

23) Illegality, flaws and consequential reshuffling of the Selection Lists and other infirmities in preparation of the existing Selection Lists of these posts of SRA (Agri.) and JRA (Agri.)

(Vide findings in paras 2244 to 2285 of the Enquiry Report)

2494) Although the entire selection process and appointment of these candidates in these posts of SRA (Agri.) and JRA (Agri.) is vitiated for all the reasons given hereinbefore, even otherwise preparation of the existing Selection Lists of the aforesaid posts suffer from illegalities, flaws and other infirmities as shown in this topic.

The illegalities, flaws and other infirmities observed in the preparation of the existing Selection Lists of these posts of SRA (Agri.) and JRA (Agri.) are pointed out in this topic with reference to the question whether the Selection Lists were prepared according to law i.e. the procedure and the guidelines laid down in the G.R. dated 16.03.1999 (Ex. 703), applicable to the University and also with reference to the question whether they were properly prepared as per the procedure adopted by the Chairman and the Member Secretary of the Selection Committee. The additional infirmities in the existing Selection Lists are also pointed out in this topic.

i) The Selection Lists not prepared according to the procedure and the guidelines laid down in the G.R. dated 16.3.1999 (Ex.703) (Annexure-34 of the Enquiry Report)

(Vide findings in paras 2244 to 2251 of the Enquiry Report)

2495) The G.R.dated 16.3.1999 (Ex.703) is issued by the State Government to lay down the procedure and the guidelines to be followed in making Social/Vertical as well as Horizontal reservation in direct recruitment in the light of the guidelines laid down by the Hon'ble Supreme Court in its Judgment in Anil Kumar Gupta –Vs- State of UP & Ors. (1995) 5 SCC 173. The three stages-A, B and C given in para 5 of the said GR dated 16.3.1999 (Ex. 703) for making horizontal reservation in each reserved category of vertical reservation and open, cover the entire procedure of preparation of the Selection Lists as pointed out in para 2245 of the Enquiry Report. For making proper Horizontal reservation as per the guidelines of the Supreme Court in the above Judgment, it is necessary that there should be a common i.e. single continuous Mark-sheet of all eligible candidates of all categories i.e. S.C., S.T. etc. and open, separately prepared for each post of SRA (Agri.) and JRA (Agri.) in descending order of merit, which is not prepared in this case, as such a common Mark-sheet is most convenient for following the stages A,B, and C given in the said para 5 of the G.R. dated 16.3.1999 (Ex.703) in preparation of the categorywise Selection Lists of these posts of SRA (Agri.) and JRA (Agri.)

2496) Perusal of Stage-A described in para 5 of the said G.R. date 16.3.1999 (Ex.703) shows that first the Selection List of open category should be prepared in descending order of merit. In preparing the Selection List of open category it should include the candidates in reserved categories also, irrespective of whether they have given their choice or have applied for open category or not, if they are eligible for selection in the said category on the basis of their merit i.e. in descending order of merit. As regards horizontal reservation in the said Selection List of open category candidates, it is stated in the said Stage-A in para 5 of the G.R. dated 16.3.1999 (Ex.703) that if the said Selection List of open category candidates already includes therein the candidates to be selected in horizontal reservation to the extent of its prescribed percentage no question of appointing candidates in horizontal reservation would arise, otherwise steps will have to be taken to appoint such candidates to the extent of their prescribed percentage or any short-fall therein. It is thereafter that, as stated in Stage-B in para 5 of the said G.R. dated 16.3.1999 (Ex.703), the Selection List of each of the reserved categories of vertical reservation such as S.C., S.T. etc. has to be prepared by excluding those reserved category candidates who are selected in open category. Stage-C in para 5 of the said G.R. dated 16.3.1999 (Ex.703) then provides for horizontal reservation in each of the reserved categories of Social/Vertical reservation to the extent of but within the limits of its percentage. The University has affirmed the said procedure, vide affidavit of Shri S.S.Suradkar, Deputy Registrar (Academic) dated 14.3.2008 (Ex.691) filed on its behalf considered in para 2246 of the Enquiry Report.

2497) However, as regards the actual procedure followed in preparation of the Selection Lists of these posts, vide paras 2248 and 2249 of the Enquiry Report, as stated by Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee, if the candidate had not applied for open category besides the reserved category in which he had applied, he was not selected in open category although he was eligible for selection in that category on the basis of merit i.e. in descending order of merit, which procedure is contrary to the procedure laid down for preparation of the Selection List in the aforesaid G.R. dated 16.3.1999 (Ex.703). Even the above procedure which they decided to follow was also not followed by them as shown under the head-ii of this topic.

- ii) **Selection Lists of open category of these posts of SRA (Agri.) and JRA (Agri.), not prepared first in descending order of merit of the candidates irrespective of the reserved category to which they belonged, as per para 5 of the G.R. dated 16.3.1999 (Ex.703).**

(Vide finding in para 2251 of the Enquiry Report)

2498) Vide para 2251, of the Enquiry Report the existing Selection Lists of open category of these posts of SRA (Agri.) and JRA (Agri.) were not prepared first by Dr. V. D.Patil, the

Chairman, and Dr. Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee, by including therein the reserved category candidates eligible for selection in the said category in descending order of merit irrespective of whether they had given their choice or had applied for open category or not besides their reserved category. They should have then prepared the Selection Lists of the reserved categories of these posts in descending order of merit excluding such candidates who were selected in open category. The existing Selection Lists of these posts of SRA (Agri.) and JRA (Agri.) were therefore not prepared as per the procedure and guidelines laid down in the G.R. dated 16.03.1999 (Ex. 703).

a) Flaws in the existing Selection Lists of SRA (Agri.) open category

(Vide findings in paras 2252 to 2256 of the Enquiry Report)

2499) Had the Selection List of SRA (Agri.) open category been prepared in descending order of merit as per para 5 of the aforesaid G.R. dated 16.3.1999 (Ex.703), the names of 10 candidates belonging to various reserved categories should have been included in the existing Selection List of SRA (Agri.) Open category irrespective of whether they had applied for open category or not. Their names are given in para 2252 of the Enquiry Report. If the names of the aforesaid 10 candidates were included in the existing Selection List of SRA (Agri.) open category, the last 10 candidates in the said Selection List of 16 SRA (Agri.) open category would have to make room for them. Their names are given in para 2253 of the Enquiry Report. Vide para 2254 of the Enquiry Report, as regards the said last 10 candidates whose names stand excluded from the existing Selection List of SRA (Agri.) open category, all of them except Warade Sangita V. in the said List find place in other Selection Lists of SRA (Agri.) or JRA (Agri.), 4 of them at S.nos.1,3,4 and 6 of the said list given in para 2253 of the Enquiry Report, in the Revised Selection List of the post of SRA (Agri.) OBC category given in para 1669 of the Enquiry Report, and the remaining 5 at S.nos.2, and 7 to 10 of the aforesaid List, in the Selection List of JRA (Agri.) open category given in para 1673 thereof. As regards Warade Sangita V. since she had applied for the post of SRA (Agri.) open category only, her name cannot be included in any Selection Lists whether of SRA (Agri.) or JRA (Agri.).

2500) It may be seen that since 10 candidates whose names are given in para 2252 of the Enquiry Report, have to be included in the Selection List of SRA (Agri.) open category on the basis of their merit i.e. in descending order of merit irrespective of whether they had applied for open category or not, their posts in their respective reserved categories would become vacant and therefore there would be consequential reshuffling of some Selection Lists of the posts of SRA (Agri.) and JRA (Agri.) as considered in paras 2255 to 2256 of the Enquiry Report. The revised Selection Lists of some categories of the posts of SRA

(Agri.) prepared as per para 5 of G.R. dated 16.03.1999 (Ex. 703) are included in para 1669 of the Enquiry Report.

b) Flaws in the Selection Lists of JRA (Agri.) open category

(Vide findings in paras 2257 to 2263 of the Enquiry Report),

2501) It is pointed out in para 2257 of the Enquiry Report that had the Selection List of JRA (Agri.) open category consisting of 36 candidates been prepared as per para 5 of the G.R. dated 16.3.1999 (Ex.703), the names of 10 candidates included in the Selection Lists of some reserved categories would have to be included in the said Selection List of JRA (Agri.) open category while preparing it in descending order of merit. Vide para 2258 of the Enquiry Report, it is pointed out therein that in the existing Selection List of JRA (Agri.) OBC category, the name of Pawar Ravi V. could not be at S.no.1 of the said List since the candidates at S.nos.2 to 10 in the said List had received more marks than him. As regards the candidates at S.nos.3 & 4 in the said Selection List of JRA (Agri.) OBC category, their names are omitted in the above referred List of candidates to be included in the Selection List of JRA (Agri.) open category because their names are already included in the revised Selection List of SRA (Agri.) OBC category given in para 1669 of the Enquiry Report.

2502) Vide para 2259 of the Enquiry Report, the names of the above-referred 10 candidates given in para 2257 of the Enquiry Report and the names of 5 candidates at S.nos.2 and 7 to 10 in the existing Selection List of SRA (Agri.) open category, which stand excluded from the said List, have to be included in the Selection List of JRA (Agri.) open category. As a result of such inclusion, the names of the last 15 candidates from the said Selection List of JRA (Agri.) open category would ordinarily stand excluded from the said Selection List of JRA (Agri.) open category but since one candidate at S.no.1 in the said List is already included in the revised Selection List of SRA (Agri.) OBC category, vide para 1669 of the Enquiry Report, the names of only the last 14 candidates from the said Selection List of JRA (Agri.) open category would stand excluded from the said Selection List. As stated in the said para 2259 of the Enquiry Report, 6 of them whose names are given therein would find place in the revised Selection List of JRA (Agri.) OBC category, vide para 1673 of the Enquiry Report, but the remaining eight candidates from the said Selection Lists of JRA (Agri.) open category whose names are given in para 2260 of the Enquiry Report would not find place in any Selection List as shown in para 1674 of the Enquiry Report.

2503) Vide paras 2261 and 2262 of the Enquiry Report, on inclusion of the names of the above referred 15 candidates in the Selection List of JRA (Agri.) open category, some Selection Lists of JRA (Agri.) would have to be reshuffled and the revised Selection Lists of the said posts would be as shown in para 1673 thereof.

c) Candidates whodo not find place in any Selection List

2504) Vide para 2263 of the Enquiry Report, if the Selection Lists are properly prepared in accordance with para 5 of the G.R. dated 16.3.1999 (Ex.703), one candidate from the existing Selection List of SRA (Agri.) open category viz. Warade Ku. Sangita V. (Sr. No. 11) and 8 candidates from the existing Selection List of JRA (Agri.) open category whose names are given in para 2260 of the Enquiry Report could not have been selected and appointed in these posts of SRA (Agri.) and JRA (Agri.).

iii) The procedure adopted by the Chairman and the Member Secretary of the Selection Committee for preparation of the Selection Lists, not followed by them

(Vide findings in paras 2264 to 2274 of the Enquiry Report)

2505) Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee, did not follow the procedure for preparation of the Selection Lists which they stated that they had adopted for preparation of the Selection Lists. According to them, if any candidate had applied for open category, besides the reserved category, he would be selected in open category if he was eligible for selection in the said category on the basis of his merit i.e. in descending order of merit, but according to them, if he had not applied for open category and had applied only for the reserved category then he would not be selected in open category even though he was eligible for selection in that category on merit i.e. in descending order of merit but would be selected in the reserved category in which his name would be included in preparing the Selection List of the said category in descending order of merit.

a) Flaws in the Selection Lists of SRA (Agri.) open category

(Vide findings in paras 2265 to 2270 of the Enquiry Report)

2506) According to the aforesaid procedure alleged to be adopted by Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee, as shown in para 2265 of the Enquiry Report, the names of 8 candidates given therein from the Selection List of SRA (Agri.) OBC category, should have been included in the posts of SRA (Agri.) open category as they had applied also for the said posts of SRA (Agri.) open category and as they were eligible for selection in the said open category on merit i.e. in descending order of merit. It is pointed out in para 2266 of the Enquiry Report, that although Chinchmalatpure Umesh R. and Konde Nitin M. were eligible to be selected in the post of SRA (Agri.) open category on merit i.e. in descending order of merit, their names were not included in the said List of 8 candidates given in para 2265 of the Enquiry Report, because as envisaged by the above norm they had not applied for the post

of SRA (Agri.) open category but had applied only for the post of SRA (Agri.) OBC category.

2507) Vide para 2268 of the Enquiry Report, if the names of 8 candidates given in the aforesaid para 2265 of the Enquiry Report were included in the Selection List of SRA (Agri.) open category, the names of the last 8 candidates in the said Selection List given in para 2268 of the Enquiry Report, would have to be excluded from the said Selection List. However, vide para 2269 of the Enquiry Report, except Warade Ku.Sangita V. who had applied for SRA (Agri.) open category only, the remaining 7 candidates would find place in the Selection List of either SRA (Agri.) OBC category or JRA (Agri.) open category. The consequential reshuffling of some Selection Lists is considered in para 2270 of the Enquiry Report, and the revised Selection Lists of SRA (Agri.) open and OBC categories as per the above referred norms adopted by the Chairman and the Member Secretary of the Selection Committee are included in para 1681 thereof.

b) Flaws in the Selection List of JRA (Agri.) open category

(Vide findings in paras 2271 to 2273 of the Enquiry Report)

2508) 7 candidates whose names are given in para 2271 of the Enquiry Report, were selected in the posts of JRA (Agri.) OBC category although they had applied for the posts of JRA (Agri.) in open category also besides the OBC category, and although they were eligible for selection in the said posts of JRA (Agri.) open category on merit i.e. in descending order of merit. Their names should have been therefore included in the Selection List of JRA (Agri.) open category and not in JRA (Agri.) OBC category as per the norm adopted by Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee. As stated in para 2272 of the Enquiry Report, the names of the said 7 candidates from the Selection List of JRA (Agri.) OBC category and the names of 4 selected candidates which stand excluded from the Selection List of SRA (Agri.) open category as shown in para 1680 of the Enquiry Report (See S.no.5 to 8 of the List given in the above para 2268 of the Enquiry report), will have to be included in the Selection List of JRA (Agri.) open category while preparing its revised Selection List in descending order of merit. As a result, the last 11 candidates from the Selection list of JRA (Agri.) open category would ordinarily stand excluded from the said List but since the candidate at S.no.1 in the said List is already included in the revised Selection List of SRA (Agri.) OBC category, only the last 10 candidates would stand excluded from the said Selection List of JRA (Agri.) open category. The Selection List of JRA (Agri.) OBC category will have to be consequently reshuffled and revised as some candidates from the said Selection List of JRA (Agri.) OBC category are included in the revised Selection List of SRA (Agri.) OBC category and some in the revised Selection List

of JRA (Agri.) open category. The revised Selection Lists of JRA (Agri.) open and OBC Categories are included in para 1683 of the Enquiry Report.

2509) Vide para 2273 of the Enquiry Report, perusal of the revised Selection List of JRA (Agri.) OBC category would show that it includes 4 candidates from the Selection List of JRA (Agri.) open category and 7 candidates from the Mark-sheet of JRA (Agri.) OBC category i.e. new entrants. As regards, Sr.no.12 Bhongle Santosh A. in the revised Selection List of JRA (Agri.) OBC category, his name was wrongly omitted in the existing Selection List of JRA (Agri.) OBC category although he received more marks than the last 3 candidates in the said List.

c) Candidates who do not find place in any Selection List.

(Vide finding in para 2274 of the Enquiry Report)

2510) Vide para 2274 of the Enquiry Report, the names of 7 candidates who do not find place in any revised Selection Lists whether of SRA (Agri.) or JRA (Agri.), are given in the chart therein out of whom Ku.Warade Sangita V. is from the post of SRA (Agri.) Open category and the remaining 6 are from JRA (Agri.) open category.

iv) The names and particulars of the candidates in the reserved categories who also applied in open category but could not be selected in the said open category in the post in which they were selected in their reserved category.

(Vide finding in para 2275 of the Enquiry Report)

2511) Vide para 2275 of the Enquiry Report, it refers to para 1686 of the Enquiry Report which gives the chart of the reserved category candidates who had also applied in open category besides their reserved category but could not be selected in open category in the post in which they were selected in their reserved category because as shown therein their interview and total marks were reduced.

v) Additional infirmities in the existing Selection Lists

(Vide findings in paras 2276 to 2285 of the Enquiry Report)

a) Total marks of selected candidates not shown in the Selection lists

(Vide findings in paras 2276 to 2278 of the Enquiry Report)

2512) Vide para 2276 of the Enquiry Report, the total marks received by each candidate selected in the posts of SRA (Agri.) and JRA (Agri.) are not shown in the Selection Lists at pages 66 to 76 of the file Ex.34(O) relating to the proceedings/minutes of the meeting of the Selection Committee. It is, therefore, difficult to verify from it whether the said Selection Lists are prepared in descending order of merit. Instead of showing their total marks, the Column in the Selection List is “Sr.no. as per Annexure”, which means the Sr.No. of the selected candidates in the lengthy categorywise Mark-sheet Ex.34(O)-A,

separate for the posts of SRA (Agri.) and JRA (Agri.). There are also mistakes committed in giving Sr.Nos. of the selected candidates in categorywise Mark-sheet Ex.34(O)-A as referred to in para 2276 of the Enquiry Report. As stated in para 2278 of the Enquiry Report, the University was therefore, required to file in this enquiry the categorywise Selection Lists showing the marks received by the candidates in their academic performance, interview and total marks received by them. Accordingly, the University filed in this enquiry the Selection Lists titled by it “Categorywise List of candidates as selected by the Selection Committee for the posts of SRA/JRA, their qualification, category, sex, marks acquired for Bio-data and personal interview” (Ex.25) annexed to the Enquiry Report as Annexure-52.

b) Certain existing Selection lists are not in descending order of merit i.e. proper places of the selected candidates are not shown therein

(Vide findings in paras 2279 to 2283 of the Enquiry Report)

2513) Vide para 2279 of the Enquiry Report, a chart showing the names of the candidates whose proper places in the Selection Lists are not shown as per descending order of merit is incorporated therein and the cases of the said individual candidates are discussed in subsequent paras 2280 to 2283 of the Enquiry Report.

c) Eligible candidates could not find place in the Selection Lists

(Vide finding in para 2284 of the Enquiry Report)

2514) A chart of eligible candidates who were not selected in the posts of SRA (Agri.) or JRA (Agri.) containing the names of 3 candidates viz. Bipte Ku.Archana R., Solanki Dilipsingh P., Bhongle Santosh A. and whose cases are discussed in paras 1696 to 1698 of the Enquiry Report, is incorporated in para 2284 of the Enquiry Report.

2515) Vide para 2285 of the Enquiry Report, the additional infirmities pointed out above would show that the Selection Lists of the candidates in these posts of SRA (Agri.) and JRA (Agri.) were not prepared carefully by following the accepted norms in that regard.

24) Appointments of the selected candidates in the posts of SRA (Agri.) and JRA (Agri.) are even otherwise illegal.

(Vide findings in paras 2075 to 2213 of the Enquiry Report)

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

(Vide findings in paras 2075 to 2079 of the Enquiry Report)

2516) The proviso to sub-section-9 of Section 17 of the University Act provides that in case of any temporary vacancy of less than 2 months in his office, the Vice-Chancellor may

by order in writing entrust his duties to any Director or, Dean or, in their absence to the Registrar, as a measure of emergency. Exercising the power thereunder, Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, issued an order dated 6.9.2005 (Ex.657) appointing Dr.V.D. Patil, Dean/D.I./Chairman of the Selection Committee, as Acting Vice-Chancellor to look after the day-to-day work of his office and to attend to the important and emergency work/meeting, if any, held during the period of his absence from 8.9.2005 to 24.9.2005 during which he was to go on visit to China for about 15 days. It is pertinent to see that on 6.9.2005 itself as shown in the earlier topic relating to “Handing over the Selection Lists”, he received the Selection Lists from Dr.V.D. Patil, the Chairman of the Selection Committee, which he sent to the Registrar’s office for taking further action.

