However, as stated in para 2023 of the Enquiry Report, had the waiting Lists been given in preparation of the Selection Lists for these posts of SRA (Agri.) and JRA (Agri.) which were advertised, such waiting lists could not have been for more than double the number of posts which were advertised. The Waiting Lists would have included only few candidates as they were meant to be used in exceptional circumstances such as candidates not joining his post as per his appointment order or when it would become necessary and urgent to fill-up the near future vacancies i.e. when it would not be possible to wait for fresh advertisement of such posts. Further, since the posts which were filled were the posts in nomination quota, the waiting lists could not have been for filling the posts in excess of the said quota. As held in the said para 2023 of the Enquiry Report, had the said procedure been followed by Dr.V.D Patil, the Chairman of the Selection Committee, and Dr.Vandan Mohod, the Registrar/ its Member Secretary, they would not have been able to give appointment to all the candidates included in the Selection Lists because of which instead of preparing Selection Lists for the posts which were advertised and giving waiting Lists for unforeseen vacancies in the near future or other exigencies, they had chosen to increase the number of posts themselves and recommend the candidates for 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.) which were more than double the number of the said posts which were advertised. As is clear, at the time of issuing the appointment orders, Dr.V.D. Patil, the Chairman of the Selection Committee, was himself the Acting Vice-Chancellor, who, with the Registrar/its Member Secretary, Dr.Vandan Mohod, decided to utilise the vacancies in promotion quota of these posts for issuing appointment orders to all the candidates in the Selection Lists prepared by them. It thus appears that the waiting lists for these posts were not prepared but the number of posts to be filled were increased to more than double to accommodate all the candidates including the favoured candidates in the Selection Lists of these posts prepared by them.

15) Signing the Categorywise Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) and the Selection Lists of the said posts by the Chairman and Members of the Selection Committee.

(Vide findings in paras 2024 to 2035 of the Enquiry Report)

2420) Vide finding in para 2024 of the Enquiry Report, as already held the categorywise Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) was not prepared at night on 25.6.2005 i.e. the last day of interview in the meeting of the Selection

Committee and therefore the Selection Lists which were prepared from the said Mark-sheet were also not prepared at night on that day i.e. 25.6.2005. There was, therefore, no question of signing the said Mark-sheet Ex.34(O)-A and the Selection Lists by the Chairman and the Members of the Selection Committee at night on 25.6.2005 or in the morning on 26.6.2006. As also already held, the said categorywise Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) was prepared by Shri D.P.Deshmukh, Section Assistant (Estt.) by making entries therein in his own hand-writing in 8 or 10 days time after 25.6.2005 i.e. the last day of interview as stated by him, whose version is credible and is accepted in this Enquiry Report. It is, therefore, sometime after the said categorywise Mark-sheet Ex.34(O)-A was prepared by him in 8 or 10 days time after 25.6.2005 i.e. the last day of interview that the Selection Lists of these posts could be and were prepared by Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee. They could, therefore, be and were signed by the Chairman and the Members of the Selection Committee only after they were thus prepared and were ready. Vide the detailed reasons given in para 2032 of the Enquiry Report, the conclusion drawn in para 2033 of the Enquiry Report on their basis is that the categorywise Mark-sheet Ex.34(O)-A and the Selection Lists were not prepared and were not ready on 25.6.2005, muchless signed by the Chairman and the Members of the Selection Committee on that day but were prepared and were signed by them thereafter as shown in the said para 2032 of the Enquiry Report.

2421) As held in paras 2034 and 2035 of the Enquiry Report, no exact date/dates on which the categorywise Mark-sheet Ex.34(O)-A and the Selection Lists were prepared and were signed by the Chairman and the Members of the Selection Committee, can be determined from the material on record except that according to Dr.G.N.Dake, outside member of the Selection Committee, he signed them on 14.9.2005 at Rahuri when Dr.V.D.Patil, and Dr.Vandan Mohod, visited it on that day and according to Dr.N.D.Pawar, its another outside member, he signed them on any of the three dates 14.9.2005, 27.10.2005, and 15.12.2005 at Parbhani when Dr.V.D. Patil, the Chairman of the Selection Committee visited it, which would show that sometime before the said date 14.9.2005, they were prepared and presumably signed by the local members of the Selection Committee.

16) The Selection Committee did not discharge any of its duties and responsibilities except taking common interviews of the candidates for these posts of SRA (Agri.) and JRA (Agri.)

(Vide findings in paras 2036 to 2038 of the Enquiry Report)

2422) Vide para 2036 of the Enquiry Report, as held therein, since no meeting of the Selection Committee was called after 25.6.2005, no business relating to selection of candidates for the posts of SRA (Agri.) and JRA (Agri.) including the preparation of their

Selection Lists was transacted in any meeting of the Selection Committee. As regards its meeting held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005, it was a meeting held for taking interviews of the candidates, apart from its agenda relating to promotion of the candidates. As held hereinbefore, the categorywise Mark-sheet Ex.34(O)-A was not prepared in the said meeting of the Selection Committee and was not ready at night on 25.6.2005 i.e. the last day of its meeting for interview, and therefore the Selection Lists which were admittedly prepared from it could not have been and were not prepared on that day, much less in the meeting of the Selection Committee.

2423) Vide findings in paras -2037 and 2038 of the Enquiry Report, although it was the duty, responsibility and the work of the Selection Committee to carry out the whole selection process as admitted by its Chairman and Members in their affidavits, except taking interviews, the Selection Committee did not discharge any of its duties, and responsibilities. It would however appear that the power to take decision in regard to some matters relating to selection process may be conferred upon some person/ authority other than the Selection Committee as referred to and discussed in this Enquiry Report. For instance, vide previous para 1824 of the Enquiry Report, the power about short-listing of candidates is conferred upon the Chairman of the Selection Committee under Statute-77 (1) (iii) of the Statutes and as regards assessment of candidates is the Executive Council of the University has to frame rules as provided under Statute-76 (6) (a) of the Statutes, vide para 1870 of the Enquiry Report.

In particular, it failed to carry out the following principal stages in the selection process.

- i) Awarding marks to the candidates for their academic performance as per the criteria for academic evaluation of SRA/JRA, and if others had done the said job, to consider and approve the same in its properly convened meeting, particularly when there were discrepancies/ mistakes, deliberate or otherwise, committed by the Assistant Professors / Associate Professor in awarding marks for certificates/publications/documents produced before them at the time of interview recorded by them in the chart Ex.38(O).
- ii) Had the chart Ex.38(O) in which the marks were awarded by the Assistant Professors/Associate Professor for certificates/publications/documents produced before them at the time of interview been placed before the meeting of the Selection Committee, it could have also considered the legality and validity of the illegal marking system adopted on his own by Dr.V.D. Patil, the Chairman of the Selection Committee, about awarding marks to the certificates/publications/documents submitted before the Asst.Professors

/Associate Professor for the first time at the time of interview after the last date of application i.e. 15.9.2004.

- iii) To consider and approve whether the marks for interview of the candidates shown in the consolidated Mark-sheet Ex.112 (O) and the categorywise Mark-sheet Ex.34(O)-A reflect the average of interview marks given to the candidates by the Chairman and the Members of the Selection Committee particularly when there was material to show that there was Manipulation of marks for interview and consequently the total marks of some candidates originally shown against their names in the Mark-sheets (Ex.112(O) and 34(O)-A, vide findings in the topic relating to them in paras 1937 to 1945 of the Enquiry Report, List of favoured candidates ready, vide findings in paras 1946 to 1948, and Changes made in the consolidated Mark-sheet Ex.112(O) and the Mark-sheet Ex.34(O)-A by overwriting in the marks awarded to some candidates for their interviews and consequently changing also the total marks awarded to them, vide findings in paras 1949 to 1968 of the Enquiry Report.
- iv) Categorywise Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) which contained the marks for academic performance as well as performance in interview which was not prepared by it but was prepared by Shri D.P.Deshmukh, Section Assistant (Estt.), by making entries therein was not placed before it in any of its meeting for its consideration and approval.
- v) The Selection Lists which were not prepared in its meeting but were prepared by Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Registrar/ Member Secretary of the Selection Committee were not placed before it by calling its meeting for its consideration and approval.

2424) The Selection Committee, which is not merely an interview committee, had thus failed to carry out the above prominent stages in the selection process because of which the entire selection of candidates in these posts of SRA (Agri.) and JRA (Agri.) is vitiated and needs to be set aside.

The Selection Committee could not have and did not make any recommendations to the Vice Chancellor for making appointments in these posts of SRA (Agri.) and JRA (Agri.) in the order of merit arranged by it as required by Statute 77(I) (iv) of the Statutes since it did not prepare the Selection Lists of these posts in descending order of merit or considered and approved them as prepared by Dr. V. D.Patil, the Chairman, and Dr. Vandan Mohod, the Registrar/Member Secretary of the Selection Committee. The appointments made in these posts as per the Selection Lists prepared by them are in breach of Statute 77(I)(iv) and are thus illegal and need to be set-aside.

17) Entire selection process and selection of candidates pursuant thereto in these posts of SRA (Agri.) and JRA (Agri.) is vitiated by bias of Dr. V. D. Patil, the Chairman of the Selection Committee

(Vide findings in para 2038-B of the Enquiry Report)

2425) It is clear that Dr.V.D. Patil, the Chairman of the Selection Committee, whose son Pravin V. Patil, was admittedly a candidate for these posts of SRA (Agri.) and JRA (Agri.), carried out himself or in participation with others all the principal stages of the selection process. He himself laid down the criteria for short-listing of candidates for these posts and in association with Dr.E.R.Patil, Associate Dean (PGI) and the Registrar, Shri R.B.Bali, evolved the criteria for academic evaluation of SRA/JRA. He also introduced himself the illegal marking system of awarding marks to the candidates for their certificates/publications/documents submitted by them after the last date of application for the first time at the time of their interviews. After he and each member of the Selection Committee awarded marks for interviews of the candidates, he and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee worked out the average of the marks for interview of each candidate awarded by them and the other members of the Selection Committee. What is important to be seen is that they also prepared the Selection Lists of the candidates for these posts by increasing them themselves i.e. 24 posts of SRA (Agri.) and 37 posts of JRA (Agri.) as advertised to 55 and 76 respectively on the basis of which he as the Acting Vice-Chancellor and Dr.Vandan Mohod as the then Registrar, issued appointment orders not only by utilizing posts in promotion quota of these posts but by utilizing some other posts also. The entire selection process therefore suffers from his bias and at any rate, there is reasonable likelihood of his bias in carrying out the said principal stages of the selection process. The entire selection process and the selection of candidates pursuant thereto is therefore, vitiated by his bias.

18) Selecting in the posts of SRA (Agri.) and JRA (Agri.) favoured candidates as understood in this Enquiry Report.

(Vide findings in paras 2286 to 2388 of the Enquiry Report)

Explanatory Note:

2426) Vide para 2286 of the Enquiry Report, it contains an explanatory note in which it is stated that the expression “favoured candidates” used in this Enquiry Report is understood in a wider sense as explained therein. The said expression “favoured candidates” shall include all the candidates who are benefitted by the illegal and improper actions / decisions of the concerned officers of the University such as the Vice-Chancellor, the Chairman of the Selection Committee and the Registrar/its Member Secretary etc. as such illegal and improper actions / decisions are taken by them principally in order to facilitate the

recruitment of the candidates who are related to the University officers/employees, present or retired, or were recommended by VIPs. by letter or on phone or are favoured for any other reason. It is because of such illegal actions / decisions taken by them that the other candidates are also benefitted. All such candidates are treated as favoured candidates in this Enquiry Report.

