

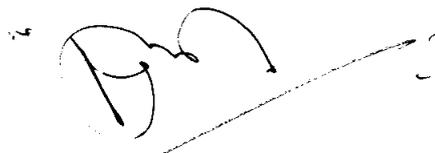
**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**REVIEW APPLICATION NO.23 OF 2015  
IN  
ORIGINAL APPLICATION NO.402 OF 2013  
WITH  
REVIEW APPLICATION NO.26 OF 2015  
IN  
ORIGINAL APPLICATION NO.402 OF 2013**

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**REVIEW APPLICATION NO.23 OF 2015  
IN  
ORIGINAL APPLICATION NO.402 OF 2013**

1. Shri Pundalik Bhagwan Mokal. )  
Working as Circle Officer, Kihim, )  
Tal.: Alibaug, Dist : Raigad. )  
Residing at Vaidehi Society, Vidyanagar, )  
Chendare, Alibaug, District Raigad. )
2. Shri Kirankumar R. Juikar. )  
Working as Talathi, Saja Zirad, )  
Tal.: Alibaug, Dist : Raigad and Residing )  
R.C.F. Colony, Kurul, Tal. Alibaug, )  
Dist : Raigad. )
3. Shri Sanjay Hira Shinge. )



Working as Talathi, Saja Varsoli, )  
 Tal. : Alibaug, District : Raigad and )  
 Residing at Revdanda, Tal.: Alibaug, )  
 Dist : Raigad. )

4. Shri Sandip R. Bhandare. )  
 Working as Talathi, Saja Waje, )  
 Tal.: Panvel, District : Raigad and residing )  
 at 2/201, Sarvoday Garden, Pandurang )  
 Wadi, Manpada Road, Dombivali (E), )  
 District : Thane. )

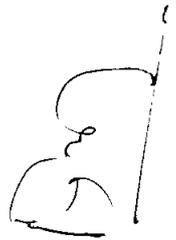
5. Shri Santosh P. Kachare. )  
 Working as Talathi under the Tahasildar, )  
 Uran, Dist : Raigad and residing at )  
 1, Nishigandha Building, Suyog CHS, )  
 At & Post : Uran Satrahati, Tal. Uran, )  
 Dist : Raigad. )

)...Applicants

**Versus**

1. The District Collector, Raigad )  
 having Office at Alibaug, )  
 District : Raigad. )
2. Shri Dilip Vitthal Chalke. )  
 Working as Talathi, Pen, )  
 Tahasil Office, Pen, Tal.: Pen, )  
 District Raigad. )
3. Shri Sunil Yashwant Jadhav. )  
 Working as Talathi, Vali, )

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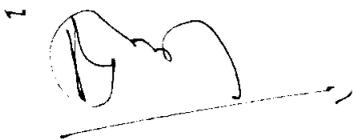


- Tahasil Office Roha, Tal.: Roha, )  
District Raigad. )
4. Shri Naresh S. More. )  
Working as Talathi Shirsad, )  
Tahasil Office Roha, Tal.: Roha, )  
District Raigad. )
5. Shri Anant Bhagwan Raut. )  
Working as Talathi Shirgaon, )  
Tahasil Office Alibaug, Tal. : Alibaug, )  
District Raigad. )
6. Shri Tukaram Mahadeo Patil. )  
Working as Talathi Padghavli, )  
Tahasil Office Sudhagad-Pali, )  
Tal: Sudhagad-Pali, Dist : Raigad. )
7. Shri Prabhakar R. Jadhav. )  
Working as Talathi Achare, )  
Tahasil Office Sudhagad-Pali, )  
Tal.: Sudhagad-Pali, Dist : Raigad. )
8. Shri Subhash Shankar Wavekar. )  
Working as Talathi Kurdus, )  
Tahasil Office Alibaug, Tal.: Alibaug, )  
District Raigad. )...Respondents

WITH

REVIEW APPLICATION NO.26 OF 2015  
IN  
ORIGINAL APPLICATION NO.402 OF 2013

The District Collector, Raigad. )  
Having Office at Alibaug, Dist : Raigad. )...Applicant  
(Ori. Respondents)