2517) Vide para 2076 of the Enquiry Report, although the objection raised in the affidavit filed by Dr.B.S.Phadnaik and Dr.B.S.Chimurkar, to the appointment of Dr.V.D. Patil, as Acting Vice-Chancellor on the ground that, as per the normal convention, the senior-most Director viz. Dr.S.V.Sarode, Director of Research should have been appointed as Acting Vice-Chancellor is rejected, the question considered in paras 2077 to 2079 of the Enquiry Report, is about propriety of his appointment as Acting Vice-Chancellor particularly when he, as Chairman, and Dr.Vandan Mohod, the Registrar, as the 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. They would therefore, be interested in making appointments of all the selected candidates as per the Selection lists of these posts prepared by them which, as shown hereinbefore included the favoured candidates. This is clear from the fact that although it was stated in the office note dated 6.9.2005 approved by the Regular Vice-Chancellor Dr.S.A.Nimbalkar contained in the file Ex.35(O) that the appointments of the Select List candidates were subject to availability of vacancies which would ordinarily mean the vacancies in their nomination quota, as the selection and appointment of the candidates in these posts was by the mode of direct recruitment, Dr.V.D. Patil, as the Acting Vice-Chancellor, and Dr.Vandan Mohod, as the Registrar at that time, who had prepared the Selection Lists of these posts as Chairman and Member Secretary of the Selection Committee, in order to accommodate all the candidates selected by them in these posts which included the favoured candidates, decided to utilize the posts in promotion quota of these posts, vide office note of the Registrar dated 16.9.2005 approved by the Acting Vice-Chancellor on the same date i.e. 16.9.2005 contained in the file relating to appointments of these candidates Ex.42(O). That they wanted to give appointments to all the candidates selected by them is also clear from the fact that they not only utilized the posts in promotion quota but had utilized the posts of other categories of SRA also such as SRA (Agril.Engg.), SRA (Bio-technology) and also

two posts of Senior Technical Assistant (STA) and one post of JRA (Agril.Engg.) as shown in paras 2212 and 2213 of the Enquiry Report.

2518) In this regard, it may be seen that as held in para 2072 of the Enquiry Report relating to the topic “Handing over of the Selection Lists”, Dr.S.A.Nimbalkar, the then Regular Vice-Chancellor had deliberately chosen the time i.e. the date 6.9.2005 to receive the Selection Lists when he was to go on tour to China from 8.9.2005 to 24.9.2005 because he did not want to be associated with making appointments in question as per the Selection Lists for the reasons better known to him 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 also held therein that when the receipt of Selection Lists and in fact the appointments in these posts were already inordinately delayed, they could have easily waited for 15 days more to enable the regular Vice-Chancellor to consider the question of making appointments in these posts. It was necessary to do so particularly when the questions needed to be considered in making appointments in these posts were whether the appointments of the selected candidates in these posts should be made to the extent of the posts available in their nomination quota as per the decision of the regular Vice-Chancellor who approved the office note dated 6.9.2005 contained in the file Ex.35(O) or whether the posts in their promotion quota which was fixed by the Executive Council by its resolution dated 18.3.1991 (Ex. 595) could and should be utilized without placing the said matter before the Executive Council.

2519) Even otherwise, the question before the Acting Vice-Chancellor was whether the said question of utilization of promotion quota fell within his duties as assigned to him under the order of his appointment dated 6.9.2005 (Ex.657) according to which, he had to look after the day today work of his office and to attend to the important and emergency work/meeting, if any, during the period of absence of the Regular Vice-Chancellor. When the appointments in these posts were so much delayed, there was no emergency in making appointments in the said posts. The decision about utilization of the promotion quota cannot be said to fall within day to day work or routine duties of the office of the Vice-Chancellor particularly when the appointments were to be made in nomination quota and the office note dated 6.9.2005 contained in the file Ex.35(O) approved by the regular Vice-Chancellor, Dr.S.A.Nimbalkar, would show that the appointments of the selected candidates were to be made subject to availability of vacancies in the said posts which would ordinarily mean vacancies in their nomination quota as selection and appointment in these posts was by the mode of direct recruitment. At any rate, it was necessary for the Acting Vice-Chancellor to consider the above question in dispassionate manner which could have been done, if any Director or, Dean who was not involved in preparation of the Selection Lists of these posts was appointed as Acting Vice-Chancellor.

ii) **Office notes of the Registrar's office showing the vacancy position for making appointments of the selected candidates in these posts of SRA (Agri.) and JRA (Agri.) contained in the file Ex.42(O) and issue of appointment orders to them**

(Vide findings in paras 2080 to 2086 of the Enquiry Report)

2520) Vide paras 2080 and 2081 of the Enquiry Report, although Dr.V.D. Patil, the Chairman of the Selection Committee, started working as Acting Vice-Chancellor from 8.9.2005 as per the order of his appointment dated 6.9.2005 (Ex.657), he and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, did not take any steps to start the process of making appointments of the selected candidates in these posts till 15.9.2005 since as shown in the topic relating to "Signing the Mark-sheet Ex.34(O)-A and the Selection Lists", both of them had gone on tour to Pune, Rahuri and Parbhani from 12.9.2005 and taken the signatures of two outside members of the Selection Committee, Dr.G.N.Dake and Dr.N.D.Pawar, on 14.9.2005 upon the Mark-sheet Ex.34(O)-A and the Selection Lists, although Dr.N.D. Pawar, is not sure whether his signature was taken on that day or on 27.10.2005 or 15.12.2005 on which dates Dr.V.D. Patil, again visited Parbhani. It is on 15.09.2005 after Dr.V.D. Patil, and Dr.Vandan Mohod, returned from Parbhani to Akola at about 12.45 p.m. on that day (See log book Ex.660) that Shri D.P.Deshmukh, Section Assistant (Estt.), must have written the office note dated 15.12.2005 contained in the file Ex.42(O) relating to these appointments in the posts of SRA (Agri.) and JRA (Agri.). Although perusal of his office note dated 15.9.2005 would show that there were 43 vacancies, according to him, actually there were 42 and not 43 vacancies in the posts of SRA (Agri.), its nomination quota being of 71 posts and not 72 as shown in his aforesaid office note dated 15.12.2005. Further, according to him, at least 10% vacancies were required to be maintained for adjustment in the event of closure of ICAR scheme and therefore 40 vacancies in the posts of SRA (Agri.) could be filled. He also showed in his aforesaid office note dated 15.9.2005 the vacancy position in its promotion quota as of 13 posts.

2521) When the aforesaid office note of Shri D.P.Deshmukh, Section Assistant (Estt.), dated 15.9.2005 was forwarded to the Assistant Registrar (Estt.) Shri P.V.Behare, on 16.9.2005, he, in his office note dated 16.9.2005 contained in the said file Ex.42(O), pointed out that if it was decided to fill all the vacant posts in nomination quota, there would be no available vacancy in the said quota in these posts for being filled in the next two years. Therefore, according to him, it was necessary to decide as to how many vacant posts in the said quota should be filled as per the advertisement dated 14.8.2004 (Ex.2).

2522) However, when the said file Ex.42(O) containing the aforesaid office note of Shri D.P.Deshmukh, Section Assistant (Estt.), dated 15.9.2005 and the office note of the Assistant Registrar, Shri P.V.Behare, dated 16.9.2005 was forwarded to the Deputy

Registrar (Estt.), Shri S.S.Suradkar, on 16.9.2005 itself, as stated by him in his office note dated the same, there was a meeting of the Acting Vice-Chancellor, the Registrar, the Assistant Registrar (Estt.), Shri P.V.Behare, and he himself to consider the issue of giving effect to the merit List since according to the vacancy position in nomination quota pointed out in the office note of Shri D.P.Deshmukh, Section Asst. (Estt.) dated 15.9.2005, all the candidates selected in these posts of SRA (Agri.) and JRA (Agri.) could not be accommodated in their vacant posts in nomination quota. As discussed at length in the said meeting, the Deputy Registrar (Estt.), Shri S.S.Suradkar, stated in his office note recorded on the same day i.e. 16.9.2005 itself that in order to give effect to the merit List i.e. for making appointment of all the candidates selected by nomination in the said posts it was absolutely necessary to utilize the vacant posts in their promotion quota for the time being since, according to him, some posts of SRA (Agri.) and JRA (Agri.) would be lying vacant for non-availability of qualified candidates in the next below cadre and that excess strength in nomination quota because of utilization of the posts in promotion quota could be adjusted within a period of 3 years during which the cycle of promotion from the post of SRA to the post of Assistant Professor and the post of JRA to the post of SRA would come into operation, the period of 3 years being the minimum period of experience required for promotion. Therefore, according to him, some posts of SRA (Agri.) and JRA (Agri.) in promotion quota could be utilized for making appointment of all the candidates selected by nomination in these posts without causing any injustice to the existing employees.

2523) The aforesaid office note of the Deputy Registrar (Estt.) dated 16.9.2005 about utilization of some vacant posts in promotion quota of these posts was approved by the then Registrar Dr.Vandan Mohod, on the same day by his independent note giving an additional reason that it would not be proper to keep the posts in promotion quota vacant for longer duration of 3 years which office note was approved as proposed by Dr.V.D. Patil, the Acting Vice-Chancellor on the same day i.e. 16.9.2005. Vide para 2086 of the Enquiry Report, in fact, the appointment orders to all 55 candidates selected in the posts of SRA (Agri.) were issued on the same day i.e.16.9.2005 and on the next day i.e. 17.9.2005, the appointment orders were issued to 76 candidates selected in the posts of JRA (Agri.).

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

(Vide findings in paras 2087 and 2088 of the Enquiry Report)

2524) Vide para 2087 of the Enquiry Report, it is held in the topic relating to “Handing over the Selection lists to the then Vice-Chancellor” that as stated by the then Registrar Dr.Vandan Mohod, and also the Section Assistant (Estt.), Shri D.P.Deshmukh, in their affidavits, they had received from the Vice-Chancellor’s office the Selection Lists which were not signed by the Chairman and the Members of the Selection Committee and which

were annexed as Annexures-I to XI by the latter to his office note dated 6.9.2005 contained in the file Ex.35(O). They also stated in their affidavits that even the appointment orders to all the candidates selected in these posts of SRA (Agri.) and JRA (Agri.) were issued on 16.09.2005 and 17.09.2005 respectively on the basis of the said unsigned Selection Lists annexed to the office note dated 6.9.2005 (Annexure-I to XI) contained in the file Ex.35(O). In fact, according to them, the file Ex. 34(O) relating to the proceedings/minutes of the Selection Committee containing the Mark-Sheet Ex. 34(O)-A and the Selection Lists signed by the Chairman and the Members of the Selection Committee was received by them after the appointment orders were issued on 16.09.2005 and 17.09.2005 to the candidates selected in these posts. According to Shri D. P. Deshmukh, Section Assistant (Estt.) he must have received the said file Ex. 34(O) on or about 15.10.2005 or at any rate in November or December 2005 when the persons concerned started making applications under the Right Information Act.

2525) In this regard, Dr. Vandan Mohod, the Registrar, and Shri D. P. Deshmukh, Section Assistant (Estt.), stand supported by two outside Members of the Selection Committee as according to Dr. G. N. Dake, he signed the Mark-Sheet Ex. 34(O)-A and the Selection Lists on 14.09.2005 at Rahuri and according to Dr. N. D. Pawar, on any of the three dates 14.09.2005, 27.10.2005 or 15.12.2005 at Parbhani. As the appointment orders to all the candidates selected in the posts of SRA (Agri.) and JRA (Agri.) were signed and issued by Dr. V. D. Patil, the Acting Vice Chancellor, and Dr. Vandan Mohod, the Registrar, on 16.9.2005 and 17.9.2005 on the basis of the said unsigned Selection Lists, annexed to the office note dated 06.09.2005 contained in the file Ex. 35(O), they acted in highly irregular manner in issuing the said appointment orders to them.

iv) Utilization of the posts in promotion quota in making appointments by nomination is illegal and improper

(Vide findings in paras 2089 to 2093 of the Enquiry Report)

2526) As pointed out in para 2089 of the Enquiry Report, it is provided in the first proviso to Statute-77 (2) of the Statutes that the power to determine the number of posts to be filled by promotion upto 25% of the total number of posts vests in the Vice-Chancellor but above the said limit upto the limit of 50% of the total number of posts to be filled by promotion, the power vests in the Executive Council of the University. Accordingly, the Executive Council of the University, by its resolution dated 18.3.1991 (Ex.595), had fixed the nomination and promotion quota in these posts of SRA/JRA as 50:50. It was therefore, necessary that if any vacancies in the promotion quota of these posts were to be utilized for making appointment by nomination thus increasing the number of posts in their nomination quota vis-à-vis their promotion quota, it was necessary for the Acting Vice-Chancellor to obtain sanction of the Executive Council for utilization of the said posts in promotion quota

for making appointment of the candidates selected by nomination i.e. direct recruitment in these posts. Had the said matter been placed before the Executive Council, it would have considered all pros and cons of the said question before according its sanction to utilization of the posts in promotion quota for making appointments of the candidates selected by nomination i.e. direct recruitment. The Acting Vice-Chancellor was not thus competent to take the decision in this regard.

2527) Vide para 2090 of the Enquiry Report, the decision about the utilization of the posts in promotion quota for making appointment of the candidates selected by nomination was a policy decision and could not have been taken by the Acting Vice-Chancellor who could perform only the routine duties of the office of the Vice-Chancellor. Even otherwise, the decision about utilization of some posts in promotion quota of these posts of SRA (Agri.) and JRA (Agri.) for making appointments of all the candidates selected by nomination in the said posts could not have been taken by Dr. V. D.Patil, the Acting Vice Chancellor, since as per the order dated 6.9.2005 (Ex.657) issued by the regular Vice Chancellor Dr. S. A. Nimbalkar as a measure of emergency under the proviso to Section 17(9) of the University Act, he had to look after the day-to-day work of the office of the Vice-Chancellor and to attend to the important and emergency work / meeting if any called during the period of his absence from 8.9.2005 to 24.9.2005. As held therein, the decision to utilize the posts in promotion quota for making appointment of the candidates selected in these posts by nomination did not fall within the above duties of the office of the Vice-Chancellor assigned to him. The work relating to appointments of the candidates in the posts of SRA (Agri.) and JRA (Agri.) which were not made for such a long time was not an important and emergency work which could not wait till the Regular Vice-Chancellor would resume his duties because it is only 8 days after the decision to utilize the posts in promotion quota was taken on 16.09.2005 by the Acting Vice Chancellor that the Regular Vice-Chancellor resumed his duties on 24.9.2005. It may be seen in this regard that had the Acting Vice-Chancellor followed the routine procedure of obtaining the office notes from the concerned officers in the Registrar's office for his approval showing the suitable vacant posts for appointment and posting of each of the selected candidates instead of making the appointments of the selected candidates in haste by looking himself and the Registrar into the Movement Register (Ex. 644(O)) itself with the assistance of the concerned Section Assistant (Estt.) Shri D. P. Deshmukh, for finding out suitable vacant posts for the selected candidates, it would have easily consumed 8 or 10 days time i.e. till the regular Vice-Chancellor would resume his duties.

2528) Vide para 2091 of the Enquiry Report, it is pertinent to see that as per the office note dated 6.9.2005 contained in the file Ex.35(O) approved by the Regular Vice-Chancellor, Dr.S.A.Nimbalkar, the appointment of the candidates selected in these posts were to be made subject to availability of vacancies which would mean the vacancies

available in nomination quota only and not its promotion quota as the mode of appointment of these candidates was by nomination i.e. direct recruitment. The Acting Vice-Chancellor, in performing day to day work or routine duties of the office of the Vice-Chancellor could not go beyond the aforesaid office note dated 06.09.2005 approved by the regular Vice Chancellor. He could therefore make appointments of the candidates selected in these posts to the extent of the vacancies available in their nomination quota as considered in the office notes of the Section Assistant (Estt.), Shri D.P.Deshmukh, dated 15.9.2005 and the Assistant Registrar (Estt.) Shri P.V.Behare, dated 16.9.2005.

2529) Vide para 2093 of the Enquiry Report, Shri S. S. Suradkar, Deputy Registrar (Estt.), whose office note dated 16.09.2005 about utilisation of some posts in promotion quota already referred to was approved by the then Registrar and the Acting Vice Chancellor, stated in para 17 of his affidavit dated 1.12.2007 (Ex. 634) that the appointment by direct recruitment cannot be made in the posts in promotion quota if the candidate is available in the next lower cadre for promotion to the said posts as per the channel of promotion. As regards the posts of JRA (Agri.), it is pointed out in the topic relating to “Non-selection of YCMOU graduates” that Dr.V.D. Patil, the Chairman of the Selection Committee, admitted that YCMOU graduates were not considered for promotion to the posts of JRA (Agri.) from the posts of Agricultural Assistant. Even their names were not included in the Seniority List of the said posts. The State Government had held the graduate degree of YCMOU as equivalent to the graduate degree of the Agricultural Universities in the State as per its G.R. dated 24.9.2003 (Annexure-20 of the Enquiry Report) which was admittedly binding upon all Agricultural Universities in the State until it was superseded by the Government and therefore Dr.S.A.Nimbalkar, the then Vice-Chancellor and Dr.V.D. Patil, the Chairman of the Selection Committee, had admitted that they were eligible for promotion to the posts of JRA (Agri.) and that their names should have been included in the Seniority List of the posts of Agricultural Assistant. Had the legitimate claims of the YCMOU of graduates working in the posts of Agricultural Assistant for promotion to the posts of JRA (Agri.) been not ignored, the vacancies in the promotion quota of JRA (Agri.) could have been filled by them and to that extent the vacant posts in promotion quota of the said post of JRA (Agri.) could not have been utilised for making appointments of the candidates selected in the said posts.

v) **Procedure followed in making appointments**

(Vide findings in paras 2094 to 2099 of the Enquiry Report)

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

(Vide findings in paras 2094 to 2096 of the Enquiry Report)

2530) Vide para 2095 of the Enquiry Report, as described by Shri S.S.Suradkar, Deputy Registrar (Estt.), according to the office/routine procedure followed in making appointment in the University, the concerned Section Assistant would put-up an office note in writing mentioning therein the designation / description of each vacancy in the establishment/department which was available for appointment and also showing which candidate should be appointed in which post. According to him, alongwith such note was enclosed by him the proceedings of the meeting of the Selection Committee containing the Selection Lists of the candidates. Further, according to him, the said note was then forwarded through proper channel i.e. through the Assistant Registrar, Deputy Registrar and the Registrar to the Hon'ble Vice-Chancellor for his approval and it was after his approval that the appointment and posting orders were issued to the candidates concerned according to the suitable vacancies available in the establishments/departments in the University or its various schemes. In support of the above procedure followed in the University, the University produced two office notes, one dated 13.8.2007 and another dated 29.8.2007 marked as Exs.638 and 640 in this Enquiry. Similar procedure was described by the then Vice-Chancellor, Dr.S.A.Nimbalkar, vide para 2094 of the Enquiry Report, and also by Dr.V.D. Patil, the Chairman of the Selection Committee, vide para 2096 of the Enquiry Report. Dr.Vandan Mohod, the then Registrar was not therefore right in stating that there was no such routine procedure followed in the University in making appointments, vide the said para 2096 of the Enquiry Report. The above office/routine procedure was however, not followed in this case as admitted in para 81 of his affidavit dated 25.12.2007 (Ex. 645) by Dr. V. D. Patil, Acting Vice Chancellor of the University and Chairman of the Selection Committee.

b) **Procedure actually followed in making appointments in these posts of SRA (Agri.) and JRA (Agri.)**

(Vide finding in para 2097 of the Enquiry Report)

2531) Dr.Vandan Mohod, the then Registrar, stated in para 45 of his affidavit dated 1.12.2007 (Ex.633) that the concerned Section Assistant (Estt.), Shri D.P.Deshmukh, had brought to him the Movement Register (Ex.644(O)) maintained by him which contained the information regarding appointment, posting, transfer, retirement and death etc. of the appointees in the posts of SRA (Agri.) and JRA (Agri.). According to him, they had issued

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

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

(Vide findings in paras 2098 and 2099 of the Enquiry Report)

2532) Vide para 2098 of the Enquiry Report, as already pointed out, although Dr.V.D. Patil, the Dean/D.I./Chairman of the Selection Committee, was appointed as Acting Vice-Chancellor during the absence of the then regular Vice-Chancellor, Dr.S.A.Nimbalkar, from 8.9.2004 to 24.9.2004 as per his order dated 6.9.2005 (EX.657) on which date the Selection Lists prepared by him as Chairman of the Selection Committee, and by Dr.Vandan Mohod, the then Registrar, as its Member Secretary were approved by him, the work of making appointment in these posts as per the said Selection Lists did not commence till 15.9.2005 on which date they returned from Parbhani to Akola.