Some principal topics about “favoured candidates” and some glaring individual instances about them are discussed in paras 2287 to 2388 of the Enquiry Report.

i) Re: Short-listing of candidates for the purpose of making selection of proper candidates in the posts of SRA (Agri.) and JRA (Agri.)

(Vide findings in paras 2287 to 2292 of the Enquiry Report)

2427) Vide para 2292 relating to this topic in the Enquiry Report, as held therein, there was no proper short-listing of candidates made by applying G.Rs. dated 2.5.1995 (Ex.588) and 9.6.2004 (Ex.589), which were binding upon the University because had they been strictly applied for short-listing of candidates, many candidates who would include the candidates who were related to the University officers/employees, present or retired or the candidates recommended by VIPs or otherwise favoured for any other reason, would have stood excluded from the zone of consideration and therefore keeping their interest in mind, large number of candidates including them were kept within the zone of consideration by applying for short-listing of candidates, liberal criteria of minimum qualification of B.Sc. in First Division and above for JRA (Agri.) and M.Sc. (Agri.) and above for SRA (Agri.). All such candidates whether they were related to the University officers/employees or not, or they were recommended by VIPs or not or otherwise favoured for any other reason or not are treated as favoured candidates in this Enquiry Report as they were benefitted by the above liberal criteria of short-listing of candidates.

ii) Re: Criteria for academic evaluation of SRA/JRA laid down on 31.5.2005

(Vide findings in paras 2293 to 2295 of the Enquiry Report)

2428) One of the criteria adopted by Dr.V.D.Patil, the Chairman of the Selection Committee, in consultation with Dr.E.R. Patil, Associate Dean (PGI), and the then Registrar Shri R.B.Bali, Dr.PDKV, Akola, was award of 8 marks for submission of thesis for Ph.D. degree which was an incomplete and defeasible criteria as there was possibility of thesis being rejected thereby adversely affecting the selection process because of which award of marks for thesis submission would be unjust and improper and would be of no value. It was held that such incomplete criteria of thesis submission was adopted because there were candidates related to prominent University officers/employees including the son of Dr.V.D.Patil, the Chairman of the Selection Committee, himself, who had submitted their thesis for Ph.D. degree after the last date of application i.e. 15.9.2004, and it is to

enable them to enhance their merit by getting marks for the same that such criteria of thesis submission was adopted coupled with the illegal marking system of giving marks to the certificates/publications/documents submitted after the last date of application i.e. 15.9.2004 which was introduced, so that even the Ph.D.degree acquired after the said last date of application could be awarded marks for the same as per the criteria if any candidate produced at the time of interview, the proof about thesis submitted by him for Ph.D. degree or acquisition of Ph.D. degree at that time.

2429) Vide last para 2295 of the Enquiry Report, there were about 31 candidates who were benefitted by the aforesaid criteria of thesis submission coupled with illegal marking system including those who submitted thesis or acquired Ph.D. degree after the last date of application i.e. 15.9.2004. The said chart of 31 candidates is included as Annexure-42 of the Enquiry Report. All such candidates are treated as favoured candidates in this Enquiry Report whether they were related to the University officers/employees or not, or they were recommended by VIPs or not or otherwise favoured for any other reason or not, as they were benefitted by the aforesaid criteria of thesis submission and illegal marking system adopted by Dr.V.D. Patil, the Chairman of the Selection Committee.

iii) Re: candidates who were illegally benefitted by the marks awarded to them for Ph.D. degree acquired, Ph.D. thesis submitted, research papers/popular articles published and / or significant contribution made after the last date of application i.e. 15.9.2004

(Vide findings in paras 2296 to 2299 of the Enquiry Report)

2430) Vide finding in para 2296 of the Enquiry Report, the cut off date for awarding marks for academic performance of the candidates was laid down in the advertisement dated 14.8.2004 (Ex.2) which contained the condition that the applications received with incomplete information and documents and received after the last date of application should not be considered under any situation and circumstances. The said condition would clearly show that the marks could not have been awarded to the certificates/publications/documents/submitted after the last date of application i.e. 15.9.2004, which was therefore cut off date for awarding marks for academic performance of the candidates as per the criteria for academic evaluation of SRA/JRA laid down on 31.5.2005. The marking system of awarding marks to the candidates for Ph.D. degree acquired, Ph.D. thesis submitted, research papers/popular articles published and/or significant contribution made after the last date of application i.e. 15.9.2004 was thus contrary to the above condition laid down in the advertisement dated 14.8.2004 (Ex.2) itself and was even otherwise as held in the topic relating thereto arbitrary and discriminatory in the absence of its publicity and was violative of Articles 14 and 16 (1) of the Constitution of India.

2431) As held above, the above illegal marking system was adopted by Dr.V.D. Patil, the Chairman of the Selection Committee, in order to enable the relations of the prominent University officers/employees who had not acquired Ph.D. degree before the last date of application i.e. 15.9.2004 but had either acquired Ph.D. degree or submitted thesis for Ph.D. degree thereafter. It is however, a different thing that the other candidates who knew about the said marking system were also benefitted by it. As per the said illegal marking system, there were about 62 candidates who received the benefit of the said illegal marking system. A chart of 31 candidates referred to above (Annexure-42 of the Enquiry Report) included 15 candidates selected in the posts of SRA (Agri.), and 8 in the posts of JRA (Agri.) total 23, who had either acquired Ph.D. degree or submitted their thesis for Ph.D. after the last date of application i.e. 15.9.2004. As regards the names of candidates in the posts of SRA (Agri.) and JRA (Agri.) who were benefitted by submitting the research papers/popular articles published after the last date of application i.e. 15.9.2004, they are included in the charts (Annexures-13 and 14 of the Enquiry Report). They contained the names of 15 candidates selected in the posts of SRA (Agri.) (Annexure-13 of the Enquiry Report) and 24 candidates selected in the posts of JRA (Agri.) (Annexure-14 of the Enquiry Report). There were thus 30 candidates out of 55 candidates selected in the posts of SRA (Agri.) and 32 candidates out of 76 candidates selected in the posts of JRA (Agri.) who received benefit of illegal marking system referred to above. Thus, out of the total number of 131 candidates selected for both these posts, there were 62 candidates who received benefit of the said marking system. Perusal of the said charts Annexures-42, 13, and 14 of the Enquiry Report, would however, show that there are 6 SRA/JRA candidates (3 each, names given in para 1708 of the Enquiry Report) are common in the said charts i.e. in the chart about Ph.D. degree and Ph.D. thesis (Annexure-42) and in the charts about RP/PA (Annexures-13 and 14). Therefore, actually 56 candidates whose names are included in the charts (Annexures-42, 13 and 14 of the Enquiry Report) are treated as favoured candidates whether they were related to the University officers/employees or not, or they were recommended by VIPs or not or otherwise favoured for any other reason or not.

iv) **Re: Manipulation of marks for interview by making changes even by erasing marks of some candidates originally shown against their names in the consolidated Mark-sheet Ex.112(O) and also the categorywise Mark-sheet Ex.34(O)-A, separate for the posts of SRA (Agri.) and JRA (Agri.)**

(Vide finding in para 2300 of the Enquiry Report)

2432) Vide finding in para 2300 of the Enquiry Report, the interview marks of some candidates were manipulated with a view to select them by giving them higher marks in interview although they had low marks in their academic performance and there was manipulation done also for not selecting the candidates who had received high marks in their academic performance by giving them low marks in their interview as shown in the

findings about the aforesaid topic relating to Manipulation of interview marks considered in paras 1937 to 1945 of the Enquiry Report. Vide para 1938 of the Enquiry Report about the findings regarding the said topic about Manipulation of interview marks, a chart of 37 candidates selected in the posts of SRA (Agri.) and JRA (Agri.) (Annexure-43 of the Enquiry Report), who received low marks for academic performance but received high marks for interview is about such favoured candidates. Individual glaring cases of such candidates are discussed in subsequent paras 1939 and 1940 of the Enquiry Report. The other charts referred to in the said topic, vide paras 1941 to 1943 of the Enquiry Report, are about Manipulation of interview marks of the candidates who had high marks for academic performance but were awarded low marks in their interviews and were not selected in these posts of SRA / JRA so as to enable the selection of the candidates who had low marks in their academic performance by giving them high marks in interview. The candidates whose names are included in the above referred chart (Annexure-43 of the Enquiry Report) and who were selected by manipulation of interview marks were clearly favoured candidates, whether they were related to the University officers/employees or not, or they were recommended by VIPs or not or otherwise favoured for any other reason or not.

v) **Re: List of favoured candidates ready**

(Vide findings in paras 2301 and 2302 of the Enquiry Report)

2433) It is not in dispute that the consolidated Mark-sheet in alphabetical order for both these posts of SRA (Agri.) and JRA (Agri.) marked as Ex.112(O) in this enquiry was prepared by Shri D.P.Deshmukh, Section Assistant (Estt.) to whom interview marks which were common in the said posts were dictated by Dr.V.D. Patil, the Chairman of the Selection Committee who stated that all the entries in the said Mark-sheet Ex.112(O) were made in pencil by Shri D.P.Deshmukh, Section Assistant (Estt.) in his own handwriting. After careful scrutiny of the said Mark-sheet Ex.112(O) , it was found that all entries therein were not in the hand-writing of Shri D.P.Deshmukh, Section Assistant (Estt.). This office, therefore, prepared the List of such entries in the said Mark-sheet Ex.112(O) which were not in his handwriting. The said List (Annexure-49 of the Enquiry Report) consisted of 45 candidates who were all selected in the posts of SRA (Agri.). After notice to both Shri D.P.Deshmukh, Section Assistant (Estt.), and Dr.V.D. Patil, the Chairman of the Selection Committee, Dr.V.D.Patil, the Chairman of the Selection Committee admitted in his affidavit dated 24.6.2009 (Ex.946) that the entries about interview and total marks in regard to the above 45 candidates whose names were included in the List (Annexure-49 of the Enquiry Report) were in his handwriting. He and Shri D.P.Deshmukh, Section Assistant (Estt.) both admitted that it was the List of selected candidates (Annexure-49 of the Enquiry Report).

2434) It is difficult to see why in the Mark-sheet Ex.112(O) treated as rough Mark-sheet by him, Dr.V.D. Patil, the Chairman of the Selection Committee, made the said entries about interview and total marks of the candidates in his own handwriting when according to the procedure allegedly followed by him, he dictated the average of the interview marks of each candidate to Shri D.P.Deshmukh, Section Assistant (Estt.) from his additional chart in the proforma Ex.434-A in which he had recorded the same. Vide para 2302 of the Enquiry Report, although Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Member Secretary, of the Selection Committee, did not follow the usual procedure of preparing the merit List (Mark-sheet) of the candidates in each of these posts separately in descending order of merit for preparation of the Selection Lists in descending order of merit for each of these posts and category, but according to them they prepared the categorywise Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) which was not in descending order of merit and prepared from it selection Lists of open and each of the reserved categories in descending order of merit separately for each of these posts. It is surprising that the names of 45 candidates out of as many as 1335 candidates for both these posts of SRA (Agri.) and JRA (Agri.) included in the consolidated alphabetical Mark-sheet Ex.112(O) which was not in descending order of merit, were marked out by Dr.V.D. Patil, the Chairman of the Selection Committee for selection in the posts of SRA (Agri.) by entering himself in the said Mark-sheet Ex.112(O) their interview and total marks. All 45 candidates in the List (Annexure-49 of the Enquiry Report), were favoured candidates, whether they were related to the University officers/employees or not, or they were recommended by VIPs or not or otherwise favoured for any other reason or not, as they were selected bypassing the procedure alleged to be followed by them for selection of the candidates in descending order of merit in each post and in each category i.e. S.C., S.T. etc. from the final Mark-sheet i.e. the categorywise Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.).