**Versus**

1. Shri Dilip Vitthal Chalke. )  
Working as Talathi, Pen, )  
Tahasil Office, Pen, Tal.: Pen, )  
District Raigad. )
2. Shri Sunil Yashwant Jadhav. )  
Working as Talathi, Vali, )  
Tahasil Office Roha, Tal.: Roha, )  
District Raigad. )
3. Shri Naresh S. More. )  
Working as Talathi Shirsad, )  
Tahasil Office Roha, Tal.: Roha, )  
District Raigad. )
4. Shri Anant Bhagwan Raut. )  
Working as Talathi Shirgaon, )  
Tahasil Office Alibaug, Tal. : Alibaug,) )  
District Raigad. )
5. Shri Tukaram Mahadeo Patil. )  
Working as Talathi Padghavli, )  
Tahasil Office Sudhagad-Pali, )  
Tal: Sudhagad-Pali, Dist : Raigad. )
6. Shri Prabhakar R. Jadhav. )  
Working as Talathi Achare, )  
Tahasil Office Sudhagad-Pali, )  
Tal.: Sudhagad-Pali, Dist : Raigad. )
7. Shri Subhash Shankar Wavekar. )  
Working as Talathi Kurdus, )  
Tahasil Office Alibaug, Tal.: Alibaug,) )  
District Raigad. )

**)...Respondents**  
**(Ori. Applicants)**



**Ms. S.P. Manchekar, Advocate for Applicants in R.A.23/15.**

**Mr. N.K. Rajpurohit, Chief Presenting Officer for Respondent No.1 in R.A.23/15 and for Applicants in R.A.26/15.**

**Mr. R.M. Kolge, Advocate for Respondent Nos.2 & 4 in R.A.23/15 and for Respondent Nos. 1 & 3 in R.A.26/16.**

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

**DATE : 28.04.2017**

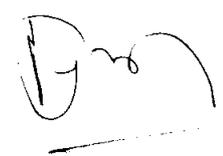
**PER : R.B. MALIK (MEMBER-JUDICIAL)**

### **JUDGMENT**

1. These two applications for review are directed at the Judgment rendered by the 2<sup>nd</sup> Division Bench presided over by us in **OA 402/2013 (Shri Dilip V. Chalke and 6 others Vs. District Collector, Raigad, dated 7.4.2015).**

R.A. 23/2015 is presented by the Review Applicants who were not parties thereto, but some of whose names appeared in the said Judgment and R.A.26/2015 is made by the Respondents – Collector, Raigad. These two RAs are, therefore, disposed of by this common Judgment.

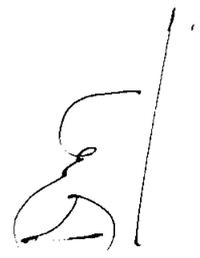
2. We have perused the record and proceedings of the OA as well as these RAs and heard the submissions of

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Ms. S.P. Manchekar, Advocate for Applicants in R.A.23/15, Mr. N.K. Rajpurohit, Chief Presenting Officer for Respondent No.1 in R.A.23/15 and for Applicants in R.A.26/15, Mr. R.M. Kolge, Advocate for Respondent Nos.2 & 4 in R.A.23/15 and for Respondent Nos. 1 & 3 in R.A.26/16.

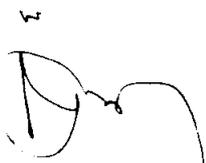
3. The disposed of OA was brought by 7 personnel from the cadre of Talathis. A combined seniority list came to be published by the Collector, Raigad on 21.1.2013 to show the seniority as on 1.1.2011. It was assailed inter-alia on the ground that the provisions of Maharashtra Revenue Qualifying Examination (RQE) for promotion to the post of Circle Officer (from the cadre of Talathis' Rules, 1988) had not been properly followed. Quite pertinently, a Judgment of the Hon'ble Supreme Court in **V.P. Shrivastava and others Vs. The State of M.P. and others : 1996 (1) SLR 819** was referred to for the proposition that in as much as the very principles underlying the determination of the seniority by the Collector were challenged, it was not necessary to implead all the persons who were likely to be "affected" by the said judicial determination. The 2<sup>nd</sup> Bench speaking through one of us (Shri Rajiv Agarwal, Vice-Chairman) found that the ultimate outcome of that OA would depend upon the

