

WP(C) 7777/2009
Delhi Abhibhavak Mahasangh & Ors.
Vs.
Govt. of NCT of Delhi & Ors.

No.DHCC/2017/380

Dated: 18/10/2017

Report of Delhi High Court Committee for Review of School Fee for August 2017

Index			
S.N.	Particulars		Page No.
(a)	Cause List of the cases taken up in August 2017 on 21.08.2017, 22.08.2017, 23.08.2017, 25.08.2017, 28.08.2017, 29.08.2017, 30.08.2017 and 31.08.2017		01 to 02
(b)	Miscellaneous/ Interim orders passed in August 2017		03 to 31
(c)	Final recommendations/ Review orders passed in the following cases:-		
	S.N.	Date	Name of the School
	1	21.08.2017	Recommendation in respect of Ramjas School, Pusa Road (B-435) recommending no intervention.
	2	22.08.2017	Recommendation in respect of ITL Public School, Sector-9, Dwarka (B-96) recommending no intervention.
	3	28.08.2017	Recommendation in respect of Angel's Public School, Vishwas Nagar (B-50) recommending no intervention.
	4	31.08.2017	Recommendation in respect of S.K.R. Public School, Inder Puri (B-411) recommending no intervention.
	5	31.08.2017	Recommendation in respect of Shanti Gyan Niketan Public School, Najafgarh (B-390) recommending refund of unjustified fee alongwith 9% interest.
	6	29.08.2017	Review application of Mount Carmel School, Sector-22, Dwarka (B-388) disposed off as not maintainable.
	7	29.08.2017	Review application of Mount Carmel School, Anand Niketan (B-618) disposed off as not maintainable.
	8	29.08.2017	Review application of Mata Shiv Devi Public School, Keshav Puram (B-502) disposed off by correcting a typographical error.
	9	29.08.2017	Review application of B.V.M. Model Sr. Sec. School, Begum Pur (B-123) disposed off as not maintainable.
	10	30.08.2017	Review application of The Pinnacle School, Panchsheel Enclave (B-130) disposed off as not maintainable.
	11	30.08.2017	Review application of Good Samaritan School, Jasola (B-131) disposed off as not maintainable.
	12	30.08.2017	Review application of N.C. Jindal Public School, Punjabi Bagh (B-71) disposed off as not maintainable.

Place: Delhi

Date:

(Signature)
Secretary

Delhi High Court Committee for Review of School Fee

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Delhi High Court Committee for Review of School Fee
(Formerly Justice Anil Dev Singh Committee for Review of School Fee)
CAUSE LIST FOR AUGUST 2017

Cause List for Monday, 21st August 2017

S. No.	Cat. No.	School Name & Address
1	B-492	G.D. Goenka Public School, Sector-22, Rohini
2	B-639	Nutan Vidya Mandir, Dilshad Garden
3	B-435	Ramjas School, Pusa Road
4	B-60	The Heritage School, Sector-23, Rohini

Cause List for Tuesday, 22nd August 2017

S. No.	Cat. No.	School Name & Address
1	B-653	Apeejay School, Sheikh Sarai-I
2	B-684	Lovely Public Sr. Sec. School, Priya Darshini Vihar
3	B-669	Blue Bells International School, East of Kailash
4	B-96	ITL Public School, Dwarka

Cause List for Wednesday, 23rd August 2017

S. No.	Cat. No.	School Name & Address
1	B-240	Review - Shaheed Bishan Singh Memorial Sr. Sec. School, Mansarovar Garden
2	B-660	Tagore International School, East of Kailash
3	B-488	Queen Mary's School, Sect.25, Rohini

Cause List for Friday, 25th August 2017

S. No.	Cat. No.	School Name & Address
1	B-649	Review - The Cambridge International School, Jawahar Park
2	B-642	Apeejay School, Pitampura
3	B-173	Hans Raj Model School, Punjabi Bagh

Cause List for Monday, 28th August 2017

S. No.	Cat. No.	School Name & Address
1	B-5	Angels Public Sr. Sec. School, Vishwas Nagar
2	B-39	Sachdeva Public School, Pitampura
3	B-49	Sachdeva Public School, Sector-13, Rohini

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(Signature)
Secretary



Cause List for Tuesday, 29th August 2017

S. No.	Cat. No.	School Name & Address
1	B-134	St. Cecilia's Public School, Vikaspuri
2	B-195	Plato Public School, Patparganj

Review orders for pronouncement of Judgment

1	B-502	Mata Shiv Devi Public School, Keshav Puram
2	B-123	BVM Model Sr. Sec. School, Begumpur
3	B-618	Mount Carmel School, Anand Niketan
4	B-388	Mount Carmel School, Dwarka

Cause List for Wednesday, 30th August 2017

S. No.	Cat. No.	School Name & Address
1	B-266	St. Mark's Sr. Sec. Public School, Janakpuri
2	B-490	St. Mark's Girls Sr. Sec. School, A Block, Meera Bagh
3	B-489	St. Mark's Sr. Sec. School, Meera Bagh

Review orders for pronouncement of Judgment

1	B-71	N C Jindal Public School, Punjabi Bagh
2	B-130	The Pinnacle School, Panchsheel Enclave
3	B-131	Good Samaritan School, Jasola

Cause List for Thursday, 31st August 2017

S. No.	Cat. No.	School Name & Address
1	B-380	Mata Gujri Public School, Greater Kailash
2	B-390	Shanti Gyan Niketan Sr. Sec. Public School, Najafgarh
3	B-411	SKR Sr. Sec. Public School, Inderpuri

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Secretary



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G.D. Goenka Public School, Sector-22, Rohini, Delhi

Present : Sh.Vipul Garg, Chairman, Sh. Mahavir Goel, Vice Chairman, Sh. Deepak Arora, Accounts Officer & Sh. Manu RG Luthra, CA of the school.

The school has filed detailed written submission dated 18.8.2017 rebutting the calculations made by the Committee. Along with the written submissions, the school has also filed its own calculation sheet which is patterned on the calculation sheet prepared by the Committee. On perusal of the calculation filed by the school and those made by the Committee, it is observed that the school has taken the following figures, which are different from the figures taken by the committee.

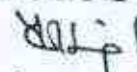
Particulars	As per calculation sheet of the Committee	As per calculation sheet of the School
FDRs	2,05,452	5,452
Loans and advances	4,41,522	99,770
Reserve for accrued gratuity	0	27,01,184
Arrears salary and incremental salary on account of implementation of recommendations of 6 th pay commission	2,66,69,848	1,68,31,225
Arrear fee and incremental fee on account of fee hike as per order dated 11.2.2009	2,69,49,744	1,25,55,126

The Committee has taken a sum of Rs.10,02,67,931 as the amount which was utilized by the school for repayment of loans and payment of interest on such loans during the years 2007-08 to 2009-10.

The school has instead included a sum of Rs.51,54,061 as available out of the savings from tuition and other fee for the years 2008-09 and 2009-10 after setting of capital expenditure incurred in 2009-10. It contends that since the school had savings from its tuition and other fees, it was entitled to incur capital expenditure, which has been set off against such savings in terms of Rule 177 of Delhi School Education Rules 1973. Only the balance amount of Rs.55,54,061 was available out of such savings which could be considered as available for payment of the additional liabilities arising on account of the implementation of the recommendations of the 6th pay commission.

It is further contended that the development fee in 2009-10 and in 2010-11 was capitalized and was fully utilized for purchase of eligible capital assets. Hence the school did not have any funds left over from development fee which could have been put in a earmarked bank

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21.08.2017

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account. However, with regard to depreciation reserve fund on assets acquired out of development fee, it is conceded that the same was not placed in any earmarked bank account for investments.

The school has not considered the savings made by it in 2007-08 or the capital expenditure incurred by it in that year on the premise that the school was unrecognized in that year.

With regard to FDRs, it is contended that the FDR for Rs. 2 lakhs was in the joint name of the school and the Director of Education. Only the accrued interest of Rs.5452 could be considered as available with the school. The contention raised by the school is tenable and is accordingly accepted by the Committee.

With regard to loans and advances, the school has excluded the amount of Rs.3,41,752 representing pre paid expenses. This contention cannot be accepted as the Committee has also considered all the current liabilities while working out the funds available with the school.

With regard to accrued liability of gratuity as on 31.3.2010 the school seeks to take benefit to the tune of Rs. 27,01,184 on the basis of actuarial valuation made by the consulting actuaries. However, the Committee is of the view that since the school is not even 5 years old as on 31.3.2010 no gratuity accrued to any employee as on 31.3.2010 and accordingly the contention of the school is rejected.

With regard to incremental salary and incremental fee on account of the implementation of the recommendations of the 6th pay commission, the school has premised its figure on the basis that the total fee of the new students who were admitted in the academic year 2009-10 ought not be included while calculating the incremental fee. It is submitted that the hike in fee as per circular dated 11.2.2009 would be applicable only to the students who were on the rolls of the school as on 31.3.2009. Similarly, the teachers and other staff who were freshly appointed during the year 2009-10 would enjoy the benefit of the increase salary as per 6th pay commission from the very beginning and in their case there would be no hike in salary on account of the implementation of the recommendation of the 6th pay commission. This argument seems to be valid argument however, the calculations made by the school are not in accordance with the submissions made before the Committee. So far as, the arrear fee recovered by the school is concerned, there would not be any difference since the school would not have recovered the arrear fee from the new students admitted in 2009-10. The Committee observes that while the school recovered the arrear fee from 01.4.2007, it has included in its calculations the arrear fee pertaining to the period started from 1.4.2008 only on the premise that the school was not recognized for the academic session 2007-08. This argument is stated to be rejected as the school actually recovered arrear fee for the years 2007-08 also besides recovering for the years 2008-09.

Similarly with regard to the arrear salary, the school has excluded the arrears paid for the year 2007-08 from its calculations. In view of the Committee, since the school has actually paid the arrears of 2007-08 also and for that purpose recovered the arrear fee also from the students, it could be entitled to take the arrear salary paid for 2007-08 in its calculations.

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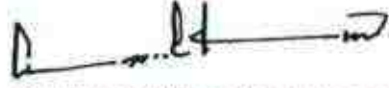
The school seeks time to file a revised calculation sheet in order to remove the deficiencies/shortcomings in its calculation sheet. The same may be filed within two weeks. Matter will come up for further hearing on 11.9.2017 at 11 A.M.



Dr. R.K. SHARMA
MEMBER

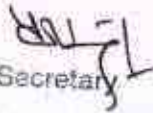


J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



21.08.2017

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B-639

Nutan Vidya Mandir, Dilshad Garden, Delhi

Present: Sh. Jitender Singh, Advocate of the school.

On the last date of hearing, the school was required to file an affidavit which ought to state clearly as to how much rent the school earned from Corporation Bank and to which account it was being credited. The school was also directed to file a copy of the lease deed with Corporation Bank. Today the school filed the affidavit of Sh. Sanjay Singh, Chairman of the Nutan Vidya Mandir Society on 24/07/2017 in which it was stated that the rent from Corporation Bank was utilized by the Society. However, the amount of rent was not stated. In the copy of the lease deed which has been filed by the school page 2 of the same, which would contain the clauses relating to rent and the deposit made by the bank with the school is missing. Even during the course of hearing, the authorized representative appearing for the school is unable to produce the same. Further the school was also directed to file the Receipt and Payment Account of the Parent Society, for the years 2006-07 to 2010-11 but the school has not filed the same. It appears that there was diversion of money from the school to its parent society and for that reason the school is playing hide and seek with this Committee and not producing the relevant documents for consideration by the Committee.

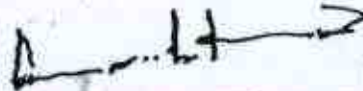
Hearing is concluded. Recommendations reserved.



R.K. SHARMA
MEMBER

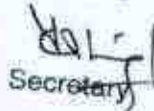


J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



21.08.2017

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B-435

Ramjas School, Pusa Road, Delhi

Present: Ms. Mohini Bindra, Principal, Sh. Anil Julka, Head Clerk, Sh. Anil Saluja, UDC and Ms. Sonu Aggarwal, LDC of the school.

The Principal of the school Ms. Mohini Bindra, appears and submits that the school decided to refund the sum of Rs. 700 per student which was recovered in excess of what was permitting to it by order dated 11/02/2009 issued by the Director of Education, towards differential development fee for the period 01/09/2008 to 31/03/2009 and in pursuance of the decision so taken, the school has already sent the refund cheques to the students by speed post. A copy of the ledger account showing the issuance of cheques and also copies of the dispatch register and the speed post receipts have been filed by the school. The school has also filed copy of its bank account for the period 01/08/2017 to 18/08/2017 showing that a number of cheques have already been presented for encashment by the students and have been debited to its account.

The Committee had already determined that with regard to implementation of the recommendations of VI Pay Commission, the school had incurred a deficit even after taking into account the recovery of additional fee as permitted to it by order dated 11/02/2009 issued by the Director of Education. Only the arrears of development fee for the period 01/09/2008 to 31/03/2009 had been recovered by the school in excess of what was permitted to it. Since the school has admitted the findings of the Committee and already refunded the excess development fee recovered by it, no further intervention is called for in the matter. Pronounced in the open meeting of the Committee after the conclusion of the hearing.


R.K. SHARMA
MEMBER


J.S. KOCHHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



21.08.2017

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The Heritage School, Sector-23, Rohini, Delhi

Present : Sh. Sachin Puri, Sr. Advocate; Sh. Pulkit Malhotra, Advocate,
Sh. Kamil Khan, Advocate, Sh. Nawal Kishore, Admin Assistant, Sh.
Sushil Dubey, Accountant of the school

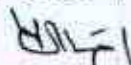
The school has filed an application seeking adjournment for filing its responses to the calculation sheet. As requested, the matter will now come up for hearing on 18th September 2017. The application for adjournment is accordingly allowed.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



22.08.2017

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B-653

Apeejay School, Sheikh Sarai-I, Delhi

Present : Sh. A.P. Sharma, Principal & Sh. Sunil Bhatt, Sr. Accountant of the school.

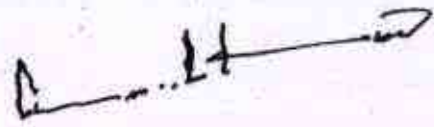
Copy of the calculation sheet prepared by the Committee have been given to the authorized representative appearing for the school. Prima facie it appears that the school has recovered more fee than was required to amend the financial impact of implementing the recommendations of 6th pay commission. The school may file its rebuttal to the calculation sheet within 3 weeks. Matter will come up for further hearing on 12.9.2017 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



Lovely Public Sr. Sec. School, Priya Darshini Vihar., Dehli

Present: Dr.(Mrs.) S.D. Malik, Chairperson & Mrs. Monica, representative of CA of the school.