- vi) **Re: Changes made in the consolidated alphabetical Mark-sheet Ex.112(O) and the categorywise Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) by overwriting in marks awarded to some candidates for their interviews and consequently changing also the total marks awarded to them**

(Vide findings in paras 2303 to 2306 of the Enquiry Report)

2435) Vide para 2303 of the Enquiry Report, it refers to the chart of 32 candidates (Annexure-23 of the Enquiry Report) whose interview marks in the consolidated Mark-sheet Ex.112(O) and consequently their total marks were changed by erasing the marks originally shown therein against their names. The concerned Section Assistant (Estt.), Shri D.P.Deshmukh, admitted overwriting made in entries in the Mark-sheet Ex.112(O) about the interview and total marks of the said 32 candidates whose names are included in the chart (Annexure-23 of the Enquiry Report). It is pointed out therein that in spite of the

marks being increased by overwriting, 8 candidates from the said List (Annexure-23 of the Enquiry Report) could not still find place in the Selection Lists of these posts as stated in para 1950 of the Enquiry Report. As regards the case of Santosh A. Bhongle, OBC candidate, it was pointed out in para 1952 of the Enquiry Report, how injustice was done to him since his name should have been included in the Selection List of JRA (Agri.) OBC category as he received 0.2 marks more than last 3 candidates in the said Selection List.

2436) Vide para 2304 of the Enquiry Report, as regards the said chart of 32 candidates (Annexure-23 of the Enquiry Report) in the Mark-sheet Ex.112 (O) after scrutiny of the said chart, this office prepared further two charts from it (Annexures-50 and 51 of the Enquiry Report). The chart (Annexure-50 of the Enquiry Report), contains the names of the candidates who were either related to the University officers/employees or were recommended by VIPs and the chart (Annexure-51 of the Enquiry Report) contains the names of the candidates from the said chart of 32 candidates (Annexure-23 of the Enquiry Report) who illegally received the benefit of the marks for Ph.D. degree, Ph.D. thesis and / or RPPA acquired/submitted/published after the last date of application i.e. 15.9.2004. The cases of the Selected candidates, whose interview and total marks originally given to them were changed included in the chart of these 32 candidates (Annexure-23 of the Enquiry Report) are discussed in paras 1955 to 1958 of the Enquiry Report.

2437) Vide para 2305 of the Enquiry Report, as regards the Mark-sheet Ex.34(O)-A there were changes made by applying white ink and by overwriting in interview and total marks received by the candidates whose names are included in the chart (Annexure-21 of the Enquiry Report) as stated in para 1959 of the Enquiry Report. The specific cases of overwriting regarding the candidates in the chart (Annexure 21 of the Enquiry Report) are discussed in paras 1960 to 1963 of the Enquiry Report.

2438) Vide para 2306 of the Enquiry Report, all the candidates in the chart (Annexure-21 of the Enquiry Report), relating to the categorywise Mark-sheet Ex.34(O)-A and 24 candidates in the chart of 32 candidates from the consolidated Mark-sheet Ex.112(O) (Annexure-23 of the Enquiry Report) i.e. except 8 candidates who were not selected although their interview marks and consequently total marks were increased, vide paras 1952 to 1955 of the Enquiry Report, are favoured candidates whether they were related to the University officers/employees or not, or they were recommended by VIPs or not or otherwise favoured for any other reason or not.

vii) Re: Canvassing in any form prohibited

(Vide findings in paras 2307 to 2311 of the Enquiry Report)

2439) Vide para 2309 of the Enquiry Report, as per the terms and conditions laid down in the advertisement dated 14.8.2004 (Ex.2) “Canvassing in any form would disqualify the candidates applying for the posts which were advertised”. The List of selected candidates in

these posts of SRA (Agri.) and JRA (Agri.) who are related to the University officers/employees, present or retired including Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.B.N.Dahatonde, its Member and the List of selected candidates in the said posts whose names were recommended by VIPs including Ministers, MPs., MLAs, etc. are annexed to the Enquiry Report as Annexures-17 and 19. According to Dr.V.D. Patil, the Chairman of the Selection Committee, some of the University employees, present or retired, had seen him canvassing for appointment of their wards. Further, according to him, as regards the candidates whose names were recommended by VIPs, besides their letters, there were also phone calls from them. He however, stated that he did not pay any heed to the canvassing made by the employees of the University, present or retired, or to the recommendation of VIPS including Minister of Agriculture and that the Selection Committee made its recommendations for appointment in these posts solely on the basis of merit. Similar was the stand taken by Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee.

2440) Vide para 2310 of the Enquiry Report, if the above referred clause in the advertisement dated 14.8.2004 (Ex.2) about canvassing in any form entailed disqualification of the candidates, it would mean that such candidates could not compete for selection in post for which they had applied and their applications had straightway to be rejected. There was therefore, no question of their claim for selection being considered on merit.

2441) Vide para 2311 of the Enquiry Report, as admitted by Dr.V.D. Patil, the Chairman of the Selection Committee, if any University employee had approached him personally for appointment of his ward, and if the names of any candidates were recommended by VIPs for appointment either by letters or by phone calls, such candidates should have been held disqualified for these posts as per the aforesaid clause in the advertisement without considering their applications on merit. Had he done so, it would have discouraged in future the relations of the candidates from making any canvassing or VIPs from making any recommendations for appointment of any candidate.

viii) Glaring instances of favoured candidates

(Vide findings in paras 2312 to 2388 of the Enquiry Report)

2442) Vide para 2312 read with the findings in paras 1914 to 1916 of the Enquiry Report, apart from specific instances of favoured candidates mentioned in paras 1277 and 1278 read with paras 1235 and 1236 of the Enquiry Report relating to the topic about the candidates illegally benefitted by marks awarded to them for Ph.D. degree acquired, Ph.D. thesis submitted, research papers/popular articles published and/or significant contribution made after the last date of application i.e. 15.9.2004, Manipulation of marks for interview by making changes even by erasing marks of some candidates originally shown against

their names in the consolidated Mark-sheets Ex.112 (O) and 34(O)-A, vide findings in paras 1937 to 1945 of the Enquiry Report, the List of favoured candidates ready, vide findings in its paras 1946 to 1948, and the Changes made in the consolidated alphabetical Mark-sheet Ex.112(O) and the categorywise Mark-sheet Ex.34(O)-A by overwriting in marks awarded to some candidates for their interview and consequently changing also total marks awarded to them, vide findings in paras 1949 to 1964 of the Enquiry Report, the following instances are glaring instances of favoured candidates :-

- a) Ku. Swati G.Bharad, daughter of former Vice-Chancellor of the University
 - b) Pravin V. Patil, son of Dr.V.D. Patil, the Chairman of the Selection Committee.
 - c) Ku. Bhavna R. Wankhede, selected in the post of SRA (Agri.), S.C. category.
- a) **Ku. Swati G. Bharad, daughter of former Vice-chancellor of the University**
(Vide findings in paras 2313 to 2387 of the Enquiry Report),

2443) The case of favoured candidate Ku. Swati G.Bharad, is considered in detail in this enquiry. She is daughter of Dr.G.M.Bharad, the former Vice-Chancellor of the University. She was a candidate for the post of SRA (Agri.) in question. She had submitted her thesis for Ph.D. on 1.11.2004 i.e. after the last date of making applications for these posts SRA/JRA which was 15.9.2004 as per the advertisement dated 14.09.2004 (Ex. 2). Her interview for the post of SRA (Agri.) was fixed on 13.6.2005 i.e. the first day of interview for these posts of SRA (Agri.) and JRA (Agri.). According to her, as per interview call letter, she remained present for her interview at 8.00 A.M. on 13.6.2005 in the University guest house from where she had thereafter gone to the office of the Deputy Registrar (academic) to enquire whether the result of her Ph.D. examination was declared or not. As stated in her affidavit, at the Enquiry counter of the office of the Deputy Registrar (Exam. Section), she was handed over the copy of the Result Notification about declaration of her result dated the same i.e. 13.6.2005 by some employee whose name she did not know. According to her, she then returned back to the place of her interview where she showed the said copy of the Result Notification about declaration of result marked as Ex.864 in this Enquiry to the team of Assistant Professors/Associate Professor on the basis of which they awarded her 10 marks for acquiring Ph.D. degree as shown in the chart Ex.38(O), although no document was referred to by them therein on the basis of which they awarded her the said marks.

2444) As the copy of the Result Notification for declaration of her result bore the date 13.6.2005 which was the date on which her interview was fixed and she was handed over the said copy of the Result Notification of her result in the morning on the same day after which she returned back to the place of her interview where her certificates/publications/ documents were verified by the clerks of the Registrar's office between 11.30 a.m. to 12.15

p.m., the detailed enquiry was made in this matter by examining the whole procedure followed in the University in finalization and declaration of result.

2445) After such detailed enquiry, it was revealed that the copy of the Result Notification for declaration of result is not handed over to any student according to the rules and practice in the University as stated by all concerned officers in the Examination Section in the University viz. Dr.Vandan Mohod, Deputy Registrar (academic)/ Registrar, Shri A.S.Katre, Assistant Registrar (Exam.Section), and Shri P.T.Muley, ASO (Exam.Section). However, the copy of the Result Notification of the result of the Ph.D. candidates Ku. Swati G. Bharad and Shri A.D.Warade (Ex.864) was handed to her illegally in surreptitious manner on 13.6.2005 i.e. the date of her interview, in order to enable her to enhance her merit by getting 10 marks for acquisition of Ph.D. degree. On 13.6.2005, even the file (Ex.904) containing the Manuscript of the Result Notification of the said Ph.D. candidates had not come in the Examination Section. It is pertinent to see that officially i.e. as per the practice and procedure followed in the University, the Result Notification for declaration of result of the said candidates was prepared on the next day i.e. 14.6.2005 on which the said file (Ex.904) containing the Manuscript of its Result Notification (Ex. 904-A) signed by the Vice Chancellor was received back in the Examination Section. Shri P.T.Muley, ASO (Exam.Section), with his office note, put it-up for the signature of Dr.Vandan Mohod, Deputy Registrar (academic)/Registrar who signed it on the same day putting the said date 14.6.2005 below his signature. Its copies were thereafter forwarded by Shri P.T.Muley, ASO (Exam.Section) to the officers/offices mentioned on their back side and to the tables concerned in the Examination Section on 15th /16th June 2005, when only the said candidates could have known their result officially i.e. as per the above practice and procedure followed in the University. If any candidate needed his result urgently, he would get provisional degree certificate (P.D.C.), transcript of Mark-Sheet, etc. as provided in para 33 of the Regulation AC/8 (Ex.32).

2446) The procedure referred to above was bypassed in the case of Ku. Swati G. Bharad and she was handed over the copy of the Result Notification for declaration of her Result, which is not given to any student as per the University rules and practice, on 13.06.2005, i.e. the date of her interview, illegally in surreptitious manner even before the file (Ex. 904) containing its Manuscript (Ex. 904-A) was received back in the Examination Section and even before the Result Notification for declaration of her result (Ex. 904-B) was officially, i.e. as per the practice and procedure in the University, prepared and issued. As stated above, the said file (Ex.904) was received in the Examination Section on 14.6.2005 and on that day, the Result Notification of result of the above Ph.D. candidates (Ex.904-B) was prepared and issued thereafter.