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interpretation of the 1998 Rules above referred to, as well as Maharashtra Sub-Service Departmental Examination (for the cadres of Talathis) Rules, 1997 (SSD). Rule 4 thereof was pressed with emphasis. The grievances of the Applicants came to be noted and therein as and by way of example, the case of the 6<sup>th</sup> Applicant therein was juxta-posed with Shri Juikar who happens to be the 2<sup>nd</sup> Review Applicant in R.A. 23/2015. It was held that a certain part of the Rule of 1998 was superfluous. It was further held that, relying on the case of Shri Juikar, the Collector, Raigad had not correctly determined the seniority and on this basis, the impugned seniority list dated 21.1.2013 was quashed and set aside and the Collector was directed to prepare the seniority list of Talathis as on 1.1.2011 strictly as per the SSD Rules as well as RQE Rules above discussed.

4. In so far as the above order in the OA is concerned, the Review Applicants in R.A.23/2015 and they are five in number have sought the review thereof *inter-alia* on the ground that they were not heard in that OA meaning thereby that they were not the parties thereto. They have claimed that they had passed SSD and RQE in time and chances and as a result, they have retained dates of joining on the post of Talathis as the dates of their

  
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seniority. They have also relied upon the Judgment in the matter of clerical cadre in OA 288/2013 (Pravin M. Varande and 20 others Vs. District Collector, Dist : Raigad and 21 others) decided by this very Bench of the same composition on 16.12.2014. As must have become clear, that was an OA pertaining to the clerical cadre (Awal Karkoon). We shall keep calling this Judgment as "Varande's Judgment".

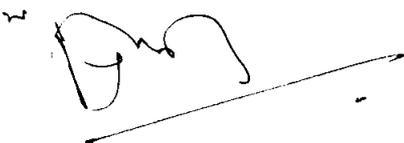
5. Returning to the RA 23/2015 detailed plea is raised in support of the case of the Review Applicants with regard to their seniority. The prayer is to review the judgment in the said OA and pass an appropriate order. Interim relief is sought against finalizing the provisional seniority list which was impugned in the said OA.
6. The original Applicant being Shri Naresh S. More has filed Affidavit-in-reply contesting this RA. As the discussion that is in store, would show a very detailed narration of the stand of the original Applicants may not really be necessary to be set out.
7. In RA 26/2015, the Collector seeks the review of the order in the said OA. It is mentioned therein that the provisions brought on record by the Collector, Raigad and



the documents thereto relevant had not been considered by this Tribunal in that particular OA. The Government was a necessary party, but it was not impleaded thereto. According to the Collector (Para 10 of the RA), the Rules with regard to the Awal Karkoons and the Talathis are generally in *pari materia*. It is further mentioned that the Varande's matter came to be challenged in the Hon'ble High Court. Thereafter, the Rules relevant herefor have been discussed in the RA and necessary relief is sought.

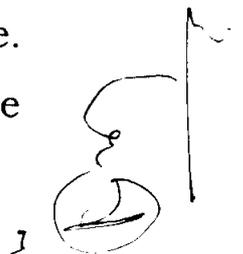
8. In accordance with the provisions of Section 22(3)(f) of the Administrative Tribunals Act, 1985 read with the provisions of Section 114 and Order 47 of the Code of Civil Procedure (CPC for short), it is very clear that the scope of the review jurisdiction will be as circumscribed as laid down by those provisions. That aspect of the matter has got to be borne in mind.