The authorized representative appearing for the school submits as follows :

1. The reserve for accrued liability of gratuity and leave encashment taken by the Committee of Rs.31,35,825 on the basis of the information furnished by the school vide its letter dated 8.7.2015 does not represent full amount of accrued liabilities of the gratuity and leave encashment as on 31.3.2010. The school gave these figures on the basis of the provision made in the balance sheet for these liabilities which was not the correct figure. She has filed details of accrued liability of gratuity which have been calculated on the basis of the amounts payable under the payment of Gratuity Act. The liability has now been estimated is Rs. 56,26,949.
2. She also submits that no provision for the accrued liability on account of leave encashment was made in the balance sheet and consequently the information was not provided to the Committee. As on case of gratuity she has filed a details statement of accrued liability on account of leave encashment as on 31.3.2010 which amounts to Rs.10,89,825.

The Committee has gone through the respective details filed by the school and finds them in order. Necessary adjustments will be made while making the final determination.

3. With regard to the reserve for future contingencies provided in the calculation sheet, the authorized representative submits that the same is equivalent to 3 months salary but has been stated to be equivalent to be 4 months' salary in the calculation sheet. The Committee has verified this contention and finds that there is indeed an error in the calculation sheet prepared by the Committee. The reserve that should have been provided on this account should have been Rs.1,22,97,247 instead of Rs.92,22,935 in the calculation sheet.

She also submits that the sum of Rs.1,50,000 which has been given as advance to the Telco for buses has become a bad debt and has not been recovered till today and they have not been included while making the calculations with regards to funds available with the school. She also submits that though there is no dispute that the school was treating development fee as a revenue receipt and not maintaining any earmarked development fund or depreciation reserve fund, nevertheless a sum of Rs. 25,41,414 was spent for acquisition of capital assets in these two years. And to that extent the development charged ought to have been

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Secretary



22.08.2017

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considered as utilized and not included in the amount that is B-684
required to be refunded.

Arguments heard. Recommendations reserved.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



22.08.2017

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B-669


Blue Bells International School, East of Kailash, Delhi

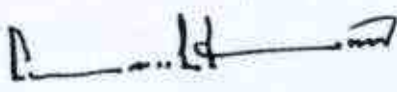
Present : Sh. S.S. Kaira, C.A. & Sh. Nirmal Chand Rana, Accounts Officer of the school

The school filed letter dated 5.8.2017 alongwith statements giving justifications of recovery of arrears of development fee and employee wise details of claiming the arrear salary and also a calculation sheet to demonstrate that the school was in deficit for the implementation of recommendations of 6th pay commission. On the last date of hearing also the school had filed a calculation sheet and the Committee had spent a considerable time for verification of the same. However, the Committee finds that in the calculation sheet filed today certain figures have been changed and in support of the change figures the school has furnished a revised calculation sheet. The school now claims that a sum of Rs. 53,41,785 was also paid towards arrear salary in the financial year 2011-12, and has furnished copies of bank statements in support of such payments. However, the audited financials for 2011-12 were not introduced for verification by the Committee.

On going through the revised calculation sheet as now filed by the school before the Committee, the Committee observes that the school has taken the liability for gratuity twice - once as per the figure reflected in the balance sheet and the second time as per the actuarial valuations filed by the school. The Committee has also observed that the school has taken into account the incremental fee recovered by it in the year 2009-10 in pursuance of order dated 11.2.2009 issued by the Director of Education. Besides the figures of arrears of development fee also appeared to have been taken at a lesser amount than the amount actually recovered. The authorized representative appearing for the school submits that he will go through the calculation sheet again and file a corrected version. The same may be done before the next date of hearing and the school will produce its books of accounts and the fee records also on the next date of hearing for all the relevant years affecting the determination of the justifiable amount of fee that ought to be recovered by the school. To come up for further hearing on 5th Sept. 2017 at 11.00 A.M.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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ITL Public School, Dwarka, Delhi

Present : Sh. N.K. Mahajan, C.A., Sh. S.B. Sharma, Office Supdt. & Sh. Naresh Kumar, Accounts Officer of the school.


The Committee has perused the note dated 3.8.2017 of the audit officer of the Committee who was asked to verify the claim of the school that it had not increased any fee from 2001 to 2008-09. She has verified the fee records and the fee schedules for the years 2006-07 to 2008-09 for which years the records were produced by the school. She has noted that there is no hike in tuition fee during these years. Not only tuition fee but there was no hike in the fee charged on the other heads also, except in increase of Rs.250 p.m. for classes 1st and 2nd in the year 2007-08.

The Committee observes that the fee hike affected by the school pursuant to order dated 11.2.2009 w.e.f. 1.09.2008 was as follows :-

Class	Monthly Tuition fee prior to hike w.e.f. 01.09.2008	Monthly Tuition Fee post hike	Increase	% Increase
Pre school	1500	1500	0	0
Pre Primary 1st & 2nd	1500	1800	300	20%
3 rd to 5 th	1600	2000	400	25%
6 th to 10 th	1700	2100	400	23.53%
11 th to 12 th	2500	3000	500	20%

It is evident from the above table that the school hiked the tuition fee w.e.f. 01.09.2008 at the rates which were prescribed by the Director of Education vide order dated 11.2.2009. The school has also implemented the recommendations of the 6th pay commission. It has paid a sum of Rs.63,78,714 towards arrear salary as against the collection of Rs.59,20,820 as arrear fee. The school does not charge any development fee. With regard to incremental tuition fee, the Committee has taken a view in cases of other schools that where the school has not increased any fee whatsoever during the last three four years, the hike in tuition fee pursuant to order dated 11.2.2009 should be suitably spread over the years during which the school did not hike any fee. Although the school claims that it did not hike any fee from 2001-02 to 2008-09, it produced records to show that no hike was effected during the years 2006-07 to 2008-09. Therefore, if the fee hike which is between 20 & 25% is spread over a period of 4 years i.e. 2006-07, 2007-08, 2008-09 & 2009-10, the yearly hike would have been between 5 and 7% per annum. The Committee has taken a view that after such spreading, the hike is less than 10%, no intervention.

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would be called for in respect of the fee hike effective pursuant to order dated 11.2.2009.

Accordingly, the Committee is of the view that no intervention is necessary with regard to fee hike effected by the school w.e.f. 01.09.2008 and since the payment on account of arrear salary is more than the collection towards arrear fee, no intervention is called for in that component of fee also.



**R.K. SHARMA
MEMBER**

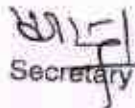


**J.S. KOCHAR
MEMBER**



**JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON**

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Secretary



23.08.2017

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**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF
SCHOOL FEE AT NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of School Fee)

In the matter of

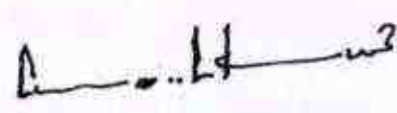
**Shaheed Bishan Singh Memorial School,
Mansarover Garden, Delhi (B-240)**

And in the matter of

**Application dated 20.06.17 for
reconsideration / review of
recommendations dated 04.10.13
in the matter of school.**

Present: None

The application for review was partly heard and called for hearing on today. The application for review is called in the morning session. However, no one appears and the matter is passed over. The matter is called again around 3.00 p.m. but no one is present again. In the interest of justice, no adverse order is passed. List the matter on 05/09/2017.


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

J.S. KOCHAR
MEMBER

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23.08.2017

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B-660

Tagore International School, East of Kailash, Delhi

Present : Sh. Nalin Chester, Sr. Admn. Officer, Ms. Dipali, C.A. & Ms. Nidhi Tewari, Accounts Assistant of the school.

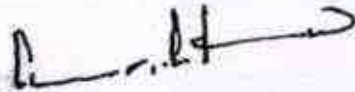
A copy of the calculation sheet has been given to the authorized representative appearing for the school. The school may file its rebuttal if any, within two weeks. Matter will come up for hearing on 11th September 2017.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



23.08.2017

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B-488

Queen Mary's School, Sector-25, Rohini, Delhi

Present: Sh. Vikas Goyal, C.A. Ms. Rooma Jain, C.A. & Sh. Harish Kumar, Office Assistant of the school.

The authorized representatives appearing for the school have produced the books of accounts of the main school as well as nursery school in tally software for the years 2008-09 to 2000-10. The same have been perused by the Committee and after examination of the relevant accounts and other information provided by the school, the following figures with regard to fee and salary have been culled out, which have been agreed to by the authorized representatives.

Particulars	F.Y. 2008-09	F.Y. 2009-10
Regular tuition fee	2,66,57,703	3,62,08,437
Regular development fee	17,92,100	35,88,113
Regular Salary	1,43,15,551	2,32,14,483

Particulars	Amount
Arrear Fee from 01/01/2006 to 31/08/2008	29,69,736
Arrear Fee from 01/09/2008 to 31/03/2009	21,84,358
Total Arrear Fee	51,54,094
Arrear salary from 01/09/2008 to 31/03/2009	21,77,872
Arrear salary from 01/01/2006 to 31/08/2008	26,09,793
Total arrear salary	47,87,665

The authorized representatives appearing for the school submit that so far as the figure of development fee for the year 2008-09 is concerned there appears to be some accounting error as some part of development fee has been credited to annual fee. They seek some time to furnish the correct figures of development fee and annual fee for that year. The same may be provided within one week. The Committee has also noticed that the school is paying a sum of Rs. 15,00,000 annually as royalty paid to some organization by the name All India Konark. The school is required to provide details of total payments made to this organization in the shape of royalties or otherwise for all the years during which such payments have made. The nature of payments, agreement executed with them and the ownership particulars of this organization are also required to be furnished. This may also be done within one week. Calculation sheet to be prepared thereafter. Matter to come up for further hearing on 18/09/2017.

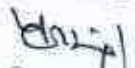
I hereby agree with these figures subject to re-calculation & re-submission of Regular Development fee for the year 2008-09.
(Vikas Goyal, A.K.)
23/8/17


R.K. SHARMA
MEMBER


J.S. KOCHHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



25.08.2017

000018

**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF
SCHOOL FEE AT NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of School Fee)

In the matter of

**The Cambridge International School,
Jawahar Park, Delhi (B-649)**

And in the matter of

**Application dated 18.07.17 for
reconsideration / review of
recommendations dated 04.09.15
in the matter of school.**


Present: Sh. P.S. Siwas, Manager & Sh. Amit Gupta, Advocate of the
school.


The adjournment is sought by the learned Counsel for the
school/applicant on the ground that a number of matters are pending
in Hon'ble High Court and are now listed on 6th September 2017.

As requested, adjourned for 20th September 2017.

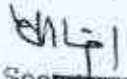



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON


J.S. KOCHAR
MEMBER


R.K. SHARMA
MEMBER

TRUE COPY


Secretary

25.08.2017

000019

B-642

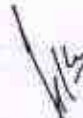
Apeejay School, Pitampura, Delhi

Present : Sh. Ashish Aggarwai, Internal Auditor & Sh. Ravi Kumar, Admn. Officer of the school.

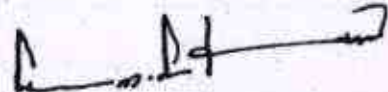
An application has been received on behalf of the school seeking adjournment on the ground that the Internal Auditor and Accounts Officer have recently joined and they need time to check the calculations prepared by the Committee. As requested the hearing will now be taken on 20th September 2017.



Dr. R.K. SHARMA
MEMBER

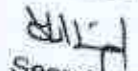


J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



Hansraj Model School, Punjabi Bagh, Delhi

Present: Sh. R.K. Tyagi, OSD, Sh. Jai Malhotra, UDC, Ms. Suman, Sr. Asstt., Ms. Geetanjali, UDC & Sh. S.K. Singhal, DAV CMC of the school.

The school has disputed the calculations made by the Committee and has given written submissions dated 24.8.2017 in rebuttal. The calculations have been disputed in the following respects:

A. The school has contended that the calculation sheet prepared by the Committee has not considered the following liabilities :

1. Suspense balance of Rs.1,85,200 which the authorized representative claimed that it represents the aggregate amount of cheques which had not been encashed from the bank. But were subsequently encashed.
2. Amount ought to DAV CMC is Rs.20,27,640. It is contended that since the Committee has taken the reserve fund which lying with the DAV CMC amounting to Rs.97 lakhs in its calculations, the liability ought also be taken into consideration
3. An advance loan of Rs.11,52,000 which was taken temporarily from the canteen and book shop contractors in the Pupil Fund account ought also be considered, as the school was in temporarily needs of funds for meetings its revenue expenses.

B. The school paid a sum of Rs.1,53,07,498 towards arrear salary in the year in 2011-12 which has not been considered in the calculations as the school itself omitted to give this information when it is called for. Besides it is also submitted that a sum of Rs.15,10,092 was paid to the retired/nominees of deceased employees in the year 2011-12.

C. The incremental salary in 2009-10 was Rs.4,69,55,104 instead of Rs.4,47,93,502 which has been considered by the Committee. The difference of account as the Committee has not considered the incremental amount of the school contributions for gratuity and leave encashment, school funds which are remitted to DAV CMC which maintains these funds and also the Committee did not consider the incremental amount of bonus, which in fact has been decreased in 2009-10 compared to 2008-09. However, the authorized representative fairly state that when the full amount of incremental salary is fully considered the decrease under one particular head may also be considered.

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Secretary



25.08.2017

000021

B-173

D. The school incurred capital expenditure amounting to Rs.66,71,040 in 2009-10 & 2010-11. It is contented that since the school was fulfilling all the pre condition laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India, the Committee ought to have considered the refund of development fee only to the extent of shortfall in the funds earmarked against development fund and depreciation reserve fund. It ought to have allowed the capital expenditure which had been incurred in eligible assets out of development fee. The Committee has considered the submissions made by the authorized representatives of the school and observes that :

a. The school has filed no evidence of the payment of arrears in 2011-12 as claimed by it. The authorized representatives seeks time to furnish the same.

b. The Committee agrees with the submissions made by the school that the incremental gratuity, leave encashment and bonus in 2009-10 as compared to 2008-09 ought to be considered in its calculations.

c. The issue of capital expenditure out of development fee in 2009-10 and 2010-11 cannot be considered in isolation for these two years only. The Committee has examined the balance sheet of some of the years and finds that the capital expenditure incurred out of development fee have not actually been reduced from the development funds as it appears in the balance sheet of the school and as such the entire development fund as reflected in the balance sheet may not be available with the school. The authorized representatives submit that they will prepare a chart showing year-wise collection of development fee, year wise utilization and year wise balance remaining at the end of the year against the investment were to be held. This ought to be prepared w.e.f. the year the school charging development fee as the maintenance of development and depreciation reserve fund were mandated by the order dated 15.12.1999 issued by the Director of Education consequent to the acceptance of the recommendations of the Duggal Committee. The chart may be filed on the next date of hearing alongwith the evidence of the payments of arrear salary in 2011-12. Matter to come up for further hearing on 6th September 2017. The school shall produce its accounts from 2008-09 to 2011-12 in a lap top.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary


Angels Public Sr. Sec. School, Vishwas Nagar, Delhi.