2447) As regards the date 13.6.2005 which the Result Notification for declaration of Result of the above Ph.D. candidates (Ex.904-B) bears, according to Shri P.T.Muley, ASO

(Exam.Section), and Shri A.S.Katre, the Assistant Registrar (Exam.Section) the date put upon the Result Notification for declaration of result is the same date as on its Manuscript i.e. the date on which the Vice-Chancellor signed it; in other words, both bear the same date, as borne out also by the concerned three files relating to the Result Notifications of Ph.D. and P.G.candidates (Exs.904, 931 and 932). As stated by Dr.Vandan Mohod, the Deputy Registrar (academic)/Registrar, if the Result Notification for declaration of Result were to bear the date on which it is issued by the Registrar, the Result Notification for declaration of result of the above Ph.D. candidates (Ex.904-B) would have borne the date 14.6.2005 on which it was actually signed by him and was issued thereafter but it bears the date 13.6.2005. According to Shri P.T.Muley, ASO (Exam.Section), he had put the date 13.6.2005 upon the Manuscript of the Result Notification of the above Ph.D. candidates (Ex.904-A) after its file (Ex.904) was received back in the Examination Section on 14.6.2005 since the Vice-Chancellor signed it on that day, vide para 7 of his affidavit dated 20.4.2009 (Ex.914). As regards the date which the Manuscript of the Result Notification bears, according to all the above three officers of the Exam.Section, it bears the date on which the Vice-Chancellor signed it and the said date is put by the concerned ASO (Exam.Section) after the file containing it is returned back to the Examination Section after the signature of the Vice-Chancellor upon it.

2448) It is however, clear that since the date 13.6.2005 was put upon the copy of the Result Notification for declaration of Result of the above Ph.D. candidates (Ex.864) handed over surreptitiously to Ku. Swati G.Bharad, on that day, the same date was put by Shri P.T.Muley, ASO (Exam.Section) upon the Manuscript of the Result Notification of the said Ph.D. candidates (Ex.904-A) after the file (Ex.904) containing it signed by the Vice-Chancellor was received back in the Examination Section on 14.6.2005 creating false impression that the Vice-Chancellor signed it (Ex.904-A) on that day, since according to him and also Shri A.S.Katre, Assistant Registrar (Exam.Section) who put the said date upon the Result Notification for declaration of Result of the above Ph.D. candidates (Ex.904-B) both the said Notifications bear the same date although they very well knew that the Vice-Chancellor signed the said Manuscript (Ex.904-A) in the evening hours on 8.6.2005.

b) Pravin V.Patil son of Dr.V.D. Patil, the Chairman of the Selection Committee

(Vide findings in paras 2384 and 2385 of the Enquiry Report)

2449) Vide para 2384 of the Enquiry Report, the criteria for academic evaluation of SRA/JRA including the criteria of awarding 8 marks for thesis submission was laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, in association with Dr.E.R. Patil, Associate Dean (PGI) and the then Registrar, Shri R.B.Bali and as regards the marking system of awarding marks for Ph.D. degree acquired, thesis submitted, research

papers/popular articles published and/or significant contribution made after the last date of application i.e. 15.09.2004, it was adopted by him alone keeping in view the interests of the high profile candidates including Shri Pravin Patil, his son. The criteria for academic evaluation of SRA/JRA and in particular the criteria of awarding 8 marks for thesis submission and the adoption of the said marking system is therefore held to be vitiated by his bias. Shri Pravin V.Patil son of Dr.V.D. Patil, is also benefitted by more marks awarded to him by the team of the Assistant Professors who awarded him 10 marks for thesis submitted by him instead of 8 marks although he had not acquired Ph.D. degree on the date of interview. They also awarded him 10 marks for research papers/popular articles published by him, although, he produced at the time of interview 4 research papers, 1 technical bulletin and one popular article for which he should have been awarded 8.4 marks as per the criteria. He was thus illegally benefitted by 3.6 more marks awarded to him by the Assistant Professors. His name was recommended by the then Agriculture Minister, Shri Balasaheb Thorat, also vide S.no.14 in the List (Annexure-19 of the Enquiry Report).

c) **Ku. Bhawna R. Wankhede, selected in the post of SRA (Agri.) in S.C. category**

(Vide findings in paras 2386 to 2388 of the Enquiry Report)

2450) The case of Ku. Bhawna R.Wankhede, who was selected in the post of SRA (Agri.), S.C. category is a unique case in which the concerned officers of the University, acted with great promptitude and speed. On 15.9.2004 which was the last day for submission of applications for the posts of SRA/JRA as per the advertisement dated 14.8.2004 (Ex.2), verification of her marks, thesis etc. was done by the Chairman and the Members of the Result Committee, and the Manuscript of her Result Notification signed by them was forwarded to Shri P.T.Muley, concerned ASO (Exam.Section) on the same day i.e. 15.9.2004. The said ASO (Exam.Section) wrote an office note and forwarded it to the Vice-Chancellor through the Deputy Registrar (academic)/ Registrar, Dr.Vandan Mohod, who signed it on the same day and the Dean (PGS) who recommended her name for Ph.D. degree on the same day. The Vice-Chancellor also approved and signed the Manuscript of her Result Notification on the same day i.e. 15.9.2004. The speed with which her file moved on the same day i.e. 15.9.2004 would show that, it must have been taken by the concerned clerk to all the officers concerned for finalization and declaration of her result, which would also show that she was favoured candidate as her file was moved speedily on the same day before time for submission of application for the said post was over. She is a favoured candidate is also clear from the fact that by overwriting in the consolidated Mark-sheet Ex.112(O) as shown in Annexure-23 of the Enquiry Report, her interview and total marks were changed from 40 and 64.4 to 44 and 68.8 respectively in order to ensure her selection and give her higher place in the selection List of SRA (Agri.), S.C. Category, although perhaps through mistake she was not shown higher place in the said Selection list which she should have got on the basis of 68.8 total marks.

19) Selection and appointment of Agril. Engg. Graduates in the posts of JRA (Agri.), is vitiated and is liable to be set-aside also because the addendum dated 6.9.2004 to the advertisement dated 14.8.2004 (Ex.2) is illegal.

(Vide findings in paras 1816 to 1820 of the Enquiry Report)

2451) In view of the representation and agitation of Agril. Engineering graduates, the qualification of Bachelor's degree in Agril. Engineering was introduced as an additional qualification for the post of JRA (Agri.) as per the aforesaid addendum dated 6.9.2004 to the advertisement dated 14.8.2004 (Ex.2) in which the posts of JRA (Agri.) were advertised with the qualification of Bachelor's degree in Agriculture.

2452) The qualification for the post of JRA laid down at Sr. No. 4 in Appendix- III read with Statute 73 of the Statutes framed under the University Act is "Bachelor's degree in respective faculty". Vide Section 35(I) of the University Act, the faculty of Agriculture and the faculty of Agril. Engineering are independent and separate faculties comprising different subjects as shown in paras A and D of Statute 5. Consequently the graduate degree awarded to a graduate in Agriculture is B.Sc. (Agri.) and the graduate degree awarded to a graduate in Agril. Engineering is B. Tech. (Agril. Engg.), vide paras A and D of Statute 96.

2453) The qualification of graduate in Agril. Engineering added in the advertisement for the post of JRA (Agri.) by the aforesaid addendum dated 06.09.2004 was therefore in breach of the qualification laid down at Sr.No. 4 in Appendix III read with Statute 73 of the Statutes and was thus illegal. Selection and appointment of 5 Agril. Engg. graduates in the posts of JRA (Agri.) was also therefore illegal and invalid. The submission on behalf of the Agril. Engg. graduates that since there existed some posts of JRA (Agril. Engg.) in the University, their selection and appointment is justified also cannot be accepted because firstly their selection and appointment is in the posts of JRA (Agri.) and even assuming that their selection and appointment can be treated as in the posts of JRA (Agril. Engg.), still it is illegal and invalid since the posts of JRA (Agril. Engg.) are not advertised. Their selection and appointment would be thus arbitrary and discriminatory and would be violative of Articles 14 and 16(I) of the Constitution of India. It would also be in breach of Statute 77(I)(i) the Statutes.

2454) Similarly, as regards the submission on behalf of the Agril. Engineering graduate Shri. H. M. Khobragade that his appointment was in the post of JRA, general category, and was therefore justified the said submission cannot also be accepted because firstly according to the University, the posts of SRA/JRA which are not specifically designated are all posts of SRA (Agri.) and JRA (Agri.) and secondly because even assuming that his appointment is in JRA, general category, it would still be illegal and invalid because the said post i.e. JRA general category, was not advertised with the result that the other graduates in Agril. Engineering faculty and the graduates in other faculties were not able to

apply for the said post of JRA, general category. In the absence of the advertisement, his appointment in the said post would be arbitrary and discriminatory and would be violative of Articles 14 and 16 (I) of the Constitution of India. It would also be in breach of Statute 77 (I)(i) of the Statutes.

Therefore, apart from the grounds hereinbefore referred to, the selections and appointments of the Agricultural Engineering graduates in the posts of JRA (Agri.) deserve to be set aside on this ground also.

20) Preparation of the proceedings/minutes of the meeting of the Selection Committee held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005

(Vide findings in paras 2039 to 2056 of the Enquiry Report)

a) Actual Preparation of the proceedings/minutes of the aforesaid meeting of the Selection Committee, which were not confirmed by it : its other members did not know about it

(Vide findings in paras 2039 and 2040 of the Enquiry Report)

2455) Statute-37 (1) of the Statutes framed under the University Act provides for recording the proceedings/minutes of the meeting of the Committee by its Secretary and Statute-37(2) for its confirmation in its next meeting. The Registrar being the Member Secretary of the Selection Committee, it is his duty to record the proceedings/minutes of the Selection Committee. According to Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, the proceedings/minutes of the aforesaid meeting of the Selection Committee held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005, were drafted by Shri P.V.Behare, the Assistant Registrar (Exam.Section) as per his briefing and instructions in 3 or 4 days time after 25.6.2005, the last day of interviews of the candidates for these posts of SRA (Agri.) /JRA (Agri.). Further, according to Dr.V.D.Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee, after the proceedings/minutes of the aforesaid meeting of the Selection Committee were ready, each page of the said proceedings/minutes was signed by them but no date was put by them below their signatures even on the last page of the said proceedings/minutes. In fact, perusal of the file Ex.34(O) about the proceedings/minutes of the aforesaid meeting of the Selection Committee, would show that in none of the documents annexed to the said proceedings/minutes except the Selection Lists, the Chairman and the Members of the Selection Committee, had put the date below their signatures, vide the charts annexed thereto regarding the promotion of candidates from the post of JRA (Agri.) to SRA (Agri.) and from the post of Agriculture Assistant to the post of JRA (Agri.), their time bound promotions, and also the Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) on the basis of which the Selection Lists for these posts were prepared. As

regards the Selection Lists except Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Member Secretary, of the Selection Committee, who had put the date 25.6.2005 i.e. the last day of interview for these posts of SRA (Agri.) and JRA (Agri.), no other member of the Selection Committee had put any date while signing the Selection Lists. The Chairman and the Member Secretary of the Selection Committee had deliberately put the date 25.6.2005 in order to create an impression that the said Selection Lists were prepared on that day in the meeting of the Selection Committee but as shown hereinbefore, even the Mark-sheet Ex.34(O)-A from which admittedly the Selection Lists were prepared was not ready on that day and was prepared in 8 or 10 days time thereafter and therefore the Selection Lists could be and were prepared sometime thereafter only.