9. We have already indicated above on the authority of the Judgment of the Hon'ble Supreme Court in **V.P. Shrivastava** (supra) that, regard being had to the scope of the challenge in the said OA, even if all the "affected" persons were not impleaded that by itself would not be a sufficient enough reason for us to review our order. No doubt, according to the State (Collector included), there are

A handwritten signature in black ink, consisting of a stylized 'B' followed by a flourish and a long horizontal line extending to the right.

other Judgments requiring that the affected persons should be before the judicial forum. However, quite pertinently, in **Shrivastava's** matter, the issue was almost the same as in the said OA. In any case, even if with this aspect of the matter and our findings, the parties to the OA remained aggrieved, then their remedy is not by way of review.

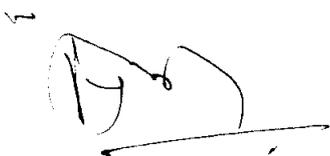
10. As far as the main aspect of contention is concerned, we may only note that, in view of the conflicting Judgments in **Varande** rendered by us and **Shriram Gurav** rendered by the then Hon'ble Vice-Chairman, a reference was made to Larger Bench in **OA 354/2015 (Shri Mahesh M. Sapre and 4 others Vs. The State of Maharashtra and 22 others, dated 2.2.2017)**. The Collector, Raigad was the 2<sup>nd</sup> Respondent thereto. Both of us were the parties to that Three Member Bench with our learned brother Shri J.D. Kulkarni, Member (J) currently at Nagpur. That was the OA pertaining to the Awal Karkoons (clerical cadre). However, the issues hereto relevant of clearing the examinations in the context of SSD and RQE were very much involved therein. The Larger Bench did take into consideration the fact that the view expressed by the 2<sup>nd</sup> Division Bench in **Varande** was not quite accurate. The Special Bench relied upon a Judgment of the Hon'ble



Bombay High Court at Nagpur Bench in the matter of **Writ Petition No.2521/2015 (Narayan Sonune Vs. The State of Maharashtra and 3 Others, dated 19.1.2016)** which came to be confirmed in **Special Leave Petition to Appeal (Civil) No.982/2016 (R.M. Chilate Vs. The State of Maharashtra and others)**. That was a Judgment arising out of the cadre of Talathis. Although in Para 41 of that Judgment, there was an observation of the Larger Bench that the Rules pertaining to the Talathis, “need not detain us much” but there was a discussion thereabout and the principles were culled out in Para 45 of that Judgment which will be of general application to both the streams i.e. Clerical and Talathi. The said Para 45 reads as follows :

**“45.** The upshot is that, from the above discussion, the following principles emerge and while preparing the seniority list, the observations herein made may be followed and the course of action as hereinbelow be adopted.

- “(a) The seniority in the Clerical cadre shall be fixed as per the date of passing the SSD Examination;
- (b) In Clerical cadre if the SSD Examination was passed within the



time and number of chances, the seniority shall be counted from the date of initial appointment as Clerks and that date in that cadre shall remain forever;

- (c) The Clerks who fail to pass SSD Examination within the time and number of chances will lose their seniority as hereinabove discussed. Their seniority shall be counted from the date of passing SSD Examination or from the date, they would get exemption;
- (d) But they will not disturb those Clerks who were already confirmed after passing SSD within the time and chances or were senior to them.

a-i) Now, only those Clerk Typists who have passed SSD Examination after completing three years as such Clerks, would be eligible to appear for RQE.

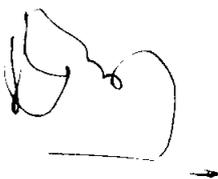
a-ii) A Clerk Typist confirmed in that cadre in order to pass RQE will have to



do so within three chances and within nine years of his continuous service as such Clerk Typist to be able to retain his original seniority.

a-iii) In the event, he were to fail to do so, then there will be a loss of seniority in exactly the same way as in case of Clerk Typist discussed above and he will then become entitled for consideration for seniority only after clearing the said Examination and he will be governed in all respects by (a) and <sup>to (d)</sup> (b) above."