2533) It is pertinent to see that Dr. V. D. Patil, the Acting Vice-Chancellor and Dr. Vandan Mohod, the Registrar had left Akola on 12.9.2005 for visit to Pune from where they had gone to Rahuri on 14.9.2005 on which date, at Rahuri, they obtained upon the Mark-sheet Ex.34(O)-A and the Selection Lists the signatures of the outside member of the Selection Committee Dr.G.N.Dake. They then went to Parbhani on the same day i.e. 14.09.2005 but Dr. N. D. Pawar, another outside member of the Selection Committee was not sure whether his signatures were obtained upon the above documents on that day i.e. 14.9.2004 itself or on 27.10.2005 or 15.12.2005 when Dr.V.D.Patil, visited Parbhani again. It is therefore only on 15.9.2005 after they returned from Parbhani to Akola at about 12.45 P.M. that Shri D.P.Deshmukh, concerned Section Assistant (Estt.) recorded the office note contained in the file Ex. 42(O) explaining the vacancy position in these posts. He must have ascertained the vacancy position in these posts before recording the aforesaid office note dated 15.09.2005 and therefore it appears that it was forwarded on the next day i.e.

16.9.2005 to the Assistant Registrar, the Deputy Registrar (Estt.), the Registrar, and finally the Acting Vice-Chancellor for his approval. As the vacancy position in nomination quota shown by Shri D.P.Deshmukh, Section Assistant (Estt.) in his office note dated 15.09.2005 and considered by the Assistant Registrar (Estt.), Shri P.V.Behare, in his office note dated 16.09.2005 could not accommodate all 55 candidates selected in the posts of SRA (Agri.) and 76 candidates selected in the posts of JRA (Agri.), hurriedly the decision was taken by them on the same day i.e. 16.9.2005 to utilise the vacancies in promotion quota of these posts reflected in the office notes of the Deputy Registrar (Estt.) and the Registrar approved by the Acting Vice-Chancellor. It is obvious that the above decision was taken in order to accommodate all the candidates selected by Dr.V.D. Patil, as Chairman, and Dr.Vandan Mohod, as Member Secretary, of the Selection Committee. They also hurriedly issued appointment orders to all 55 candidates selected in the posts of SRA (Agri.) on the same day and on the next day i.e. 17.6.2005 to all 76 candidates selected in the posts of JRA (Agri.). The haste in which the process of making appointments of all the selected candidates in these posts was completed would show that they wanted to complete it before the regular Vice-Chancellor returned from his visit to China

2534) Vide para 2099 of the Enquiry Report, had the routine procedure described hereinbefore, vide para 2097 of the Enquiry Report, been followed, it would have consumed more time and the said process of appointment of all selected candidates would not have been over before the return of the Vice-Chancellor on 24.9.2005 from his visit to China in which case it was possible that he might have taken the view not to utilize the posts in promotion quota and not to appoint all the selected candidates on the ground that as stated in the office note dated 6.9.2005 approved by him contained in the file Ex.35(O), there were no posts available for them considering only the posts vacant in nomination quota of these posts, resulting in some favoured candidates not getting appointments in these posts. It is for this reason that it appears that the Acting Vice-Chancellor and the Registrar did not follow the usual procedure in making appointments of the selected candidates in these posts of SRA (Agri.) and JR A (Agri.) and made the said appointments in a hurried manner as shown above.

vi) The vacancy position in these posts of SRA/JRA as shown in the Movement Register (Ex.644(O))

(Vide findings in paras 2100 to 2103 of the Enquiry Report)

2535) As shown in para 2095 of the Enquiry Report, since the appointments of the selected candidates in these posts were made by finding out the vacant and suitable posts for them from the said Movement Register (Ex.644(O)) maintained by Shri D.P.Deshmukh, Section Assistant (Estt.), the vacancy position in these posts shown in the said Register is considered in the above referred paras 2100 to 2103 of the Enquiry Report.

2536) Vide para 2100 of the Enquiry Report, the total number of posts of SRA (Agri.) and JRA (Agri.) as shown in the Movement Register (Ex.644(O)) are considered therein. As stated by Shri D.P.Deshmukh, Section Assistant (Estt.), in para 60 of his affidavit dated 15.11.2007 (Ex. 598), the pages A to G of the said Movement Register Ex.644(O) contains index of the posts of SRA, JRA and AA as shown therein. According to him, he had mentioned therein the designations of the post of SRA which were of SRA (Agril.Engg.), and SRA (Computer) and as regards the posts of JRA which were of computer. What is important to be noticed is that, according to him, all the remaining posts of SRA/JRA, although not specifically designated were of Agriculture. He also stated in his aforesaid affidavit that the total number of posts of SRA shown by him in the said Movement Register (Ex.644(O)) excluding farm group posts was 159 out of which 148 were of SRA (Agri.), 7 of SRA (Agril.Engg.) and 4, of SRA (Computer). The total number of posts of SRA excluding farm group posts given by him tallies with the total number of the said posts sanctioned as per revised Akrutibandh, 2003, including 5 posts sanctioned by ICAR on 100 % grant basis (See the chart Ex. 756). However, the total number of posts of SRA (Agri.) and SRA (Agril. Engg.) actually shown by him in his Movement Register Ex. 644(O) is 149 and not 148 and the total number of posts of SRA (Agril. Engg.) actually shown by him therein is 6 and not 7. Even the farm group posts of SRA (Agril. Engg.) as actually shown therein are 2 and not 1.

2537) As stated by Shri D. P. Deshmukh in para 60 of his aforesaid affidavit dated 15.01.2007 (Ex. 598), the total number of posts of JRA, was 103 out of which 99 were of JRA (Agri.) and 4, of JRA (Computer). It may be seen that although in his office note dated 15.9.2005 contained in the file Ex.42(O) relating to the vacancy position at the time of appointment, he had not included 15 posts of JRA (Agri) created in Krushi Vigyan Kendra on 25.8.2004 including which the total number of posts of JRA (Agri.) from that day, which would mean at the time of interview and appointment also, would be 114 and not 99. However, the above total number of posts of JRA i.e. 103 does not tally with the total number of sanctioned posts of JRA as per the revised Akrutibandh 2003 (Ex. 724). Perusal of the chart Ex. 756 filed by the University with the affidavit of its then Registrar, Shri G. K. Bhusare dated 17.09.2008 (Ex. 768) showing departmentwise sanctioned posts as per the revised Akrutibandh, 2003 (Ex. 724) would show that the total number of posts of JRA were earlier 94 and remained the same as they were not reduced in the revised Akrutibandh 2003 (Ex. 724). After excluding 4 posts of JRA (Computer), the total number of posts of JRA (Agri.) would be 90. Adding to them 15 posts of JRA (Agri.) created in Krushi Vigyan Kendras on 25.08.2004, the total number of posts of JRA (Agri.) would be 105 from that day which would mean that the total number of posts of JRA(Agri.) were 105 at the time of interview, and appointment also. Although, at page 2 relating to the chart about teaching and non-teaching posts to be continued as per the revised Akrutibandh, 2003 (Ex. 724), the

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

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

2538) Vide para 2101 of the Enquiry Report, as regards the vacancy position shown in nomination and promotion quota of these posts in the said office note dated 15.9.2005 prepared by Shri D. P. Deshmukh, Section Assistant (Estt.) from his Movement Register Ex. 644 (O) and recorded by him at the time of appointment in these posts contained in the file Ex. 42(O), Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, stated in para 45 of his affidavit dated 1.12.2007 (Ex.633) that after perusing the aforesaid office note dated 15.9.2005 contained in the said file Ex.42(O), it did not appear to him that there were 55 vacancies of SRA (Agri.) and 76 vacancies of JRA (Agri.) available for making appointments of all the candidates selected in the said posts, even considering all the vacancies shown therein in nomination and promotion quota of these posts. He also stated therein that if the recommendations of the Selection Committee about promotion from the post of AA to JRA and JRA to SRA included in the file Ex.34(O) relating to the proceedings/minutes of the meeting of the Selection Committee were taken into consideration, then the lesser number of vacancies would be available for making appointments of the candidates selected as per the Selection Lists of these posts. What needs to be noticed, however, is that he further stated therein that they had given appointment and posting orders to all the selected candidates after seeing the vacancy position of these posts in the aforesaid Movement Register Ex.644(O) itself.

2539) Vide para 2102 of the Enquiry Report, since as stated by Dr. Vandan Mohod, the then Registrar, the appointment and posting orders were given to all the selected candidates in these posts after finding out suitable vacant posts for them from the Movement Register Ex. 644(O), it appeared that the vacancy position shown by Shri D. P. Deshmukh, Section Assistant (Estt.) in his office note dated 15.09.2005 recorded at the time of appointment was not correct although it was also prepared from it. The University was therefore, directed to show the vacancy position in these posts of SRA (Agri.) and JRA (Agri.) at the time of advertisement, interview and appointment including the names of candidates appointed by promotion and nomination therein. Accordingly, the University filed in this enquiry the charts marked as Exs.181 to 192 annexed to its affidavit dated 30.08.2007 (Ex. 180) relating to vacancy position as on 31.07.2004 i.e. at the time of advertisement, and on 12.06.2005 i.e. at the time of interview and also the charts Exs.197 to 202 annexed to its affidavit dated 4.9.2007 (Ex.196) relating to the vacancy position as on 15.09.2005 i.e. at the time of appointment. What is however, interesting is that according to the University the said charts were also based upon the said Movement Register (Ex.644(O)).

2540) Vide the said para 2102 of the Enquiry Report, after seeing the above charts filed by the University in this enquiry showing the vacancy position in these posts at the time of advertisement, interview and appointment, Shri D. P. Deshmukh, Section Assistant (Estt.) stated that the vacancy position shown by him in the file Ex. 40(O) i.e. at the time of advertisement, and in the file Ex. 42(O) i.e. at the time of appointment was approximate while in the above charts filed by the University the vacancy position in each department is accurately shown. As regards the posts of JRA (Agri.), he admitted that while recording his office note dated 15.09.2005 i.e. at the time of appointment contained in the file Ex. 42(O), he had not taken into consideration 15 posts of JRA (Agri.) created in Krishi Vigyan Kendra on 25.08.2004 including which the total number of posts of JRA (Agri.) would be 114 and not 99 at the time of appointment and therefore the total number of vacant posts of JRA (Agri.) at that time in its nomination and promotion quota would be 78 and not 63. However, the fact remains that what was before the Acting Vice-Chancellor and the then Registrar was the aforesaid office note of Shri D. P. Deshmukh, Section Assistant (Estt.) dated 15.09.2005 when they had taken the decision to utilise the posts in promotion quota of these posts for making appointment of all the candidates selected in these posts, vide the office notes of the Deputy Registrar (Estt.), and the then Registrar dated 16.09.2005 approved by the Acting Vice-Chancellor on the same date contained in the file Ex. 42(O).

b) Movement Register not maintained properly

2541) Vide para 2103 of the Enquiry Report, perusal of the aforesaid Movement Register Ex.644(O) which was the basis for giving placement to the candidates selected in the posts of SRA (Agri.) and JRA (Agri.) would show that the concerned Section Assistant (Estt.), Shri D.P.Deshmukh, who had prepared the said Movement Register Ex.644(O) in his own handwriting had made some entries therein in pencil and some in ink. There are many erasers and it is difficult to understand the service particulars of the employees given therein in regard to their service matters such as appointment, transfer, promotion and retirement etc. In fact, perusal of all other Movement Registers of SRA/JRA/AA produced in this enquiry would also show that they are not properly maintained. As regards the Movement Register Ex.644(O) some posts in some departments are not shown therein. For instance, two posts of Senior Technical Assistant in independent Estate unit established under the control of the University Engineer as per the University order dated 25.06.2001 (Ex. 780) which were also sanctioned in the revised Akrutibandh 2003 (Ex. 724) in the office of the University Engineer are not shown therein. Instead, he showed two posts of SRA in the office of the University Engineer although no post of SRA was ever created in said the office of the University Engineer. Similarly, three posts of Bio-Technology in the independent centre of Bio-technology established under the control of the Head of the department of Botany as per the University order dated 25.06.2001 (Ex. 781) were also not shown therein. So also one post of SRA (Agril.Engg.) in the department of IDES was also

not shown therein. Further, one post of SRA (Agril.Engg.) and one post of JRA (Agril.Engg.) are wrongly shown as the post of SRA (Agri.) and JRA (Agri.) in the department of Agricultural Engineering under the Dean, Faculty of Agriculture. See the findings in paras 2173 to 2213-A of the Enquiry Report about utilisation of other posts in making appointments of the candidates selected in these posts.

c) Appointments of the selected candidates not made in appropriate posts

(Vide findings in paras 2104 to 2110 of the Enquiry Report)

2542) As shown hereinbefore, the appointments of all 55 candidates selected in the posts of SRA (Agri.) and all 76 candidates selected in the posts of JRA (Agri.) were made in haste on 16.09.2005 and 17.09.2005 respectively by finding out for them the vacant posts from the Movement Register Ex.644(O) which, as shown in the topic relating thereto, is not properly maintained. Vide para 2104 of the Enquiry Report, in trying to accommodate all the candidates selected in the posts of SRA (Agri.) and JRA (Agri.), some candidates were appointed in such posts which were not meant for them or the duties of which they could not discharge, for which reason some of them were given physical posting in other departments/schemes where they could work. A chart of such selected candidates for whom, there were no appropriate vacant posts in the University is incorporated in para 1528 of the Enquiry Report which can be usefully seen.

2543) As regards two posts of Senior Technical Assistant (STA) which were created as per the University office order dated 25.6.2001 (Ex.780), approved by the Executive Council in its meeting held on 17.7.2001 (Ex.800) and which were also sanctioned as per the revised Akrutibandh (Ex.724) in the office of the University Engineer, the said posts were not evaluated as to their duties and responsibilities in the light of the nature of work in the said Estate unit in which they were created. They were also not equated to the posts of SRA. They could not therefore be treated as the posts of SRA, muchless of SRA (Agri.) merely because the surplus posts of SRA were deployed to create the said posts. In fact, as observed in the said para, there were no posts of SRA ever in the office of the University Engineer. In the absence of the said posts of STA being evaluated and/or made equivalent to the post of SRA or SRA (Agri.), they could not be treated as the posts of SRA or SRA (Agri.).

2544) However, vide para 2105 of the Enquiry Report, Shri Bagde Ashish D. who was M.Sc. Botany and who was selected in the post of SRA (Agri.), was appointed in the post of STA by order dated 16.9.2005 but was given physical or actual work in the department of Horticulture, Dr.PDKV, Akola, which would show that he was not meant as per his qualification for discharging the duties of the said post of STA. Shri D.P.Deshmukh, Section Assistant (Estt.), admitted in para 5 of his additional affidavit dated 15.3.2008 (Ex.695), that as there was no work for him in the office of the University Engineer

according to his above referred qualification, he was given actual work in the department of Horticulture.

2545) Vide para 2106 of the Enquiry Report, it is interesting to see that Ku. K. J. Morey, who was M.Sc., AHDS and who was working in the post of SRA (Agri.) in the College of Agriculture, Nagpur since 21.07.2002, was shown as transferred to the post of STA in the office of the University Engineer on 15.9.2005 on paper only as she continued to work physically in the College of Agriculture, Nagpur (See page 7 of the Movement Register Ex. 644(O)). The reason clearly appears to be that, Dr.V.D. Patil, the then Acting Vice-Chancellor, and Dr.Vandan Mohod, the then Registrar, who made these appointments, did not want to show the appointment of Pravin Patil, son of Dr.V.D. Patil, in the said post of STA which was not evaluated but wanted to appoint him in a post which was clearly off Agriculture for which reason his appointment was made by order dated 16.9.2005 in the post of SRA (Agri.) in the College of Agriculture, Nagpur, occupied by Ku. K.J.Morey, who was shown a day before on 15.9.2005 as transferred on paper only to the said post of STA wrongly shown in the said Movement Register (Ex. 644(O)) as the post of SRA in the office of the University Engineer. The appointment of Pravin V. Patil is in the post occupied by Ku. K. J. Morey is clear from the entry at page 7 of the Movement Register Ex. 644(O) where the name of Pravin Patil is shown at the same Sr. No. 3 where the name of Ku. K. J. Morey is shown.

2546) Vide para 2108 of the Enquiry Report, Ku. M.S.Supe, who was M.Tech. in Farm Power and Machinery was given appointment by order dated 17.9.2005 in the post of JRA (Agri.) in Soil Seed Research Centre (Safflower) Dr.PDKV, Akola, where she was given the work under the Junior Breeder of the said Unit to look after the breeding activities of SORP under his guidance and also to look after computer unit as its Incharge. Dr.V.D. Patil, the Chairman of the Selection Committee, admitted that the said work was not the work to be allotted to the Agricultural Engineering graduate. Shri D.P.Deshmukh, Section Assistant (Estt.), who assisted the Registrar in making proper placement and posting of the selected candidates as per his Movement Register Ex.644(O), stated in para 9 of his additional affidavit dated 15.3.2008 (Ex.695) that there was no post available which was suitable according to her educational qualifications and therefore she was given appointment in the aforesaid vacant post in soil seed research unit. What is important to be seen is that if there was no post available which was suitable according to her qualification, it was not necessary as per the office note dated 6.9.2005 contained in the file Ex. 35(O) approved by the Vice-Chancellor to give her appointment in any post of JRA (Agri.) in the University. It appears that she was given appointment in the said post in soil seed research centre in the University only to accommodate her because she was daughter of former Associate Dean in the University.

2547) As regards other cases about inappropriate posting included in the chart incorporated in para 1528 of the Enquiry Report, Shri Dhongde Sanjay M. who was Agricultural Engineering graduate was given appointment in the post of JRA (Agri.) in LRM Project, under the University Department of Agricultural Chemistry and Soil Science, but was directed to work physically at CSPO, CDF, Wanirambhapur, a farm group, which would show that there was no work for him in the department in which he was appointed, vide para 2107 of the Enquiry Report. Vide para 2109 of the Enquiry Report, Shri A.D.Thakre and Shri P.V.Singrup, who were M.Sc. in Agronomy were given appointment in the posts of JRA (Agri.) in the department of Agricultural Economics. Shri A.H.Bhopale, who was M.Sc. in Agricultural Economics was appointed as JRA (Agri.) in the department of Extension Education and Shri A.P.Khandare, M.Sc. (Economics) was appointed as SRA (Agri.) in Beetlevine Research Station Ramtek.

2548) Vide para 2110 of the Enquiry Report, the above-referred chart would show that there were no appropriate posts available in the University for all the candidates who were selected in the posts of SRA (Agri.) and JRA (Agri.) because the candidates were not actually selected by first determining the vacant posts available for them and then selecting them according to the qualifications required for working in the said vacant posts. In fact the advertisement itself should have been given departmentwise / schemewise by looking into the vacant posts in each department/scheme and calling applications of the candidates with qualifications suitable for the said posts. Secondly, even if the candidates were selected in these posts, pursuant to the advertisement dated 14.08.2004 (Ex. 2), it was not necessary for the appointing authority to make appointments of such candidates for whom there were no appropriate posts in the University since as stated in the office note dated 6.9.2005 contained in the file Ex.35(O) approved by the Regular Vice-Chancellor, the appointments of the candidates in the Selection Lists were subject to availability of vacancies which would mean vacancies suitable as per their qualifications.