2456) As regards the question of confirmation of the proceedings/minutes of the aforesaid meeting of the Selection Committee, vide para 2040 of the Enquiry Report, admittedly they were not confirmed by the Selection Committee in its next meeting because after 25.6.2005 i.e. the last day of its meeting for taking interviews, no meeting of the Selection Committee was held. In fact the proceedings/minutes of the aforesaid meeting of the Selection Committee were not sent by Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee to any of its members and they therefore did not know any thing about them.

b) Proceedings/minutes of the aforesaid meeting of the Selection Committee not faithfully recorded

(Vide findings in paras 2041 to 2043 of the Enquiry Report)

2457) As regards the question of selection of candidates by direct recruitment in these posts of SRA (Agri.) and JRA (Agri.), the proceedings/minutes of the aforesaid meeting of the Selection Committee held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 showing that the Selection Committee decided the following questions in its aforesaid meeting are falsely recorded.

i) As held in para 2041 of the Enquiry Report, the wording on page-2 of the proceedings/minutes contained in the file Ex.34(O) shows that the criteria for academic evaluation of SRA/JRA was decided by the Selection Committee on 13.6.2005 before the interviews started on that day which is not true. As shown in the findings relating to the topic about the criteria for academic evaluation of SRA/JRA, vide para 1880 of the Enquiry Report, the said criteria was laid down by Dr.V.D. Patil, the Chairman of the Selection Committee, in consultation with Dr.E.R. Patil, Associate Dean (PGI) and the then Registrar Shri R.B.Bali, on 31.5.2005 and not in any meeting of the Selection Committee, muchless on 13.6.2005 in its meeting held from that day for taking interviews of the candidates in these posts.

2458) Vide para 2042 of the Enquiry Report, no decision was taken by the Selection Committee, about the exact number of additional vacancies to be filled apart from the fact that it had no power to do so, although in item-IV of the proceedings/minutes of the aforesaid meeting of the Selection Committee, it is stated that “during the passage of time since the number of additional vacancies arose, it was proposed by it to consider the additional vacancies of SRA/JRA shown categorywise in the chart at page-8 of the said proceedings in the file Ex.34(O)”. In fact, Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Member Secretary, of the Selection Committee admitted that on their own they decided to increase the number of vacancies to be filled in the posts of SRA (Agri.) from 24 as advertised to 55 and the vacancies to be filled in the posts of JRA (Agri.) from 37 as advertised to 76 and it is Dr.Vandan Mohod, the Member Secretary of the Selection Committee, who gave categorywise break-up of the said posts.

2459) Vide para 2043 of the Enquiry Report, no resolution about recommendations of the selected candidates for appointment in the posts of SRA (Agri.) and JRA (Agri.) could be and was passed in the aforesaid meeting of the Selection Committee held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005. As already held, the categorywise Mark-sheet Ex.34(O)A separate for the posts of SRA (Agri.) and JRA (Agri.) was itself prepared in 8 or 10 days time after the aforesaid meeting of the Selection Committee was over on 25.6.2005 whereafter the Selection Lists were prepared from it by Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee. In fact, the said Mark-sheet Ex.34(O)-A and the said Selection Lists were not prepared or were not considered and approved in any meeting of the Selection Committee since no meeting of the Selection Committee was held after 25.6.2005. There was therefore no question of the Selection Committee recommending any candidates for appointment in the posts of SRA (Agri.) and JRA (Agri.) much less in its aforesaid meeting held from 13.6.2005 to 25.6.2005.

- c) **Proceedings/minutes of the aforesaid meeting of the Selection Committee could not have been prepared in about 4 days time after the last date of its meeting i.e. 25.6.2005 .**

(Vide findings in paras 2045 to 2047 of the Enquiry Report)

2460) Vide para 2045 of the Enquiry Report, as already held, when the basic documents viz. the Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) and the Selection Lists prepared from it, required for preparation of the proceedings/minutes of the Selection Committee were not ready on 25.6.2005 as shown hereinbefore, the proceedings/minutes of the aforesaid meeting of the Selection Committee could not have been prepared in about 4 days time after the last date of its meeting i.e. 25.6.2005. It may be seen that the categorywise Mark-sheet Ex.34(O)-A separate for the posts of SRA (Agri.)

and JRA (Agri.) was prepared in 8 – 10 days time after 25.6.2005 i.e. the last day of interview by Shri D.P.Deshmukh, Section Assistant (Estt.), and thereafter the Selection Lists were prepared from it by Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee. As regards the signatures of the Chairman and the Members of the Selection Committee upon the said documents, according to Dr.N.D.Jogdande and Dr.B.N.Dahatonde, both local members of the Selection Committee, they signed them when on one day 10 to 15 days after the last day of the meeting of the Selection Committee i.e. 25.6.2005, they were called to sign them, and as regards the outside members of the Selection Committee, Dr.G.N.Dake, stated that he signed them on 14.9.2005 at Rahuri, and as regards Dr.N.D. Pawar, according to him, he signed them on any of the three days i.e. 14.9.2005, 27.10.2005, and 15.12.2005 at Parbhani. It cannot therefore be believed that the proceedings / minutes of the aforesaid meeting of the Selection Committee were prepared in about 4 days time after 25.6.2005 i.e. the last day of its meeting for taking interviews of the candidates in these posts.

d) The proceedings / minutes of the above-referred meeting of the Selection Committee with its annexures contained in the file Ex.34(O) were probably prepared after the appointment orders were issued on 16.9.2005 and 17.9.2005

(Vide findings in paras 2048 to 2055 of the Enquiry Report)

2461) The categorywise Mark-sheet Ex.34(O)-A and the Selection Lists signed by the Chairman and all the members of the Selection Committee contained in the file Ex.34(O) relating to the proceedings/minutes of the aforesaid meeting of the Selection Committee could not have been handed over to Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University on 6.9.2005 because as shown above atleast 2 outside members of the Selection Committee Dr.G.N.Dake and Dr.N.D.Pawar, had not signed them before that date i.e. 6.9.2005 but had signed them sometime thereafter. Therefore, as rightly held on the basis of the statement of Dr.Vandan Mohod, the Registrar and the concerned Section Assistant (Estt.) Shri D.P.Deshmukh, in their affidavits, it is the Selection Lists which were not signed by the Chairman and the Members of the Selection Committee which were received by them from the office of the Vice-Chancellor. Further, according to them, the said unsigned Selection Lists were annexed to the office note of Shri D.P.Deshmukh, Section Assistant (Estt.), dated 6.9.2005 contained in the file Ex.35(O) seeking approval of the Vice-Chancellor for issuing appointment orders as per the Selection Lists subject to availability of vacancies and after its approval by him on the same date, it is on the basis of the said unsigned Selection Lists that the appointment orders were issued to the selected candidates in the posts of SRA (Agri.) and JRA (Agri.) on 16.9.2005 and 17.9.2005 respectively. According to Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee and the concerned Section Assistant (Estt.), Shri D.P.Deshmukh, the file Ex.34(O) containing the categorywise Mark-sheet Ex.34(O)-A and the Selection Lists

signed by the Chairman and all the Members of the Selection Committee was received by them after the appointment orders were issued on 16.9.2005 and 17.9.2005. According to Shri D. P. Deshmukh, Section Assistant (Estt.) the said file Ex. 34(O) was received by him on or before 15.10.2005 which statement he modified in his subsequent affidavit by stating that he received the said file in November or December 2005 when the candidates started making applications under the Right to Information Act, vide para 2052 of the Enquiry Report. It would mean that in all probability the proceedings/minutes of the meeting of the Selection Committee held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 were prepared only after the appointment orders were issued on 16.09.2005 and 17.09.2005. At any rate, it would not have been possible to compile the file Ex.34(O) containing the categorywise Mark-sheet Ex.34(O)-A and the Selection Lists signed by the Chairman and all the Members of the Selection Committee, before the appointment orders were issued on 16.9.2005 and 17.9.2005 particularly when Dr.G.N.Dake, outside Member of the Selection Committee signed them on 14.9.2005 at Rahuri and Dr.N.D.Pawar, its another outside member, on any of the three dates 14.9.2005, 27.10.2005 and 15.12.2005 at Parbhani.

- e) **Proceedings/minutes of the meeting of the Selection Committee held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 contained in the file Ex.34(O) cannot be relied upon to show as to what transpired in the said meeting**

(Vide finding in para 2056 of the Enquiry Report)

2462) Vide para 2056 of the Enquiry Report, as shown above in the topic relating thereto, the proceedings/minutes of the meeting of the Selection Committee held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 contained in the file Ex.34(O) are not faithfully recorded and are not truthful. They are also not confirmed by the Selection Committee by holding its meeting after they were prepared. In fact, as already shown, the members of the Selection Committee except its Chairman and the Member Secretary, did not know anything about the said proceedings/minutes. The said proceedings/minutes cannot therefore be relied upon to hold as to what actually transpired in the aforesaid meeting of the Selection Committee and how and when the Mark-sheet Ex.34(O)-A and the Selection Lists were prepared and by whom.

21) Handing over the Selection Lists to the then Vice-Chancellor

(Vide findings in paras 2057 to 2074 of the Enquiry Report)

- a) **Delay of more than 2 months in handing over the Selection Lists to the then Vice-Chancellor if they were prepared at night on 25.6.2005 and were ready with the signatures of the Chairman and the Members of the Selection Committee upon them on 26.6.2005; the reasons given by the then Vice-Chancellor for the delay in not receiving the Selection Lists towards the end of June or in July 2005 are not convincing.**

(Vide the findings in paras 2057 to 2059 of the Enquiry Report)

2463) Vide para 2057 of the Enquiry Report, if the Selection Lists were prepared at night on 25.6.2005 i.e. the last date of interview, and were ready in the morning on 26.6.2005 with the signatures of the Chairman and the Members of the Selection Committee upon them as stated by Dr.V.D. Patil, the Chairman of the Selection Committee, there was no reason for the then Vice-Chancellor, Dr.S.A.Nimbalkar, to make such inordinate delay of more than 2 months in receiving the said Selection Lists. As regards the date on which he received the Selection Lists, Dr.V.D. Patil, the Chairman of the Selection Committee, stated that when he, accompanied by Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee had gone to him towards the end of June or July, 2005 to hand over the Selection Lists to him, he had asked him to keep them with him and hand them over to him when he would demand them because as stated by him, he was very busy at that time with the work relating to Centenary Celebration of the College of Agriculture, Nagpur, to be held from 15.10.2005 to 17.10.2005, the meeting of Joint Agresco, National Seminar on value addition, and the work relating to Kharip season which had already commenced. As stated by Dr. V. D. Patil, the Chairman of the Selection Committee, he thereafter called him on 06.09.2005 and received the Selection Lists on that day.

2464) Vide paras 2058 and 2059 of the Enquiry Report, the reasons given by Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, for not receiving the Selection Lists for a long time till 6.9.2005 do not inspire any confidence and cannot be accepted. As stated by him in para 33 read with para 8 of his affidavit dated 14.1.2008 (Ex.658), if there was need for the staff in these posts of SRA (Agri.) and JRA (Agri.) which were lying vacant due to ban on recruitment imposed by the Govt. he should have taken urgent steps to fill-up the said posts after the said ban was withdrawn by the Govt. particularly when the appointments in the said posts were inordinately delayed from the date of their advertisement issued on 14.8.2004 (Ex.2). At any rate, if the Selection Lists were ready towards the end of June or in July 2005, he should have accepted and kept them with him or the Registrar who is responsible for custody of the record of the University u/s. 19 (2) of the University Act. In fact, as regards the question of making appointment/s in

suitable post/s, the spade work relating thereto is done by the Registrar and his office. It would not have therefore affected his other work. Even otherwise, the staff of the University was helping him in doing the other work also. As regards the question of verification and approval of the Selection Lists, he could have then at his convenience, verified them. It is however, material to note that when he received the Selection Lists on 6.9.2005, he did not take much time in verifying them and approved them on the same day i.e. 6.9.2005. If he was busy in the work of Centenary celebration of the College of Agriculture, Nagpur, and with his other pre-occupations, as stated by him in his affidavit, the said preoccupations did not come in his way in going on tour to China for 15 days from 8.9.2005 to 24.9.2005 particularly when the Centenary Celebration of the College of Agriculture, Nagpur were not over at that time but were to be held from 15.10.2005 to 17.10.2005.

- b) **Chairman of the Selection Committee and its Member Secretary could not have and did not go to the then Vice-Chancellor on 26th or 27th June, 2005, or in July, 2005 to hand over the Selection Lists to him**

(Vide finding in para 2060 of the Enquiry Report)

2465) As shown in the topic relating to “Preparation of the categorywise Mark-sheet Ex.34(O)-A” and the “Preparation of the Selection Lists”, the categorywise Mark-sheet Ex.34(O)-A was not prepared and was not ready at night on 25.6.2005 and there was therefore, no question of the Selection Lists being ready at that time as they were prepared from the categorywise Mark-sheet Ex.34(O)-A. There was also no question of categorywise Mark-sheet Ex.34(O)-A and the Selection Lists being signed by the Chairman and the Members of the Selection Committee at night on 25.6.2005 or in the morning on 26.6.2005. If the said documents were not ready at that time, there was no question of the Chairman of the Selection Committee and its Member Secretary going to the then Vice-Chancellor for handing over the Selection Lists either towards the end of June or in July 2005 because the categorywise Mark-sheet Ex.34(O)-A was prepared in about 8 or 10 days time after 25.6.2005 i.e. the last day of interview and sometime thereafter the Selection Lists must have been prepared from it. As regards the question of signatures of the Chairman and the Members of the Selection Committee, the members of the Selection Committee, had signed them on different dates particularly its outside members as shown in the topic about their signing the categorywise Mark-sheet Ex.34(O)-A and the Selection Lists. The Selection Lists signed by the Chairman and all the Members of the Selection Committee, therefore could not have been handed over to Vice-Chancellor on 26th or 27th June 2005 or in July 2005.

c) **Handing over the Selection Lists to the Vice-Chancellor on 6.9.2005**

(Vide findings in paras 2061 to 2064 of the Enquiry Report)

2466) As regards the question of handing over the Selection Lists to the then Vice-Chancellor on 6.9.2005, there are inconsistent statements made by Dr.V.D. Patil, the Chairman of the Selection Committee, Dr.Vandan Mohod, the then Registrar/its Member Secretary, and Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University. Although initially Dr.V.D. Patil, the Chairman of the Selection Committee stated that he handed over the Selection Lists to the Vice-Chancellor on 6.9.2005, he later on improved his version and stated that he had handed over to him the file Ex.34(O) relating to the proceedings/minutes of the meeting of the Selection Committee held from 13.6.2005 to 17.6.2005 and 20.6.2005 to 25.6.2005 which included the Selection Lists at its pages 66 to 76 signed by him and the Members of the Selection Committee (See paras 54 and 57 of his affidavit dated 25.12.2007 (Ex. 645)). Dr. S.A.Nimbalkar, the then Vice-Chancellor of the University, however, categorically denied in para 43 of his affidavit dated 14.1.2008 (Ex.658) that the whole file Ex.34(O) as such was brought to him and was seen by him at that time. In fact, according to him, the said file Ex.34(O) was never brought to him and was seen by him at any time. Further, as stated by him in paras 41 and 42 of his aforesaid affidavit, the categorywise Mark-sheet Ex.34(O)-A and the Selection Lists signed by the Chairman and the Members of the Selection Committee at page 77/1 to 92 and 66 to 76 of the said file Ex.34(O) respectively were only brought and shown to him on 6.9.2005 and after making some enquiry about fairness of the Selection Lists prepared by them, he sent the said Selection Lists and the Mark-sheet Ex.34(O)-A to the Registrar's office whereafter the office note dated 6.9.2005 to which the said categorywise Mark-sheet Ex.34(O)-A and the Selection Lists were annexed contained in the file Ex.35(O) relating to interviews was brought to him which he approved on the same day.

2467) Vide para 2063 read with para 2061 of the Enquiry Report, Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, contradicted both of them. According to him, vide para 2 of his affidavit dated 2.4.2008 (Ex.713), he did not accompany Dr.V.D. Patil, the Chairman of the Selection Committee, when he handed over the Selection Lists to Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University on 6.9.2005 but what is important to be noticed is that as stated by him, in the aforesaid para 2 of his aforesaid affidavit, the Selection Lists which were handed over to the Vice-Chancellor by Dr.V.D. Patil, the Chairman of the Selection Committee, and which the Vice-Chancellor, in turn, sent to him for further action were the Selection Lists which were actually annexed as Annexures-I to XI to the office note dated 6.9.2005 contained in the file Ex.35(O) i.e. the Selection Lists which were not signed by the Chairman and the Members of the Selection Committee. Vide para 2064 of the Enquiry Report, he is supported in this regard by Shri D.P.Deshmukh, Section Assistant (Estt.), who wrote the

office note dated 6.9.2005 and annexed to it the said unsigned Selection Lists contained in the file Ex.35(O). Vide para 36 of his affidavit dated 15.11.2007 (Ex.598) and also para 1 of his additional affidavit dated 15.3.2008 (Ex.695).

d) **Selection Lists signed by the Chairman and all the Members of the Selection Committee could not have been and were not handed over to the Registrar's office on 6.9.2005 and were not therefore annexed to the office note of Shri D.P.Deshmukh, Section Assistant (Estt.), vide para 2065 of the Enquiry Report**

(Vide finding in para -2065 of the Enquiry Report)

2468) Vide para 2065 of the Enquiry Report, it is clear from the finding referred to in the said para about “signing the categorywise Mark-sheet Ex.34(O)-A and the Selection Lists by the Chairman and the Members of the Selection Committee”, that at-least two outside members of the Selection Committee viz. Dr.G.N.Dake, and Dr.N.D.Pawar, had signed the categorywise Mark-sheet Ex.34(O)-A and the Selection Lists after 6.9.2005, former on 14.9.2005 at Rahuri, and the latter, on any of the three dates 14.9.2005, 27.10.2005 and 15.12.2005 at Parbhani. It is, therefore, not possible that on 6.9.2005 the categorywise Mark-sheet Ex.34(O)-A and the Selection Lists signed by the Chairman and all the Members of the Selection Committee, much less the file relating to the proceedings/minutes of the meeting of the Selection Committee Ex.34(O) containing them could have been and were handed over by Dr.V.D. Patil, the Chairman of the Selection Committee, to the then Vice-Chancellor Dr.S.A.Nimbalkar. He could not have therefore sent them to the Registrar's office for further action. As regards the question of handing over the file Ex.34(O) relating to the proceedings/minutes of the meeting of the Selection Committee in question containing the said categorywise Mark-sheet Ex.34(O)-A and the Selection Lists, the said file Ex.34(O) was not ready at that time and in fact, as stated by Dr.Vandan Mohod, the then Registrar and the concerned Section Assistant (Estt.), Shri D.P.Deshmukh, the said file (Ex.34(O)) was received in the Registrar's office after the appointment orders were issued to the selected candidates in these posts of SRA (Agri.) and JRA (Agri.) on 16.9.2005 and 17.9.2005 respectively. It would therefore, support the statement of Dr.Vandan Mohod, the Deputy Registrar (academic)/ Registrar and the concerned Section Assistant (Estt.) Shri D.P.Deshmukh, that they received the unsigned Selection Lists on 6.9.2005 which were annexed to the office note dated the same i.e. 6.9.2005 and in fact according to them, the appointment orders were issued on the basis of the said unsigned Selection Lists as observed in para 2070 of the Enquiry Report. Had the original Selection Lists signed by the Chairman and all the Members of the Selection Committee included at pages 66 to 76 of the file Ex.34(O) been received in the Registrar's office on 6.9.2005, the xerox copies of such Lists would have been annexed to the said office note dated 6.9.2005 on the basis of which the appointment orders would have then been issued and not on the basis of the unsigned Selection Lists.

- e) **Selection Lists deliberately received by the Vice-Chancellor on 6.9.2005 because he did not want to be associated with making appointments in question as per the Selection Lists but wanted the said question to be left to Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee, who prepared the Selection Lists**

(Vide findings in paras 2071 to 2074 of the Enquiry Report)

2469) Vide para 2071 of the Enquiry Report, it is difficult to appreciate why the then Vice-Chancellor should delay the receipt of the Selection Lists and receive them when he was about to leave for tour to China for about 15 days and was not available for making appointments of the selected candidates in these posts unless he himself did not want to be associated with making them as per the Selection Lists for the reasons better known to him. In this regard, it may also be seen that he had already postponed their receipt from the Chairman of the Selection Committee, Dr.V.D. Patil, for about more than 2 months after they were ready and their further postponement for about 15 days would not have made any difference. In fact, as already shown, the Selection Lists were signed by the outside Members of the Selection Committee, Dr.G.N.Dake on 14.9.2005 at Rahuri and Dr.N.D. Pawar, probably on 14.9.2005 or thereafter on 27.10.2005 or 15.12.2005 at Parbhani as stated by him. Even the office notes to show the vacancy position in these posts were recorded by the concerned officers of the Registrar's office on 15.09.2005 and 16.09.2005 and the appointment orders were issued by the Acting Vice-Chancellor, Dr. V. D. Patil and the Registrar Dr. Vandan Mohod, on 16.09.2005 and 17.09.2005. If the appointment orders were actually issued on 16.09.2005 and 17.09.2005, they could have easily waited till the regular Vice-Chancellor, Dr. S. A. Nimbalkar, returned from his tour to China on 24.09.2005 who could have then considered in dispassionate manner the question whether the appointments should be made in these posts to the extent of their nomination quota or whether the posts in promotion quota should be utilised to accommodate all the candidates selected in these posts.

2470) Vide para 2072 of the Enquiry Report, the time chosen for making appointment of the Selected candidates in these posts would thus show that Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, did not want to be associated with making the appointments in question as per the Selection Lists but wanted the said question to be left to Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee who prepared the Selection Lists of these posts. It is for this reason that after making cursory enquiry about the fairness of the said Selection Lists, he hurriedly approved them on 6.9.2005 itself and, on the same day, appointed Dr.V.D. Patil, Dean / D.I./Chairman of the Selection Committee, as Acting Vice-Chancellor to enable him and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, to make appointment of the candidates selected in these posts as per the Selection Lists

prepared by them. It may be seen that since Dr.V.D. Patil, the Chairman of the Selection Committee and Dr.Vandan Mohod, Registrar/its Member Secretary, had prepared the Selection Lists, to consider the question of making appointments as per the said Selection Lists in a dispassionate manner, propriety required that Dr.S.A.Nimbalkar, the then Vice-Chancellor should have appointed some other Dean/Director as Acting Vice-Chancellor since the above team of Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Member Secretary who had prepared the Selection Lists, would be interested in making appointment of all the selected candidates as per the Selection Lists which included favoured candidates.

2471) Vide para 2073 of the Enquiry Report, as held hereinbefore, Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, had themselves on their own 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. It is clear from the office note dated 16.9.2005 of the Deputy Registrar, Shri S.S.Suradkar, approved by Dr.Vandan Mohod, the then Registrar and Dr.V.D.Patil, the then Acting Vice-Chancellor that they had decided to use promotion quota of these posts of SRA (Agri.) and JRA (Agri.) for accommodating all the candidates selected by them in these posts including the favoured candidates. It may be seen in this regard that by 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 appointments of the Selected candidates were made subject to availability of vacancies which ordinarily meant the vacancies in nomination and not promotion quota as fixed by the Executive Council by its resolution dated 8.3.1991 (Ex.595) as rightly considered in the office notes of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.9.2005 and Shri P.V.Bhare, the Assistant Registrar (estt.) dated 16.9.2005 showing vacancy position in nomination quota of these posts for making appointments as per the Selection Lists. However, in order to accommodate all the candidates selected by them. Dr.V.D. Patil, the Acting Vice-Chancellor and Dr.Vandan Mohod, the then Registrar, had not only utilized the posts in promotion quota but also used some posts of other categories of SRA such as SRA (Agril. Engg.), SRA (Bio-technology) etc. and also two posts of Senior Technical Assistant (S.T.A.), vide findings in paras 2212 and 2213 of the Enquiry Report.

2472) Vide para 2074 of the Enquiry Report, it is thus clear that although the then Vice-Chancellor Dr.S.A.Nimbalkar, could have himself considered the question of making appointments of the selected candidates as per the Selection Lists, he had deliberately chosen the above time to make their appointments when he was not available because of his tour to China so as to enable Dr.V.D. Patil, the Chairman of the Selection Committee, by appointing him as the Acting Vice-Chancellor, and Dr. Vandan Mohod, the

Registrar/Member Secretary of the Selection Committee, to make appointments of all the selected candidates as per the Selection Lists prepared by them.

22) The Reservation policy of the Government not followed by the University

(Vide findings in paras 2214 to 2243 of the Enquiry Report)

2473) Vide para 2214 of the Enquiry Report, it is obligatory upon the University to follow the reservation policy laid down by State Government from time to time in view of provision of Section 60 of the University Act read with statute-77 (3) of the Statutes framed thereunder. Vide para 2214 of the Enquiry Report, the University also admitted that it is obligatory upon it to follow the reservation policy for backward classes as directed by the State Government in making recruitment to the posts of academic staff members specified in Statute-71 which include the posts of SRA/JRA. The said question is considered in detail in paras 865 to 906 of the Enquiry Report under the topic “Reservation Policy of the University” and it is held therein that the University did not follow the said policy properly in making recruitment to the posts of SRA (Agri.) and JRA (Agri.) till date.

2474) Vide para 2215 of the Enquiry Report, as regards the question of reservation of posts for backward classes, the last G.R. issued by the State Government is dated 16.3.1999 (Ex.703) annexed as Annexure-34 of the Enquiry Report prescribing the percentages of reservation of each category of backward classes such as S.C., S.T., OBC etc. reproduced in para 883 of the Enquiry Report. However, vide its para 865, the State legislature had thereafter passed the Maharashtra State Public Service (Reservation for Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jati), Nomadic Tribes, Special Backward Category and Other Backward Classes) Act, 2001, Maharashtra Act No. VIII of 2004, which came into force w.e.f. 29.01.2004. The said Act is applicable to Dr.PDKV, Akola, as the services and posts therein are included in the definition of the expression “Public Services and Posts” given in section 2 (i) of the said Act. The percentage prescribed for reservation in posts of each of these backward classes in section 4 (2) of the said Act is as laid down in the aforesaid G.R. dated 16.3.1999 (Ex.703).

i) Whether the selection of candidates in these posts of SRA (Agri.) and JRA (Agri.) is vitiated for not associating in the Selection Committee the officer from the Social Welfare Department of the State Government.

(Vide finding in para 2216 of the Enquiry Report)

2475) As regards the question raised in this enquiry, whether the Selection of candidates in these posts of SRA (Agri.) and JRA (Agri.) is vitiated for not associating in the Selection Committee, the officer from the Social Welfare Department of the State Government, vide para 2216 of the Enquiry Report, it is held therein that since the Selection Committee constituted for selection of the candidates for the posts of SRA/JRA is a statutory

committee constituted under Statute-76 of the Statutes, the Government circulars about association of officer from the Social Welfare Department of the State Govt. in the said Selection Committee, which are administrative in nature are not applicable to it.

ii) **100 point roster for direct recruitment admittedly not followed to implement the reservation policy the State Government.**

(Vide findings in paras 2217 to 2219 of the Enquiry Report)

2476) For implementing its reservation policy, the Government has prescribed 100 point roster for direct recruitment as per its G.R. dated 29.3.1997 (Ex.57-B) and by its subsequent G.R. dated 18.10.1997 (Ex.57-A) 100 point roster for appointment by promotion. After taking into consideration certain guidelines/directions issued by the Central Govt. in its G.R. dated 02.7.1997 in the light of the Judgment of the Supreme Court in R.K.Sabharwal & Ors. –Vs- State of Panjab, AIR 1995 S.C. 1371 the State Government has in para 2 of its aforesaid G.R. dated 18.10.1997 (Ex. 57-A) issued orders regarding recruitment and implementation of 100 point roster prescribed by it (for the said orders/guidelines/direction, see para 873 of the Enquiry Report). Perusal of the guideline No. 1 in para 2 of the said G.R. dated 18.10.1997 (Ex. 57-A) would show that the reservation of the posts for reserved category candidates has to be made according to the prescribed percentage for each reserved category taking into consideration the total number of posts in the cadre and not on the basis of the posts becoming vacant. According to it, 100 point roster has to be followed till all the posts in the reserved category are filled according to its prescribed percentage but thereafter it is not necessary to follow it and if any post in any such reserved category then becomes vacant, it has to be filled by the candidate from that category only. Perusal of para 3 of the said G.R. dated 18.10.1997 (Ex. 57-A) would then show that the orders issued by the State Government therein would be effective from 02.07.1997 i.e. the date on which guidelines/directions were issued by the Central Government in this regard. Vide para 2218 of the Enquiry Report, Dr.V.D.Patil, the Chairman of the Selection Committee, candidly admitted in his affidavit that they had not seen 100 point roster and did not follow it and did not calculate the categorywise break-up of the post of SRA (Agri.) and JRA (Agri.) on the basis of the points in the said 100 point roster prescribed for direct recruitment. As regards the question how to implement 100 point roster as per the orders guidelines / direction issued by the State Government in its aforesaid G.R. dated 18.10.1997 (Ex. 57-A), the said question is discussed in paras 876 to 882 of the Enquiry Report in the light of the note of BC Cell, Nagpur, dated 6.5.2008 (Ex.740) annexed as Annexure-33 of the Enquiry Report.

iii) Reservation of the posts for backward classes (Social / Vertical reservation) not made according to their prescribed percentages as per the relevant G.Rs. as claimed by the Chairman and the Member Secretary of the Selection Committee

(Vide findings in paras 2220 to 2231 of the Enquiry Report)

2477) Vide para 2220 of the Enquiry Report, after Dr.V.D. Patil, the Chairman of the Selection Committee, and Dr.Vandan Mohod, the Registrar/its Member Secretary decided on their own to fill 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.), the categorywise distribution of the said 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.) was made by Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, according to whom, he prepared the chart on computer showing the break-up of the above posts into various reserved categories i.e. S.C., S.T. etc. and open after calculating the number of posts falling in each reserved category according to the percentage prescribed for it in the relevant G.R. of the Government about reservation of posts for backward classes supplied to him by his office. The said break-up of 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.) into various reserved categories and open made by Dr. Vandan Mohod, the Registrar/Member Secretary the Selection Committee, is shown in the office note of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 6.9.2005 contained in the file Ex.35(O), under the title “Vacancies now considered”.

2478) Vide para 2221 of the Enquiry Report, in order to verify whether the categorywise break-up of these 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.) was made according to the prescribed percentage of each reserved category or not, this office calculated the number of posts falling in each reserved category according to its percentage prescribed in G.R. dated 16.3.1999 (Ex.703) and in open and framed two separate charts regarding the said posts of SRA (Agri.) and JRA (Agri.) showing the prescribed percentage of each reserved category, the number of posts which should be reserved according to the percentage of each reserved category, the number of posts actually reserved by Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, Member Secretary of the Selection Committee, by appointment of the candidates in each category and open and the difference between two. The said charts separate for the posts of SRA (Agri.) and JRA (Agri.) marked collectively as Ex-712 were shown to Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee. After seeing them, he admitted that, the number of posts of SRA (Agri.) and JRA (Agri.) which they had actually filled were not according to their prescribed percentages and in some categories the posts which they filled were in excess and in some other categories they were less than their prescribed percentages. He also admitted that the number of posts they had filled are shown by Shri D.P.Deshmukh, Section Assistant (Estt.), in his aforesaid office note dated 6.9.2005 contained in the file Ex.35(O).

2479) The aforesaid charts (Ex.712) are reproduced in para 2223 of the Enquiry Report. The question whether the number of posts filled by them in each reserved category and open was according to its prescribed percentage i.e. whether it was in excess or less than its prescribed percentage, as shown in the said Charts (Ex. 712) at Sr. No. 5 about “difference” is considered in paras 2224 to 2225 of the Enquiry Report. Vide para 2226 of the Enquiry Report, it is held therein that the candidates were available in all the reserved categories and open in both these posts in making appointment to the extent of their prescribed percentages except that there was dispute about the availability of S.T. candidates whose names were included in the Mark-sheet Ex.34(O)-A S.T. category, separate for the posts of SRA (Agri.) and JRA (Agri.). There was therefore no reason for not selecting the candidates in each category of these posts to the extent of its prescribed percentage except S.T. category which is separately considered. It is pertinent to see that even if the candidates to the extent of its prescribed percentage are not available in any particular reserved category, the posts therein cannot be allotted or utilized for appointment of candidates in any other reserved category/ies or open but has to be kept vacant and has to be later on filled according to the relevant G.Rs. of the Government issued in this regard.

2480) As regards S.T. category, vide para 2227 of the Enquiry Report, according to the prescribed percentage of that category, in 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.) 4 and 5 posts could be reserved respectively, as shown at Sr. No. 3 in separate charts (Ex.712) incorporated in para 2223 of the Enquiry Report. However, as seen from Sr. No. 4 in the said charts (Ex. 712) the candidates selected and appointed in the said posts were 3 and 2 respectively showing that only 3 posts of SRA (Agri.) and 2 posts of JRA (Agri.) were allotted to the said category, which would mean that one post of SRA (Agri.) and 3 posts of JRA (Agri.) in the quota of the said category as per its prescribed percentage were utilised for selection of candidates in other reserved category/ies or open in which case the number of posts utilised in such other category/ies or open would even exceed their quota as per their prescribed percentages which is not permissible except in accordance with the G.R. of the State Government issued in that regard.

2481) Vide paras 2228, 2229 and 2230 of the Enquiry Report, as regards the posts of SRA (Agri.) (S.T.Category) there were six candidates included in the Mark-sheet Ex.34(O)-A for that category out of whom three were absent at the time of interview and the remaining three were selected in the posts of SRA (Agri.) S.T. category. These three candidates included two candidates who had applied for the posts of JRA (Agri.) also. As regards the posts of JRA (Agri.) S.T. category, out of 7 S.T. candidates who had applied for the said posts of JRA (Agri.), vide Mark-sheet Ex.34(O)-A for the said posts of JRA (Agri.) S.T. category, 3 were absent at the time of interview and out of the remaining 4, as shown above, two were selected in the posts of SRA (Agri.), and, therefore, the remaining two were selected in the posts of JRA (Agri.) S.T. category. However, in the Mark-sheet

Ex.34(O)-A for the posts of JRA (Agri.) S.T. category, the name of Solanki Dilip Singh P. who was YCMOU graduate was shown separately at page 9 of the said Mark-sheet but he was not selected because according to Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Member Secretary of the Selection Committee, his performance was poor i.e. he got only 30 marks out of total 100 marks for academic performance and interview but after seeing that in the criteria for academic evaluation of SRA/JRA there were no minimum marks (Cut off marks) prescribed therein for selection and appointment of the candidates in the posts of SRA/JRA, Dr.V.D. Patil, the Chairman of the Selection Committee, categorically admitted that in the absence of cut off marks being fixed for selection of the candidates, the name of Solanki Dilipsingh P., YCMOU graduate, should have been recommended as the 3rd candidate in the post of JRA (Agri.) S.T. category. Dr. Vandan Mohod, the Registrar/Member Secretary of the Selection Committee also admitted in para 7 of his affidavit dated 02.04.2008 (Ex. 713) that since not cut-off marks were fixed in the criteria for evaluation of SRA/JRA, the candidates who received low marks can also be selected if the posts are available for them in descending order of merit.

2482) Vide para 2231 of the Enquiry Report, in making selection and appointment in these 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.), Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee, not only failed to implement the reservation policy of the State Govt. by implementing 100 point roster prescribed by it for direct recruitment but also failed to make appointment as per the prescribed percentage of each reserved category and open. As professed by them, they should have scrupulously followed the selection process of selecting candidates categorywise to the extent of the percentage of each reserved category prescribed in the relevant G.R. of the Government issued in that regard. Their action in not adhering to the prescribed percentage of each reserved category and open is therefore invalid as held by the Supreme Court in Rammana –Vs- International Airport Authority, (1979) 3 SCC 489. The Selection Lists prepared by them for these posts of SRA (Agri.) and JRA (Agri.) are in breach of the reservation policy of the State Government. The selections were made by them in these posts in the most arbitrary manner because even though the candidates were available for making selections in all the posts to the extent of the prescribed percentage of each reserved category still their selections were not made to the extent of their full quota as per their prescribed percentage and the remaining quota in such categories was utilized for selection of the candidates in other categories as shown in the charts (Ex. 712) incorporated in para 2223 of the Enquiry Report and as discussed in paras 2224 and 2225 thereof. It would also support the inference that it was done by them to select the favoured candidates. The selections made in these posts are thus violative of Arts 14, 16(1) and 16(4) of the Constitution of India.

iv) **Horizontal Reservation not made : no candidate is selected in any category in Horizontal Reservation**

(Vide findings in paras 2232 to 2243 of the Enquiry Report)

2483) Vide para 2232 of the Enquiry Report, the reservation of posts made by the State Govt. for backward classes being social reservation is called social or vertical reservation besides which the reservation made by it in regard to special categories of employees is called horizontal reservation. The Supreme Court has considered in its Judgment in Anil Kumar Gupta –Vs- State of UP (1995) 5 SCC 173, the question as to how the reservation prescribed for special categories of employees should be implemented. It is in the light of the above Judgment of the Supreme Court that the State Government issued the G.R. dated 16.3.1999 (Ex.703) in which it laid down the procedure and the guidelines to be followed in making vertical as well as horizontal reservation in direct recruitment by the establishments mentioned therein including the University. In fact, the whole procedure of preparation of the Selection Lists is made clear in the said G.R. dated 16.3.1999 (Ex.703).

2484) Vide para 2233 of the Enquiry Report, the special reservation (Horizontal reservation) for recruitment in services prescribed in para 2 of the aforesaid G.R. dated 16.03.1999 (Ex. 703) is as follows :-

- | | | | | |
|------|---|---|-----|--|
| I) | Ex-Servicemen | : | 15% | Only in Group-C and D |
| II) | Project Affected Person / Earth Quake Affected Person | : | 5% | Only in Group-C and D |
| III) | Physically handicapped | : | 3% | for some posts in Group-A and B and for Posts in Group-C and D |
| IV) | Women | : | 30% | |

The above horizontal reservation is applicable only in direct recruitment and is within social / vertical reservation or in other words, it is not to be considered as additional reservation which would mean that it has to be within the limits of the prescribed percentage of each category of social / vertical reservation and open. If the candidates in the categories of horizontal reservation are already included to the extent of their prescribed percentage on the basis of merit in open or in any reserved category then it is not necessary to make such reservation as is made clear in Stage-A of para 5 of the aforesaid G.R. dated 16.3.1999 (Ex.703). In case their percentage is not satisfied, then to the extent of their percentage or any short-fall in the same, the candidates belonging to such categories of horizontal reservation have to be included in the Selection Lists of open or reserved

categories of social / vertical reservation, as the case may be, by excluding the last candidate/s in such Selection Lists.

2485) Vide para 2234 of the Enquiry Report, it is clear from paras 4 and 6 of the aforesaid G.R. dated 16.3.1999 (Ex.703) that since the horizontal reservation is compartmentalized reservation, not only the number of posts in each category of social / vertical reservation should be mentioned but the number of posts to be reserved in horizontal reservation in each category of vertical reservation such as S.C., S.T., VJ (A), NT (B), NT (C), NT (D), SBC, OBC and Open should also be indicated in the advertisement and that it cannot be transferred from one category to another.

2486) Vide para 2235 of the Enquiry Report, the advertisement dated 14.8.2004 (Ex.2) issued for filling these posts of SRA (Agri.) and JRA (Agri.) amongst others mentions in Clause-IV under the Head “Other conditions” that reservation for female candidates, physically handicapped as per the Government policy, would be observed subject to availability of suitable candidates. But it does not mention other categories of horizontal reservation viz., Ex-servicemen and Project affected/Earthquake affected persons for whom the reservation has to be made in Group C and D posts as per the aforesaid G.R. dated 16.03.1999 (Ex. 703). Since the post of SRA is group-B post no reservation for Ex-servicemen and Project affected/Earthquake affected persons is to be made in the said post but as regards the post of JRA which is group-C post, the horizontal reservation has to be made in the said post for the above categories of employees. As regards the category of physically handicapped persons, as per the aforesaid G.R. dated 16.3.1999 (Ex.703), the reservation has to be made in some posts of group-A and B, besides all posts in group-C and D but as no suitable posts of group A and B are indicated in the said advertisement dated 14.8.2004 (Ex.2), no reservation need be made in the post of SRA (Agri.), which is Group B post, as stated in Note-2 of the chart incorporated in para 2237 of the Enquiry Report. As regards horizontal reservation for female candidates, the reservation has to be made in all groups of posts A, B, C, and D.

2487) Vide para 2236 of the Enquiry Report, the advertisement in question dated 14.8.2004 (Ex.2) is in breach of para 2 of the aforesaid G.R. dated 16.3.1999 (Ex.703) in so far as it does not mention that the horizontal reservation has to be made in the categories of Ex-Servicemen, and Project affected/earthquake affected persons in the post of JRA (Agri.), which is group C post. It is also in breach of para 4 of the aforesaid G.R. dated 16.3.1999 (Ex.703) since as per its obligatory requirement it does not indicate the number of posts to be reserved in horizontal reservation for the aforesaid categories of employees as per their prescribed percentages in each category of vertical reservation and open in 24 posts of SRA (Agri.) and 37 posts of JRA (Agri.) which were advertised. In order to show how the horizontal reservation should have been indicated in the said advertisement dated 14.08.2004 (Ex.2), a chart indicating the number of posts to be reserved in horizontal

reservation for the aforesaid categories of employees according to their prescribed percentages in various categories of vertical reservation and in open, in 24 posts of SRA (Agri.) and 37 posts of JRA (Agri.), which were advertised, was prepared by this office as per the guidelines laid down in the aforesaid G.R. dated 16.3.1999 (Ex.703), vide the said chart incorporated in para 885 of the Enquiry Report. Further, vide paras 1654 and 1655 of the Enquiry Report, relating to the posts of SRA (Agri.) and JRA (Agri.) respectively, it is explained therein how horizontal reservation has been indicated in the said chart incorporated in para 885 of the Enquiry Report.

2488) As 55 posts of SRA (Agri.) and 76 posts of JRA (Agri.) were actually filled, a chart showing the number of posts to be filled by the special categories of employees in horizontal reservation in each category of vertical reservation and in open in filling the said posts as required by para 2 read with para 4 of the G.R. dated 16.3.1999 (Ex.703) is also prepared by this office which is incorporated in the said para 2237 of the Enquiry Report.

2489) Vide paras 2238 and 2238-A of the Enquiry Report, relating to the posts of SRA (Agri.) and JRA (Agri.) respectively, the number of posts to be filled by special categories of employees in horizontal reservation, to the extent of their percentages in various categories of vertical reservation and open as indicated in the aforesaid chart incorporated in para 2237 of the Enquiry Report, are referred to and discussed therein.

2490) Vide para 2239 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, admitted in his affidavit that he and the Members of the Selection Committee, had not applied their mind to the question of horizontal reservation i.e. the selection of the candidates from the special categories of employees for whom the horizontal reservation as per the G.R. dated 16.3.1999 (Ex.703) had to be made, although, the advertisement dated 14.8.2004 (Ex.2), had taken notice of horizontal reservation to be made in favour of at-least female and physically handicapped candidates in Clause-IV under the head “other conditions”.

2491) Vide para 2240 of the Enquiry Report, according to Dr.V.D. Patil, the Chairman of the Selection Committee, there were no physically handicapped candidates who had applied for the posts of SRA (Agri.) and JRA (Agri.). If it is so, the question of their selection and appointment would not arise. As regards the female candidates, although he initially stated that in the Selection Lists there must have been female candidates to the extent of the percentage of their reservation, when it was pointed out to him that in the horizontal reservation, there is compartmentalized reservation i.e. distribution of posts in the reserved categories and open in accordance with their prescribed percentages, he stated that he was aware of such compartmentalized reservation but he would not be able to tell whether the same was observed or not in making selection of the candidates in this case. However, as shown in paras 2238 and 2238-A of the Enquiry Report, the horizontal reservation in

favour of female candidates as per the G.R. dated 16.3.1999 (Ex.703) was also not observed in this case.

2492) Vide paras 2241 and 2242 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, was confronted with the case of Ku. Archana Bipte who was VJ (A) candidate in which category 3 male candidates were selected in the posts of SRA (Agri.) and 2 male candidates, in the posts of JRA (Agri.) as shown in the chart incorporated in para 2237 of the Enquiry Report. The reservation for female candidates being 30%, no post/s for female candidates could be reserved in 2 posts of JRA (Agri.) filled by male candidates but in 3 posts of SRA (Agri.) filled by male candidates one should have been reserved for female candidates and filled by appointment of Ku. Archana Bipte in the said VJ (A) category. Although Dr.V.D. Patil, the Chairman of the Selection Committee, initially tried to justify the appointment of 3 male candidates in the said posts of SRA (Agri.) on the ground that they had more marks than her, he admitted that he had not given any thought to horizontal reservation in favour of female candidates while making selection in the said category and that since no minimum marks (cut off marks) were fixed for selection of the candidates in the criteria for academic evaluation of SRA / JRA. Ku. Archana Bipte VJ (A) candidate should have been appointed in the said post in place of the last male candidate appointed in the said post although she received less marks than him. It is however, made clear that as shown in the topic relating to vertical reservation i.e. reservation made for backward classes, the appointment of 3 VJ (A) male candidates in the posts of SRA (Agri.) was in excess of its quota which was actually two as per its prescribed percentage and had it been observed, no female candidate could have been appointed in the said posts of SRA (Agri.) also.

2493) Vide para 2243 of the Enquiry Report, since no selection and appointment was made in horizontal reservation in making selection and appointment in 55 vacancies of SRA (Agri.) and 76 vacancies of JRA (Agri.) and, in fact, as admitted by Dr.V.D. Patil, the Chairman of the Selection Committee, and the Acting Vice-Chancellor during the relevant time, when there was no application of mind, to the question of horizontal reservation to be made which is obligatory as per the aforesaid G.R. dated 16.3.1999 (Ex.703), the Selection Lists of these posts of SRA (Agri.) and JRA (Agri.) prepared by the Chairman and the Member Secretary of the Selection Committee are vitiated for non-compliance with the mandatory requirement of the aforesaid G.R. dated 16.3.1999 (Ex.703).