11. It is, therefore, very clear from the above discussion that, in as much as we are more concerned with the determination of a particular fact at issue in the first place, these are not the matters where there is any scope for exercise of review powers. If the parties still remained aggrieved, they have to move the higher forum and in any case, the main principles which may be relevant herefor have already been laid down by the Larger Bench as mentioned above, and therefore, we do not think, there is any scope for invoking our review jurisdiction and

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tinkering in any way with our order in the said OA. These Review Applications are, therefore, <sup>allowed</sup> ~~rejected~~ with no order as to costs.

Sd/-

*20 4-17*  
**(R.B. Malik)**  
**Member-J**  
**28.04.2017**

Sd/-

*copy 7/4/17*  
**(Rajiv Agarwal)**  
**Vice-Chairman**  
**28.04.2017**

Mumbai

Date : 28.04.2017

Dictation taken by :

S.K. Wamanse.

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*15/4/17*  
**Registrar**

**Maharashtra Administrative Tribunal**  
**Mumbai.**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH**

NO.MAT/MUM/JUD/2213/2017  
Maharashtra Administrative Tribunal  
Pay & Accounts Barrack Nos.3 & 4,  
Free Press Journal Marg,  
Nariman Point, Mumbai 400 021.

Date : 16 JUN 2017

**R.A. No. 23/2015 IN O.A. No. 402/2013 With**

**R.A. No. 26/2015 IN O.A. No. 402/2013.**

**(Speaking to Minutes)**

**(Sub :-Combined Seniority List)**

- 1 Shri Pundalik B. Mokal & 04 Ors., (R.A. No. 23/15 IN O.A. No.402/13)  
C/o. Ms. S.P. Manchekar, Advocate for the Applicants.
- 2 The District Collector, Raigad, Having O/at. Alibaug, Dist. Raigad.  
(R.A. No. 26/15 IN O.A. No.402/13)

**....APPLICANT/S.**

**VERSUS**

- 1 The District Collector, Raigad, Having O/at. Alibaug, Dist. Raigad.
- 2 Shri Dilip V. Chalke, W/as. Talathi, Pen, Tahasil Office, Pen, Tal. Pen, Dist. Raigad.
- 3 Shri Sunil Y. Jadhav, W/as. Talathi, Vali, Tahasil Office Roha, Tal. Roha, Dist. Raigad.
- 4 Shri Naresh S. More, W/as. Talathi, Shirsad, Tahasil Office, Roha, Tal. Roha, Dist. Raigad.
- 5 Shri Anant B. Raut, W/as. Talathi, Shirgaon, Tahasil Office, Alibaug, Tal. Alibaug, Dist. Raigad.
- 6 Shri Tukaram M. Patil, W/as. Talathi, Padghavli, Tahasil Office, Sudhagad, Tal. Sudhagad-Pali, Dist. Raigad.
- 7 Shri Prabhakar R. Jadhav, W/as. Talathi, Achare, Tahasil Office, Sudhagad-Pali, Tal. Sudhagad-Pali, Dist. Raigad.
- 8 Shri Subhash S. Wavekar, W/as. Talathi, Kurdus, Tahasil Office, Alibaug, Tal. Alibaug, Dist. Raigad.

**...RESPONDENT/S**

Copy to : The C.P.O. M.A.T., Mumbai.

*The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 04<sup>th</sup> day of May, 2017 has made the following order:-*

APPEARANCE : **Ms. S.P. Manchekar, Advocate for the Applicants in (R.A. No. 23/15 IN O.A. No.402/13).**  
**Shri N.K. Rajpurohit, C.P.O. for the Resp. No.1 in (R.A. No. 23/15 & R.A. No. 26/15 IN O.A. No.402/13)**  
**Shri R.M. Kolge, Advocate for the Resp. No. 2 & 4. in (R.A. No. 23/15 & R.A. No. 26/15 IN O.A. No.402/13) for Resp. No. 1 & 3.**