Present: Sh. N.S. Raghav, Manager and Sh. Narender Singh, Accountant of the school.

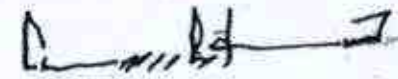
The Committee has prepared a calculation sheet in order to examine the justifiability of fee hike effected by the school. The school has implemented the recommendations of VI Pay Commission only prospectively. It has neither recovered any arrear fee for period 01/01/2006 to 31/03/2009 nor paid any arrear salary for that period. Based on the audited financials which the Committee has examined, it is found that the school did not have any funds available with it as on 31/03/2009 (the school implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009.) Moreover, the incremental salary that was paid by the school on account of implementation of recommendations of VI Pay Commission during the year 2009-10 was Rs. 23,81,676 as against the incremental fee recovered for that period which amounted to Rs. 23,49,560. It appears that the school implemented the recommendations of VI Pay Commission only to the extent it could out of the incremental fee recovered by it. Since the bulk of the salary paid to the staff during the year 2009-10 was by means of account payee cheques or bank transfers, the Committee does not deem it an appropriate case where any part of the incremental fee is required to be refunded. The school does not charge any development fee.

In view of the foregoing, the Committee is of the view that no intervention is required, so far as the fee hike effected by the school w.e.f. 01/04/2009 in pursuance of order dated 11/02/2009 issued by the Director of Education, is concerned.

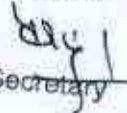
Detailed order to be passed separately.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



28.08.2017

000023

B-39

Sachdeva Public School, Pitampura, Delhi

Present: Sh. V.P. Rawala, Chartered Accountant and Sh. Rakesh Goel, Sr. Accounts Officer of the school.

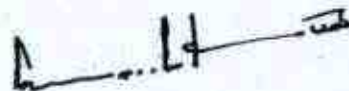
While going through the records of the school during the course of hearing, the Committee has come across a complaint filed by one Sh. Rajesh Kumar, alleging that the school was collecting a sum of Rs. 3,000 or Rs. 6,000 from the students for the purpose of implementation of VI Pay Commission arrears after a span of five years and collection was being made through cash or cheque favouring "Better Future Sachdeva Junior School".

A query to this effect has been put to the authorized representatives appearing for the school and they deny the contents of the aforesaid complaint. A copy of the complaint is given to the authorized representatives of the school for reply in writing which should be accompanied by an affidavit by the Manager of the school verifying the contents of the reply. Notice be also issued to the complainant returnable on 12/09/2017. The school is also required to justify the collection of arrears of incremental development fee for the period Sept. 2008 to March 2009 @ 40% of the arrears of incremental tuition fee. The Committee notes that the school was charging development fee of Rs. 200 per month originally, irrespective of the amount of tuition fee charged from the students.

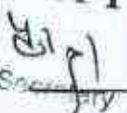
The authorized representatives also claims that some arrear fee was recovered subsequent to 31st March 2011 also and some arrear salary was also paid after that date. The school will furnish the details in respect of both these items and will also file copies of the relevant fee and salary accounts for those years.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



Sachdeva Public School, Rohini, Delhi

Present: Sh. Y.P. Rawala, Chartered Accountant and Sh. Anup Mehrotra, Accounts Officer of the school.

While going through the records of the school during the course of hearing, the Committee has come across a complaint filed by one Sh. Rajesh Kumar, alleging that the school was collecting a sum of Rs. 3,000 or Rs. 6,000 from the students for the purpose of implementation of VI Pay Commission arrears after a span of five years and collection was being made through cash or cheque favouring "Better Future Sachdeva Junior School".

A query to this effect has been put to the authorized representatives appearing for the school and they deny the contents of the aforesaid complaint. A copy of the complaint is given to the authorized representatives of the school for reply in writing which should be accompanied by an affidavit of the Manager of the school verifying the contents of the reply. Notice be also issued to the complainant returnable on 12/09/2017. The school is also required to justify the collection of arrears of incremental development fee for the period Sept. 2008 to March 2009 @ 40% of the arrears of incremental tuition fee. The fee schedule for the year 2008-09 does not appear to have been filed by the school as part of its annual return for that year. The school will submit the copy of the same and also file a copy of fee schedule filed by it under section 17(3) of DSER 1973 before the start of the academic year along with the evidence of the same.

The authorized representatives also claims that some arrear fee was recovered subsequent to 31st March 2011 also and some arrear salary was also paid after that date. The school will furnish the details in respect of both these items and will also file copies of the relevant fee and salary accounts for those years.

24
R.K. SHARMA
MEMBER

15
J.S. KOCHAR
MEMBER

24
JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



29.08.2017

000025

B-134

St.Cecila's Public School,Vikas Puri, Delhi

Present: Sushil Kumar Gulati, CA of the school.

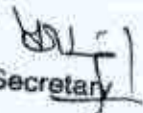
While preparing the calculation sheet to examine the justifiability of fee hike effected by the school, it has come to the notice of the Committee that the school has paid the arrear salary in monthly installments spread over from January 2009 to November 2014. While the amount due to the staff has been paid in full in respect of all other employees, the arrear salary to Ms. Niti Wadhawan, Ms. Geeta Jaggi, Ms. Tarwinder Kakkar & Ms Madhavi Mishra has been paid only in part. The authorized representative appearing for the school requested for short date to take instructions in the matter. In case, the balance amounts has still not been paid, either it should be paid before the next date of hearing or a justification for not paying the same should be furnished to the Committee. In case the amount is paid, proof of such payment shall be produced on the next date of hearing. Matter will now be taken up for hearing on 13.09.2017 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



29.08.2017

000026

B-195

Plato Public School, Patparganj, Delhi

Present: Sh. Manu R.G. Luthra, CA, Ms. K. Dhawan, Principal, Ms. Aarti, Accountant of the school.

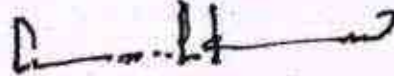
A copy of calculation sheet prepared by the Committee has been given to the authorized representative appearing for the school for rebuttal, if any. As prima facie it appears that the school may have to refund a sum of Rs.10,88,087 out of the development fee charged by school in 2010-11. The rebuttal, if any, may be filed before the next date of hearing. Matter will now come up for further hearing on 11.9.2017 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary

30.08.2017

000027

St. Mark's Sr. Sec. Public School, Janak Puri, Delhi(B-266)
St. Mark's Girls Sr. Sec. Public School, A-Block, Meera Bagh,
Delhi (B-490)
St. Mark's Sr. Sec. Public School, Meera Bagh, Delhi(B-489)

Present: Sh. T.P. Aggarwal, Chairman, Sh. R.C. Garg, Member of Managing Committee, Sh. Gagan Gupta, C.A., Ms. Juhi Gupta, Accountant & Sh. Bhavesh Garg, CA of the school.

The authorized representative appearing for the school have filed similar written submissions dated 30.08.2017 vide which they have contended that the school had fully implemented the recommendations of the 6th Pay Commission and the fee hike effected and the arrear fee collected for this purpose was not adequate to offset the full impact of the implementation of the recommendations of the 6th pay commission, except in the case of St. Marks Girls Sr. Sec. School in which they have submitted that the hike in fee resulted in a surplus of Rs.16,83,853. However, it is also submitted that the surplus fund as required to be kept in reserve as the same is equal to approximately 4 months salary. In the case of other two schools the school has made a request for allowing it to recover additional fee over and above that was permitted to it by order dated 11.2.2009 issued by the Directorate of Education. However, the authorized representatives fairly concede that at this stage even if the Committee allows the school an additional fee hike, they would not be able to recover as most of the students would have left the school. Accordingly, they submit that they would be satisfied, if the Committee recommends no intervention in the matter of fee hike effected by these two schools.

With regard to the arrears of development fee recovered by the schools for the period 1.09.2008 to 31.3.2009, they have furnished the calculations as to how the amount of arrears have been worked out as apparently the schools have recovered more arrears of development fee than was permitted to it by order dated 11.2.2009. However, they submit that in the event the Committee finds that the school was in deficit after implementation of the recommendations of the 6th pay commission and since they are not pressing the claim for additional fee hike, the excess development fee recovered, if any, may be set off against such deficit.

The school has furnished copies of its audited Receipt and Payment accounts for the year 2006-07 to 2010-11. The Committee has examined the same in case of St. Marks Sr. Sec. Public school Janak puri, with reference to the accounts of the school, which it has produced in a laptop. Certain discrepancies have been observed between the accounts and the final financial statements prepared by the school.

The committee had raised a specific query with regard to the running of pre primary school by the three schools. Initially the authorized representatives denied the existence of any such pre primary schools for the Janak Puri and Meera Bagh school. It was submitted that these two schools started their classes from class 1 only. With regard to St. Marks Girls Sr. Sec. School, it was submitted

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[Signature]
Secretary



that the entry level class for the school was Nursery. However, during the course of examination accounts of St. Marks Sr. Sec. Public School, Janak Puri the Committee came across heavy financial transactions between this school and another school by the name of St. Marks Preparatory School. When questioned regarding this school, the authorized representative stated that this school was the pre primary school for Janak Puri but was not run by St.Marks Christian Education Society which runs the main school. They further submitted that this school was run by St.Marks Educational Institutions Pvt. Ltd., whose directors are Sh.T.P. Aggarwal who is also the Chairman of St. Marks Sr.Sec.Public school, Janak Puri and Meera Bagh and his wife Mrs. Anjali Aggarwal. They have further informed that this company also runs a pre-primary school which is pre dominantly a feeder school for St.Marks Sr.bSec. Public School, Meera Bagh.

The Chairman of the Janak Puri and Meera Bagh schools Sh. T.P. Aggarwal, who is present at the time of hearing is directed to file the consolidated Balance Sheets of St. Marks Educational Institutions Pvt. Ltd. As also individual Balance Sheets of St. Marks Preparatory school, Janak Puri and Meera Bagh for the year 2006-07 to 2010-11, within two weeks.


The accounts of all the three schools and the aforesaid Pvt. Ltd. Company, which are stated to be maintained in Tally software, shall also be produced on the next date of hearing in a laptop. Matter will come up for further hearing on 6th Oct. 2017.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



31.08.2017

000029

B-380

Mata Gujri Public School, Greater Kailash, Delhi

Present: Sh. Jagdip Singh Ghuman, Director, Sh. Gaurav Nanda, Office Supdt., Sh. Gurdeep Singh, Office Asstt. of the school.

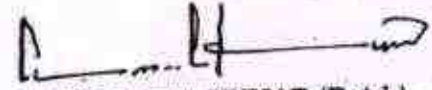
A calculation sheet has been given to the school as prima facie the Committee is of the view that the school hiked more fee than was required to absorb the impact of the implementation of the recommendations of VI Pay Commission. Moreover, prima facie the school was not fulfilling the pre conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583. The school may file its rebuttal to the calculations made by the Committee before the next date of hearing. The matter will now come up for 03/10/2017 at 11.00 a.m.



Dr. R.K. SHARMA
MEMBER



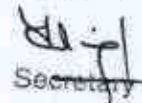
J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

31.08.2017

000030

B-390


Shanti gyan Niketan Sr. Sec. School, Najafgarh, Delhi

Present: Sh. Raj Kumar Khurana, Manager, Sh. Ashwani Kumar, Secretary, Sh. Mubarak Hussain, Accountant of the school.

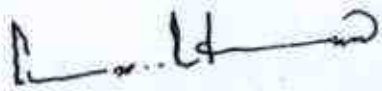
The Committee has examined the books of accounts for the year 2009-10 as maintained in a tally software. It is the contention of the authorized representatives appearing for the school that the school implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009 prospectively. It is conceded that the arrears of salary for the period 01/01/2006 to 31/03/2009 were not paid. It is submitted that the school was not in a position to collect the arrears fee from the students on account of it being situated in a rural area. It is further submitted that bulk of the salaries is paid in by bank transfer except for salary to a few employees to whom individual cheques were issued.

The Committee has examined the books of accounts and observes that the school did not pay any salary in the month of June. Salaries payable for June and July were paid in the month of July 2009. The Committee has also examined the cash book as well as the bank book of the school for the year 2009-10. The school was maintaining its main account with Karur Vyshya Bank. The Committee observes that the school was maintaining a very high level of cash in hand through out the year. The average daily cash holding for the entire year was Rs. 20.21 lacs. On the other hand, the average daily balances in the bank account of the school was just Rs. 4.19 lacs. On some dates, the cash in hand was as high as Rs. 33.60 lacs. The authorized representatives appearing for the school have no explanation to offer for such heavy cash balances. The total expenditure of the school for the year 2009-10 was Rs. 2,12,02,908 out of which the total expenditure on salary was Rs. 1,20,67,124 which the school claims was entirely paid through its bank account. This leaves a sum of Rs. 91,35,784, out of which also not many expenses are incurred through bank. The average cash holding of Rs. 20.21 lacs is highly disproportionate to the requirements of the school. Vide its submissions dated 20/07/2015, the school claims that on account of implementation of the recommendations of VI Pay Commission, it had to incur an additional expenditure of Rs. 31.28 lacs in the year 2009-10. Given the average cash holding and bank balance of the school, the Committee is of the view the school could have absorb this additional expenditure out of its own fund and there was no necessity for the school to hike any fee for the purpose of implementation of the recommendations of VI Pay Commission. Even otherwise, the Committee has reservations whether the recommendations of VI Pay Commission have at all implemented in full.

Hearing is closed. Detailed order to be passed separately.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



31.08.2017

000031

B-411


SKR Sr. Sec. Public School, Inderpuri, Delhi


Present: Ms. Uma Dwivedi, Principal, Mr. Purshotam Kumar, Sr. Manager, Mr. Basant Kumar, Manager of the school.

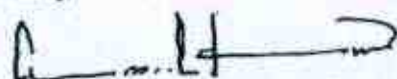
The calculation sheet prepared by the Committee shows that the school did not have adequate funds of its own out of which it could have implemented the recommendations of VI Pay Commission, which in any case have implemented only prospectively w.e.f. 01/04/2009. The arrears for the period 01/01/2006 to 31/08/2008 have not been paid to the staff as the schools submits that it could not recover the arrear fee from the students on account of its catering to children lower starta of the society. Although the school was treating development fee as revenue receipt which is in contravention of the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583, the Committee finds that the total development fee charged in 2009-10 and 2010-11 was Rs. 35,13,520, the deficit incurred by the school for implementing the recommendations of VI Pay Commission was more than that after considering the funds required to be kept in reserve for accrued liabilities of gratuity and leave encashment and for future contingencies.

In the above premises, the Committee is of the view that no intervention is required to be made in so far as fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education is concerned.

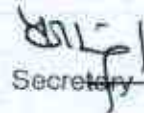
Detailed order will be passed separately.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF
SCHOOL FEE, NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of school Fee)

In the matter of:

Ramjas School, Pusa Road, New Delhi-110005 (B-435)

Recommendations of the Committee

Present: Ms. Mohini Bindra, Principal, Sh. Anil Julka, Head Clerk, Sh. Anil Saluja, UDC and Ms. Sonu Aggarwal, LDC of the school.

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school). As the school did not file any reply to the questionnaire, a reminder was sent on 27/03/2012. The school did not respond to the reminder also. However, the annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973 along with details of payment of salary prior to implementation of recommendations of VI Pay Commission as well as those paid after such implementation were received from the office of the concerned Dy. Director of Education (DDE). Copies of fee challans issued for payment of fee arrears by the students were also filed. As per these challans, the school recovered Rs. 2800 towards arrear fee for the period Sept. 2008 to March 2009 and Rs.

Ramjas School, Pusa Road, New Delhi-110005/B-435

Page 1 of 12

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Secretary



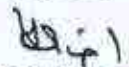
3,500 towards lump sum arrear fee for the period 01/01/2006 to 31/08/2008. As per another statement filed by the school, a sum of Rs. 99,09,520 was payable towards arrears of salary consequent to implementation of the recommendations of VI Pay Commission.

A fresh questionnaire was issued to the school on 31/07/2013, incorporating therein the relevant queries with regard to charging and utilisation of development fee and maintenance of earmarked development fund and depreciation reserve fund accounts. After three four reminders, the school submitted its reply on 27/11/2013 along with which detailed annexures were attached.

As per the reply, the school stated

- (a) That it had implemented the recommendations of VI Pay Commission and the increased salary to the staff was paid w.e.f. March 2009. A total sum of Rs. 99,49,385 was paid as arrear salary for the period 01/01/2006 to 31/08/2008 and Rs. 40,26,682 for the period 01/09/2008 to 28/02/2009. Thus the total arrear paid were claimed to be Rs. 1,39,76,067. However as per the audited financials, the total payment amounted to Rs. 1,39,51,490. The payment of arrears were made over a period three years.
- (b) The regular monthly salary that was paid for the month of February 2009 was Rs. 15,14,859 which rose to Rs. 21,66,545

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in the month of March 2009 consequent to implementation of the recommendations of VI Pay Commission.

- (c) The school collected a sum of Rs. 40,46,000 towards arrear fee for the period 01/01/2006 to 31/08/2008 and Rs. 32,36,800 for the period 01/09/2008 to 28/02/2009.
- (d) The school increased the regular tuition fee by Rs. 400 per month for all the students w.e.f. 01/04/2009.
- (e) The school was charging development fee in all the five years for which the information was sought by the Committee i.e. from 2006-07 to 2010-11. The same was, however, utilised for asset purchase, class room upgradation, renovation, fire fighting, fire escape landing, payment of security deposit and loan to general school fund.
- (f) The development fee was treated as a capital receipt and earmarked bank accounts and FDRs were maintained for development fund and depreciation reserve fund.

The Committee issued a notice dated 22/05/2015 to the school to furnish the information in aggregates with regard to the arrear fee for different periods, arrear salary for different years, regular fee and regular salary, duly reconciled with the audited financials of the school. Besides, the school was also advised to furnish details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010 and the relevant

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financial information regarding its pre-primary school, as its financials were not incorporated in the financials of the main school.

The school furnished the required information under cover of its letter dated 15/07/2015. Upto this date, the school had not disclosed that it had also charged arrear of development fee for the period 01/09/2008 to 31/03/2009, besides charging arrears of tuition fee for that period.

In order to verify the information furnished by the school and also to afford an opportunity of being heard, the Committee issued a notice dated 18/07/2016, requiring the school to appear before it on 04/08/2016, and to produce its books of accounts, bank statements, salary records and fee records etc.

The school appeared through Ms. Mohini Bindra, Principal, who was assisted by Sh. Anil Julka, Head Clerk, Sh. Anil Kumar Saluja, UDC & Sh. Sonu Agarwal, LDC of the school.

During the course of verification of records of the school by the Committee, it was observed that the school had issued a circular dated 12.12.2008 to the parents informing them of the impending fee hike for meeting additional expenditure on account of implementation of Sixth Pay Commission recommendations. The authorized representatives of the school stated that subsequently no circular was issued after the Directorate of Education issued order dated 11.2.2009 to the schools,

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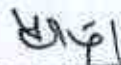


permitting them to hike the fee. They further stated that the issue was discussed with the parents and the school hiked the fee only in accordance with the aforesaid order. The parents were issued fee bills for the arrear fee, lump sum fee and incremental fee for the year 2009-10. They produced copies of fee bills issued to the parents for different classes for the arrear fee and lump sum fee as well as the incremental fee w.e.f. 1st April 2009.

On going through the copies of the fee bills filed by the school during the course of hearing, the Committee observed that the school hiked tuition fee by Rs.,400 p.m. w.e.f. 1st Sept. 2008 for all the classes. The arrears for the period 1st Sept. 2008 to 31st March 2009 i.e. for 7 months were collected @ Rs.2800 per student. The lump sum fee to cover the period of 1st January 2006 to 31st August 2008 was recovered @ Rs.3500/- per student in two equal installments. However, besides the aforesaid recoveries, the school also recovered arrears of development fee for the period Sept. 2008 to March 2009 @ Rs.980/-per student. This information had not been disclosed by the school upto this stage.

The Committee observed that the school originally charged tuition fee of Rs. 1,600/- per month i.e. Rs.19,200 per year in the year 2008-09 prior to the fee hike. The development fee charged was Rs. 1920/- which was 10% of tuition fee. However, the arrears of development fee for the period 1st Sept. 2008 to 31st March 2009 were recovered @ Rs.

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980 per student while the arrears of tuition fee for the same period were recovered @ Rs. 2800 per student which worked out to 35% of tuition fee.

The authorized representatives of the school sought some time for explaining the apparent anomaly. Accordingly the matter was re-listed for 14/09/2016.

On 14/09/2016, the authorized representatives of the school have furnished the detail of Rs.980 charged as arrears of development fee for the period 01.09.2008 to 31.03.2009. They contended that the arrears of development fee were recovered @15% of the tuition fee and this was permitted by the order dated 25th Feb. 2009 issued by the Directorate of Education. A copy of the order was also filed by the school.

The Committee observed that the school recovered arrears of tuition fee @ Rs.2800 per student in 2008-09 while the arrears of development fee @ Rs. 980 per student were recovered in 2009-10. However, in the statement of fee and salary filed by the school under cover of its letter dated 15.07.2015, the recovery of arrears of development fee was shown as NIL. Obviously, the school had furnished incorrect statement. The representatives of the school sought sometime to furnish a revised statement.

Further, with regard to accrued liability of gratuity, the school had submitted vide its letter dated 15.07.2015 that the same was taken care

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by the LIC, as the school has taken a group gratuity policy. However, the school had not furnished the details of accrued liability for leave encashment as on 31.3.2010. The school was directed to furnish the same and at the request of the authorized representatives, the matter was directed to be relisted on 27/10/2016. On the next date, while the school furnished the detail of its accrued liability of leave encashment, it did not furnish the revised fee and salary statement and again requested for some more time. Accordingly the matter was adjourned to 02/12/2016 (postponed to 22/12/2016). The school finally furnished its revised statement of fee and salary on 08/11/2016, in which it reflected a receipt of Rs. 9,69,220 towards recovery of arrear of development fee for the period 01/09/2008 to 31/03/2009.

When the matter came up for hearing on 22/12/2016, the authorized representatives appearing for the school contended that the school recovered arrears of development fee @ Rs. 980 per student which was arrived at by taking the arrears @ 15% of the increased tuition fee w.e.f. 01.09.2008, while the school was charging development @ 10% of tuition fee w.e.f. 01.4.2008. The school relied upon order dated 25/02/2009 issued by the Director of Education and contended that it was entitled to recover the arrears of development fee @ 15% of tuition fee w.e.f. 1.9.2008 in terms of the aforesaid order.

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The Committee prepared the following calculation sheet in order to examine the justifiability of the fee hike effected by the school w.e.f. 01/09/2008 and the recovery of arrear fee for the period 01/01/2006 to 31/08/2008, besides the recovery of development fee @ 15% of the increased tuition fee w.e.f. 01/09/2008 when the school was actually charging the development fee @ 10% of the tuition fee:

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Statement showing Fund available as on 31.03.2008 with the school and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars	Amount (Rs.)	Amount (Rs.)
	<u>Current Assets + Investments</u>		
	General Fund Account with Union Bank	2,717,107	
	Investments against Specific Funds (Excluding Development Fund)	9,687,431	
	Advance for Expenses	2,500	
	Reserve Fund Investment	10,000	12,417,038
Less	<u>Current Liabilities</u>		
	Advance Fees	332,155	
	Coordination Activities:	35,144	
	Grant From Eco Club	8,375	
	Scholarship and Prizes	8,000	
	TDS payable	1,773	385,447
	Net Current Assets + Investments		12,031,591
Less	Reserves required to be maintained:		
	for future contingencies (equivalent to 4 months salary) for accrued liability towards Leave Encashment as on 31.03.2010	8,659,031	
	for accrued liability towards Gratuity as on 31.03.2010	5,346,335	14,005,366
	Funds available for implementation of 6th Pay Commission before Fee hike		(1,973,775)
Less	Additional Liabilities after implementation of 6th Pay Commission:		
	Arrear of Salary as per 6th CPC for 1.1.06 to 31.8.08	9,927,934	
	Arrear of Salary as per 6th CPC for 1.9.08 to 31.3.09	4,018,369	
	Incremental Salary for 2009-10 (as per calculation given below)	8,176,038	22,122,341
	Excess / (Short) Fund Before Fee Hike		(24,096,116)
Add	Total Recovery for implementation of 6th Pay Commission:		
	Arrear of tuition fee for 1.1.06 to 31.8.08	3,488,495	
	Arrear of tuition fee for 1.9.08 to 31.3.09	3,242,400	
	Arrear of development fee for 1.9.08 to 31.3.09	969,220	
	Incremental tuition fee for 2009-10 (as per calculation given below)	5,291,633	12,991,748
	Excess / (Short) Fund After Fee Hike		(11,104,368)

Working Notes:

	2008-09	2009-10
Normal/ regular salary	17,801,056	25,977,094
Incremental salary in 2009-10	8,176,038	
	2008-09	2009-10
Normal/ Regular Tuition fee	21,237,350	26,528,983
Incremental tuition fee in 2009-10	5,291,633	

The Committee observed that the school was in deficit after implementation of the recommendations of the 6th pay commission, after

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considering the funds available with it, which could have been utilized for the purpose of payment of increased salaries on account of implementation of the recommendations of the 6th pay commission and the requirement of the school to keep funds in reserves for future contingencies and accrued liabilities towards leave encashment. No accrued gratuity was taken into account, as the school actually paid the annual premium of gratuity policy taken from the LIC and the liability for gratuity would therefore be met by LIC. The Committee also factored in the additional fee recovered by the school in pursuance of order dated 11.2.2009 issued by the Director of Education. Accordingly, the Committee concluded that so far as the recovery of arrear of tuition fee and the hike in tuition fee w.e.f. 01/09/2008 were concerned, the same were justified and needed no intervention by the Committee.

However, the recovery of arrear of incremental development fee for the period 01/09/2008 to 31/03/2009 @ 15% of the incremental tuition fee did not appear to be justified as the school was charging development fee @ 10% of tuition fee and order dated 11/02/2009 issued by the Director of Education did not authorize the schools to increase the development fee to 15% where the schools were charging the same at a lesser rate. The order dated 25/02/2009 issued by the Director of Education, which the school relied upon had the effect of substituting para 6 of the order dated 11/02/2009 which only provided for the deposit of arrears of tuition fee from 01/09/2008 by 31/03/2009. Vide

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order dated 25/02/2009, it was provided that the same could be deposited in three equal installments by 31/03/2009, 31/07/2009 and 31/10/2009. The quantum of hike of development fee was provided in para 15 of the order dated 11/02/2009 which stated that the additional increase in development fee on account of increase in tuition fee shall be utilised for the purpose of meeting any shortfall on account of salary/arrears only. The same remained unaltered by the order dated 25/02/2009. Accordingly the school was provided with the copy of the following calculation sheet quantifying the excess recovery of arrears of development fee:

<u>Excess Development fee arrears for the period 01.09.08 to 31.03.2009 recovered by the school:</u>	<u>Amount (Rs.)</u>
Arrears of Development fee recovered @ 15% of the incremental tuition fee	969,220
Less: Arrear of Development fee that could have been recovered as per clause 15 of order dated 11.02.2009 i.e. 10% of the incremental tuition fee	324,240
Excess arrears of development fee recovered, which is refundable	644,980

The school was given an opportunity to file its rebuttal, if any, on or before the next date of hearing which was fixed on 11th July 2017.

On 11/07/2017, the Principal of the school Ms. Mohini Bindra, sought sometime to apprise the Committee regarding the proposed refund of the excess arrears of development fee recovered from the students. At her request, the matter was adjourned for final hearing on today. The Principal of the school has appeared and submitted that the school decided to refund the sum of Rs. 700 per student which was



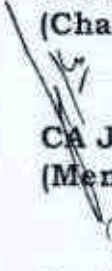
recovered in excess of what was permitted to it by order dated 11/02/2009 issued by the Director of Education, towards differential development fee for the period 01/09/2008 to 31/03/2009 and in pursuance of the decision so taken, the school had already sent the refund cheques to the students by speed post. Copies of the ledger account showing the issuance of cheques and also copies of the dispatch register and the speed post receipts are filed by the school. She has also filed copy of its bank account statement for the period 01/08/2017 to 18/08/2017 showing that a number of cheques had already been presented for encashment by the students and have been debited to its account.

Since the school has concurred with the findings of the Committee and already refunded the excess development fee recovered by it, no further intervention is called for in the matter.


Pronounced in the open meeting of the Committee after the conclusion of the hearing.



Justice Anil Kumar (R)
(Chairperson)



CA J.S. Kochar
(Member)



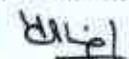
Dr. R.K. Sharma
(Member)

Date: 21/08/2017

Ramjas School, Pusa Road, New Delhi-110005/B-435

Page 12 of 12

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**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF
SCHOOL FEE, NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of school Fee)

In the matter of:

ITL Public School, Sector-09, Dwarka, Delhi-110077 (B-96)

Recommendations of the Committee

Present: Sh. N.K. Mahajan, C.A., Sh. S.B. Sharma, Office Supdt. &
Sh. Naresh Kumar, Accounts Officer of the school.