25) Assesment of vacancy position in the posts of SRA (Agri.) and JRA (Agri.) at the time of advertisement i.e. as on 31.7.2004, at the time of interview i.e. as on 12.6.2005 and at the time of appointment i.e. as on 15.9.2005

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

(Vide findings in paras 2111 to 2116 of the Enquiry Report)

2549) Vide para 2111 of the Enquiry Report, since Dr.Vandan Mohod, the then Registrar/Member Secretary of the Selection Committee stated that he had given appointment and posting orders to all 55 candidates selected in the posts of SRA (Agri.) and 76 candidates selected in the posts of JRA (Agri.) after finding out vacant posts for them in the Movement Register Ex.644(O), maintained by Shri D.P.Deshmukh, Section Assistant (Estt.), although, according to him, the office note dated 15.9.2005 i.e. at the time of appointment, recorded by Shri D.P. Deshmukh, Section Assistant (Estt.) contained in the file Ex.42(O) which was also based upon his aforesaid Movement Register Ex. 644(O), did not show that there were enough vacancies in their nomination as well as promotion quota to accommodate all the 55 candidates selected in the posts of SRA (Agri.) and 76 candidates selected in the posts of JRA (Agri.). Further, according to him, if the statements about promotions from the post of A.A. to JRA and JRA to SRA recommended by the Selection Committee were taken into account, there would be lesser number of vacancies available for accommodating all the candidates selected in these posts. The University was therefore directed to file in this enquiry the affidavits showing the vacancy position in these posts of SRA (Agri.) and JRA (Agri.) at the time of advertisement, interview, and appointment.

2550) Accordingly, vide para 2113 of the Enquiry Report, the University filed the affidavit dated 30.8.2007 (Ex.180) enclosing with it the charts marked as Exs.181 to 192 in this enquiry. The charts Exs. 181 to 184 are about departmentwise vacancy position in these posts of SRA (Agri.) and JRA (Agri.) as on 31.7.2004 i.e. at the time of advertisement, and as on 12.6.2005 i.e. at the time of interview. The charts Exs. 185 to 188 contain the names of SRA (Agri.) appointed by promotion and by direct recruitment as on the aforesaid dates and the charts Exs. 189 to 192 are four similar charts in respect of the posts of JRA (Agri.)

2551) Vide para 2114 of the Enquiry Report, the University filed further affidavit dated 4.9.2007 (Ex.196) to show the vacancy position in these posts of SRA (Agri.) and JRA (Agri.) as on 15.9.2005 i.e. at the time of appointment in the said posts. It has enclosed with its aforesaid affidavit dated 4.9.2007 (Ex.196) six charts marked as Exs.197 to 202 showing

the vacancy position at the time of appointment. The chart Ex.197 is about the departmentwise vacancy position in the posts of SRA (Agri.) at the time of appointment and the next two charts Exs.198 and 199 contain the names of the candidates appointed in the posts of SRA (Agri.) as on 15.9.2005 by promotion and by direct recruitment respectively. The next three charts (Exs.200 to 202) enclosed with the said affidavit dated 4.9.2007 (Ex.196) are similar charts about the posts of JRA (Agri.).

2552) Vide para 2115 of the Enquiry Report, the discrepancies/mistakes in the charts (Exs.181 to 192) enclosed with the affidavit of the University dated 30.08.2007 (Ex. 180) about the departmentwise vacancy position and giving Lists of promotees and direct recruits in these posts of SRA(Agri.) and JRA(Agri.) as on 31.7.2004 and 12.6.2005 are pointed out therein.

2553) Vide para 2116 of the Enquiry Report, there are tabular statements (charts) given therein showing the departmentwise vacancy position in these posts of SRA (Agri.) and JRA (Agri.) as on 31.7.2004 i.e. at the time of advertisement, 12.6.2005 i.e. at the time of interview, and 15.9.2005 i.e. at the time of appointment. The departmentwise chart about SRA (Agri.) shows the vacancy position after including and excluding 5 posts of Bio-technology. Similarly, there are also tabular statements containing the number of candidates appointed by promotion / direct recruitment in the posts of SRA (Agri.) and JRA (Agri.) as on the aforesaid dates which charts are reproduced below.

Departmentwise vacancy position

Re. SRA (Agri.)

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

Re. JRA (Agri.)

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

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

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

*For bracketed figures see previous para

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

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

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

*For bracketed figures see para 2115 of the Enquiry Report.

- ii) **Verification of the above charts about the vacancy position filed by the University referred to in the previous topic to see whether due to selection of some SRAs (Agri.) and JRAs (Agri.) in the higher posts of Assistant Professor, 55 vacant posts of SRA (Agri.) and 76 vacant posts of JRA (Agri.) were available to make appointment of all the candidates selected in the said posts.**

(Vide findings in paras 2117 to 2129 of the Enquiry Report)

2554) Vide para 2117 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 49 of his affidavit dated 25.12.2007 (Ex.645) that in increasing the number of posts of SRA (Agri.) to be filled from 24 as advertised to 55, and the number of posts of JRA (Agri.) to be filled from 37 as advertised to 76, he had taken into consideration the fact that there were some SRAs (Agri.) and JRAs (Agri.) who were selected in the posts of Assistant Professor either by nomination or promotion about which he knew as he was Member of the Selection Committee constituted for selection of candidates in the said posts of Assistant Professor and as the Selection Lists for the said posts were ready a few months prior to the dates of interviews of these posts of SRA (Agri.) and JRA (Agri.). As already pointed out, the other material before them in considering the question whether the said posts should be increased or not was the office note of Shri

D.P.Deshmukh, Section Assistant (Estt.), dated 15.7.2004 contained in the file Ex.40 showing the vacancy position at the time of advertisement which was almost the same as at the time of interview i.e. 25.6.2005.

2555) Vide para 2118 of the Enquiry Report, in order to find out whether 55 vacant posts of SRA (Agri.) and 76 vacant posts of JRA (Agri.) were available due to selection of some SRAs (Agri.) and JRAs (Agri.) in the posts of Assistant Professor, the University was directed to produce the List of the names of such candidates who were appointed as Assistant Professors with their dates of interview and appointment. Accordingly, the University filed with its affidavit dated 14.9.2007 (Ex.432) the subject-wise List of 94 candidates selected in the posts of Assistant Professor with their dates of interview and appointment. Perusal of the said List would show that their dates of interview and selection were much prior to 13.6.2005 i.e. the date of commencement of interviews for these posts of SRA (Agri.) and JRA (Agri.) However, their dates of appointment were either 27.6.2005, 29.6.2005 or 12.9.2005 which were after the last date of interview of these posts of SRA (Agri.) and JRA (Agri.) i.e. 25.6.2005 but were prior to the dates of appointment of the candidates selected in the said posts i.e. 16.9.2005 and 17.9.2005.

2556) Vide para 2119 of the Enquiry Report, perusal of the List of 94 candidates selected in the posts of Assistant Professor would show that 46 amongst them were from the posts of SRA and only one candidate Shri S.M.Potkile, was from the post of JRA (Agri.). As there was only one candidate Shri S.M.Potkile, who was selected by direct recruitment in the post of Assistant Professor from the post of JRA (Agri.), it could not be a reason for raising the number of posts of JRA (Agri.) to be filled from 37 as advertised to 76. Moreover, verification of the Lists showing the vacancy position in the posts of JRA (Agri.) filed by the University would show that his name was taken into consideration while showing the vacancy position in the said post. Perusal of the Lists of promotees in the post of JRA (Agri.) would show that as on 31.7.2004 and 12.6.2005 (Exs.189 and 191), his name is included therein whereas his name is excluded in the List of promotees in the posts of JRA (Agri.) as on 15.9.2005 since he was already appointed as Assistant Professor on 29.6.2005 i.e. prior to 15.9.2005. However, enquiry was necessary to be made and had been made whether by reason of selection of 46 SRAs in the posts of Assistant Professor, 55 vacancies amongst others were available in the posts of SRA (Agri.).

2557) As regards 46 SRAs selected in the posts of Assistant Professor, Shri D.P.Bundhe, and Shri T.P.Kolhe, were appointed as Assistant Professors in computer science which would show that they possessed qualification in computer science and not in agriculture, and Shri R.R.Shelke, another appointee in the said post of Assistant Professor was from the Veterinary University established w.e.f. 1.4.2001. Therefore, excluding these 3 candidates, there were 43 candidates who were appointed by nomination or promotion in the higher

posts of Assistant Professor from the posts of SRA (Agri.), whose names are given in para 1540 of the Enquiry Report.

2558) Vide para 2120 of the Enquiry Report, the scrutiny of the said List of 43 SRAs (Agri.) appointed in the posts of Assistant Professor would show that 32 SRAs in the said List were appointed on regular basis in the posts of SRA (Agri.) and the remaining 11 were amongst 77 candidates who were promoted w.e.f. 5.11.2004 on officiating basis to the posts of SRA (Agri.) from their substantive posts of JRA (Agri.) and were recommended by the Selection Committee for their regular promotion in the said posts of SRA(Agri.). Vide para 2121 of the Enquiry Report, as these 43 SRAs (Agri.) were appointed in the posts of Assistant Professor prior to 15.9.2005, there should have been ordinarily 43 vacancies in the posts of SRA (Agri.) amongst others, if any, as on 15.9.2005 i.e. at the time of appointment of the candidates selected in these posts of SRA (Agri.). Therefore, although the names of these 43 SRAs (Agri.) need not have been included in the Lists of promotees or direct recruits as on 15.9.2005 (Exs. 198 and 199) as they were already appointed as Assistant Professors on 27.6.2005, 29.6.2005 or 12.9.2005, their names should have been included in the Lists of promotees and direct recruits as on 31.7.2004 i.e. at the time of advertisement and as on 12.6.2005 i.e. at the time of interview (Exs.185 to 188) since they were appointed in higher posts of Assistant Professor much later as is clear from the dates of their appointment given above. However, the said Lists of promotees or direct recruits as on 31.7.2004 and 12.6.2005 (Exs.185 to 188) included the names of 10 SRAs appointed on regular basis in the posts of SRA (Agri.) which are given in para 1543 of the Enquiry Report. Besides the above 10 regular (SRAs.), from amongst 11 officiating SRAs appointed as Assistant Professor whose names were included in the Lists of 77 officiating SRAs (Agri.) recommended by the Selection Committee for regular promotion in the said posts of SRA (Agri.), except the name of Dr.M.H.Dahale, the names of the other 10 SRAs were included in the Lists of promotees in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005, vide para 2122 of the Enquiry Report.

2559) Vide para 2123 of the Enquiry Report, thus out of 43 SRAs (Agri.) who were appointed in the posts of Assistant Professor, the names of only 20 SRAs (Agri.) were included in the Lists of promotees or direct recruits in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.185 to 188) but they did not include the names of the remaining 23 SRAs who were appointed as Assistant Professor. As regards the said remaining 23 SRAs, 22 amongst them were appointed on regular basis in the posts of SRA (Agri.) and one, Dr.M.H.Dahale, was appointed on officiating basis in the said post.

2560) Vide para 2124 of the Enquiry Report, pursuant to the notice issued to him, Shri D.P.Deshmukh, Section Assistant (Estt.) submitted in this enquiry some orders about appointment of SRAs (Agri.) as Assistant Professors on temporary and officiating basis which included the names of 21 out of the said 23 SRAs whose names were not included in

the aforesaid Lists of promotees or direct recruits (Exs.185 to 188) in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005. As regards the remaining 2 SRAs out of the said 23 SRAs appointed as Assistant Professors, Dr.V.P.Babhulkar, was appointed as SRA(Agri.) on regular basis and Dr. M.H. Dahale was appointed by promotion on officiating basis to the post of SRA (Agri.) w.e.f. 5.11.2004 from her post of JRA (Agri.) and was amongst 77 candidates selected by the Selection Committee for regular promotion in the said post. Both of them were, however, appointed directly as Assistant Professor by order dated 29.6.2005 meaning thereby that like the aforesaid 21 SRAs (Agri.), they were not promoted on temporary officiating basis as Assistant Professor at any time before their regular appointment as Assistant Professor by the aforesaid order dated 29.6.2005. Therefore, as admitted by Shri D.P.Deshmukh, Section Assistant (Estt.) vide para 2125 of the Enquiry Report, the names of Dr. M.H. Dahale and Shri V.P.Babhulkar, should have been shown in the Lists of promotees and direct recruits in the posts of SRA (Agri.) respectively as on 31.7.2004 and on 12.6.2005 (Exs. 185 to 188). Their names were, however, not rightly included in the Lists of promotees and direct recruits in the posts of SRA (Agri.) as on the date of appointment i.e. 15.9.2005 (Exs.198 and 199) as they were already appointed by nomination in the higher posts of Assistant Professor on 29.6.2005.

2561) Vide para 2126 of the Enquiry Report, as regards the remaining 21 SRAs (Agri.) who were appointed on temporary officiating basis in the posts of Assistant Professor, before their regular appointment in the said posts as per the orders dated 27.6.2005, 29.6.2005 and / or 12.9.2005, their names were not shown in the Lists of promotees or direct recruits in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.185 and 188) because perusal of the Movement Register (Ex.881) which was prior to the Movement Register (Ex.644(O)) would show that they were working in the posts of Assistant Professor on temporary basis since 2002 and the said Movement Register (Ex.881) as well as the Movement Register (Ex.644(O)) would further show that all their sanctioned posts of SRA (Agri.) in the departments in which they were working were occupied by JRAs (Agri.) who were promoted in the posts of SRA (Agri.) w.e.f. 5.11.2004 and whose names were recommended by the Selection Committee for regular promotion in the said posts. The names of these officiating SRAs (Agri.) were included in the Lists of promotees as on 31.7.2004 (Ex.185) and 12.6.2005 (Ex.187), which would show that these 21 posts of SRA (Agri.) were blocked by them and were not open for appointment of the candidates selected in these posts of SRA (Agri.). The above reason given by Shri D.P.Deshmukh, Section Assistant (Estt.) for not including in the aforesaid Lists of promotees and direct recruits in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.185 to 188) the names of the aforesaid 21 SRAs working on temporary basis as Assistant Professors has to be accepted because the purpose in preparing the said lists is to show whether there is any vacancy in the said post for making appointment of the candidate selected in the said post.

It is thus clear that there is mistake committed in not including in the said Lists of promotees and direct recruits as on 31.7.2004 and 12.6.2005 (Exs.185 to 188) the names of Dr.M.H.Dahale, and V.P.Babhulkar, respectively who were directly appointed to the posts of Assistant Professor by the order dated 29.6.2005 before which they were working in the said posts of SRA (Agri.) on officiating and regular basis respectively.

2562) Vide para 2128 of the Enquiry Report, referring to para 1549-A thereof, the calculation is given therein about the total number of promotees in the Lists of promotees in the posts of SRA (Agri.) as on 31.7.2004 (EX.185) and 12.6.2005 (Ex.187). As per the said calculation, the total number of promotees as on 31.7.2004 i.e. at the time of advertisement would be 82 and not 81 as shown therein (Ex.185). As regards the List of promotees at the time of interview i.e.as on 12.6.2005 (Ex.187), since Shri P.A.Nahate, had in the meanwhile retired, the said List would be of 81 candidates even after including the name of Dr.M.H.Dahale, therein. There are six names added to the said List of promotees (Exs. 185 and 187) as considered in paras 1554 to 1559 of the Enquiry Report. After addition of the said names, the List of promotees in the post of SRA(Agri.) as on 31.7.2004 (Ex. 185) would be of 88 and as on 12.6.2005, (Ex.187) would be 87. As regards the Lists of direct recruits in the posts of SRAs (Agri.) as on 31.7.2004 (Ex.186) and as on 12.6.2005 (Ex.188), it would consist of 29 instead of 28 as shown therein since the name of Shri V.P.Babhulkar, has to be added to the said List.

2563) Vide para 2129 of the Enquiry Report, the revised chart about departmentwise vacancy position in the posts of SRA (Agri.) after excluding 5 posts of Bio-technology and the revised chart about the names of SRA (Agri.),to be included in the Lists of promotees and direct recruits in the light of the findings in para 1549-A of the Enquiry Report, are incorporated therein which charts are reproduced below.

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

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

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

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

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

(Vide findings in paras 2130 to 2132 of the Enquiry Report)

2564) Vide para 2130 of the Enquiry Report, it is observed therein that there is no difference in the vacancy position as on 12.6.2005 and the last day of interview i.e. 25.6.2005.

2565) Vide para 2131 of the Enquiry Report, it gives the vacancy position in the posts of SRA (Agri.) as on 12.6.2005, after verification of the Lists of promotees and direct recruits in the posts of SRA (Agri.) (Exs.187 and 188) as on that date filed by the University with its affidavit dated 30.8.2007 (Ex. 180) by finding out whether they included or did not include therein the names of 43 SRAs (Agri.) who were selected and appointed in the higher posts of Assistant Professor either by nomination or promotion, and whose names are given in para 1540 of the Enquiry Report. The said question is considered in paras 2121 to 2128 of the Enquiry Report. The revised vacancy position in the posts of SRA (Agri.) is accordingly given in para 2129 thereof. Perusal of the second chart in the said para 2129 would show that as on 12.6.2005, there were 87 promotees in the List of promotees in the post of SRA (Agri.) (Ex.187), 29 direct recruits in the List of direct recruits in the said post (Ex.188), and there were 27 total vacant posts excluding 5 posts of SRA (Bio-technology). As the said posts of Biotechnology were admittedly utilized in making appointment in these posts of SRA (Agri.), including the said posts it is shown in para 2131 of the Enquiry Report that there would be only 32 vacancies and not 55 available in the posts of SRA (Agri.) to make appointment of the candidates selected in the said posts. Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee, could not have therefore, taken the decision on the last day of interview i.e.

25.06.2005 to increase the number of posts of SRA (Agri.) to be filled from 24 as advertised to 55 as stated in para 2132 of the Enquiry Report.

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

(Vide findings in paras 2133 to 2145 of the Enquiry Report)

2566) Vide para 2133 of the Enquiry Report, as shown above, there were only 32 vacancies available in the posts of SRA (Agri.), when Dr.V.D. Patil, the Chairman and Dr.Vandan Mohod, the Registrar/Member Secretary, of the Selection Committee decided on 25.6.2005 i.e. the last day of interview to fill-up 55 posts of SRA (Agri.) instead of 24 as advertised. However, according to them, in deciding to fill 55 posts of SRA (Agri.), they had taken into account future vacancies which would be available in these posts due to selection and appointment of some SRAs (Agri.) in the higher posts of Assistant Professor. They had therefore, accordingly, prepared the Selection Lists for the said 55 posts of SRA (Agri.). As regards the question as to how many vacant posts would be available due to selection and appointment of some SRAs (Agri.) in the higher posts of Assistant Professor, the said question is considered under the previous topic vii in paras 2117 to 2129 of the Enquiry Report. Vide para 2119-A thereof, it refers to the List of 43 SRAs (Agri.) who were appointed in the higher posts of Assistant Professor either by nomination or by promotion and whose List is included in para 1540 of the Enquiry Report. In subsequent paras 2120 to 2128 of the Enquiry Report, the said List of 43 SRAs (Agri.) is discussed so as to determine how many names therein are included in the Lists of promotees and direct recruits in the posts of SRA (Agri.) as on 31.7.2004 i.e. at the time of advertisement and 12.6.2005 i.e. at the time of interview (Exs.185 to 188) and if, not, why not, and whether their names stand excluded in the Lists of promotees and direct recruits at the time of appointment i.e. as on 15.9.2005. The revised chart of vacancy position in the posts of SRA (Agri.) is included in para 2129 of the Enquiry Report.

2567) Vide para 2134 of the Enquiry Report, the vacancy position in the post of SRA (Agri.) shown by the University at the time of appointment i.e. as on 15.9.2005 is referred to therein. The charts of promotees and direct recruits in the said post of SRA (Agri.) (Exs.198 and 199) as on 15.9.2005 i.e. at the time of appointment consist of 70 and 21 candidates respectively. Both these charts of promotees and direct recruits as on 15.9.2005 (Exs. 198 and 199) are then verified in the subsequent paras 2135 to 2144 of the Enquiry Report, with the Lists of promotees and direct recruits in the said post of SRA (Agri.) as on 12.6.2005 i.e. at the time of interview (Exs.187 and 188).

2568) Vide para 2136 of the Enquiry Report, in verifying the List of 80 promotees in the post of SRA (Agri.) as on 12.6.2005 i.e. at the time of interview (Ex.187) filed by the University, it has to be seen as to how many SRAs who were appointed as Assistant

Professors prior to 15.9.2005 were included in the said List of promotees as on 12.6.2005 (Ex.187). If the said List of 80 promotees as on 12.6.2005 (Ex.187) is examined with reference to the List of 10 regular SRAs who were appointed as Assistant Professors and whose names are included in para 1543 of the Enquiry Report, the names of two SRAs therein appointed as Assistant Professor viz. Shri R.M.Zinzarde and Shri W.P.Morey, were included in the List of promotees as on 12.6.2005 (Ex.187). The names of the remaining 8 regular SRAs therein appointed as Assistant Professors were included in the List of direct recruits as on 12.6.2005 (Ex.188). As regards the List of 11 officiating SRAs given in para 1544 of the Enquiry Report, the names of 10 officiating SRAs therein who were appointed as Assistant Professors, were included in the List of promotees as on 12.6.2005 (Ex.187). However, through mistake, the name of Dr.M.H.Dahale therein was not included in the said List of promotees as on 12.6.2005 (Ex.187). There are thus 12 SRAs in the List of promotees as on 12.6.2005 (Ex.187) whose names are not included in the List of promotees as on 15.9.2005 (Ex.198) i.e. at the time of appointment as they were in the meanwhile appointed as Assistant Professors before that date. Besides these 12 SRAs appointed as Assistant Professors, 3 SRAs viz. Shri H.R. Khawja, Shri P.V.Pakode, and Shri N.R.Kotamwar, whose names were included in the List of promotees as on 12.6.2005 (Ex.187) also do not find place in the List of promotees as on 15.9.2005 (Ex.198) because they had in the meanwhile retired from service prior to 15.9.2005. Thus, excluding the names of the above 15 SRAs from the List of 80 promotees as on 12.6.2005 (Ex.187), the names of the remaining 65 promotees in the above List (Ex.187) are included in the List of promotees as on 15.9.2005 (Ex.198).

2569) However, the List of promotees as on 15.9.2005 (Ex.198), consists of 70 promotees. As regards the names of 5 SRAs (Agri.) viz., (1) Sau. V. B. Kalamkar, (2) Shri A. S. Tingre, (3) Shri D. S. Gohane, (4) Ku. M. S. Gaikwad and (5) Shri. V. D. Hedau which are included in the said List of promotees as on 15.09.2005 (Ex.198) but are not included in the List of promotees as on 12.6.2005 (Ex.187), vide para 2138 of the Enquiry Report, the names of Sau.V.B.Kalamkar and Shri A.S.Tingre, which are not included in the Lists of promotees as on 31.7.2004 and 12.6.2005 (Exs.185 and 187) should have been included in the said Lists instead of the Lists of direct recruits in their substantive posts of JRA (Agri.) as on the said dates (Exs.190 and 192) because they were promoted on officiating basis in the posts of SRA (Agri.) w.e.f. 5.11.2004 and their names were included in the List of 77 officiating SRAs (Agri.) recommended for regular promotion by the Selection Committee with effect from that date, vide pages 28 to 35 of the file Ex.34(O). Their appointment orders were also issued on 15.09.2005 contained in the file Ex. 47(O). Their posts of SRA (Agri.) were thus blocked and were not vacant for any new recruitment.

2570) Vide para 2139 of the Enquiry Report, the Lists of promotees as on 31.7.2004 and 12.6.2005 (Exs. 185 and 187) in the post of SRA (Agri.) also do not include the names of

Shri D.S.Gahane, Ku. M.S.Gaikwad, and V.D.Hedau whose names are included in the List of promotees as on 15.9.2005 (Ex.198) as they were officiating in the post of SRA (Agri.) w.e.f. 5.11.2004 and were recommended for regular promotion in the said posts by the Selection Committee with effect from that date, vide the List of 77 officiating SRAs (Agri.) at pages 28 to 35 of the file Ex.34(O). They were promoted in the post of SRA (Agri.) by the order dated 15.09.2005. Their names should have also been included in the Lists of promotees in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.185 and 187).

2571) As regards the List of 21 direct recruits in the posts of SRA (Agri.) as on 15.9.2005 i.e. at the time of appointment (Ex.199), its comparison with the List of 28 direct recruits in the posts of SRA (Agri.) as on 12.6.2005 (Ex.188) would show that as shown in para 2143 of the Enquiry Report, the names of 7 SRAs whose names are given therein were in the meantime appointed as Assistant Professors and therefore their names were not included in the List of direct recruits in the said posts as on 15.9.2005 (Ex.199).

2572) Vide para 2144 of the Enquiry Report, as regards the name of Shri H.R.Bhagwat, he was also appointed as Assistant Professor prior to 15.9.2005 but his name is still included in the List of 21 direct recruits as on 15.9.2005 (Ex.199) because as per his appointment order as Assistant Professor, he did not join the said post and continued to work in the post of SRA (Agri.) till his retirement. The List of 21 direct recruits in the posts of SRA (Agri.) as on 15.9.2005 (Ex.199) is thus correctly prepared.

2573) It is therefore, held in para 2145 of the Enquiry Report that the List of 70 promotees (Ex.198) and the List of 21 direct recruits (Ex.199) in the posts of SRA (Agri.) as on 15.9.2005 i.e. at the time of appointment are correctly prepared by the University.

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

(Vide finding in para 2146 of the Enquiry Report)

2574) As observed in the said para 2146 of the Enquiry Report, the total number of posts of SRA (Agri.) excluding 5 posts of Bio-technology is 143 and therefore, the quota of nomination and promotion in the said posts is 71 and 72 respectively. In promotion quota since the posts filled as shown in the List of promotees in the post of SRA (Agri.) as on 15.9.2005 (Ex.198) are 70, the vacant posts are 2 and in nomination quota since the posts filled are 21, vide List of direct recruits (Ex.199), the vacant posts are 50. The vacant posts in nomination quota are thus 5 short of 55 posts of SRA (Agri.) to be filled and even the total vacant posts in nomination and promotion quota are 52, thus 3 short of 55 posts of SRA (Agri.) to be filled. But, as 5 posts of SRA (Bio-technology) were admittedly utilized in making appointments of the selected candidates in these posts of SRA (Agri.), they could all be accommodated in these posts without leaving any post in nomination quota vacant for any future contingency. It is, however pertinent to see that as shown in subsequent para

2212 of the Enquiry Report, regarding the topic about “Utilization of other categories of the posts of SRA such as SRA (Agri.Engg.), SRA (Bio-technology) and also two posts of Senior Technical Assistant, the University utilized 6 posts other than the posts of SRA (Agri.) in making appointments of the candidates selected in these posts of SRA (Agri.). If the said posts are excluded, the University could not have accommodated 55 candidates in the posts of SRA (Agri.) even if the posts in its promotion quota were utilized as shown in the chart in para 2212-A of the Enquiry Report.

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

(Vide findings in paras 2147 to 2150 of the Enquiry Report)

2575) Vide paras 2147 and 2148 of the Enquiry Report, Dr.V.D. Patil, the Chairman of the Selection Committee, stated in para 50 read with para 73 of his affidavit dated 25.12.2007 (Ex.645) that on 25.6.2005 i.e. the last day of interview, he and Dr.Vandan Mohod, the Registrar/Member Secretary of the Selection Committee decided to increase the posts of JRA (Agri.) to be filled from 37 as advertised to 76 because he knew that there were some JRAs (Agri.) who were appointed by nomination in the higher posts of Assistant Professor and therefore, there would be additional vacancies available in future for making appointment of the candidates selected in these posts of JRA (Agri.). However, as shown in para 2119 of the Enquiry Report, in the List of 94 candidates selected by nomination and promotion in the posts of Assistant Professor, there was only one candidate Shri S.M.Potkile, who was selected by nomination in the post of Assistant Professor from the post of JRA (Agri.). As shown therein and as also stated in the said paras 2147 and 2148 of the Enquiry Report, there could not be any substantial increase made in the posts of JRA (Agri.) to be filled, muchless from 37 as advertised to 76 due to selection of only one SRA (Agri.) viz., Shri S. M. Potkile in the post of Assistant Professor. However, still considering the question whether there were 76 vacant posts of JRA (Agri.) available to accommodate the candidates selected in the said posts, the vacancy position was examined by verifying the Lists of promotees and direct recruits filed by the University with its affidavit dated 30.8.2007 (Ex.180) and 4.9.2007 (Ex.196) referred to in para 2149 of the Enquiry Report. It is however, pertinent to see that although while showing the vacancy position as on 15.9.2005 contained in the file Ex.42(O), Shri D.P.Deshmukh, Section Assistant (Estt.) did not take into consideration 15 additional posts of JRA (Agri.) created on 25.8.2004 by ICAR in Krishi Vigyan Kendra, Sindewahi, Yavatmal, Sonapur, Hiwara, and Sakoli, thus making the total number of posts of JRA (Agri.) 114 instead of 99 as shown by him the said increase is taken into consideration by the University while filing with its aforesaid

affidavit dated 30.8.2007 (Ex.180) and 4.9.2007 (Ex.196) the charts about the vacancy position showing therein the total number of posts of JRA (Agri.) as 114 as on 12.6.2005 i.e. at the time of interview and as on 15.9.2005 i.e. at the time of appointment. The chart showing the departmentwise vacancy position in the posts of JRA (Agri.) as on 31.7.2004, 12.6.2005 and 15.9.2005 is incorporated in para 2150 of the Enquiry Report. The said chart shows that there were 76 vacant posts of JRA (Agri.) as on 12.6.2005 i.e. as on 25.6.2005, the last day of interview on which the decision was taken by the Chairman and the Member Secretary, of the Selection Committee to increase the number of posts of JRA (Agri.) to be filled from 37 as advertised to 76. It also shows that as on 15.9.2005 i.e. at the time of appointment, the vacant posts of JRA (Agri.) were 81. The said is as follows;

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

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

(Vide findings in paras 2151 and 2152 of the Enquiry Report)

2576) As already stated, the University had filed with its aforesaid affidavit dated 30.8.2007 (Ex.180) and 4.9.2007 (Ex.196) Lists containing the names of promotees and direct recruits in these posts of JRA (Agri.) as on 31.7.2004 i.e. at the time of advertisement, 12.6.2005 i.e. at the time of interview and 15.9.2005 i.e. at the time of appointment. Vide para 2151 of the Enquiry Report, although the departmentwise charts filed by the University as on 31.7.2004 and 12.6.2005 (Exs.183 and 184) showed the total filled in posts of JRA (Agri.) as 39 and 38 respectively, the actual total number of filled in posts calculated from the Lists of promotees and direct recruits as on the aforesaid dates (Exs.189 to 192) showed that the total filled in posts by promotees and direct recruits as on the said dates (Exs.189 to 192) were 35 and 34 respectively. The University, however, did not explain the said discrepancy in its aforesaid affidavit dated 30.8.2007 (Ex.180). It is also pointed out in para -2151 of the Enquiry Report, that it was not necessary to verify the Lists of promotees and direct recruits at the time of advertisement and interview separately because the names of candidates therein were common except that the name of Shri R.M.Talokar, is not included in the List of promotees as on 12.6.2005 since in the meanwhile he had retired on 31.8.2004. The said List of promotees as on 12.6.2005

consisted of 27 candidates and not 28 as shown therein. The Lists of promotees and direct recruits as on 12.6.2005 (Exs. 191 and 192) were therefore verified to ascertain the vacancy position in the posts of JRA (Agri.) as on 25.6.2005 i.e. the last day of interview on which day the Chairman and the Member Secretary of the Selection Committee had decided to increase the number of posts of JRA (Agri.) to be filled from 37 to 76. The vacancy position as on 25.06.2005 was the same as on 12.06.2005.

2577) Vide para 2152 of the Enquiry Report, for verification of the Lists of promotees and direct recruits in the posts of JRA (Agri.) at the time of interview as on 12.6.2005 (Exs.191 and 192), pursuant to the notice issued to Shri D.P.Deshmukh, Section Assistant (Estt.) to explain the said Lists of promotees and direct recruits, he had brought with him two Registers which he produced in this Enquiry; one Register containing the copies of the orders relating to study leave of the Ph.D/M.Sc. (Agri.) candidates who went for in-service training schemes, and the other Register containing the copies of the orders of promotion and reversion of SRA/JRA/AA. He also filed in this enquiry the copies of three orders dated 15.7.2003, 15.11.2003, and 16.8.2004 relating to temporary and officiating promotion of Agricultural Assistants to the post of JRA (Agri.) (Exs.954 to 956) included also in the aforesaid Register relating to orders of promotion and reversion. All the relevant orders relating to promotion, reversion and study leave contained in the aforesaid Registers, whether filed in this enquiry or not, were verified by this office whereafter the said two Registers were returned to Shri D.P.Deshmukh, Section Assistant (Estt.).

f) Verification of the Lists of promotees in the post of JRA (Agri.) as on 12.6.2005 i.e. at the time of interview (Ex.191)

(Vide findings in paras 2153 to 2163 of the Enquiry Report)

2578) As shown in para 2151 of the Enquiry Report, the List of promotees in the posts of JRA (Agri.) as on 12.6.2005 (Ex.194) consisted of 27 candidates. However, vide para 2153 of the Enquiry Report, as stated by Shri D.P.Deshmukh, Section Assistant (Estt.), in para 11 of his additional affidavit dated 12.10.2009 (Ex.960), the said List of promotees (Ex.191) wrongly included the name of Shri V.D.Hedau, who was not appointed in the post of Agricultural Assistant and was promoted from it to the post of JRA (Agri.) but was directly appointed by nomination in the said post of JRA (Agri.). Therefore, excluding his name from the List of promotees as on 12.6.2005 (Ex.191) it would consist of 26 promotees. As shown in paras 2154 and 2155 of the Enquiry Report, in the said List of 26 promotees (Ex.191) there were 7 regular and 19 officiating promotees.

2579) Vide para 2156 of the Enquiry Report, as shown at Sr.nos.9 and 8 of the Lists of promotees as on 31.7.2004 (EX.189) and 12.6.2005 (Ex.191) respectively, the name of Shri S.R.Deshmukh, is shown. However, as stated by Shri D.P.Deshmukh, Section Assistant

(Estt.) in para 2 of his affidavit dated 2.7.2010 (Ex.964), there is mistake in the initials of the said name which should be Shri S.N.Deshmukh and not Shri S.R.Deshmukh.

2580) Vide para 2157 of the Enquiry Report, although the names of the following JRAs were included in the List of promotees recommended by the Selection Committee for regular promotion in the posts of JRA (Agri.) from the posts of Agricultural Assistant, vide pages 40 to 42 of the file Ex. 34 (O), their names were not included in the Lists of promotees as on 31.7.2004 (Ex.189) and 12.6.2005 (EX.191). They are :

- 1) Shri R.I.Khobragade
- 2) Shri V.P.Deokar
- 3) Shri K.T.Lahariya
- 4) Shri V.B.Iratkar
- 5) Shri S.R.Deshmukh.

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

2581) Vide para 2158 of the Enquiry Report, Shri D.P.Deshmukh, Section Assistant (Estt.), admitted in para 12 of his additional affidavit dated 12.10.2009 (Ex.960) that there was mistake committed in not including the names of Shri R.I.Khobragade, and Shri V.P.Deokar, in the Lists of promotees in the posts of JRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs. 189 and 191) as they were occupying the said posts on temporary officiating basis on the said dates. As already stated, their names were recommended for regular promotion in the said posts w.e.f. 05.11.2004. Their posts were thus blocked and were not vacant for making any new appointment.

2582) Vide paras 2159 and 2160 of the Enquiry Report, Shri D. P. Deshmukh, Section Assistant (Estt.) justified in paras 14 and 15 of his aforesaid affidavit dated 12.10.2009 (Ex. 960), non-inclusion of the names of Shri K.T.Lahariya, and Shri V.B.Iratkar, in the said Lists of promotees as on 31.7.2004 and 12.6.2005 (Exs.189 and 191) since, according to him, they were not officiating in the said posts of JRA (Agri.) as on the said dates. According to him, they were on study leave which covered the above dates and as per the University rules when on study leave, they stood reverted to their substantive posts of Agricultural Assistant. He, however, admitted that when they returned from their study leave they joined not in their substantive posts of Agricultural Assistant but in the posts of their officiating promotion i.e. JRA (Agri.) As regards Shri S.R.Deshmukh, vide para 2161 of the Enquiry Report, he stated in para 16 of his aforesaid affidavit dated 12.10.2009 (Ex.960) that he never worked in the post of JRA (Agri.) on officiating basis and although his name was included in the List of Agricultural Assistants recommended by the Selection Committee for promotion to the post of JRA (Agri.) contained at pages 40 to 42 of the file

Ex.34(O), as mentioned therein, his promotion was effective from the date of his joining the said post of JRA (Agri.). He, therefore, justified therein non-inclusion of his name in the Lists of promotees as on 31.7.2004 (Ex.189) and 12.6.2005 (Ex.191) and also on 15.9.2005 i.e. at the time of appointment (Ex.201).

2583) What is however, material to be seen is vide para 2162 of the Enquiry Report, as admitted by him in para 19 of his aforesaid affidavit dated 12.10.2009 (Ex.960), although the names of the above candidates viz. Shri V.P.Deokar, Shri K.T.Lahariya, V.B.Iratkar, Shri R.I.Khobragade, and Shri S.R.Deshmukh, were not included in the Lists of promotees as on 31.7.2004 and 12.6.2005 (Exs.189 and 191) and as regards Shri S.R.Deshmukh, as on 15.9.2005 (Ex.201) also, their posts of JRA (Agri.) were blocked and were not vacant as on 31.7.2004, 12.6.2005 and 15.9.2005 for making any new appointment in the said post as per the Selection Lists. It is however, pertinent to see that when Shri S.R.Deshmukh, never worked in the post of JRA (Agri.) even in officiating capacity and was for the first time promoted on regular basis to the said post as per the order dated 15.9.2005 pursuant to which he joined it on 14.8.2006, his post cannot be said to be blocked and not vacant as on 31.7.2004 and 12.6.2005 when he did not occupy the same even in officiating capacity but his post can be said to be blocked and not vacant only as on 15.9.2005 for any new appointment to be made since, as per the order dated 15.9.2005 itself, his appointment was to be effective from the date he joined the said post.

2584) Vide para 2163 of the Enquiry Report, it gives calculation of the actual names of promotees as on 12.6.2005 i.e. at the time of interview as shown hereinbefore. After excluding the name of Shri V.B.Hedau, the List of promotees in the posts of JRA (Agri.) as on 12.6.2005 (Ex.191) would be of 26 JRAs. However, as the posts of Shri V.P.Deokar, Shri K.T.Lahariya, Shri V.B.Iratkar, and Shri R.I.Khobragade, were blocked and were not open for any new recruitment in their posts as on 12.6.2005 i.e. at the time of interview as admitted in his aforesaid affidavit by Shri D.P.Deshmukh, Section Assistant (Estt.) the said List of promotees as on 12.6.2005 i.e. at the time of interview (Ex. 191) would be of 30 JRA (Agri.) after inclusion of their names and exclusion of the name of Shri V. D. Hedau, instead of 27 as shown, which would also be the position as on 25.6.2005 i.e. the last day of interview on which the Chairman and the Member Secretary of the Selection Committee took the decision to increase the number of posts of JRA (Agri.) to be filled from 37 as advertised to 76.

g) Verification of the List of direct recruits in the posts of JRA (Agri.) as on 12.6.2005 i.e. at the time of interview

(Vide finding in paras 2164 and 2165 of the Enquiry Report)

2585) Vide para 2164 of the Enquiry Report, the Lists of direct recruits in the posts of JRA (Agri.) as on 31.7.2004 (Ex.190) and 12.6.2005 (Ex.192) contained the names of 7

direct recruits including the names of Sau.V.B.Kalamkar, Shri S.S.Tayade and Shri A.S.Tingre, whose names were included in the List of 77 officiating SRAs (Agri.) who were recommended by the Selection Committee for regular promotion in the said posts w.e.f. 05.11.2004 contained at pages 28 to 35 of the file Ex.34(O). The posts of SRA (Agri.) in which they were officiating were thus blocked and were not open for any new recruitment. However, instead of including their names in the List of promotees in the posts of SRA (Agri.) as on the aforesaid dates (Exs.185 and 187), their names were included in the Lists of their substantive posts of JRA (Agri.) as on the aforesaid dates. As observed in para 1583 of the Enquiry Report, the University included in the List of Promotees in the said post as on 31.07.2004 and 12.06.2005 (Exs. 185 and 187) the names of some officiating SRAs like the 10 officiating SRAs (Agri.) who were later on appointed as Assistant Professors and in case of some others like the officiating SRAs (Agri.) referred to above, in the Lists of direct recruits in their substantive posts of JRA (Agri.) as on the aforesaid dates (Exs.190 and 192). As rightly stated by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 19 of his affidavit dated 12.10.2009 (Ex.960), the above three candidates who were working on officiating basis in the posts of SRA (Agri.) at least w.e.f. 5.11.2004 as shown in the List of 77 officiating SRAs (Agri.) and who were recommended by the Selection Committee for regular promotion in the said posts w.e.f. that date, vide pages 28 to 35 of the file Ex.34(O), their posts were blocked and were not open for making any new appointment in the said posts as per the Selection Lists. Their names should have been therefore, included in the Lists of promotees in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.185 and 187) as the purpose of the said List was to show whether the posts occupied by them were blocked and were not vacant for making any new appointment as per the Selection Lists. Their names could not have been therefore included in the Lists of direct recruits in the post of JRA (Agri.) as on the aforesaid dates (Exs.190 and 192).

2586) Vide para 2165 of the Enquiry Report, as regards Shri V.D.Hedau, his name was wrongly shown in the Lists of promotees in the post of JRA(Agri.) as on 31.7.2004 (Ex.189) and 12.6.2005 (Ex.191) as he was not a promotee but was a direct recruit in the said post and his name should have been, if at all, shown in the lists of direct recruits in the said post as on the aforesaid dates (Exs. 190 and 192). However, as stated by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 26 of his aforesaid affidavit dated 12.10.2009 (Ex.960), his name which is shown at S.no.57 in the List of promotees in the post of SRA (Agri.) as on 15.9.2005 (Ex.198), should have been shown in the Lists of promotees in the post of SRA (Agri.) as on 31.7.2004 (Ex.185) and 12.6.2005 (Ex.187) also as he was officiating in the post of SRA (Agri.) and his name was included at S.no.73 in the List of 77 officiating SRAs (Agri.) recommended by the Selection Committee for regular promotion in the said post w.e.f. 5.11.2004, vide pages 28 to 35 of the file Ex.34(O) and

was appointed on regular basis in the said post w.e.f. that date as per the order dated 15.09.2005. His post was thus blocked and was not open for any new recruitment in the said post. It is thus already taken into consideration and counted in the Lists of promotees in the post of SRA (Agri.) as on 31.7.2004 (Ex.185) and 12.6.2005 (Ex.187). It cannot, therefore be and is not rightly included in the Lists of direct recruits as on 31.7.2004 and 12.6.2005 (Exs. 190 and 192). Since the names of Sau.V.B.Kalamkar, Shri S.S.Tayade and Shri A.S.Tingre, have to be included in the Lists of promotees in the posts of SRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.185 and 187) as stated above, their names have to be excluded from the Lists of direct recruits as on the said dates (Exs.190 and 192) which Lists would therefore consist of 4 JRAs (Agri.) and not 7.

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

(Vide findings in paras 2166 to 2170 of the Enquiry Report)

2587) Vide para 2166 of the Enquiry Report, as regards the question of verification of the Lists of promotees and direct recruits in the posts of JRA (Agri.) as on 15.9.2005 (Exs.201 and 202), the said Lists are of 29 and 4 names respectively. As regards the List of promotees as on 15.9.2005 (Ex.201), it includes the names of Shri R.I.Khobragade, Shri V.B.Iratkar, Shri K.T.Lahariya, and Shri V.B.Deokar, but does not include the name of Shri V.T.Kogde and Shri S.R.Deshmukh. However, it wrongly includes the name of Shri V.D. Hedau. As already pointed out above he was directly appointed by nomination in the post of JRA (Agri.) and was not promoted to the said post from the post of Agricultural Assistant. Moreover, as shown in para 1584 of the Enquiry Report, his name was included at Sr. No. 57 in the List of promotees in the post of SRA (Agri.) as on 15.9.2005 (Ex.198), as he was officiating in the said post w.e.f. 5.11.2004, vide S.no.73 in the List of 77 officiating SRAs (Agri.) recommended for regular promotion in the said post by the Selection Committee w.e.f. that date contained at pages 28 to 35 of the file Ex. 34(O) and was appointed on regular basis in the said post w.e.f. that date as per the order dated 15.09.2005. His name, has therefore, to be excluded from the List of promotees in the post of JRA (Agri.) as on 15.9.2005 (Ex.201).

2588) Vide para 2167 of the Enquiry Report, as regards Shri S.R.Deshmukh, as per the order of promotion dated 15.9.2005, he was promoted on regular basis to the post of JRA (Agri.) from the post of Agricultural Assistant w.e.f. from the date he would join the said post pursuant to which he joined it on 14.9.2005. Although he joined the said post of JRA (Agri.) much later on 14.9.2005, as stated by Shri D.P.Deshmukh, Section Assistant (Estt.), in para 19 of his additional affidavit dated 12.10.2009 (Ex.960), his post was blocked and was not vacant as on 15.9.2005 or thereafter for making appointment of the candidates

selected in the posts of JRA (Agri.). His name should have therefore been included in the List of promotees in the said post of JRA (Agri.) as on 15.09.2005 (Ex. 201).

2589) Vide para 2168 of the Enquiry Report, as regards the name of Shri V.T.Kogde, his name was included in the List of promotees in the post of JRA (Agri.) as on 31.7.2004 and 12.6.2005 (Exs.189 and 191). His name was also recommended by the Selection Committee for regular promotion in the post of JRA (Agri.) from the post of Agricultural Assistant w.e.f. 5.11.2004 as he was officiating in the said post from that date (See pages 40 to 42 of the file Ex.34(O)). The reason given by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 17 of his additional affidavit dated 12.10.2009 (Ex.960) for not including his name in the List of promotees in the post of JRA (Agri.) (Ex.201) as on 15.9.2005 is that he did not submit his Caste validity Certificate about the reserved category of S.T. to which he belonged. It is, however, clear that he continued to officiate in the post of JRA (Agri.) till he was actually reverted by order dated 27.7.2006 w.e.f. 20.6.2006. It is also necessary to see that he was given regular promotion by order dated 15.9.2005 included in the file Ex.47(O) pursuant to which he continued to work in the said post as he was given time to submit the Caste Validity Certificate. It was only when he did not submit his Caste Validity Certificate in spite of sufficient time being given to him, that he was reverted to the post of Agricultural Assistant. It is, therefore, clear that as on 15.9.2005 i.e. at the time of appointment or when the appointment orders of the candidates selected in the posts of JRA (Agri.) were actually issued on 17.9.2005, his post of JRA (Agri.) was blocked and was not vacant for making any new appointment in his post as per the Selection Lists as admitted even by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 19 of his aforesaid additional affidavit dated 12.10.2009 (Ex.960).

2590) Vide para 2169 of the Enquiry Report, in the light of the above findings, the names of Shri V.T.Kogde, and Shri S.R.Deshmukh, have to be included in the List of promotees in the post of JRA (Agri.) as on 15.9.2005 (Ex.201) but the name of Shri V.D. Hedau included therein has to be excluded. Thus the said List would consist of 30 JRA (Agri.) instead of 29.

2591) Vide para 2170 of the Enquiry Report, as regards the question of List of direct recruits in the posts of JRA (Agri.) as on 15.9.2005 i.e. at the time of appointment (Ex.202), the said List consists of 4 JRAs (Agri.). Even as regards the List of direct recruits as on 12.6.2005 i.e. at the time of interview (Ex.192) which consisted of 7 JRAs (Agri.), it is held in the previous topic relating to verification of the List of direct recruits in the posts of JRA (Agri.) as on 12.6.2005 i.e. at the time of interview (Ex. 192) that the names of Sau. V. B. Kalamkar, Shri A.S.Tingre, and Shri S.S.Tayade, should be excluded from the List of direct recruits as on 12.6.2005 (Ex.192) and should be included in the List of promotees in the post of SRA (Agri.) as on that day i.e. 12.6.2005 (Ex.187) as they were officiating in the said post of SRA (Agri.) w.e.f. 5.11.2004 and their names were included in the List of 77

officiating SRAs (Agri.) who were recommended by the Selection Committee for regular promotion in the said post w.e.f. from that date (See pages 28 to 35 of the file Ex.34(O)). Further, Sau. V. B. Kalamkar and Shri A. S. Tingre were promoted on regular basis in the post of SRA (Agri.) as per the order dated 15.09.2005 and as regards Shri S.S.Tayade, he was appointed by nomination in the post of Assistant Professor in Agronomy as per the order dated 29.6.2005 i.e. prior to 15.09.2005. As Sau.V.B.Kalamkar and Shri A.S.Tingre were promoted on regular basis in the posts of SRA (Agri.) as per the order dated 15.9.2005 and as Shri S.S.Tayade had become Assistant Professor before that date, their names were rightly excluded in the List of direct recruits in the posts of JRA (Agri.) as on 15.9.2005 (Ex.202). The said List (Ex.202), therefore, correctly included only 4 direct recruits as on 15.9.2005 i.e. at the time of appointment.

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

(Vide findings in paras 2171 and 2171-A of the Enquiry Report)

2592) The vacancy position in the posts of JRA (Agri.) as on 25.6.2005 i.e. the last day of interview which, as already observed, is the same as on 12.6.2005 is worked out as follows :-

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

Nomination and Promotion Quota - 57 : 57

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

The vacant posts in nomination quota can not but the vacant posts in nomination and promotion quota can accommodate all the 76 candidates selected in the posts of JRA(Agri.) without providing for any future contingencies in nomination quota. As per the office note of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.9.2005 contained in the file Ex.42(O) 10% vacancies should be maintained in case of closure of ICAR schemes and as observed by the Assistant Registrar, Shri P.V.Behare in his office note dated 16.9.2005 contained therein if all the posts in nomination quota are utilized for making appointment of the selected candidates, there would be no vacancies therein for the next two years. Further, one post of JRA in the department of Agricultural Engineering under Dean, Agriculture, utilized in making appointments is actually of JRA (Agril.Engg.) and not of JRA (Agri.) as shown in para 2200 of the Enquiry Report relating to the topic about the number of posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) utilized in making appointments of the candidates selected in these posts.

i-1) Re : Calculation vacancy position as per revised Akrutibandh-2003 (Ex.724) as on 25.6.2005

2593) Vide para 2100-A of the Enquiry Report, as per the revised Akrutibandh-2003 (Ex.724), the total number of sanctioned posts of JRA (Agri.) (See the chart Ex. 756 filed by the University) are 94 out of which 4 posts are of Computer and 90 posts are of JRA (Agri.). Adding to them 15 posts of JRA (Agri.) created on 25.8.2004 by ICAR for Krushi Vigyan Kendra's, the total number of posts of JRA (Agri.) would be 105 as on 12.6.2005.

Hence nomination and promotion quota would be 52 : 53.

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

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

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

(Vide findings in paras 2172 and 2172-A of the Enquiry Report)

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

Nomination & Promotion quota : 57 : 57

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

2594) The vacant posts in nomination quota can not but the vacant posts in nomination and promotion quota can accommodate all the 76 candidates selected in the posts of JRA(Agri.) without providing for any future contingencies in nomination quota. As per the office note of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.9.2005 contained in the file Ex.42(O) 10% vacancies should be maintained in case of closure of ICAR schemes and as observed by the Assistant Registrar, Shri P.V.Behare in his office note dated 16.9.2005 contained therein if all the posts in nomination quota are utilized for making appointment of the selected candidates, there would be no vacancies therein for the next

two years. Further, one post of JRA in the department of Agricultural Engineering under Dean, Agriculture, utilized in making appointments is actually of JRA (Agril.Engg.) and not of JRA (Agri.) as shown in para 1625 of the Enquiry Report relating to the topic about the number of posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) utilized in making appointments of the candidates selected in these posts.

j-1) Re : Calculation vacancy position as per revised Akrutibandh-2003 (Ex.724) as on 15.9.2005

2595) Vide para 2100-A, of the Enquiry Report, as per the revised Akrutibandh-2003 (Ex.724), the total number of sanctioned posts of JRA (Agri.) are 94 out of which 4 posts are of Computer and 90 posts are of JRA (Agri.) (See the chart Ex. 756 filed by the University). Adding to them 15 posts of JRA (Agri.) created on 25.8.2004 by ICAR for Krushi Vigyan Kendra's, the total number of posts of JRA (Agri.) would be 105 as on 15.9.2005.

Hence nomination and promotion quota would be 52 : 53.

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

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

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

(Vide findings in paras 2173 to 2213 of the Enquiry Report)

2596) Vide para 2173 of the Enquiry Report, during the course of the enquiry, it appeared that the posts other than the posts of SRA (Agri.) and JRA (Agri.) were utilized in making appointments of the candidates selected in the said posts. As a result of enquiry made in that regard, it was revealed that the following other posts were utilized in making appointments in the posts of SRA (Agri.) and JRA (Agri.)

a) **Re: Posts of SRA (Bio-technology / Bio-chemistry)**

(Vide findings in paras 2174 to 2181 of the Enquiry Report)

2597) Vide para 2175 of the Enquiry Report, there were five posts of SRA (Bio-technology/Bio-chemistry) which were separately advertised in the advertisement in question dated 14.8.2004 (Ex.2) with separate qualifications for the said posts. According to Dr.S.A.Nimbalkar, the then Vice-Chancellor of the University, Dr.V.D. Patil, the Dean (Agri.) and the Chairman of the Selection Committee, and Shri G.K.Bhusare, the Registrar, there were no sanctioned posts of SRA (Bio-technology/Bio-chemistry) which were advertised for being filled but they were carved out from the sanctioned strength of the posts of SRA (Agri.) in order to develop the branch of Bio-technology. However, without making any appointment in the said posts, they were admittedly utilized by Dr.V.D. Patil, the Acting Vice-Chancellor, and Dr.Vandan Mohod, the then Registrar, for making appointment of the candidates selected in the posts of SRA (Agri.) as per the Selection Lists prepared by them as Chairman and the Member Secretary, of the Selection Committee.

2598) In appreciating the question whether there were any sanctioned posts of SRA (Bio-technology/Bio-chemistry) or not, vide para 2174 of the Enquiry Report, it is necessary to see that, by the University order dated 25.6.2001 (Ex.781), the independent Bio-technology Centre was established in the University under the control of the Head, Department of Agricultural Botany with the posts given in the table therein which would show that two surplus posts of SRA, one each from STRU, Akola, and ARS, Sindewahi, were withdrawn and were allotted to the said Bio-technology Centre thus creating two posts of SRA (Bio-technology) therein. Perusal of the said order dated 25.6.2001 (Ex.781) shows that there was Bio-technology Centre already functioning in the said department of Agricultural Botany in the University in which the staff working therein included one SRA and it was for the effective functioning of the said Centre that the additional staff was provided to it as stated in the said University order dated 25.6.2001 (Ex.781). There were thus three sanctioned posts of SRA (Bio-technology) in the said Centre which fact has been admitted by Dr.D.L.Sale, Dean (Agri.) in his affidavit dated 27.8.2008 (Ex.764) and by the Registrar, Shri G.K.Bhusare, in his affidavit dated 17.9.2008 (Ex.768).

2599) Vide para 2176 of the Enquiry Report, as regards the question of sanction to the posts of SRA (Bio-technology) in Bio-technology centre, the decision to allow all Agricultural Universities in the State to utilize surplus posts in research schemes/stations/departments by allotting them to new centres/ units established in the University and also to the educational institutions where they were necessary was taken by all the Authorities/officers concerned including the State Government and MCAER and the Vice-Chancellors of the Agricultural Universities in the State which decision was communicated to the University by letter of the State Govt. dated 1.12.2000. The Executive

Council of the University took notice of the said decision and thus approved all the orders dated 25.6.2001 (Exs.777 to 783) by its resolution dated 17.9.2001 (Ex.800). It cannot therefore be said that there was no sanction to the posts of SRA (Bio-technology) created in Bio-technology Centre as per the aforesaid University order dated 25.6.2001 (Ex.781).

2600) Vide para 2107 of the Enquiry Report, when as per the decision of the aforesaid authorities/ officers including the State Govt. two surplus posts of SRA (Agri.) were withdrawn and were allotted to the independent Bio-technology Centre, thus creating two posts of SRA (Bio-technology), the said two posts ceased to be the posts of SRA (Agri.) and became the posts of SRA (Bio-technology) for which separate qualifications were required as shown in the advertisement dated 14.8.2004 (Ex.2). Thus, including one post of SRA (Bio-technology) existing in the Bio-technology Centre already functioning in the Department of Agriculture Botany, there were three sanctioned posts of SRA (Bio-technology) as rightly admitted by Dr.D.L.Sale, Dean (Agri.) and the Registrar Shri G.K.Bhusare as referred to above.

2601) Vide para 2178 of the Enquiry Report, there were thus three sanctioned posts of SRA (Bio-technology) which could not have been utilized for making appointment of the candidates selected in the posts of SRA (Agri.). As regards two posts which were the posts of SRA (Bio-chemistry) as shown by the Assistant Registrar (Estt.) Shri P.V.Behare, in the draft of the advertisement prepared by him showing the final position of the posts to be advertised contained in the file Ex.40(O), there were no formal orders issued by the University for deployment of any posts of SRA as the posts of SRA (Bio-chemistry) as stated by Dr.D.L.Sale, Dean (Agri.), the then Registrar, Shri G.K.Bhusare, and the Assistant Registrar, Shri P.V.Behare, in their affidavits.

2602) Vide para 2179 of the Enquiry Report, when 5 posts of SRA (Bio-technology/Bio-chemistry) which were advertised were admittedly utilized for making appointment of the candidates selected in the posts of SRA (Agri.), it would mean that the said three sanctioned posts of SRA (Bio-technology) in the independent Bio-technology Centre were admittedly utilized for appointment of the candidates selected in the posts of SRA (Agri.). The said three posts of SRA (Bio-technology) which were not of SRA (Agri.) as shown above could not have been utilized for making appointment of the candidates selected in the posts of SRA (Agri.). As regards the remaining two posts which were of SRA (Bio-chemistry), since there was no formal order issued by the University for deployment of any posts of SRA as the posts of SRA (Bio-chemistry), legally speaking, there was no restriction upon the University in utilising these two posts of SRA (Bio-chemistry) for making appointment of the candidates selected in the posts of SRA (Agri.). However, when 5 posts of SRA (Bio-technology/Bio-chemistry) including the said two posts of SRA (Bio-chemistry) were advertised for development of the branch of Bio-technology as stated by Dr. S.A.Nimbalkar, the then Vice-Chancellor and Dr.V.D. Patil, Dean (Agri.) and the

Chairman of the Selection Committee, for which an independent Bio-technology Centre was established as per the aforesaid University order dated 25.6.2001 (Ex.781), propriety required that these two posts to be deployed for Bio-chemistry should not have been utilized for making appointment of the candidates selected in the posts of SRA (Agri.) only because the formal order in that regard had remained to be issued.

2603) Vide para 2181 of the Enquiry Report, Dr.V.D. Patil, the then Acting Vice-Chancellor of the University and Dr.Vandan Mohod, the then Registrar, acted illegally in utilizing these three posts of SRA (Bio-technology) for making appointment of the candidates selected in the posts of SRA (Agri.). In fact, propriety required that they should not have utilized for appointment of the candidates selected in the posts of SRA (Agri.), two posts of SRA (Bio-chemistry) which were proposed to be created for development of the branch of Bio-technology only because formal orders remained to be issued in that regard.