CORAM : **HON'BLE SHRI RAJIV AGARWAL, VICE-CHAIRMAN.**  
**HON'BLE SHRI R.B. MALIK, MEMBER (J).**

DATE : **04.05.2017.**

ORDER : **(Speaking to Minutes)- Order Copy Enclosed/Order Copy Over Leaf.**

**Research Officer,  
Maharashtra Administrative Tribunal,  
Mumbai.**

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI

REVIEW APPLICATION NO.23 OF 2015  
IN  
ORIGINAL APPLICATION NO.402 OF 2013  
WITH  
REVIEW APPLICATION NO.26 OF 2015  
IN  
ORIGINAL APPLICATION NO.402 OF 2013

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REVIEW APPLICATION NO.23 OF 2015  
IN  
ORIGINAL APPLICATION NO.402 OF 2013

1. Shri Pundalik Bhagwan Mokal & )  
4 Ors. )...**Applicants**

**Versus**

1. The District Collector, Raigad & )  
7 Others. )...**Respondents**

WITH

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**REVIEW APPLICATION NO.26 OF 2015  
IN  
ORIGINAL APPLICATION NO.402 OF 2013**

The District Collector, Raigad. )  
Having Office at Alibaug, Dist : Raigad. )...**Applicant**  
(Ori. Respondents)

**Versus**

1. Shri Dilip Vitthal Chalke & 6 Ors. )...**Respondents**  
(Ori. Applicants)

**Ms. S.P. Manchekar, Advocate for Applicants in R.A.23/15.**

**Mr. N.K. Rajpurohit, Chief Presenting Officer for Respondent No.1 in R.A.23/15 and for Applicants in R.A.26/15.**

**Mr. R.M. Kolge, Advocate for Respondent Nos.2 & 4 in R.A.23/15 and for Respondent Nos. 1 & 3 in R.A.26/16.**

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

**DATE : 04.05.2017**

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

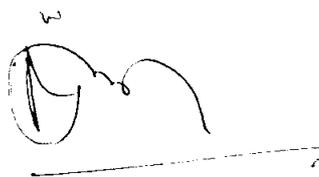
**SPEAKING TO MINUTES**

1. This move for "Speaking to Minutes" is made by the State in so far as a common order rendered by us in



Review Application No.23/2015 in OA 402/2013 with Review Application No.26/2015 in OA 402/2013 are concerned. The said order as well as all the earlier orders are there on record. We have carefully perused our common order dated 28.4.2017 in the two Review Applications just mentioned. As a matter of fact, it will be necessary for us to make a brief speaking order, so as to make the point that we are required to do.

2. It so happened that, a Larger Bench came to be constituted in **OA 354/2015 (Shri Mahesh M. Sapre and others Vs. The State of Maharashtra and others, dated 2.2.2017)**. That OA was decided by the Special Bench to which both of us were parties along with our learned Brother Shri J.D. Kulkarni, Member (Judicial) presently at Nagpur. Pertinently, therein there was an apparent conflict of opinion in the decisions of the Division Benches of this Tribunal in **OA 288/2013 (Pravin Mahadu Varande and 20 others Vs. District Collector, District Raigad and 21 others, dated 16.12.2014)** rendered by this very Bench of the same composition and another Judgment in **OA 587/2008 (Shri Shriram Gurav Vs. The Collector, District Satara and 5 others, dated 23.6.2009)** by the Division Bench of the then Hon'ble Vice-Chairman. The issues in the Special Bench were framed



already. In the ultimate analysis, it is now not necessary to refer to all the facts and observations made by us in that Larger Bench Judgment. For all intent and purpose that Larger Bench of three Members overruled **Varande** (supra) and preferred **Gurav** thereto. In that particular matter, there was a reference to **OA 402/2013 (Shri Dilip V. Chalke and 6 others Vs. The District Collector, Raigad, dated 7.4.2015)** as well. For all one knows, **Dilip Chalke's** case was decided on 7.4.2015 by us, more or less adopting the course in **Varande** (supra).