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school).

The school vide its letter dated 03/03/2012 submitted its reply vide which it stated as follows:

- (a) The school had implemented the recommendations of VI Pay Commission and increased salary was being paid w.e.f. March 2009.
- (b) It paid arrears of salary for the period 01/01/2006 to 28/02/2009.

ITL Public School, Sector-09, Dwarka, Delhi-110077/B-96

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(c) It hiked tuition fee w.e.f. Sept. 2008 and recovered a total sum of Rs. 59,26,680 towards arrear fee.

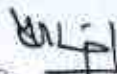
In response to a further questionnaire issued by the Committee with regard to development fee, the school vide its reply dated 18/01/2014, stated that it did not charge any development fee. The fee schedules filed by the school for the years 2006-07 to 2010-11 also did not reflect recovery of any development fee.

In the first instance, the relevant calculations to examine the justifiability of recovery of arrear fee and the hike in fee w.e.f. 01/09/2008 were prepared by the Chartered Accountants deployed to assist this Committee by the Directorate of Education. As per their calculations, the school recovered fee to the tune of Rs. 60,00,183 in excess of its requirements to meet its financial obligations of payment of arrears as well as increased salary consequent to implementation of the recommendations of VI Pay Commission. A copy of the aforesaid calculation sheet was provided to the school alongwith notice of hearing dated 26/12/2013. The school was required to appear before the Committee on 22/01/2014 and have its say in the matter.

On the date of hearing, Sh. S.P. Sharma, Office Supdt. and Sh. Naresh Kumar, Accounts Officer of the school appeared and filed written submission dated 18/01/2014, disputing the calculations made by the CAs attached with the Committee. They culled their own calculation

ITL Public School, Sector-09, Dwarka, Delhi-110077/B-96

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sheet as per which the school was deficit to the tune of Rs. 81,34,233 after implementing the recommendations of VI Pay Commission. While working out the aforesaid deficit, the school contended that as on 31/03/2008, it had funds in the negative zone i.e. its current liability exceeded the current assets by Rs. 26,14,692. However, during the course of hearing, the authorized representatives appearing for the school conceded that such deficit could not be taken into account for the purpose of examining the justifiability of hike in fee pursuant to order dated 11/02/2009 issued by the Director of Education. They further submitted the following figures for the purpose of making the relevant calculations:

Particulars		Amount (Rs.)
(a) Arrears of salary for the period 01/01/2006 to 28/02/2009, paid by the school consequent to implementation of the recommendations of VI Pay Commission	63,78,714	
(b) Incremental salary for the month of March 2009	4,79,579	
(c) Incremental salary paid by the school in 2009-10 after implementation of the recommendations of VI Pay Commission	<u>85,54,150</u>	1,54,12,443
(a) Arrear fee for the period 01/01/2006 to 31/03/2009 recovered by the school	59,20,820	
(b) Incremental tuition fee in 2009-10 pursuant to hike allowed vide order dated 11/02/2009	<u>58,06,800</u>	1,17,27,620
Deficit		36,84,823

The figures as given in the table were verified by the Committee with reference to the audited financials of the school and the books of

accounts produced by it. It observed that the incremental salary that was paid by the school in 2009-10 was Rs. 85,13,210 instead of Rs. 85,54,150 given by the school. However, the rest of the figures provided by the school were correct.

The hearing was concluded and the recommendations were reserved. However, the recommendations of the Committee could not be finalized on account of the resignation of the Justice Anil Dev Singh from the Committee.

The Committee as reconstituted issued a fresh notice of hearing dated 07/07/2017 to the school requiring it to appear on 17/07/2017. On this date, Sh. N.K. Mahajan, Chartered Accountant appeared along with Sh. I.P. Jain, Manager, & Sh. Naresh Kumar, Accounts Officer of the school.

The authorized representatives of the school, besides reiterating that the school incurred a deficit after implementing the recommendations of VI Pay Commission, submitted that the school had not increased any fee under any head from 2001 to 2008-09, prior to the fee hike effected by the school w.e.f. 01/09/2008 in pursuance of order dated 11/02/2009 issued by the Director of Education.

The Committee observed that it had available with it the fee schedules of only 2007-08 and 2008-09 for the period during which the school claimed that it did not increase any fee. Accordingly, the

ITL Public School, Sector-09, Dwarka, Delhi-110077/8-96

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Committee directed the school to produce before the Audit officer of the Committee, its fee schedules from 2001 to 2006-07 and also the fee records i.e. fee registers and fee receipts for the years 2006-07 to 2008-09 on 3rd August 2017 who would verify the claim of the school of not having hiked the fee in the aforesaid years.

The representatives of the school produced print out of the fee receipts for all the classes along with the fee schedules for the years 2006-07, 2007-08 and 2008-09 before the audit officer of the Committee on 03/08/2017 which were examined by her. After such examination, she recorded as follows:

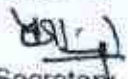
"On examination of the produced record, with respect to the audited financials of the school available in file, it can be deduced that the school did not increase the tuition fee in the year 2006-07, 2007-08 and 2008-09. The other monthly head of fees i.e. Maintenance/Sports/Activity fee was also same in 2006-07 to 2007-08 and 2008-09 except an increase of Rs. 250 per month for classes I and II in the year 2007-08."

The aforesaid note of the audit officer has been considered by the Committee today when the authorized representatives of the school are also present.

The Committee observes that the fee hike affected by the school pursuant to order dated 11/02/2009 w.e.f. 1.09.2008 was as follows :-

ITL Public School, Sector-09, Dwarka, Delhi-110077/B-96

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Class	Monthly Tuition fee prior to hike w.e.f. 01.09.2008	Monthly Tuition Fee post hike	Increase	% Increase
Pre school	1500	1500	0	0
Pre Primary 1st & 2nd	1500	1800	300	20%
3 rd to 5 th	1600	2000	400	25%
6 th to 10 th	1700	2100	400	23.53%
11 th & 12 th	2500	3000	500	20%

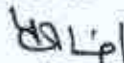
It is evident from the above table that the school hiked the tuition fee w.e.f. 01/09/2008 at the rates which were prescribed by the Director of Education vide order dated 11.2.2009. The school has also implemented the recommendations of the 6th pay commission in full. It has paid a sum of Rs.63,78,714 towards arrear salary as against the collection of Rs.59,20,820 as arrear fee. The school does not charge any development fee.

With regard to incremental tuition fee, the Committee has taken a view in cases of other schools like Sardar Patel Vidyalaya and Gurcharan Convent, that where the school has not increased any fee whatsoever during the last three-four years, the hike in tuition fee pursuant to order dated 11/02/2009 should be suitably spread over the years during which the school did not hike any fee.

Although the school claims that it did not hike any fee from 2001-02 to 2008-09, it produced records to show that no hike was effected during the years 2006-07 to 2008-09. Therefore, if the fee hike which is between

ITL Public School, Sector-09, Dwarka, Delhi-110077/B-96

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20 & 25% is spread over a period of 4 years i.e. 2006-07, 2007-08, 2008-09 & 2009-10, the yearly hike would have been between 5 and 7% per annum. The Committee has taken a view that after such spreading, the hike is less than 10%, no intervention would be called for in respect of the fee hike effective pursuant to order dated 11/02/2009. Even otherwise, the Committee has verified that the school did not have sufficient funds of its own and on implementation of the recommendations of VI Pay Commission, the school could not fully make up the additional liability on account of increased salaries out of the fee hike effected by it and the arrear fee recovered by it.

Accordingly, the Committee is of the view that no intervention is necessary with regard to fee hike effected by the school w.e.f. 01/09/2008 and since the payment on account of arrear salary is more than the collection towards arrear fee, no intervention is called for in that component of fee also.

Pronounced in the open meeting of the Committee after the conclusion of the hearing.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Date: 22/08/2017

ITL Public School, Sector-09, Dwarka, Delhi-110077/B-96

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**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF
SCHOOL FEE, NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of school Fee)

In the matter of:

Angels Public Sr. Sec. School, Viswas Nagar, Delhi-110032 (B-05)

Recommendations of the Committee

Present: Sh. N.S. Raghave, Manager and Sh. Narender Singh,
Accountant of the school.

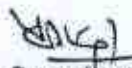
In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school).

The school vide its undated reply received in the office of the Committee on 05/03/2012 submitted as follows:

- (a) It had partly implemented the recommendations of VI Pay Commission and the increased salary to the staff was being paid from May 2009. The monthly salary for the March 2009 was Rs. 5,51,386 which rose to Rs. 6,96,692 in May 2009.
- (b) It neither recovered any arrear fee in pursuance of order dated 11/02/2009 issued by the Director of Education nor did it pay

Angels Public Sr. Sec. School, Viswas Nagar, Delhi-110032/B-05

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any arrears of salary for the period 01/01/2006 to 31/03/2009.

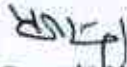
(c) It hiked the monthly fee of the students pursuant to order dated 11/02/2009 @ Rs. 200 per month.

The Committee examined the copies of the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 which were forwarded to its office by the Dy. Director of the concerned zone and observed that the school had not furnished complete details in such returns. Accordingly vide letter dated 25/05/2012, the school was advised to furnish the missing details. The school furnished the same under cover of its letter dated 06/06/2012 wherein it reiterated that it had not recovered any arrear fee from the students but had increased the monthly tuition fee by Rs. 200 w.e.f. 01/04/2009.

The initial calculations to examine the justifiability of hike in fee were, in the first instance made by the Chartered Accountants who had been deputed by the Directorate of Education to assist this Committee and they determined that the school had recovered fee in excess of its requirements to the tune of Rs. 3,43,802 when compared to the additional expenditure incurred by it on partial implementation of the recommendations of VI Pay Commission. The school, vide notice dated 10/01/2014, was directed to produce its fee records, salary records, books of accounts, P. F. returns and TDS returns etc. before the audit

Angels Public Sr. Sec. School, Viswas Nagar, Delhi-110032/B-05

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officer of the Committee on 06/02/2014 for verification. Simultaneously, the school was also issued a questionnaire regarding development fee that might have charged from the students to examine whether the school was fulfilling the pre conditions laid down by the Duggal Committee for charging the development fee.


On the schedule date, the authorized representatives of the school appeared before the audit officer of the Committee and produced the required records. A reply to the questionnaire to the development fee was also filed by the school and it was stated that the school did not charge any development fee in any of the five years for which the information was sought.

The records produced by the school were examined by the audit officer of the Committee and she reported that the school had partially implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009. However, w.e.f. 01/04/2009, it had been fully implemented. This was based on the verification of the salary records along with TDS and Provident Fund Returns. She also noted that the school paid the salary through account payee cheques which had been verified from the bank statements produced by the school.

The Committee issued a notice dated 06/04/2015 requiring the school to appear before it on 23/04/2015 and to furnish the information regarding the aggregates amounts of fee and salaries for the years 2008-

Angels Public Sr. Sec. School, Viswas Nagar, Delhi-110032/B-05

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09 to 2010-11, duly reconciled with the financials of the school. Besides the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike.

A letter was received from the school requesting for postponing of date of hearing on account of its Chartered Accountant being pre occupied on that date. Acceding to the request of the school, the date was rescheduled for 06/05/2015. However, no body appeared from the school on this date. In the interest of justice, no adverse inference was drawn and the hearing was rescheduled on 08/05/2015. On this date, the Manager and the Chartered Accountant of the school appeared and furnished the information required by the Committee vide its letter dated 06/04/2015. The authorized representatives of the school reiterated the submissions made by it in its various communications to the Committee and before the audit officer of the Committee earlier. However, while examining the accounts of the school, a doubt arose with regard to the mode of payment of salary of the school. Accordingly the school was directed to produce its ledger, bank statement, salary register for the year 2009-10 before the audit officer for re-verification by her. She re-verified the mode of payment of salary by the school and prepared a statement as per which only two to three employees were being paid in cash. The remaining employees out of a total of about 30 employees

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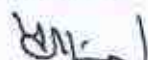
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were paid salary by account payee cheques or by bank transfer. The total amount paid by account payee cheques/bank transfer in the year 2009-10 was Rs. 75,80,810 while that paid in cash was Rs. 3,16,091.

After satisfying itself that the school had implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009, the Committee prepared a calculation sheet based on its audited financials as on 31/03/2009. As per the calculations prepared, the school did not have any funds available with it at the threshold for implementation of the recommendations of VI Pay Commission. The additional expenditure incurred by the school on salary on implementation of the recommendations of VI Pay Commission amounting to Rs. 23,81,676 while the additional fee recovered by it resulted in additional revenue of Rs. 23,59,560. The Committee noticed that the earlier calculations prepared by the CAs attached with the Committee who had determined a surplus of Rs. 3,43,802 were not correct as instead of being based on the actual figures as emanating from the audited financials, they were based on extrapolation of monthly increase in fee for the number of students and the monthly increase in salary for the staff. The Committee is of the view that the method adopted by the Chartered Accountants was not correct and the audited financials submitted by the school are more reliable as they have also been checked with the books of accounts and fee and salary records produced by the school.

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000056

In view of the foregoing determinations, the Committee is of the view that no intervention is required to be made with regard to the fee hike effected by the school @ Rs. 200 per month w.e.f. 01/04/2009, in pursuance of order dated 11/02/2009 issued by the Director of Education.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Date: 28/08/2017

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**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL
FEE, NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of school Fee)

In the matter of:

S.K.R. Public School, Inder Puri, New Delhi-110012 (B-411)

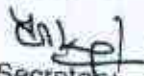
Recommendations of the Committee

Present: Ms. Uma Dwivedi, Principal, Mr. Purshotam Kumar, Sr. Manager, Mr. Basant Kumar, Manager of the school.

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school), which was followed by a reminder dated 27/03/2012. The school did not respond to this questionnaire. A fresh questionnaire was issued to the school on 07/08/2013 and again on 24/08/2013. The school did not respond to this questionnaire either. A final opportunity was given to the school to furnish its reply to the questionnaire on 30/09/2013. The school without adverting to the questionnaire issued by the Committee, filed a letter dated 30/11/2013 along with which it furnished a copy of the letter dated 06/03/2013 submitted to the Additional Director of Education with regard to the proposed hike in fee for the year 2013-14. Vide letter dated 05/12/2013, this Committee informed to the school that the documents submitted by it had no bearing on the question being determined by the

S.K.R. Public School, Inder Puri, New Delhi-110012/B-411

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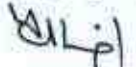


Committee i.e. whether the fee hike by the school pursuant to order dated 11/02/2009 issued by the Director of Education for implementation of recommendations of VI Pay Commission was justified or not. Finally, vide letter dated 13/12/2013, the school submitted its reply stating that it had implemented the recommendations of VI Pay Commission only prospectively w.e.f. 01/04/2009, without paying the back arrears to the staff. It also submitted that it had not recovered any arrear fee in terms of order dated 11/02/2009 and it had increased the regular fee w.e.f. 01/04/2009 only. With regard to development fee, it stated that it started charging development fee in the year 2009-10 @ Rs. 100 per month per student. In 2010-11 also, the development fee was charged at the same rate. It further stated that "Development fee is treated as a revenue receipt because the school is using this fund also for establishment purposes." It had not created any assets out of development fee nor was having any earmarked funds.

The Committee issued a notice dated 09/07/2015 requiring the school to appear before it on 29/07/2015 and to furnish the information regarding the aggregates amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school. Besides the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike.

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On the schedule date of hearing, Sh. Vijay Pahuja, Vice Chairman appeared with Ms. Uma Dwivedi, Principal of the school and submitted that the school could not properly comprehend the notice issued by the Committee and therefore could not prepare the relevant information. The matter was directed to be relisted on 10/08/2015 at their request. On this date, the authorized representatives of the school appeared and filed the relevant details.

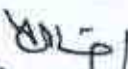
Perusal of the circular issued by the school to the parents regarding fee hike effected by the school, it emerged that the school had hiked the tuition fee by Rs. 200 per month for all the classes w.e.f. 01/04/2009, which it was entitled to do as per order dated 11/02/2009, provided it did not have sufficient funds of its own for implementation of recommendations of VI Pay Commission. Further the school introduced development fee @ Rs. 100 per month which was within 15% of the tuition fee, w.e.f. 01/04/2009. It was mentioned in the circular that no arrear fee would be charged from the students.

During the course of hearing, the authorized representatives of the school submitted that it had recovered a total sum of Rs. 17,23,520 as development fee in 2009-10 and Rs. 17,19,000 in 2010-11. It was reiterated that the same was treated as a revenue receipt and utilised for the purpose of payment of salary.

The Committee examined the books of accounts of the school and noticed that the school also ran a pre primary school whose financials were

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not included in the balance sheet of the main school. Accordingly the school was directed to file the balance sheet and fee schedules of the pre primary school in order to have an overall view of the funds available with it. Some discrepancies were observed between the books of accounts and the audited financials but the same are ignored as not being very material.

The school filed the balance sheets of the pre primary school on 28/08/2015. The Committee prepared the calculation sheet taking into consideration the financials of the main school as well as the pre primary (Montessori) school. Based on such calculations, the Committee determined the net current assets + investments of both the school taken together at Rs. 4,51,591 as on 31/03/2009. The implementation of VI Pay Commission by the school w.e.f. 01/04/2009, resulted in an additional expenditure of Rs. 59,61,932 on account of increased salaries in 2009-10 as compared to 2008-09. The additional fee generated by the school on account of fee hike w.e.f. 01/04/2009 amounted to Rs. 50,32,457. However, the school charged development fee, which amounted to Rs. 35,13,520 in 2009-10 and 2010-11, without fulfilling the necessary pre conditions (same was treated as a revenue receipt and utilised for payment of salaries).

The matter was fixed for final hearing today. The authorized representatives of the school contended that in view of the requirement of the school to keep funds in reserve for future contingencies and for meeting its accrued liabilities for gratuity and leave encashment, no adverse inference be drawn against it in respect of development fee.

S.K.R. Public School, Inder Puri, New Delhi-110012/B-411

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000061

The Committee has given its consideration to the submissions made by the school and notes that the requirement of the school to keep funds in reserve for meeting its liability on account of gratuity amounted to Rs. 56,31,726 and for leave encashment, it amounted to Rs. 28,09,733. The total development fee recovered by the school in the years 2009-10 and 2010-11 was Rs. 35,13,520.

The Committee accepts the contention of the school and is accordingly of the view that no intervention is required in the matter of fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education or with regard to the development fee charged by it.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Date: 31/08/2017

S.K.R. Public School, Indrapur, New Delhi-110012/B-411

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000062

BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL
FEE, NEW DELHI

(Formerly Justice Anil Dev Singh Committee for review of school Fee)

In the matter of:

Shanti Gyan Niketan Public School, Najafgarh, Delhi-110071 (B-390)

Recommendations of the Committee

Present: Sh. Raj Kumar Khurana, Manager, Sh. Ashwani Kumar, Secretary,
Sh. Mubarak Hussain of the school.

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school), which was followed by a reminder dated 27/03/2012. However the school did not respond to the questionnaire issued by the Committee.

A fresh questionnaire was again issued to the school. The school furnished its reply under cover of its letter dated 11/09/2013. As per the reply, the school stated that it had implemented the recommendations of VI Pay Commission prospectively w.e.f. 01/07/2009 but the school had not paid the arrears to the staff resulting from the retrospective applicability of the recommendations w.e.f. 01/01/2006 on account of the fact that the students had not paid the arrear fee. Further the school admitted that it had increased the fee w.e.f. 01/04/2009 in pursuance of order dated

Shanti Gyan Niketan Public School, Najafgarh, Delhi-110071/B-390

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000063

11/02/2009 issued by the Director of Education while implementing the recommendations of VI Pay Commission w.e.f. 01/07/2009.

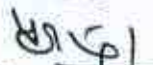
The school also furnished details of the development fee collected by it from 2006-07 to 2010-11 and also furnished the utilisation thereof. In the years 2009-10 and 2010-11, with which this Committee is concerned, it stated that it had recovered a sum of Rs. 23,23,695 in 2009-10 which was utilised by it for furniture and fixture and equipments to the tune of Rs. 19,85,426. For the year 2010-11, the respective figures of collection and utilisation were Rs. 27,44,600 and Rs. 24,04,653 (out of which a sum of Rs. 8,87,061 was for purchase of a car).

The initial calculations to examine the justifiability of hike in fee were, in the first instance made by the Chartered Accountants who had been deputed by the Directorate of Education to assist this Committee and they determined that the school had recovered fee in excess of its requirements to the tune of Rs. 13,98,349 when compared to the additional expenditure incurred by it on implementation of the recommendations of VI Pay Commission. The Committee has not accepted the calculations made by the CAs for the reason that the same have been made by extrapolating the monthly differentials of fee and salary for the pre implementation and post implementation period and are not based on the audited financials of the school.

The Committee issued a notice dated 23/06/2015 requiring the school to appear before it on 20/07/2015 and to furnish the information

Shanti Gyan Niketan Public School, Najafgarh, Delhi-110071/B-390

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regarding the aggregates amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school. Besides the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike.

On this date, the authorized representatives of the school appeared and furnished the information required by the Committee vide its notice dated 23/06/2015, under cover of its letter dated 20/07/2015. They reiterated the submissions made by the school in its reply to the questionnaire issued by the Committee. They also submitted that the school paid salary to the staff mostly through direct bank transfers. Only occasionally, salaries are paid through account payee cheques. In support, they produced the books of accounts, salary register and bank statements.

The authorized representatives further contended that the fee hike was justified as the school did not have any funds of its own considering its accrued liabilities for gratuity and leave encashment and its requirement to keep funds in reserve for future contingencies. With regard to development fee, although it was contended in the reply to the questionnaire that earmarked bank account for development fund was maintained, during the course of hearing, they conceded that the earmarked account was opened only on 16/09/2013.

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The Committee issued a fresh notice of hearing on 18/08/2017, requiring the school to appear before it today and produce its entire accounting, fee and salary records for examination by the Committee.

Today, the authorized representatives of the school produced its books of accounts in a lap top. The accounts were maintained in "Tally" software.

The Committee has examined the books of accounts for the year 2009-10. It is the contention of the authorized representatives appearing for the school that the school implemented the recommendations of VI Pay Commission w.e.f. 01/07/2009 prospectively. It is conceded that the arrears of salary for the period 01/01/2006 to 31/03/2009 were not paid. It is submitted that the school was not in a position to collect the arrears fee from the students on account of it being situated in a rural area. It is further submitted that bulk of the salaries is paid by direct bank transfers except for salary to a few employees to whom individual cheques were issued.

The Committee observed that the school did not pay any salary in the month of June. Salaries payable for June and July were paid in the month of July 2009. The Committee has also examined the cash book as well as the bank book of the school for the year 2009-10. The school was maintaining its main account with Karur Vysya Bank.

The Committee observes that the school was maintaining a very high level of cash in hand throughout the year. The average daily cash holding

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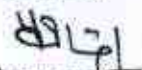
for the entire year was Rs. 20.21 lacs, while the average daily cash receipt was Rs. 0.41 lacs only. On some dates, the cash in hand was as high as Rs. 33.60 lacs.

On the other hand, the average daily balances in the bank account of the school was just Rs. 4.19 lacs. The authorized representatives of the school have no explanation to offer for such heavy cash balances. The total expenditure of the school for the year 2009-10 was Rs. 2,12,02,908 out of which the total expenditure on salary was Rs. 1,20,67,124 which the school claims was entirely paid through its bank account. This leaves a sum of Rs. 91,35,784, out of which also not many expenses are incurred through bank. The average cash holding of Rs. 20.21 lacs is highly disproportionate to the requirements of the school. Maintenance of such heavy cash balances, when there is no requirement for that can only lead to a conclusion that either the same was utilised by the management for personal use or was diverted for some other purposes for generating additional income which is not reflected in the accounts of the school.

Vide its submissions dated 20/07/2015, the school claimed that on account of implementation of the recommendations of VI Pay Commission, it had to incur an additional expenditure of Rs. 31.28 lacs in the year 2009-10 which was spread over a period of 9 months i.e. 01/07/2009 to 31/03/2010. Given the average cash holding and bank balance of the school, the Committee is of the view the school could have absorbed this additional expenditure out of its own funds and there was no necessity for

Shanti Gyan Niketan Public School, Najafgarh, Delhi-110071/B-390

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000067

the school to hike any fee for the purpose of implementation of the recommendations of VI Pay Commission.

Even otherwise, the Committee has reservations whether the recommendations of VI Pay Commission have at all been implemented as the Committee finds no justifiable reason for withholding the salary of the staff for the month of June 2009. In all probability, this was not paid (or paid and received back in cash) and the amount thus saved was paid as additional salary in the remaining 9 months. However, this is immaterial as the Committee has determined that the school always maintained enough liquid funds despite its purportedly implementing the recommendations of VI Pay Commission leading to the conclusion that no fee hike was necessary at all.

The Committee also notes that the school did not have any funds available with it which it could be permitted to keep in reserve for gratuity, leave encashment or future contingencies as the school did not pay any arrears of salary to the staff and the school cannot be allowed to hike the fee to create such reserves.

Accordingly, the Committee is of the view that the school ought to refund the entire hike in tuition fee for the year 2009-10 which was effected pursuant to order dated 11/02/2009 issued by the Director of Education along with interest @ 9% per annum from the date of collection to the date of refund.

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Further, the school conceded that it was not maintaining any earmarked development fund account in 2009-10 and 2010-11, which was opened only on 16/09/2013. With regard to maintenance of depreciation reserve funds, the school in its reply to the questionnaire had stated that since the school had not charged any depreciation on fixed assets that was purchased out of development fee, it has not maintained any depreciation reserve fund account also.

The Committee has considered the contention of the school. The Delhi School Education Act or the Rules make no provision for charging development fee by unaided private schools. Rule 151 of the Rules provides for development fee to be charged only by "Aided schools". The issue of allowing unaided private schools to charge development fee was considered for the first time by Duggal Committee. It made the following recommendations regarding charging of development fee by unaided schools:

18. *Besides the above four categories, the schools could also levy a Development Fee, as a capital receipt, annually not exceeding 10% of the total annual Tuition Fee, for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment, provided the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue account. While these receipts should form part of the Capital Account of the school, the collected under this head along with any income generated from the investment made out of this fund, should however, be kept in a separate 'Development Fund Account'. (Para 7.21)*

Pursuant to the report of the Duggal Committee, the Government of National Capital Territory of Delhi passed an order dated December 15,

Shanti Gyan Niketan Public School, Najafgarh, Delhi-110071/B-390

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1999 in order to give effect to its recommendations. One of the directions (no. 7) given vide the aforesaid order was:

"Development fee, not exceeding 10% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with any income generated from the investment made out of this fund, will be kept in a separately maintained Development fund account."

The Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 admitted, inter alia, the following point for determination

"Whether managements of Recognized unaided schools are entitled to set-up a Development Fund Account under the provisions of the Delhi School Education Act, 1973?"

The Hon'ble Supreme Court, on this issue, held as follows:

25. *In our view, on account of increased cost due to inflation, the management is entitled to create Development Fund Account. For creating such development fund, the management is required to collect development fees. In the present case, pursuant to the recommendation of Duggal Committee, development fees could be levied at the rate not exceeding 10% to 15% of total annual tuition fee. Direction no.7 further states that development fees not exceeding 10% to 15% of total annual tuition fee shall be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipments. It further states that development fees shall be treated as Capital Receipt and shall be collected only if the school maintains a depreciation reserve fund. In our view, direction no.7 is appropriate. If one goes through the report of Duggal Committee, one finds absence of non-creation of specified earmarked fund. On going through the report of Duggal Committee, one finds further that depreciation has been charged without creating a corresponding fund. Therefore, direction no.7 seeks to introduce a proper accounting practice to be followed by non-business*

Shanti Gyan Niketan Public School, Najafgarh, Delhi-110071/B-390

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organizations/not-for-profit organization. With this correct practice being introduced, development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipments is justified. Taking into account the cost of inflation between 15th December, 1999 and 31st December, 2003 we are of the view that the management of recognized unaided schools should be permitted to charge development fee not exceeding 15% of the total annual tuition fee.

(emphasis supplied by us)

It is manifest on reading the aforesaid extract from the judgment of the Hon'ble Supreme Court that unaided private schools were permitted to charge development fee **only if the school maintained a depreciation reserve fund.**

The requirement of creating a Depreciation Reserve fund is not an empty formality but is meant to ensure that funds are available to the schools to replace the assets created out of development fund when they become worn out or obsolete so that the schools do not resort to collecting the development fee again. Thus development fee can be collected only for purchase of furniture and fixture & equipments subject to the condition that the school maintains a depreciation reserve fund. Maintenance of such a fund would ensure that the school does not charge the development fee once again when the time for replacement of such assets come i.e. when they are worn out. The school cannot be heard to say that since it did not charge any depreciation to the revenue account, it was not required to maintain a depreciation reserve fund. If this contention of the school is allowed, the very purpose of making creation of a depreciation reserve fund as a pre condition for charging development fee would be defeated. Therefore, the

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Committee rejects the contention of the school that since it was not charging any depreciation to its revenue account, it was not required to maintain a depreciation reserve fund. The Committee is of the view that in the absence of creation of depreciation reserve fund, the school cannot charge development fee at all.

So far as development fee charged in 2009-10 is concerned, since the Committee has proceeded on the basis that the school had sufficient liquid funds available with it at all times, and has accordingly recommended refund of the hike in tuition fee in 2009-10, the development fee recovered by the school would also have contributed to the surplus liquid funds available with the school. Accordingly, the Committee considers that the development fee charged in 2009-10 already stands covered by the refund of hike in tuition fee, as recommended supra.

However, the development fee collected by the school in 2010-11, amounting to Rs. 27,44,600, the same ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund.

Summary of Recommendations:

- (1) The school ought to refund the entire amount of tuition fee hiked by it pursuant to order dated 11/02/2009 issued by the Director of Education along with interest @ 9% per annum from the date of collection to the date of refund.

Shanti Gyan Niketan Public School, Najafgarh, Delhi-110071/B-390

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000072

(2) The school ought to refund the development fee charged by it amounting to Rs. 27,44,600, in the year 2010-11, along with interest @ 9% per annum from the date of collection to the date of refund.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Date: 31/08/2017

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**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE
AT NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of School Fee)

In the matter of:

MOUNT CARMEL SCHOOL (B-388),

Sector 22, Dwarka

New Delhi 110 077

And in the matter of

Applications/representations dated

18th February, 2015 & 5th October, 2016

seeking review of order Dated

23rd November, 2014 passed by the

Committee in respect of the School.

Present: Dr. Michael Williams, Dean, Sh. Kalra, C.A, Sh. Naresh, HOD, Ms. Rita Midha of the School.

ORDER

1. The Committee passed the order/recommendation dated 23rd November, 2014 in respect of Mount Carmel School, Sector 22, Dwarka, New Delhi 110 077 referred to as 'The School' and recommended that the school should refund a sum of Rs.25,15,453 out of the incremental fee charged in the year 2009-10 with interest @ 9% per annum from the date of collection to the date of refund and also refund an amount of Rs.45,61,780/- charged as Development Fee in 2009-10 and Rs.48,63,068/- charged as Development fee in 2010-11 with simple interest @ 9% per annum from the date of collection to the date of refund. Before passing its recommendation the committee had issued a

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questionnaire to the school which was not replied by the School. A reminder dated 27th March, 2012 was sent and the matter was also referred to Dy. Director of Education. The School had sent returns under Rule 180 to the DDE which were also forwarded to the committee. From the annual returns it had transpired that the information required for examining the justifiability of fee hiked was not available and therefore, the revised questionnaire was issued to the School. The School by its letter dated 30th August, 2013 had submitted that it had implemented the recommendation of VI pay commission with effect from September, 2008 and had also paid arrears of salary and had increased the fee by ₹ 400 per month for each class. It was also represented that the school had collected the development fee in all the five years and the development fee was treated as a capital receipt and the school had maintained Depreciation Reserved fund and the unutilized development fund was kept in earmarked bank accounts. Later on while giving the clarification to the contradictions which were noted by the Committee, it was stated that the implementation of the recommendation of the VI pay commission was made with effect from December, 2008. On the basis of the information submitted by the School, a calculation sheet was got prepared by the Committee, a copy of which was also given to the school and the response of the School was invited. The School had filed the written submissions along with a fresh calculation sheet. The school did not file the documents to show maintenance of earmarked bank accounts in respect of depreciation reserved fund/development fund. The School had conceded that the development fund was recovered at the rate of 15% of tuition fee. The Committee perused the financials of the school and inferred that the school had not disputed the funds available with the School as on 31st March, 2008. The Committee allowed the school to retain sufficient funds for future contingency for a period of four months as was permitted in the cases of other schools. The plea of the School that the figure of arrears of salary had not been taken

correctly by the Committee was repelled as the figure had been taken on the basis of the information provided by the School. However, since the difference was a small of ₹ 20,000, subsequently the figure which was canvassed by the School was accepted. Similarly the figure given by the school in respect of increased salary from 1st December, 2008 to 31 March 2009 was accepted. Though the School had alleged that the arrears of salary for the period 1st September, 2008 to 30 November 2008 was omitted from the calculation, however, it was on account of information not provided by the School. Later on the figures provided by the school were taken into consideration and to the extent as stated herein before it was held that the school should refund the amount as indicated in the order dated 23rd November, 2014. Since the school was not following the preconditions regarding the Development fund, the committee ordered refund of the amounts as indicated in the order/recommendation dated 23rd November, 2014.

2. The school has filed applications/representations dated 18th February, 2015 and 5th October, 2016 seeking review of the recommendation/order of the committee dated 23rd November, 2014. The School relied on the order of High Court in the case of Rukmani Devi Public School to contend that the Committee has the power to review its order/recommendation. According to the School the Hon'ble Court is creating a precedent in law for natural justice and has provided limited empowerment to the Committee which should be extended to the applicant/School. It has been contended that the School is seeking to add to/amend what has already been submitted to the Committee. The School has placed reliance on Section 21 of the General Clauses act and has also relied on Bakshi SBP Sinha vs Bihar State Bar Council, AIR 1980 Patna 189. The submission of the School is that some of the points raised by the School were omitted on account of oversight. According to the School the figure for future contingency has not been worked out



correctly and has given the revised chart of various figures. It is contended that the School does not have surplus funds available with it. The school has also relied on the accounting principle to seek the review of the order/recommendation dated 23rd November, 2014 passed by the Committee. The plea of the school is that the principle followed by the school is correct and consequently the order dated 23rd November, 2014 is liable to be reviewed. The School has pleaded that no funds are left with the School which could be taken as capital receipt. If there is any deficiency in maintaining the books, the School ought not to be penalized by directing the School to refund the amount.

3. Apparently the school has sought review of the order/recommendation of the committee dated 23rd November, 2014 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 23rd November, 2014. It is apparent that the Committee has become functus officio after it passed the order dated 23rd November, 2014. The provision and the ratio of precedent relied by the School are distinguishable and do not hold that the Committee has the power to the Committee to review its order on merits.

4. It is well settled that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant

statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

"Thus a judge , when he has decided a question brought before him, is functus officio, and cannot review his own decision."

Black's Law Dictionary (6th Edn., p 673) gives the meaning of functus officio as follows:

"Having fulfilled the function, discharged the office, or accomplished the purpose, and therefore of no further force or authority"

Consequently after the Committee had made its recommendations and passed the order in the case of Applicant school and notified the same to the Hon'ble High Court, the Committee became functus officio as it had decided the question brought before it.

5. Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review of orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also noticed error apparent on the face of record in the Committee's recommendation and therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

" Kindly place this letter before the Hon'ble Division Bench dealing with the matter, as the Committee seeks urgent directions for grant of permission to rectify our recommendations, which may suffer from errors apparent on the face of the record."

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. The Hon'ble Court passed the following order:

"W.P (C) 7777/2009 & CM No. 3168 of 2013

In view of the letter dated 12.02.2014 received from the Committee, we permit the Committee to review the case of Rukmani Devi Public School, Pitam Pura - 110034 **only**.

The writ petition shall be re-notified on 09.05.2014"

6. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee in the case of Rukmani Devi Public School and consequently the School cannot contend on the basis of the order passed in the said case that the Committee has the power to review its order/recommendation and the power was given by the Hon'ble Court.

7. From the perusal of the applications/representations dated 18th February, 2015 and 5th October, 2016 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. It is also well established that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel NarshiThakershi and Ors.v. Pradyumansinghji Arjunsingji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held

that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In Patel Narshi Thakershi & ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal. The plea of the School that it is not seeking review and is only seeking to add to/ amend what has already been submitted by the School cannot be accepted.

8. The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority



suffered from such illegality that vitiates the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which were perused and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 23rd November, 2014.

9.

In Bakshi S.B.P. Sinha and Ors. vs. The Bihar State Bar Council and Anr. (11.01.1980 - PATNAHC) : MANU/BH/0043/1980 relied on by the Applicant it was rather held that Bar Council did not have powers to change or alter the election programme after it is once published under the purported authority under Section 21 of the General Clauses Act.

*8. After the elections of the Bar Council were held the petitioner challenged the election, leading to the next case. The challenge was on the ground that the electoral roll was not prepared within 120 days of the expiry of the term of the elected members of the Bar Council and since the electoral roll itself was defective, the entire election was rendered void. The earlier decision of the learned single Judge that the Bar Council has power to alter the dates of poll was affirmed this time by the Division Bench. **Neither of these authorities, in my considered opinion, lay down any principle that the Bar Council has got any power to change or alter the election programme after it is once published, under its purported general authority under Section 21 of the General Clauses Act.** In all the cases which have been cited and relied upon there was some such emergent circumstance of the nature contemplated under Rule 32 of the Rules framed by respondent No. 1 and, therefore, they are not of any help to Mr. Basudeva Prasad. But that apart, here respondent No. 1 by the

impugned resolution has purported to cancel the polling already held under a supposed authority to alter or amend the election programme.

The provision and precedent relied on by the school rather negates the plea of the School that the Committee has the power to review its order under section 21 of General Clauses Act and the precedent is distinguishable. Section 21 of the General Clauses Act is as under:

Section 21 - Power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye-laws

Where, by any¹[Central Act] or Regulations a power to²[issue notifications,] orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any³[notifications,] orders, rules or bye-laws so⁴[issued].

1. Substituted by A.O. 1937, for "Act of the Governor General in Council".
2. Substituted by Act 1 of 1903, Section 3 and Schedule II, for "make".
3. Inserted by Act 1 of 1903, Section 3 and Schedule II.
4. Substituted by Act 1 of 1903, Section 3 and Schedule II, for "make".

10. A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. The Supreme Court in *Bharat Petroleum Corporation Ltd and Anr. v. N.R.Vairamani and Anr.*, AIR 2004 SC 778 had observed:-

" Court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been

stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.

11. A case is only an authority for what it decides. As observed by the Supreme Court in State of Orissa v. Sudhansu Sekhar Misra MANU/SC/0047/1967:-

"A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. On this topic this is what Earl of Halsbury, LC said in Quinn v. Leathem, 1901 AC 495:

"Now before discussing the case of Allen v. Flood (1898) AC 1 and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically Page 2009 from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all."

In Ambica Quarry Works v. State of Gujarat and Ors. MANU/SC/0049/1986 the Supreme Court observed:-

"The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it."

Similarly in Bhavnagar University v. Palitana Sugar Mills Pvt Ltd (2003) 2 SC 111 (vide para 59), the Supreme observed:-

"It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases

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by blindly placing reliance on a decision is not proper. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

Precedent should be followed only so far as it marks the path of justice, but one must cut the dead wood and trim off the side branches else one will find oneself lost in thickets and branches, the precedents relied on by the applicant in the facts and circumstances does not require elaborate consideration. The Committee was appointed by the Hon'ble High Court and cannot be equated to the Court. The power to reconsider and review was restricted by the Hon'ble High Court in Rukhmani Devi Public School, in that case only.

12. Applying these principles it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

13. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 23rd November, 2014 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and/or some of the facts were not disclosed on account of oversight and the school/applicant is seeking review of its



order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing the Committee to review its orders/recommendations either expressly or by necessary implication.

14. The applications/representations dated 18th February, 2015 and 5th October, 2016 seeking recalling/revoking of the order dated 23rd November, 2014 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by the School. The applications/representation dated 18th February, 2015 and 5th October, 2016 by the school seeking review of the order/recommendation dated 23rd November, 2014 are, therefore, not maintainable and they are disposed off as not maintainable

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

14
J.S. KOCHAR
MEMBER

R.K. SHARMA

MEMBER

Date: 29/08/2017

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000085

BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE
AT NEW DELHI

(Formerly Justice Anil Dev Singh Committee for review of School Fee)

In the matter of:

MOUNT CARMEL SCHOOL (B-618),

A-21 Anand Niketan

New Delhi 110 021

And in the matter of

Applications/representations dated

18th October, 2014 & 5th October, 2016

seeking review of order Dated

5th May, 2014 passed by the

Committee in respect of the School.

Present: Dr. Michael Williams, Dean, Sh. Kalra, C.A, Sh. Naresh, HOD, Ms. Geeta Rangarajan, Accountant of the School.

ORDER

- 1.. The Committee passed the order/recommendation dated 5th May, 2014 in respect of Mount Carmel School, A-21 Anand Niketan, New Delhi 110 021 referred to as 'The School' and recommended that the school should refund a sum of Rs.2,41,24,674, arrear fee and hiked tuition fee of 2009-10 with interest @ 9% per annum from the date of collection to the date of refund and also refund an amount of Rs.770 per student out of arrears of Development fee charged for the period 1.9.2008 to 31.3.2009 and Rs.1,15,70,240 charged as Development Fee in 2009-10 and Rs.1,03,19,190 charged in 2010-11 as Development fee



with simple interest @ 9% per annum from the date of collection to the date of refund.

2. Before passing its recommendation the committee had issued a letter dated 19.01.2012 to file copies of annual returns filed by the school with DDE under Rule 180 of the Delhi School Education Act 1973 for examining the justifiability of fee hiked. The school had provided the information asked for by letter dated 11th February, 2009. On analysis of information from the annual returns it transpired that the school had hiked the fee in excess of its requirements for the purpose of implementation of VI Pay Commission report. More information was sought from the school which was provided by the School vide its letter dated 16th March, 2012. On the consideration of the information provided it appeared that the School did not need to hike the fee nor recover any arrears of fee for implementing the VI Pay Commission report. The copy of preliminary calculation sheet got prepared by the Committee was provided to the school and the response of the school was considered. The School had contended that it is an unaided Christian Minority institution and the fee was hiked on account of implementation of VI Pay Commission report with effect from 2006. It was also contended that the school has already refunded the excess amount of fees as per the directions given by the Education Department. The allegation of the school was also that the School has not generated funds out of its fee alone but by way of student investment of available



000087

funds. The plea of the School being a minority institution was repelled as the order dated 11th February, 2009 categorically stipulated that it would be applicable to the minority schools also and this does not impinge upon the minority rights. The Committee also inferred that regular fee hiked by the school was not justified as the school had generated additional revenue by way of recovering arrears of tuition fee alone and consequently it was also held that return of certain amounts by the School was of no consequence. It was also held that the school could have used the interest on the investments for implementation of VI Pay Commission report. The order of the Director of Education to pledge the deposits with the Director of Education was also filed in writ petition which was filed by the School. Regarding the Development fee the information given by the School was supplemented by the written submission dated 28th January, 2014. On consideration of the documents and the information provided by the school it became apparent that originally the School was charging development fee @ 10% of tuition fee, however, after the order dated 11th February, 2009 it was hiked to 15%. The Committee held that the unauthorized increase of Rs.100 per month for seven months from 1st September, 2008 to 31 March 2009 was wholly illegal and was liable to be refunded. The plea of the school that the treatment of Development Fee was an accounting mistake was not accepted in view of the clear mandate of the order of Hon'ble Supreme Court. The balance sheet of the School did not show

any earmarked funds which had been kept apart by way of depreciation reserved fund and the School had only created a reserve by book entries. Consequently the Committee ordered/recommended the refund of Development fee as indicated here in above by the order dated 5th May, 2014 which is sought to be reviewed.

3. The school has filed applications/representations dated 18th October, 2014 and 5th October, 2016 seeking review of the recommendation/order of the committee dated 5th May, 2014. The School relied on the order of High Court in the case of Rukmani Devi Public School to contend that the Committee has the power to review its order/recommendation. According to the School the Hon'ble Court is creating a precedent in law for natural justice and has provided limited empowerment to the Committee which should be extended to the applicant/School also. It has been contended that the School is seeking to add to/amend what has already been submitted to the Committee. The School has placed reliance on Section 21 of the General Clauses act and has also relied on Bakshi SBP Sinha vs Bihar State Bar Council, AIR 1980 Patna 189 in support of its contention that the committee has the power to review its order/recommendation. The submission of the School is that some of the points raised by the School were omitted on account of oversight. According to the School the figure for future contingency has not been worked out correctly and has given the revised chart of various figures. It is contended that the School did not have surplus of funds available with the School. The school has also relied on the accounting principle to seek the review of the order/recommendation dated 5th May, 2014 passed by the Committee. The plea of the school is that the principle followed by the school is correct and consequently the order dated 5th May, 2014 is liable to be reviewed. The School has

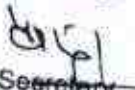
pleaded that if there is any deficiency in maintaining the books, the School ought not to be penalized by directing the School to refund the amount.

4. Apparently the school has sought review of the order/recommendation of the committee dated 5th May, 2014 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 5th May, 2014. It is apparent that the Committee has become functus officio after it passed the order dated 5th May, 2014. The provision and the ratio of precedent relied by the School is distinguishable and does not hold that the Committee has the power to review its order on merits.

5. It is well settled that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

"Thus a judge, when he has decided a question brought before him, is functus officio, and cannot review his own decision."

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Black's Law Dictionary (6th Edn., p 673) gives the meaning of functus officio as follows:

"Having fulfilled the function, discharged the office, or accomplished the purpose, and therefore of no further force or authority"

Consequently after the Committee had made its recommendations and passed the order in the case of Applicant school and notified the same to the Hon'ble High Court, the Committee became functus officio as it had decided the question brought before it.

6. Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review of orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also noticed error apparent on the face of record in the Committee's recommendation and therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

" Kindly place this letter before the Hon'ble Division Bench dealing with the matter, as the Committee seeks urgent directions for grant of permission to rectify our recommendations, which may suffer from errors apparent on the face of the record."

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. The Hon'ble Court passed the following order:

"W.P (C) 7777/2009 & CM No. 3168 of 2013



000091

In view of the letter dated 12.02.2014 received from the Committee, we permit the Committee to review the case of Rukmani Devi Public School, Pitam Pura - 110034 **only**.

The writ petition shall be re-notified on 09.05.2014"

7. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee in the case of Rukmani Devi Public School and consequently the School cannot contend on the basis of the order passed in the said case that the Committee has the power to review its order/recommendation and the power was given by the Hon'ble Court.

8. From the perusal of the applications/representations dated 18th October, 2014 and 5th October, 2016 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. It is also well established that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel NarshiThakershi and Ors. v. Pradyumansinghji Arjunsingji MANU/ SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts

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9. The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that vitiates the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the



order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which were perused and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 23rd November, 2014.

10. In Bakshi S.B.P. Sinha and Ors. vs. The Bihar State Bar Council and Anr. (11.01.1980 - PATNAHC) : MANU/BH/0043/1980 relied on by the Applicant it was rather held that Bar Council did not have powers to change or alter the election program after it was once published under the purported authority under Section 21 of the General Clauses Act.

"8. After the elections of the Bar Council were held the petitioner challenged the election, leading to the next case. The challenge was on the ground that the electoral roll was not prepared within 120 days of the expiry of the term of the elected members of the Bar Council and since the electoral roll itself was defective, the entire election was rendered void. The earlier decision of the learned single Judge that the Bar Council has power to alter the dates of poll was affirmed this time by the Division Bench. **Neither of these authorities, in my considered opinion, lay down any principle that the Bar Council has got any power to change or alter the election programme after it is once published, under its purported general authority under Section 21 of the General Clauses Act.** In all the cases which have been cited and relied upon there was some such emergent circumstance of the nature contemplated under Rule 32 of the Rules framed by respondent No. 1 and, therefore, they are not of any help to Mr. Basudeva Prasad. But that apart, here respondent No. 1 by the impugned resolution has purported to cancel the polling already held under a supposed authority to alter or amend the election programme.

The provision and precedent relied on by the school rather negates the plea of the School that the Committee has the power to review its order under section 21 of General Clauses Act and the precedent is distinguishable. Section 21 of the General Clauses Act is as under:

Section 21 - Power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye-laws

Where, by any¹[Central Act] or Regulations a power to²[issue notifications,] orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any³[notifications,] orders, rules or bye-laws so⁴[issued].

1. Substituted by A.O. 1937, for "Act of the Governor General in Council".
2. Substituted by Act 1 of 1903, Section 3 and Schedule II, for "make".
3. Inserted by Act 1 of 1903, Section 3 and Schedule II.
4. Substituted by Act 1 of 1903, Section 3 and Schedule II, for "make".

11. This is no more res integra that a decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. The Supreme Court in *Bharat Petroleum Corporation Ltd and Anr. v. N.R.Vairamani and Anr.*, AIR 2004 SC 778 had observed:-

" Court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.



12. A case is only an authority for what it decides. As observed by the Supreme Court in *State of Orissa v. Sudhansu Sekhar Misra* MANU/SC/0047/1967:-

"A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. On this topic this is what Earl of Halsbury, LC said in *Quinn v. Leatham*, 1901 AC 495:

"Now before discussing the case of *Allen v. Flood* (1898) AC 1 and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically Page 2009 from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all."

In *Ambica Quarry Works v. State of Gujarat and Ors.* MANU/SC/0049/1986 the Supreme Court observed:-

"The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it."

Similarly in *Bhavnagar University v. Palitana Sugar Mills Pvt Ltd* (2003) 2 SC 111 (vide para 59), the Supreme observed:-

"It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire

aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of Anr.. To decide therefore, on which side of the line a case falls, the broad resemblance to Anr. case is not at all decisive."

Precedent should be followed only so far as it marks the path of justice, but one must cut the dead wood and trim off the side branches else one will find oneself lost in thickets and branches, the precedents relied on by the applicant in the facts and circumstances does not require elaborate consideration. The Committee was appointed by the Hon'ble High Court and cannot be equated to the Court. The power to reconsider and review was restricted by the Hon'ble High Court in Rukhmani Devi Public School, in that case only.

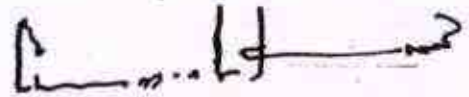
13. Applying these principles it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

14. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 5th May, 2014 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and/or some of the facts were not disclosed on account of oversight and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing the Committee to review its orders/recommendations either expressly or by necessary implication.




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15. The applications/representations dated 18th October, 2014 and 5th October, 2016 seeking recalling/revoking of the order dated 5th May, 2014 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by the School. The applications/representation dated 18th October, 2014 and 5th October, 2016 by the school seeking review of the order/recommendation dated 5th May, 2014 are, therefore, not maintainable and they are disposed off as not maintainable



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



J.S. KOCHAR
MEMBER



R.K. SHARMA
MEMBER

Date: 29/08/2017

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000098

**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE
AT NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of School Fee)

In the matter of:

Mata Shiv Devi Public School (B-502),

A-2, Keshav Puram,

Delhi 110 035

And in the matter of

**Applications dated 27th June, 2017 and
17.07.2017 of the School to correct the
Typographical error in the amount of
Development Fee which has been ordered to
be returned by Order dated 1st August, 2014.**

Present: Sh. Sant Ram Bhardwaj, Chairman and Shri Ramesh Kumar,
Head Clerk of the school.

ORDER

1. The applicant has filed the applications/representations dated 27th June, 2017 and 17th July, 2017 seeking to correct the typographical error in the amount of development fee allegedly recovered by the school which has been ordered to be refunded and nowhere it had been stated that the school had collected an amount of Rs.34,01,749/- from the students. The Committee has also not inferred that during the year 2009 - 10 and 2000 and - 11 the school had collected the development charges of ₹ 34,01,749/-. In the circumstances it is prayed that the typographical error in the order/recommendation dated 1st August, 2014 be corrected and the amount of ₹ 3,401,749 be substituted by the

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amount of ₹ 916,770/-, the amount collected by the school as development fee. The School has contended that the wrong figure of the amount of Development fee is on account of clerical/typographical mistake.

2. The Committee has perused the order dated 1st August, 2014 passed by it directing refund of development fee charged by the school during the year 2009 - 10 and 2010 - 11. The order/recommendation does not incorporate anywhere as to how much Development fee was charged by the School during those years. Perusal of the record produced before the order/recommendation dated 1st August, 2014 was passed also reveals that it has not been stated anywhere that the school had collected ₹ 3,401,749/- as Development fee during the years 2009 - 10 and 2010 - 11. In the circumstances it is apparent that the figure of ₹ 3,401,749/- as ordered to be refunded is on account of typographical error in the order/recommendation dated 1st August, 2014.
3. The record produced by the school rather show that it had received ₹ 382,970/- as Development fee in the year 2009 - 10 and ₹ 533,800 as Development fee in the years 2010 - 11. Thus the school had received a total amount of ₹ 916,770/- as development fee in the years as stated here in above which the school is liable to refund with interest.
4. In the circumstances the order/recommendation dated 1st August, 2014 is corrected by substituting the amount of ₹ 3,401,749/- by ₹ 916,770/-, the total amount of Development fee received by the school during the year 2009 - 10 and 2010 - 11 which the school is liable to refund with interest. Therefore, the order/recommendation dated 1st August, 2014 is corrected in respect of Development Fee as under:

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" Re: Development Fee

The school has charged the development fee from the students at the rate of ₹ 1150/- to ₹ 2000/- in 2009 - 10 and ₹ 1250 to ₹ 2100 different classes without maintaining depreciation reserved fund.

In the circumstances, the committee is of the view that the school was not complying with any of the preconditions prescribed by the Duggal committee, which were formed by Hon'ble Supreme court in the case of Modern The school vs Union of India & ors. for collecting Development Fee. Therefore, the Development fee charged by the school to the tune of ₹ 916,770/- during the years 2009 - 10 to 2010 - 11 in pursuance of the order of the Director of Education dated 11. 02. 2009 was not in accordance with law. This being so, the School ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

5. Consequently pursuant to the applications dated 26th June, 2017 and 17th July, 2017 the amount of Development fee which the school is liable to refund with interest as detailed hereinabove is corrected and the applications are disposed off in terms hereof.

**JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON**

**J.S. KOCHAR
MEMBER**

**R.K. SHARMA
MEMBER**

Date: 29/08/2017



**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE
AT NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of School Fee)

In the matter of:

B.V.M. Model Sr. Sec. School (B-123),

Begum Pur, Opp. Sec. 22

Delhi 110 086

And in the matter of

Applications/representations dated

10th November, 2014 & 6th July, 2017

seeking review of order Dated

20th March, 2014 passed by the

Committee in respect of the School.

Present: Mr. Rakesh Sharma, Manager and Ms. Kanta Devi, Principal of the School.

ORDER

- 1.. The Committee passed the order/recommendation dated 20th March, 2014 in respect of B.V.M. Model Sr. Sec. School, Begum Pur, Opp. Sector 22, Delhi 110086 referred to as 'The School'. The Committee by order dated 20th March, 2014 recommended that since the school has hiked the fee in excess to the permissible limit of 10% in 2010 - 11 for all classes, without implementing the recommendations of VI Pay Commission, the school is liable to refund the excess fee collected in 2010 - 11 in excess of 10% with simple interest @ 9% per annum from the date of its collection to the date of its refund. It was also recommended that the fee hiked in 2010 - 11 is also part of the fee for

the subsequent years, there would be a ripple effect in the subsequent years and consequently for subsequent years also the fee should be refunded which had been charged in excess of 10% with interest @ 9% per annum from the date of its collection to the date of its refund.

- 2.. Before passing the recommendation/order dated 20th March, 2014 a questionnaire was circulated to the school to get information regarding the fee hiked by the school pursuant to order dated 11th February, 2009 of the Directorate of Education. The school did not respond to the questionnaire which was sent to and therefore, the returns filed by the school under Rule 180 of Daily School Education Rules, 1973 were requisitioned. After perusing the returns a notice dated 26th August, 2013 was issued to the school to appear before the Committee and produce the relevant records for the years 2008 - 09 and 2010 - 11. The School contended that it had implemented the recommendations of VI Pay Commission with effect from 1st April, 2010 and also hike the fee but the school has not charged the development fee from the students. On scrutinizing the record it transpired and it was also confirmed by the officials of the School that the salary was paid to the staff in cash and no TDS was deducted after alleged implementation of the recommendations of VI Pay Commission. It also transpired that the school did not have a TAN number. Though the school had not hiked the fees in 2009 - 10 but hike the fee is during 2010 - 11 beyond the permitted limits. The allegation of the School that a number of teachers had resigned and consequently their salaries were not paid was not believed as relevant documents had not been produced by the School. In these facts and circumstances the contention of the School that the recommendations of VI Pay Commission had been implemented was not accepted. And the school was directed to refund the fees collected beyond the permissible

limits as detailed herein above by the order/recommendation dated 20th March, 2014.

3. The school has filed the applications/representations dated 10 November, 2014 and 16 July, 2017 alleging inter alia on the basis of the facts alleged by the School in the representations. The School also filed an affidavit duly signed and attested in proof of the facts alleged by the school in its representations.
4. Apparently the school has sought review of the order/recommendation of the committee dated 20th March, 2014 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 20th March, 2014. It is apparent that the Committee has become functus officio after it passed the order dated 20th March, 2014.
5. It is well settled that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

"Thus a judge , when he has decided a question brought before him, is functus officio, and cannot review his own decision."



Black's Law Dictionary (6th Edn., p 673) gives the meaning of functus officio as follows:

"Having fulfilled the function, discharged the office, or accomplished the purpose, and therefore of no further force or authority"

Consequently after the Committee had made its recommendations and passed the order in the case of Applicant school and notified the same to the Hon'ble High Court, the Committee became functus officio as it had decided the question brought before it.

6. