

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

I N

Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p><u>05.04.2016</u></p> <p><u>O.A No 43/2015</u></p> <p>Heard Ms S.P Manchekar, learned advocate for the applicant and Mrs Kranti S. Gaikwad, learned Presenting Officer for the Respondents.</p> <p>By order dated 8.3.2016 this Tribunal has directed the Respondents to file reply on the next date, failing which they were put to notice that heavy cost will be imposed. It was also mentioned that the Respondents may be asked to remain personally present in the Tribunal. However, no reply is filed today. Cost of Rs.1000/- each is imposed on Respondents no 3 & 4. Learned P.O assures that reply will be filed within two weeks.</p> <p>S.O to 20.4.2016.</p>
<p><u>DATE:</u> 5/4/16</p> <p><u>CORAM:</u> Hon'ble Shri. RAJIV AGARWAL (Vice - Chairman) Hon'ble Shri R. B. MALIK (Member)</p> <p><u>APPEARANCE:</u> Shri/Smt. Ms. S.P. Manchekar km Advocate for the Applicant Shri/Smt. K.S. Gaikwad P.O/TEO. for the Respondents</p> <p>Adj. T.O. S.O. to 20/4/16. <i>(Signature)</i></p>	<p>Sd/- (Rajiv Agarwal) Vice-Chairman</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p><u>DATE:</u> 5/4/16</p> <p><u>CORAM:</u> Hon'ble Shri. RAJIV AGARWAL (Vice - Chairman) Hon'ble Shri R. B. MALIK (Member)</p> <p><u>APPEARANCE:</u> Shri. Ms. S.P. Manchekar Advocate for the Applicant Shri. A.J. Chougule C.P.O./P.O. for the Respondents Rejoinder filed by Appl. Adj. to O.A. is admitted. S.O. to 7/6/16.</p> <p style="text-align: right;">FH [Signature]</p>	<p><u>05.04.2016</u></p> <p><u>O.A No 275/2015</u></p> <p>Heard Ms S.P Manchekar, learned advocate for the applicant and Shri A.J Chougule, learned Presenting Officer for the Respondents.</p> <p>Learned Advocate Ms Manchekar files affidavit in rejoinder. Respondents are at liberty to file sur-rejoinder, if need be.</p> <p>O.A is admitted. Place for final hearing on 7.6.2016.</p> <p style="text-align: right;">Sd/- (Rajiv Agarwal) Vice-Chairman</p> <p style="text-align: center;">Akn</p>

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

O.A.298/2016

Shri S.R. Koli ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents.

Issue notice returnable on 21.04.2016.

Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.

The service may be done by hand delivery / speed post / courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within four weeks. Applicant is directed to file Affidavit of compliance and notice. C.P.O. do waive service.

S.O. to 21st April, 2016.

DATE: 5/4/16

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)

Hon'ble Shri R.B. Malik (Member)-A

APPEARANCE:

Shri/Smt. Punam Mahajan

Advocate for the Applicant

Shri/Smt. N.K. Rajpurohit

C.P.O./P.O. for the Respondent/s

Adj. To 21/4/16

Bte

(skw)

Sd/-

(R.B. Malik)

Member (J)

05.04.2016

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

**M.A.158/2016 in O.A.1520/2009 With
M.A.159/2016 in O.A.245/2010**

**Shri S.A. Pagar &
Shri B.N. Gavande ... Applicants
Vs.
The State of Mah. & ors. ... Respondents**

Heard Shri B.A. Bandiwadekar, learned Advocate for the Applicants and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

Issue notice returnable on 13.04.2016.

Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the questions such as limitation and alternate remedy are kept open.

The service may be done by hand delivery / speed post / courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within four weeks. Applicant is directed to file Affidavit of compliance and notice. P.O. do.waive service.

S.O. to 13th April, 2016.

Sd/-

(R.B. Malik)
Member (J)
05.04.2016

DATE: 5/4/16

CORAM:

Hon'ble Justice Shri A. H. Joshi (Chairman)

Hon'ble Shri B.B. Malik (Member) A.J.

APPEARANCE:

Advocate for the Applicant: B.A. Bandiwadekar

Shri / Smt: A.J. Chougule

C.P.O. / P.O. for the Respondent/s

Adj. To: 13/4/16

(skw)

IN

Original Application No.

of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p>DATE: <u>5/4/16</u></p> <p>CORAM: Hon'ble Justice Shri A. H. Joshi (Chairman) Hon'ble Shri <u>R.B. Malik</u> (Member) <u>g</u></p> <p>APPEARANCE: Shri/Smt. : <u>Punam Mahajan</u> Advocate for the Applicant Shri/Smt. : <u>A.J. Chougule</u> C.P.O./ P.O. for the Respondent/s</p> <p>Adj. To. <u>2/14/16</u></p> <p style="text-align: right;"><u>BTE</u></p>	<p style="text-align: center;"><u>O.A.493/2013</u></p> <p>Shri C.M. Kute ... Applicant Vs. The State of Mah. & ors. ... Respondents</p> <p>Heard Smt. Punam Mahajan, learned Advocate for the Applicants and Shri A.J. Chougule, learned Presenting Officer for the Respondents.</p> <p>Smt. Mahajan, the learned Advocate informs that the copy of the amended OA has been served on all the Respondents and she has got the acknowledgments. The affidavit of service is taken on record. The Respondent No.3 has also been served and the acknowledgment in that behalf is also taken on record. Finally, adjourned for Affidavit-in-reply of the newly added Respondents and Additional Affidavit-in-reply, if any, of the other Respondents to 21st April, 2016.</p> <p>Smt. Mahajan, the learned Advocate is allowed to correct the name of Respondent No.3 from Arun Vitthtal Waychal to Dattatraya Vasant Waychal. The amendment to be effected forthwith.</p> <p style="text-align: right;">Sd/- (R.B. Malik) Member (J) 05.04.2016</p> <p>(skw)</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 307 OF 2016

DISTRICT : PUNE

Shri Bhagwan Rajabhau Khedkar)...**Applicant**

Versus

The State of Maharashtra & Ors)...**Respondents**

Shri B.R Deshmukh, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 05.04.2016

ORDER

1. Heard Shri B.R Deshmukh, learned advocate for the Applicant and Shri A.J Chougule, learned Presenting Officer for the Respondents.

2. Learned Advocate for the Applicant stated that the Applicant was posted by order dated 30.5.2015 at Karanjvihire as Sectional Engineer in Khed Irrigation Section-I at Rajgurunagar. There was some problems in his assuming the charge of the said post immediately and ultimately he assumed the charge of the post on 22.2.2016 and he has been working on that post since then. The Applicant was informed by the Sub Divisional Officer, Bhamaskhed Irrigation Management Sub Division, Kanjvihire that



he should hand over the charge of the post to Respondent no. 7. The Applicant has been transferred before he could complete his tenure and the order has been issued in the month of October. The order of transfer of Respondent no. 7 is said to be passed in compliance of section 4(4) and 4(5) of the Maharashtra Government Servants (Regulation of Transfers and Prevention of Delays in Discharge of Official Duties), Act, 2005. However, there is no order transferring the Applicant which has been issued (a) in compliance of section 4(4) & 4(5) of the Transfer Act and (b) on the recommendations of the Civil Services Board.

3. The Applicant is seeking interim relief that the order of transfer of Respondent no. 7 should be stayed. However, that issue is kept open as the Respondent no. 7 is not served. The Respondent nos 1 to 6 are, however, directed that status quo as of today will be maintained and if the Applicant has not been relived no steps to relive him will be taken. After Respondent no. 7 is served the Applicant may revive his claim for interim relief.

4. Issue notice before admission made returnable on 12.4.2016.

5. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

6. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

7. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

8. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.

9. S.O to 23.4.2016. Hamdast.

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 05.04.2016
Dictation taken by : A.K. Nair.

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 308 OF 2016

DISTRICT : MUMBAI

Shri Pradip Annasaheb Patharikar)...**Applicant**

Versus

The State of Maharashtra)...**Respondent**

Shri A.V Bandiwadekar, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondent.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 05.04.2016

ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondent.

2. The Applicant is a Group-A officer from the Prison Department, who was placed under suspension on 20.5.2014, as a criminal case came to be filed against him under the Prevention of Corruption Act. Learned Advocate Shri Bandiwadekar stated that the Applicant has been making repeated representations (totalling seven in all) that his suspension may be reviewed as per G.R dated 14.10.2011 and which has been modified by G.R dated 31.1.2015.



The charge sheet has been filed against the Applicant on 25.11.2014. However, the case of the Applicant has not been placed before the Suspension Review Committee though almost two years are now getting over since the day he was placed under suspension.

3. Learned Advocate Shri Bandiwadekar stated that as per para 5 of the G.R dated 31.1.2015, if a charge sheet has been filed against a Government servant in a criminal case and the period of suspension is more than a year, in such cases the Committee should take a positive view regarding revocation of suspension. However, in case of the Applicant no attempt is made by the Respondents to review his suspension. Learned Advocate Shri Bandiwadekar, therefore, prayed that Respondents may be directed to immediately take up the case of the Applicant for review as he is retiring on 30th June, 2016.

4. Learned Presenting Officer Mrs Gaikwad stated that she requires time to take instructions in the matter. Learned Presenting Officer is not in a position to counter the claim by the Applicant that his case has not been placed before the Suspension Review Committee even once.

5. The interim relief sought by the Applicant that Respondents may be directed to place the case of the Applicant for review before the Suspension Review Committee appears to be reasonable. The Respondents are directed to place the case of the Applicant before the Suspension Review Committee as per G.R dated 31.1.2015 within a period of two weeks from today and communicate the decision of the Committee to the Applicant within one week thereafter.

6. Issue notice before admission made returnable on 5.5.2016.
7. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.
8. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.
9. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
10. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.
11. S.O to 5.5.2016. Hamdast.

Sd/-
(Rajiv Agarwal)
Vice-Chairman



Place : Mumbai
Date : 05.04.2016
Dictation taken by : A.K. Nair.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

MISC. APPLICATION NO.576 OF 2015
IN
ORIGINAL APPLICATION NO.369 OF 2015
WITH
MISC. APPLICATION NO.577 OF 2015
IN
ORIGINAL APPLICATION NO.369 OF 2015

DISTRICT : MUMBAI

MISC. APPLICATION NO.576 OF 2015
IN
ORIGINAL APPLICATION NO.369 OF 2015

Akhil Maharashtra Shikshan Seva)
Rajpatrit Adhikari Sangh, Mumbai.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

WITH



**MISC. APPLICATION NO.577 OF 2015
IN
ORIGINAL APPLICATION NO.369 OF 2015**

Akhil Maharashtra Shikshan Seva)
Rajpatrit Adhikari Sangh, Mumbai.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

Shri A.V. Bandiwadekar, Advocate for Applicant.

**Shri D.B. Khaire, Special Counsel with Shri K.B. Bhise,
Presenting Officer for Respondents 1 & 2.
None for Respondent No.3.**

**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)**

DATE : 05.04.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

ORDER

1. These two Misc. Applications (M.As) presented by the Applicant which happens to be an Association bearing the name above mentioned can be disposed of by this common order.



2. The Applicant apparently espouses the cause of the employees working in the Department of School Education and Sports. The relief sought by them in effect arises out of the appointment of an IAS Officer who at the point of time this OA was brought was Shri S. Choklingam, the Respondent No.3. The Applicant Association (Sanstha) got aggrieved thereby and brought this OA. For the purposes of the decision of these 2 MAs, this much statement of facts would suffice.

3. The Respondents 1 & 2 through Shri D.B. Khaire, the learned Special Counsel raised a preliminary issue of the basic legality and validity of the action being brought by the Applicant Sanstha because it is not recognized in the manner it should be by the General Administration Department (GAD). This issue, we must mention was agitated in right earnest by the Respondents. It was thereafter that the Applicant brought these 2 MAs. By M.A. 577/2015, the Applicant Sanstha seeks permission to file this OA on behalf of the Association relying upon Rule 4(5)(b) of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 (hereinafter called 'Rules'). By M.A.576/2015, the Applicant Sanstha seeks amendment to their OA and to the MA 577/2015 in effect to implead 8 members in their



personal capacity as well so as to avoid any technical objection. The Respondents by filing the Affidavit-in-reply have opposed these MAs. In that connection, they too have referred to the same Rule above mentioned. It is pointed out that these two MAs came to be presented after the arguments on behalf of the Applicants in the OA were fully heard. The provisions of Maharashtra Civil Services (Conduct) Rules, 1979 with particular reference to Rule 29 thereof, have been cited in support of the case of the Respondents that the grant of recognition to an Association is a must for them to initiate proceedings in what can be described as representative capacity. Rule 30 thereof has been relied upon to buttress the contention that no representation, etc. at the instance of an unrecognized body can be entertained. The Respondents have relied upon an earlier order made by the Bench of the then Hon'ble Chairman in **OA 55/2009 (Maharashtra Rajya Patbhandhare Va Sarvajanik Bandhkam Karmachari Sanghatana Vs. The State of Maharashtra and 5 others, dated 4th March, 2009)** in support of their contention that the recognition to Organization is a must without which the action cannot stand. That came to be dismissed only on that ground and in addition for non-impleadment of necessary parties implying in all probability that the



human agency concerned with the said Sanstha was not impleaded.

4. We have perused the record and proceedings and heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Shri D.B. Khaire, the learned Special Counsel with Shri K.B. Bhise, the learned Presenting Officer for the Respondents 1 & 2.

5. The above discussion must have made it clear as to what the controversy is all about. Now, the codified procedural provisions of the Code of Civil Procedure (hereinafter 'CPC') with regard to the initiation of actions in representative capacities like Order 1 Rule 8, Order 1 Rule 8-A read with a few other provisions including Orders 29, 30 and 31 thereof, may only be referred to just for the sake of grasping the basic principles. In the field of labour and industrial jurisprudence, generally and the institution of collective bargaining in particular, the representation through the Trade Unions in accordance with the provisions of the various labour and industrial enactments is a known phenomenon.

6. Now, as far as Administrative Tribunals Act is concerned, Section 19 thereof prescribes the procedure

✓


with regard to the Original Applications being brought before the Tribunals. Section 15 of the said Act specifically deals with the jurisdiction, powers and authority of the Tribunal like this Tribunal (MAT). This Tribunal is empowered to deal with the issues of recruitments and matters concerning recruitments and broadly so speaking, the service matters. In the dictionary clause, Section 3(1)(q) defines service matters, which can usefully be quoted.

“(q) “service matters” in relation to a person means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation [or society] owned or controlled by the Government, as respects-

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
- (iii) leave of any kind;
- (iv) disciplinary matters; or
- (v) any other matter whatsoever;”



7. Now, the said definition uses the word 'person' which word has not been defined in the Act itself. Mr. Bandiwadekar, the learned Advocate for the Applicant in that connection invited our attention to the relevant provisions of General Clauses Act in support of his contention that the action brought by him cannot be assailed on any ground whatsoever and even if the Sanstha brings in an action, it would answer the requirement of the word, 'person' and it will be a competent action.

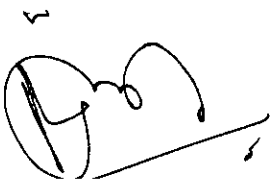
8. Both the sides relied upon Rules 29 and 30 of the M.C.S (Conduct) Rules. Section 29 deals with recognition of Association. It provides *inter-alia* that the Government may grant recognition to an Association in a particular format therein mentioned in which it would be a recognized Association. The Government also has got power to cancel the same. Rule 30 thereof provides that an Association which was not recognized would not be entitled to submit any representation or material or/is not any deputation in respect of any matter affecting the Government servant or a class of such servants. Now, regardless of the ultimate orders that are made hereon and keeping ourselves restricted for the present to Rule 30 itself, it does not by itself put any embargo on initiation of proceedings before a judicial forum. Other factors remaining constant, the state

A handwritten signature in black ink, consisting of a stylized 'B' followed by a flourish, positioned above a horizontal line.

of affairs with regard to the conduct of judicial proceedings is within the exclusive domain of the judiciary, and therefore, even otherwise control or regulation of judicial process even by the Rules like the Conduct Rules might perhaps not be immune from challenge and who knows successful challenge at that. But we leave it at that for the purposes hereof.

9. Rule 4, 5(a)(b) of the Administrative Tribunals Rules read as follows :

- “(4) The applicant may attach to and present with his application a receipt slip in Form II which shall be signed by the Registrar or the Officer receiving the application on behalf of the Registrar in acknowledgement of the receipt of the application.
- (5) Notwithstanding anything contained in sub-rules (1) to (3), the Tribunal may permit,-
 - (a) more than one person to join together and file a single application if it is satisfied, having regard to the cause of action and the nature of relief prayed for, that they have a common interest in the matter;
 - (b) Such permission may also be granted to an association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the



class/grade/categories of the persons on whose behalf it has been filed.”

The above referred sub-rule is self-explanatory and requires no further elaboration. The Applicants rely upon it in support of their case. The manner in which the word, ‘person’ should be construed according to them has already been discussed above.

10. Now, in the above light, the learned Special Counsel Shri D.B. Khaire and the learned Presenting Officer Shri K.B. Bhise very strongly relied upon the judgment in **OA 55/2009** (supra). There admittedly the application was brought by an unrecognized Association. The Rules, etc. hereinabove referred to were cited before the Bench. A number of judgments of the Hon’ble Supreme Court were also cited. It may, however, be noted that as far as the precise issue herein involved, there is no direct authority except **OA 55/2009**. The judgments of the Hon’ble Supreme Court relied upon therein were basically on the issue of the impleadment or non-impleadment to the OAs, the candidates who would be affected by the outcome of the OA especially in the event, the original Applicant succeeded. However, very pertinently in Para 9, this Tribunal quoted Para 28 from the judgment of **Prabodh Verma and others Vs. State of**



Uttar Pradesh and others, (1984) 4 SCC 251 wherein Their Lordships were pleased to observe that the Writ Petition filed by the Sangh before the Hon'ble High Court suffered from two serious, "though not incurable defects". The first one of non-joinder of necessary parties. It was held that unless the parties going to be affected were before the Hon'ble High Court or at least some of them in the representative capacities were there, the Hon'ble High Court ought not to have heard the matter. However, most pertinently, and we must repeat, the observations were that though the said defects were there but they were held to be not incurable and this in our view is a matter of great moment, as we shall be pointing it out presently.

11. The bar to the tenability of a judicial proceeding *inter-alia* because of even improper impleadment of parties is a serious matter. The disability must be expressly mentioned in law or any other source having the force of law. If it is to be inferred, it must be something capable of being quite easily and clearly inferred without any unnatural strain. The result of the above discussion so far, in our view, is clear that on the express language of the various provisions above referred to, it may not be possible for us to readily accept that an unrecognized Association is debarred from bringing in an action such as this one. The



Rules that contain directions for the employees and the Government by themselves cannot be invoked to spell out bar to the judicial proceedings. However, if we were to press this aspect of the matter further, then in every likelihood, it is possible that we may be differing from the earlier judgment of this Tribunal in OA 55/2009. In that event, necessary procedure will have to be followed which is well known. That is the demand of the law of precedents as well as judicial discipline. The issue is as to whether in the context of these facts, it is necessary to go that far. In our opinion, in as much as we are deciding these M.As on hard facts and are on no academic mission, the dispute can be resolved by allowing the application for amendment whereby the Applicant wants to implead the persons whose names appear in the Schedule to MA 576/2015. We have already mentioned above that the Hon'ble Supreme Court has clearly observed that the defect like this, is a curable one. It is a curable irregularity and not incurable illegality. We would, therefore, make it clear that we have in this determination not pressed our views in contest with the views of the Bench in OA 55/2009 and we have left it at that. The application for amendment is however allowed. The parties named in the Schedule to MA 576/2015 be impleaded as party Applicants by a suitable amendment to be effected within two weeks from today. A

A handwritten signature in black ink, consisting of a large, stylized initial 'M' followed by a cursive flourish and a horizontal line extending to the right.

consolidated copy of the OA after amendment be filed and a copy thereof be furnished to the learned Special Counsel and the learned Presenting Officer, so as to enable them to file Additional Affidavit-in-reply, if any. The Original Application stands adjourned to 29th April, 2016. The Misc. Application No.576/2015 is allowed in these terms. The Misc. Application No.577/2015 is disposed of with a direction that post amendment, the permission to sue jointly is granted. No order as to costs.

Sd/-

(R.B. Malik)
Member-J
05.04.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
05.04.2016

Mumbai

Date : 05.04.2016

Dictation taken by :

S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2016\4 April, 2016\M.A.576.15 & M.A.577.15 in O.A.369.14.w.4.2016.doc