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

(Vide findings in paras 2182 to 2200 of the Enquiry Report)

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

(Vide findings in paras 2182 to 2183)

2604) Vide paras 2182 and 2183 of the Enquiry Report, as stated by Dr.Vandan Mohod, the then Registrar of the University, the appointment of all the candidates selected in the posts of SRA (Agri.) and JRA (Agri.) were made by finding out vacant posts for them from the Movement Register Ex.644(O) maintained by the Section Assistant (Estt.), Shri D.P.Deshmukh. It is, therefore, necessary to see whether the posts of SRA/JRA shown in the said Movement Register Ex. 644(O) which were utilized in making appointments of the candidates selected in the posts of SRA (Agri.) and JRA (Agri.) were of SRA (Agri.) and JRA (Agri.) or not. As stated by Shri D.P.Deshmukh, Section Assistant (Estt.), in para 60 of his affidavit dated 15.11.2007 (Ex.598), in his Movement Register Ex.644(O), he had shown the posts of SRA (Agril.Engg.), SRA (Computer) and JRA (Computer) with their specific designations and except the said posts, all the remaining posts of SRA/JRA, although not specifically designated, were the posts of Agriculture. Therefore, for determining the total number of posts of SRA (Agri.) and JRA (Agri.), it was necessary to determine first the total number of posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) existing in the University set-up of the posts of SRA/JRA about which there was difference amongst the concerned officers of the University as is shown in the chart prepared by this office marked as Ex.775-A and also enclosed with this Enquiry Report as Annexure-32. The posts shown in the said chart (Ex.775-A) are inclusive of farm group posts. The said

chart is admitted by Shri D.P.Deshmukh, Section Assistant (Estt.) As regards the posts of computer, there is no dispute that there were 4 posts each of SRA (Computer) and JRA (Computer) in the independent computer centre established under the Director of Research as per the University order dated 25.6.2001 (Ex.779).

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

(Vide findings in paras 2184 to 2190 of the Enquiry Report)

2605) Vide para 2184 of the Enquiry Report, perusal of the said chart Ex.775-A would show that the difference in the total number of posts of SRA (Agril.Engg.) given by the concerned officers of the University, is mainly because of three posts of SRA (Agril.Engg.) shown by Dr.P.M.Nimkar, Dean, Faculty of Agricultural Engineering in the department of Soil & Water Conservation Engineering (SWCE) and one post shown by him in the department of Irrigation, Water Management, and Drainage Engineering (IDES). There is also difference amongst the concerned officers of the University whether one post of SRA and one post of JRA in the department of Agricultural Engineering are the posts of Agricultural Engineering or of Agriculture.

2606) Vide paras 2185 to 2189 of the Enquiry Report, the question considered therein is whether there existed three posts of SRA (Agril.Engg.) in the department of SWCE and one post of SRA (Agril.Engg.) in the department of IDES as shown by Dr.P.M.Nimkar, Dean, Faculty of Agricultural Engineering vide chart Ex.775-A annexed as Annexure-32 to the Enquiry Report. After making detailed enquiry into the said question, it was held in para 2189 of the Enquiry Report that there was one post of SRA (Agril.Engg.) in the original department of Soil & Water Management Engineering and after its bifurcation into the department of SWCE and IDES, the said post of SRA (Agril.Engg.) which existed in the said original department was allotted to the department of IDES. It was thus held that there were no posts of SRA/JRA/AA in the department of SWCE as correctly shown in the University circular dated 18.3.1998 (Ex.880).

2607) Vide para 2190 of the Enquiry Report, Shri D.P.Deshmukh, Section Assistant (Estt.), did not show the department of IDES and one post of SRA (Agril.Engg.) therein in his Movement Register (Ex.644(O)) on the basis of which the appointment and posting orders of the candidates selected in the posts of SRA (Agri.) were issued. It is pertinent to see that the total number of posts of SRA excluding farm group posts was 159 which included the posts of SRA (Agril.Engg.) and SRA (Computer). As regards the total number of posts of SRA excluding farm group posts sanctioned by the State Govt. as per the revised Akrutibandh-2003 (Ex.724), it is clear from the chart (Ex.756) filed by the University with the affidavit of the Registrar, Shri G.K.Bhusare, dated 17.9.2008 (Ex.768) that as per the said revised Akrutibandh-2003 (Ex.724) the total number of posts of SRA

sanctioned was 154 excluding the farm group posts which were separately shown in the said chart (Ex.756) and 5 posts of SRA were sanctioned by ICAR on 100% grant basis making the total number of sanctioned posts of JRA as 159. If one post of SRA (Agril.Engg.) existing in the department of IDES was not shown by Shri D.P.Deshmukh, Section (Estt.), by not showing the said department, itself in his Movement Register Ex.644(O) the total number of posts shown in his Movement Register Ex.644(O) should have been 158 i.e. one less but still the total number of posts of SRA shown by him therein was 159 which would mean that he had shown the said post of SRA (Agril.Engg.) in the department of IDES elsewhere as the post of Agriculture particularly when as stated by him in para 60 of his affidavit dated 15.11.2007 (Ex.598), after excluding the posts of SRA (Agril.Engg.) and SRA (Computer) specifically designated by him in his Movement Register Ex.644(O), all the remaining posts of SRA shown therein were the posts of SRA (Agri.) although not specifically designated. It is thus clear that one post of SRA (Agril.Engg.) existing in the department of IDES was utilized in making appointment of the candidates selected in the posts of SRA (Agri.).

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

(Vide findings in para 2191 to 2194 of the Enquiry Report)

2608) According to Shri D.P.Deshmukh, Section Assistant (Estt.), and also Ex-Section officer (D-Unit), Shri B.M.Kathiware, one post of SRA and one post of JRA in the department of Agricultural Engineering, were the posts of Agriculture and not of SRA (Agril.Engg.) and JRA (Agril.Engg.). Accordingly, in the Movement Register Ex.644(O), the said posts, although not specifically designated are treated as the posts of SRA (Agri.) and JRA (Agri.) as stated by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 83 of his affidavit dated 15.11.2007 (Ex. 598). Although the Registrar Shri G.K.Bhusare, stated in para 3 of his affidavit dated 8.5.2008 (Ex.733) that they were the posts of Agriculture, he further stated in para 4 thereof that the intensive knowledge of Agricultural Engineering was necessary for the person to be appointed in the said posts in the department of Agricultural Engineering. He therefore, stated the said posts of SRA and JRA in the deptt. of Agricultural Engineering should have been the posts of Agricultural Engineering and a graduate / post graduate in Agricultural Engineering should have been appointed in the said posts.

2609) Vide para 2192 of the Enquiry Report, it may be seen in this regard that the department of Agricultural Engineering is shown in Statute-99 (1) of the Statutes under the control of the Dean, Faculty of Agriculture, which may perhaps be the reason why the Registrar's office is treating one post of SRA and one post of JRA therein as the post of

Agriculture but as stated by Dr.S.A.Nimbalkar, the then Vice-Chancellor, although technically the said department is under the control of the Dean, Faculty of Agriculture, the physical and actual control of the said department is of Dean, Faculty of Agricultural Engineering. Dr.P.M.Nimkar, Dean Faculty of Agricultural Engineering, stated in para 8 of his affidavit dated 18.10.2008 (Ex.772) that he had additional charge of the said department of Agricultural Engineering and that according to him, one post of SRA and one post of JRA therein were the posts of Agricultural Engineering since the nature of the work in the said posts required intensive knowledge of Agricultural Engineering which the graduate/post graduate in Agricultural Engineering alone possesses. Therefore, according to him, SRA/JRA of other disciplines including Agriculture cannot work in the said department. Even the Dean, Faculty of Agriculture, had, in his affidavit dated 11.04.2008 (Ex. 726), shown the said posts of SRA/JRA in the department of Agricultural Engineering under him as the post of SRA (Agril.Engg.) and JRA (Agril.Engg.). The Assistant Registrar (Estt.) Shri V.J.Chawre, admitted in para 4 of his affidavit dated 9.4.2008 (Ex.725) that the staff position showing one post of SRA and one post of JRA in the department of Agricultural Engineering as the posts of Agricultural Engineering in his letter dated 07.04.2008 (Ex. 722) by the Dean, Faculty of Agricultural Engineering is correct.

2610) Vide para 2194 of the Enquiry Report, it is therefore, clear that as stated by the Deans, Faculty of Agricultural Engineering, and Agriculture, one post of SRA and one post of JRA in the department of Agricultural Engineering are the posts of Agricultural Engineering and not of Agriculture

2611) The staff position in the posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) is not thus correctly shown in the Movement Register (Ex.644(O)) with the result that the above posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) are wrongly treated as the posts of Agriculture. It does not appear that the Movement Register Ex.644(O) was ever verified by the superior officers in the University to see whether the posts of SRA/JRA shown therein were the posts of the categories in which they were shown therein.

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

(Vide finding in para 2195 of the Enquiry Report)

2612) Vide para 2195 of the Enquiry Report, as stated therein a chart showing the actual position of the posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) in various departments/schemes in the University is incorporated in para 1614 of the Enquiry Report. It shows that excluding farm group posts, there are 8 posts of SRA (Agril.Engg.) and one post of JRA (Agril.Engg.) in the University as shown therein. As regards farm group posts, there are two posts of SRA (Agril.Engg.) in LFD Wanirambapur.

b-5) Number of posts of SRA (Agril.Engg.) and JRA (Agril.Engg.) utilized for making appointment of the candidates selected in the posts of SRA (Agri.) and JRA (Agri.)

(Vide findings in paras 2196 to 2200 of the Enquiry Report)

2613) Vide para 2198 of the Enquiry Report, as already held the department of IDES had one post of SRA (Agril.Engg.) which was not shown in the Movement Register (Ex.644(O)) maintained by Shri D.P.Deshmukh, Section Assistant (Estt.). If the said department of IDES and one post of SRA (Agril.Engg.) therein were not shown in the said Movement Register Ex.644(O), the total number of posts of SRA excluding farm group posts but including the posts of SRA (Agri.), SRA (Agril.Engg.) and SRA (Computer) should have been shown as 158 and not 159. The fact that the total number of posts shown therein are 159 would show that one post of SRA (Agril.Engg.) in the said department of IDES was treated and shown elsewhere as the post of SRA (Agri.) in the said Movement Register (Ex.644(O)) and was utilized for making appointment of the candidates selected in the posts of SRA (Agri.).

2614) Vide para 2199 of the Enquiry Report, as regards the post of SRA in the department of Agricultural Engineering which is the post of SRA (Agril.Engg.) and not of SRA (Agri.) as held above, although the said post was treated as the post of SRA (Agri.) in the Movement Register Ex.644(O), the said Movement Register (Ex.644(O)) would show that no appointment of the candidates selected in the posts of SRA (Agri.) was made in the said post. It cannot therefore, be said that the said post of SRA (Agril.Engg.) in the department of Agricultural Engineering was utilized for making appointment of the candidates selected in the posts of SRA (Agri.).

2615) Vide para 2200 of the Enquiry Report, as regards one post of JRA in the department of Agricultural Engineering held as the post of Agricultural Engineering, the said post was treated as the post of JRA (Agri.) in the aforesaid Movement Register Ex.644(O) and was utilized by making appointment of the candidate selected in the post of JRA (Agri.) pursuant to the advertisement dated 14.8.2004 (Ex.2) as amended by addendum dated 6.9.2004. Although the said post was treated as the post of JRA (Agri.), the appointment in the said post was made of the candidate Shri A.K.Kamble, who had qualification in Agricultural Engineering but his appointment was held illegal since the posts of JRA (Agril.Engg.) were not advertised by the University but the posts which were advertised were the posts of JRA (Agri.) for which additional qualification prescribed as per the addendum dated 6.9.2004 to the said advertisement dated 14.8.2004 (Ex.2) was of graduation in Agricultural Engineering which was held illegal being contrary to the qualification laid down for the post of JRA in Appendix-III read with Statute-73 of the Statutes which required the qualification of degree in Agriculture for the post of JRA

(Agri.), vide para 1065 of the Enquiry Report. It is however, clear that the post of JRA (Agril.Engg.) in the department of Agricultural Engineering was utilized for making appointment of the candidate selected in the post of JRA (Agri.).

c) Re : Post of Senior Technical Assistant (STA) in the independent estate unit under the control of the University Engineer

(Vide findings in paras 2201 to 2213 of the Enquiry Report)

2616) Vide para 2201 of the Enquiry Report, by the University order dated 25.6.2001 (Ex.780), an independent Estate unit was established in the University under the control of the University Engineer with the posts mentioned in the table given therein which showed that two posts of Senior Technical Assistant (STA) were created in the said Estate unit by withdrawing two posts of SRA, one each from HD (Agronomy) and Chilli Research Unit, Akola and allotting them to the said Estate unit with the revised designation as STA. The said two posts of STA were thereafter sanctioned in the revised Akrutibandh-2003 (Ex.724) in the set-up of the posts in the office of the University Engineer. However, prior to the issue of the said University order dated 25.6.2001 (Ex.780), there were no posts of STA in the office of the University Engineer. There were no posts even of SRA / JRA in the office of the University, vide University Circular dated 27.2.1997 (Ex.723).

2617) Vide para 2202 of the Enquiry Report, although two posts of STA were created as per the University order dated 25.6.2001(Ex.780) in the independent Estate unit under the control of the University Engineer, the said two posts of STA created therein were not shown in the Movement Register (Ex.644(O)) maintained by Shri D.P.Deshmukh, Section Assistant (Estt.). According to him, he had prepared his Movement Register from previous Staff Position Register (Ex.881) maintained by Shri A.B.Raut, who was then Senior Clerk of D-Unit in the establishment section. The said previous staff position Register (Ex.881) showed two posts of SRA under the head “establishment of Estate unit under the University Engineer”. However, vide para 2203 of the Enquiry Report, instead of showing the said two posts of STA created in the independent Estate unit under the control of the University Engineer, Shri D.P.Deshmukh, Section Assistant (Estt), showed in his Movement Register Ex.644(O) two posts of SRA, which meant SRA (Agri.), in the office of the University Engineer, Akola (Estate Unit).

2618) Vide earlier para 2545 of the Enquiry Report, in one of the said two posts of STA, shown in the Movement Register (Ex. 644(O)) as the posts of SRA, he showed the transfer of Ku.K.J.Morey, AHDS, SRA (Agri.) on 15.9.2005 from the College of Agriculture, Nagpur, on paper only as she continued to work physically or actually in the said college at Nagpur as before. As shown therein, it was done in order to accommodate Shri Pravin Patil, son of Dr.V.D. Patil, the Chairman of the Selection Committee, in her post at Nagpur, which was indubitably the post of STA. As regards the other post of SRA (Agri.) in the

office of the University Engineer which is shown as the post of SRA in the Movement Register Ex.644(O), the new candidate Shri Ashish B.Bagde, M.Sc. (Botany) selected in the post of SRA (Agri.), was shown to be appointed in the said post as per the order dated 16.09.2005 but the said appointment was also on paper only as he was physically working in the department of Horticulture as directed in the said order itself. The fact that he was given physical or actual work in the department of Horticulture, would itself show that he was not meant as per his qualification for discharging the duties of the said post of STA in the Estate unit under the control of the University Engineer which is also admitted by Shri D.P.Deshmukh, Section Assistant (Estt.) in para 5 of his additional affidavit dated 15.3.2008 (Ex.695) in which he stated that as there was no work for him in the office of the University Engineer according to his qualification he was actually given work in the department of Horticulture. Perusal of his appointment order dated 16.9.2005 shows that it is camouflaged in so far as the post in which he is appointed is mentioned therein as the post of "Senior Research Assistant (Agri.) (Technical Assistant) although his selection is in the post of SRA (Agri.). The words "Technical Assistant" are not mentioned even in the aforesaid Movement Register (Ex.644(O)) which shows two posts in the said office as SRA (Agri.) only. In fact, there is no such post of SRA (Agri.) (Technical Assistant) in the University.

2619) Vide para 2205 of the Enquiry Report, as regards the question whether the posts of STA created in the Estate unit under the control of the University Engineer are the posts of SRA or SRA (Agri.), it is necessary to see that, as stated above, when two surplus posts of SRA, which meant SRA (Agri.), were withdrawn and were allotted to the Estate unit with the revised designation as Senior Technical Assistant (STA), they ceased to be the posts of SRA since it was not stated in the said University order dated 25.6.2001 (Ex.780) or any other order issued by the University that the said posts were in the cadre of SRA as stated by the Registrar, Shri G.K.Bhusare, much less that they were posts of SRA (Agri.) or SRA (Agril.Engg.).

2620) Vide para 2206 of the Enquiry Report, it is further necessary to see that when a new post is created, it has to be evaluated as to its duties and responsibility looking to the nature of the work in the establishment in which it is created and accordingly its qualification need to be laid down. The Registrar of the University Shri G.K.Bhusare, admitted that the said posts of STA were not evaluated as to their duties and responsibilities. As stated in the said para 2206 of the Enquiry Report, when the post of STA created in the independent Estate unit, is principally a technical post as per its nomenclature, the fact that SRA can perform the duties of the said post which are administrative in nature and/or which may be incidental to its principal duties as stated by the Registrar Shri G.K.Bhusare, would not mean that SRA is fit to be appointed in the said post.

2621) It is thus clear that two posts of STA were clearly utilized as the posts of SRA (Agri.) by showing in the office of the University Engineer (See Movement Register Ex.644(O)) two posts of SRA, which meant SRA (Agri.) instead of STA for making appointment of the candidates selected in the posts of SRA (Agri.).

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

(Vide finding in para 2212 of the Enquiry Report)

2622) Re.SRA : Vide para 2212 of the Enquiry Report, as shown above, the following posts of SRA and two posts of S.T.A. which were not of SRA (Agri.) were utilized for making appointments of the candidates selected in the posts of SRA (Agri.) :

3 Posts of SRA (Bio-technology)

1 Post of SRA (Agril.Engg.)

2 Posts of Senior Technical Assistant

Total : 6 Posts

2623) As regards the posts of SRA (Bio-technology), it is admitted by the University that it has utilised 5 posts of SRA (Biotechnology/Biochemistry), which were advertised and not 3 in making appointments of the candidates selected in the posts of SRA (Agri.). However, as pointed out regarding the said posts, since no formal order was issued for creation of two posts of SRA (Bio-chemistry), the said 2 posts out of 5 posts of SRA (Bio-technology) which were advertised, legally speaking, could be utilized as the posts of SRA (Agri.) although propriety required that they should not have been utilized as the posts of Agriculture awaiting the formal order to be issued in that regard as they were to be created for development of the branch of Bio-technology as stated by Dr.S.A.Nimbalkar, the then Vice-Chancellor, and Dr.V.D. Patil, Dean (Agri.) in their affidavits referred to hereinbefore, vide para 1598 of the Enquiry Report, and for which the aforesaid independent Bio-technology centre was established as per the University order dt. 25.6.2001 (Ex.781). As held in para 1565 of the Enquiry Report, if the above 6 posts which are not posts of SRA (Agri.) were not utilized, the University could not have accommodated 55 selected candidates in the vacant posts of SRA (Agri.).

2624) The vacancy position in the post of SRA (Agri.) as on 15.09.2005 i.e. at the time of appointment after excluding 6 posts other than the posts of SRA (Agri.) from the total 148 posts of SRA (Agri.) inclusive of 5 posts of SRA (Bio-technology) is worked out as follows;

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

Nomination and promotion quota – 71 : 71.

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

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

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

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

(Vide findings in paras 2172 and 2213 of the Enquiry Report)

2625) Re. JRA: Vide para 2213 of the Enquiry Report, there was one post of JRA in the dept. of Agricultural Engineering which was wrongly treated and utilized as the post of JRA (Agri.) although as held hereinbefore it was the post of JRA (Agril. Engg.). However, although the candidate appointed in the said post was post graduate in Agricultural Engineering his appointment was illegal as the post of JRA (Agril. Engg.) was not advertised but the post which was advertised was the post of JRA (Agri.), for which as per Appendix-III read with Statute-73 of the Statutes the qualification prescribed was of graduate in Agriculture, vide para 1065 of the Enquiry Report. Hence the total number of posts of JRA (Agri.) and consequently the vacancy position therein would less by one.

2626) Vide para 2172-A, of the Enquiry Report, as per the revised Akrutibandh-2003 (Ex.724), the total number of sanctioned posts of JRA (Agri.) are 94 out of which 4 posts are of Computer and 90 posts are of JRA (Agri.). (See the chart Ex. 756 filed by the University). Adding to them 15 posts of JRA (Agri.) created on 25.8.2004 by ICAR for Krushi Vigyan Kendra's, the total number of posts of JRA (Agri.) would be 105 as on 15.9.2005. But one post of JRA is of JRA (Agril. Engg.) as stated above but is wrongly treated as post of JRA (Agri.). Reducing therefore further 1 post, the total number of posts JRA (Agri.) would be 104 as on 15.09.2005.

Hence nomination and promotion quota would be 52 : 52.

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

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

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

2627) The above exercise of calculating the number of vacant posts of SRA (Agri.) and JRA (Agri.) as on 25.6.2005 i.e. the last day of interview and as on 15.9.2005 i.e. at the time of appointment by requiring the University to file in this enquiry the charts about vacancy position including the Lists of names of promotees and direct recruits as on 31.7.2004 i.e. at the time of advertisement, 12.6.2005 i.e. at the time of interview and 15.9.2005 i.e. at the time of appointment was undertaken with a view to show that the said task was complicated and it was therefore difficult to predicate on the last day of interview i.e. 25.6.2005, the exact increase in the number of the said posts to be filled solely on the basis that there would be more vacancies in the said posts since some SRAs (Agri.) and JRAs (Agri.) were selected in the higher posts of Assistant Professor particularly when even the said charts about the vacancy position filed by the University in this enquiry, were not before them and the only material before them viz. the office note of Shri D.P.Deshmukh, Section Assistant (Estt.) dated 15.7.2004 recorded at the time of advertisement contained in the file Ex.40(O) showed that all the posts included in their nomination and promotion quota were not enough to accommodate all the candidates selected in the said posts as stated by Dr. Vandan Mohod, the Registrar/Member Secretary of the Selection Committee.

2628) As regards the reason given by Dr.V.D. Patil, the Chairman of the Selection Committee, in para 49 of his affidavit dated 25.12.2007 (Ex. 645) for increasing the number of vacancies in the posts of SRA (Agri.) and JRA (Agri.) to be filled, since he was member of the Selection Committee for selection of the candidates in the higher posts of the Assistant Professors, he might have known that there were some SRAs (Agri.) and JRAs (Agri.) included in the List of selectees in the posts of Assistant Professor consisting of 94 candidates but it does not appear that he knew how many of them were from the posts of SRA (Agri.) and JRA (Agri.). As shown hereinbefore there were 43 SRAs (Agri.) who

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

2629) As regards the appointment of 43 SRAs in the higher posts of Assistant Professors, it did not result in creating 43 vacancies in the posts of SRA (Agri.) because as shown in para 2121 of the Enquiry Report, only 20 amongst them, 10 regular and 10 officiating SRAs, were in the Lists of promotees or direct recruits as on 31.7.2004 and 12.6.2005 (Exs.185 to 188). As regards the rest of the SRAs out of 43 who were appointed as Assistant Professors, in their places, JRAs who were promoted on officiating basis in the posts of SRA (Agri.) and whose names were included in the List of 77 officiating SRAs who were recommended for regular promotion in the said posts of SRA (Agri.) by the Selection Committee, vide pages 28 to 35 of the file Ex. 34(O), were working and their names were included in the Lists of promotees as on the said dates (Exs.185 and 187) and also on 15.9.2005 as they were appointed on regular basis in the said posts as per the order dated 15.9.2005. Their posts were thus blocked and were not open for any new recruitment. As seen from the earlier paras regarding verification of the Lists of promotees and direct recruits as on 12.6.2005 i.e. at the time of interview and as on 15.9.2005 i.e. at the time of appointment, it was not possible for Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Member Secretary, of the Selection Committee, to take on the last day of interview i.e. 25.06.2005 the decision about the exact number of the said posts to be increased.

2630) As shown above, as it was not possible for Dr.V.D. Patil, the Chairman, and Dr.Vandan Mohod, the Member Secretary, of the Selection Committee, to take the decision about the exact number of posts of SRA (Agri.) and JRA (Agri.) to be increased for being filled over and above the number of the said posts which were advertised, apart from the fact that they had no power to do so, they should have left the said question to the then Vice-Chancellor, i.e. the appointing authority, who would have considered it by following the routine procedure in that regard according to which the concerned Section Assistant (Estt.) in the Registrar's office would collect the relevant details about the vacancy position and prepare an office note about it to be submitted to the Vice-Chancellor for his approval showing how much increase, if at all, should be made in the number of the said posts to be filled. The said office note would then be forwarded to him through proper channel i.e. the Assistant Registrar, Deputy Registrar and the Registrar who would also give their opinions/ recommendations about it. It therefore, appears that they had themselves determined the exact number of posts to be filled by increasing the posts of SRA (Agri.) from 24 as advertised to 55 and the posts of JRA (Agri.) from 37 as advertised

to 76 in order to accommodate therein all the favoured candidates in the said posts by even using posts in promotion quota and other posts as shown above.

2631) The appointments thus made by utilizing posts in promotion quota of these posts of SRA (Agri.) and JRA (Agri.) and even posts other than the said posts are illegal, and should be set aside.

26) Other recommendations

2632) Do's and Dont's to be observed in making fresh selection in the posts of SRA (Agri.) and JRA (Agri.) after the illegal appointments in the said posts as per the order dated 16.9.2005 and 17.9.2005 are set aside.

i) Distribution of the posts of SRA/JRA sanctioned as per the revised Akrutibandh-2003 (Ex.724)

2633) Admittedly, the posts of SRA/JRA sanctioned as per the revised Akrutibandh-2003 (Ex.724) were not distributed by the University categorywise such as SRA (Agri.), SRA (Agril. Engg.), SRA (Computer), SRA (Biotechnology), JRA (Agri.), JRA (Agril. Engg.), JRA (Computer), etc. in its various departments/schemes. Even otherwise, the existing distribution of the said posts does not appear to have been made after looking into the nature of work required to be done in the said post in each department/scheme and its needs (See, for instance, the affidavit of Dr.P.M.Nimkar, Dean, Faculty of Agricultural Engineering, in this regard). It should therefore, be done in a time bound programme as early as possible by forming an appropriate committee which should call for information from all the Directors and Heads of Departments, and recommend allotment of the said post/s in each department/scheme looking to the nature of work therein and its needs and suggest its/their designation/ nomenclature.

ii) Selection Process

a) Advertisement

a-1) Advertisement should be disciplinewise

2634) After the said posts of SRA/JRA are properly distributed, the advertisement should be issued advertising disciplinewise the vacancies in the posts of SRA (Agri.) and JRA (Agri.) allotted to each department/scheme.

a-2) Qualifications

2635) The qualifications prescribed in Appendix-III read with Statute-73 of the Statutes for the posts of SRA (Agri.) and JRA (Agri.) should be advertised. As regards the posts of JRA (Agri.) as per the said Appendix-III, the educational qualification should be Bachelor's degree in the Faculty of Agriculture and not Agricultural Engineering as given in addendum to the advertisement in question dated 14.8.2004 (Ex.2).

2636) The qualification as to age requirement should be relaxed in favour of the candidates appointed in the posts of SRA (Agri.) and JRA (Agri.) as per the orders dated 16.9.2005 and 17.9.2005 as their appointments are being set aside long time after the advertisement dated 14.8.2004 (Ex.2) was issued because of which they might have become age-barred.

a-3) Number of posts reserved in each category of backward classes and in open should be mentioned in th advertisement indicating horizontal reservation therein as per G.R. dated 16.03.1999 (Ex. 703).

2637) The advertisement should mention the number of posts reserved in each category of backward classes (social / vertical reservation) and open as per roster points indicating also horizontal reservation of special categories of persons in each category of social/vertical reservation and open as per the G.R.dated 16.3.1999 (Ex.703). See in this regard the chart incorporated in para 885 of the Enquiry Report. For preparation and maintenance of Roster Register and following 100 point roster, see the recommendations in the last topic 'v' about "other Recommendations" in the Enquiry Report.

a-4) Advertisement should be got approved by B.C. Cell of the Government.

2638) Before advertisement for filling the posts of SRA (Agri.) and JRA (Agri.) is issued, the University should get it approved from the B.C. Cell of the State Government at Amravati as is done in the State Government so as to ensure that the reservation of posts therein is properly made according to the relevant G.Rs. of the State Govt. and in particular 100 point roster.

a-5) Advertisement should call for only one application for each post of SRA (Agri.) and JRA (Agri.)

2639) For the sake of convenience, and for following the procedure laid down in para 5 of the G.R. dated 16.3.1999 (Ex.703) about preparation of Selection List of open and each reserved category of backward classes including therein candidates in horizontal reservation for special categories of persons, one application for each of the posts of SRA (Agri.) and JRA (Agri.) should be called from the candidate in which he can indicate in the column contained therein whether he belongs to reserved category, if so, which.

b) Short-listing of candidates who are qualified as per the advertisement :See subsequent para relating to procedure of selection of candidates which includes short-listing them also.

c) Interviews : Separate interviews should be held for each post.

d) Procedure of selection of candidates in these posts including Short-listing them

2640) In Selection of the candidates in each of these posts of SRA (Agri.) and JRA (Agri.), the University should hold the written test of 75% marks and oral interview of 25% marks laid down in the G.R. dated 9.6.2004 (EX.589) as is done in Rahuri University although as held in this Enquiry Report, the said G.R. is not in terms applicable to the post of SRA (Agri.) as it is group-B post but is applicable to the post of JRA (Agri.) which is group-C post. If so advised, the University should prescribe the minimum / cut off marks for considering the candidates for selection in these posts. If the number of vacant posts to be filled is six or more, the candidates who passed the written test should, if necessary, be short-listed for being called for interview in the ratio of 1:3 in the light of the G.R. dated 2.5.1995 (Ex.588). If no passing/cut-off marks are laid down, the candidates in each of the posts should be arranged in descending order of marks obtained by them in the written test and they should then, if necessary, be short-listed for oral interview in the ratio of 1:3 as per the G.R. dated 2.5.1995 (Ex.588).

e) Number of posts to be filled should not be increased and the Selection Lists should not be prepared for the increased number of posts without giving fresh advertisement for the posts to be increased

2641) In selection of candidates in these posts, the Selection Committee should adhere to and prepare the Selection Lists for the posts which are advertised. For any increase in the number of posts to be filled, fresh advertisement should be issued as held in paras 1995 and 1996 of the Enquiry Report. In preparation of the Selection Lists, waiting Lists of reasonable number of candidates in descending order of merit for each of these posts should be given which, if necessary, can be utilized so as to tide over some unforeseen contingencies such as any candidate not joining his post as per the appointment order issued to him.

f) Preparation of the merit List of the candidates

2642) For the sake of convenience and for properly following the procedure about the preparation of the Selection Lists laid down in para 5 of the G.R. dated 16.3.1999 (Ex.703), one common i.e. continuous merit List (Marklist) of the candidates including reserved categories separately for each of these posts should be prepared in descending order of total marks received by them in written test and interview.

g) Preparation of the Selection Lists

2643) In preparation of the Selection Lists for open and each reserved category in descending order of merit the procedure given in stages A, B and C of para 5 of the G.R. dated 16.3.1999 (Ex.703), as explained in para 2245 of the Enquiry Report, should be strictly followed.

h) Constitution of the Selection Committee

h-1) The Selection Committee for selection of the candidates in the posts of SRA/JRA is constituted under statute 76(1) of the Statutes.

2644) In constituting the Selection Committee for making fresh selection in these posts of SRA (Agri.) and JRA (Agri.), the Chairman and the Members of the existing Selection Committee should not be included in the new Selection Committee. None of them should be appointed as Registrar till the whole selection process and appointment of the candidates in the said posts is over since as per Section 19 (2) of the University Act, the Registrar is the ex-Officio Member of the Selection Committee.

h-2) The Selection Committee should carry out all the stages in the selection process.

2645) The Selection Committee, which is not merely an interview Committee, should carry out all the stages in the selection process as pointed out in the Enquiry Report and particularly in the above paras 2422 to 2424 of the Recommendations.

h-3) The Selection Committee should not include as its Chairman and Members persons whose relations are candidates for these posts

2646) The Selection Committee should not include as its Chairman and Members any persons whose relations have made applications for the posts in question so that the selection of the candidates made by it is not vitiated. The Chairman and the Members nominated upon the Selection Committee can give declaration in this regard while giving their consent for such nomination.

h-4) Record of the proceedings of the Selection Committee should be preserved for some reasonable period

2647) The proceedings of the Selection Committee including the original work-sheets in which the Chairman and the Members of the Selection Committee had given interview marks to the candidates should be maintained for some reasonable period so that they can be verified by the appointing authority or any higher authority including any judicial or quasi judicial authority, if called upon to do so, as held in para 19 of the Judgment of the Supreme Court in Atul Khullar & ors. –Vs- State of J.K. AIR 1986 S.C. 1224. Even as per Rule-1 of the Rules relating to classification, preservation and destruction of records, the original work-sheets in which interview marks are given by the Chairman and the Members of the Selection Committee being class-C documents, have to be preserved for a period of 10 years. Since the Selection Lists are prepared in this case by the Chairman and the Member Secretary of the Selection Committee, if the original sheets in which the marks for interview were given by the Chairman and the Members of the Selection Committee were preserved for some reasonable period, the Selection Committee could itself verify the said marks if the Selection Lists prepared by them were placed before it for its consideration and approval.

iii) Appointment of the candidates

2648) After the Selection Lists of each post are handed over to the Vice-Chancellor, he should make appointment of a candidate or candidates strictly in order of merit as arranged by the Selection Committee as required by Statute-77 (1) (iv) of the Statutes. In making these appointments by direct recruitment in these posts he should utilize the vacant post in its nomination quota only and not vacancies in its promotion quota without the sanction of the Executive Council which has fixed the said quota. The appointment should be made strictly in the posts of SRA (Agri.)/JRA (Agri.) as the case may be, and the posts in other categories of SRA and JRA such as SRA (Agril. Engg.), JRA (Agril. Engg.) etc. or any other posts should not be utilized for making appointment in the posts of SRA (Agri.) and JRA (Agri.) without the sanction of the Executive Council for conversion of such posts into the category of SRA (Agri.) or JRA (Agri.).

iv) Staff position Register in the University

2649) The Staff position Register of SRA/JRA/AA/LSS or the Movement Register as it is called, is a Register maintained in the establishment section of the University. Each step about their service particulars such as appointment, transfer, promotion, reversion, term8)

2650) Perusal of the Staff Position Registers produced in this Enquiry including the Movement Register Ex.644(O) would show that they are not maintained properly. There are some entries therein made in ink and some in pencil and there are erasers of the entries already made. It is difficult to understand the service particulars of the appointees given therein. It is thus necessary that a proper format of the said Register should be prescribed by the University. The entries made therein should be legible and in ink. Each step in the service career of the employee should be succinctly noted therein. There should not be any erasers in entries once made unless they are wrong or there is some mistake in making them in which case while deleting the said entries the person making such entries should initial such erasers. If for some reason, after his appointment, transfer, promotion or reversion etc. as the case may be if the posting of any employee is immediately changed or the said orders are cancelled, then without deleting the earlier entries, further entries should be made about them in the Movement Register so as to depict correctly his service particulars. Apart from the changes made in the service particulars of the incumbents of the posts dealt with in the Movement Register, all other relevant changes made by the University regarding the posts and the departments/schemes in which they are shown should be communicated to the person maintaining the said Register who should then promptly take note of such changes in the said Register.

2651) The Staff Position Register needs to be maintained faithfully and correctly since the higher officers in the University act on the basis of the entries made therein in taking any step or any decision in regard to the service matters of the employees whose service

particulars are recorded therein. The said Register should be periodically verified by the concerned superior officer so that the departmentwise/schemewise strength of employees in each post dealt with in the said Register including filled in and vacant posts is correctly shown therein. If any changes are made in the strength of any post in each department/scheme, the entry about it should be amended immediately. Apart from the independent Register relating to it maintained, if any, the staff position Register should itself show the sanctioned cadre strength of each post and changes made therein, if any.

v) **Implementation of the reservation policy of the State Govt. and maintenance of Roster Register**

2652) The University needs to maintain in proper format the Roster Register in order to implement properly the reservation policy of the State Govt. through 100 point roster prescribed by it. The existing roster Register is not properly maintained. Since the Central Government issued the guidelines /directions as per its G.R. dated 2.7.1997 in the light of the Judgment of the Supreme Court in R.K.Sabharwal –Vs- State of Panjab, AIR 1995 S.C. 137, the position about the reservation of the posts in various categories of backward classes and open has to be shown as existing on that date i.e. 02.07.1997, vide the orders/directions issued by the State Government in its G.R. dated 18.10.1997 (Ex. 57-A). As the Selection Lists prepared before 02.07.1997 were not disturbed as per the above said G.R. dated 18.10.1997 (Ex. 57-A), there might be appointments made in excess of or less than the prescribed quota in each reserved category and open for which the abstract was to be prepared as on that date and thereafter proper adjustment was to be made in subsequent recruitment in the post to maintain the prescribed percentages of the posts in the reserved categories of backward classes posts and open. It is thus an intricate matter for which, it is necessary for the University to take assistance from B.C.Cell of the State Govt. at Amravati so that Roster Register is properly maintained as per the guidelines/ directions in the G.R. dated 18.10.1997 (Ex.57-A). A note (Ex.740) of B.C.Cell at Nagpur can be usefully seen in this regard. As per the procedure of maintaining the Roster Register, at the end of every year stock of filled in and vacant posts has to be taken by preparing an abstract as shown in the said note (Ex.740).

2653) It is necessary that there should be B.C.Cell constituted in the University itself for proper implementation of the reservation policy of the State Govt. Before the advertisement is issued for filling the vacant posts in the University it should be got verified and approved by the said B.C.Cell so as to ensure that the reservation policy of the State Government is properly followed through 100 point roster prescribed by it. Till the B.C. Cell is constituted in the University, the said advertisement can be got verified and approved from the B.C.Cell of the State Government at Amravati.

vi) **Persons signing the documents should put the dates below their signatures**

2654) It appears that there is no practice in the University that persons signing the documents should put the dates below their signatures upon them, vide the recommendations of the Selection Committee for promotion, and the Mark-sheet Ex. 34(O)-A separate for the posts of SRA (Agri.) and JRA (Agri.) contained in the file Ex. 34(O). In order to maintain transparency in the actions taken by the concerned persons/officers of the University and authenticity of the documents signed by them they should put the dates below their signatures upon them.

a) **Re : Manuscript of the Result Notification and Result Notification for declaration of Result**

2655) According to the existing practice in the University, as regards the Manuscript of the Result Notification signed by the Vice-Chancellor in token of its approval, the date on which the Vice-Chancellor signed it is put upon it by the concerned ASO (Examination Section) after the file containing it is received back in the Examination Section. Further, according to it, the Result Notification for declaration of Result issued by the Registrar bears the same date on which the Vice-Chancellor had signed its Manuscript. In other words, both bear the same date. There is therefore lot of confusion in the dates when the Results of the candidates are declared.

2656) It is therefore, necessary that the Vice-Chancellor himself or his P.A. should put the same date upon the Manuscript of the Result Notification on which he signed it. As regards the Result Notification for declaration of Result, there is no reason why it should bear the same date on which the Vice-Chancellor signed its Manuscript. The Result Notification for declaration of Result is and should be prepared after the file containing its Manuscript signed by the Vice-Chancellor is received back in the Examination Section. If there is any urgency about declaration of Result, the file containing its Manuscript, if signed by the Vice-Chancellor can be immediately brought back in the Examination Section through its peon or the clerk concerned. In order to avoid any confusion, it is better that it should bear the date on which it is actually issued by the Registrar.