3. Turning now to the two Review Applications at the outset itself, there was a reference to **Dilip Chalke's** case (supra). As the discussion progressed, we quite clearly observed in effect that, after the decision of the Larger Bench in **Mahesh M. Sapre** (supra), all concerned will have to follow the same course of action. It was noted by us that **Varande**, for all practical purpose was no more a good law in so far as the scope and jurisdiction of this Tribunal is concerned. Having made those observations and having regard to the fact that a number of proceedings were involved and were required to be dealt with, it appears quite clearly that there were some lapse in making some observations and the final order. In fact, the whole thing is so simple that not only **Varande** and **Chalke**, but



any Judgment which is not in consonance with the Judgment of the Larger Bench in **Sapre** would have to yield place to **Sapre** only, and therefore, in essence, if the two Review Applications sought to achieve in effect the same object, then naturally, those RAs will have to be allowed and that is some kind of a lapse in our order of rejection for which, necessary directions will have to be given.

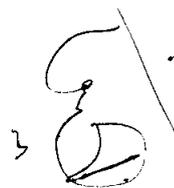
4. We have perused the application on behalf of the State presented to the Registrar of this Tribunal and we are of the opinion that some necessary alterations will have to be made in our Judgment in the RAs. We, however, make it absolutely clear that, not only for the matters, we have referred to in all our Judgments and Orders in various matters, but also in case of every matter of this type, the governing authority in so far as this Tribunal is concerned, shall be not any other Judgment and order but the order of the Larger Bench in **Sapre's** matter and this clear observation may be communicated to all concerned.

5. Mr. Kolge, the learned Advocate for the Respondents in RA while opposing this application told us that there is no provision for such "Speaking to Minutes" course of action. As to this submission of the learned Advocate, we in the first place find that, for all practical



purposes, a mere perusal of the common order in the Review Applications would show that the final order does not properly gell with the observations in the body of that very order. Therefore, it can never be argued, in our opinion, generally or particularly, that even such lapses could not be corrected. After-all, nobody can claim any stake in a mistake such as the one herein involved. Secondly, Section 152 of the Code of Civil Procedure also takes into consideration the course of action to be adopted in the event the lapses therein mentioned are found to have occurred. No doubt, those provisions are not expressly applicable here, but the fact remains that the correction of a mistake without disturbing the core of the order is a known phenomenon. The doctrine of *functus officio* is in no way affected or offended. We are sure about it. In that behalf, useful reference could also be made to Chapter XI of the Bombay High Court Appellate Side Rules, 1960 (Rule 2). The same may be reproduced.

**“2.** Procedure when Advocate wishes to keep judgment before the Court for speaking to minutes.- Whenever an Advocate wants a judgment to be kept before the Court for speaking to the minutes, he shall file a note in the Office showing the points on which he wants to speak to the minutes and he shall



also serve a copy thereon on the Advocate for the other side.”

Now, it is no doubt true that, here the said Rules are not strictly applicable, but again for the reason aforesaid, it needs to be repeated that the innocuous lapse to make sure that the final order gells with the observations in the body can always be made.

6. It is, therefore, directed that, in Para 11 (Pages 13 and 14 of the common order in the two Review Applications) the words, “and therefore, we do not think, there is any scope for invoking our review jurisdiction and tinkering in any way with our order in the said O.A.” shall stand deleted and in the final order, instead of the word, “rejected” in the penultimate line, the word, “allowed” be substituted. Similarly, on Page 13 in Clause (a-iii) in the last line (b), shall be substituted by (a) to (d). The Office is directed to make the necessary alterations in the Review Judgment and furnish the fresh corrected copies to the parties, if they have already received the Certified Copies without any further charges and the parties are directed to surrender the old copies which they may be having with them.

A handwritten signature, possibly "G. S.", is written in black ink. Below the signature, a long diagonal line is drawn across the page.

7. The application for Speaking to Minutes is accordingly allowed in these terms with no order as to costs.

Sd/-

**(R.B. Malik)**  
**Member-J**  
**04.05.2017**

Sd/-

**(Rajiv Agarwal)**  
**Vice-Chairman**  
**04.05.2017**

Mumbai

Date : 04.05.2017

Dictation taken by :

S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2017\5 May, 2017\R.A.23.15 in O.A.402.13 with R.A.26.15 in O.A.402.13.doc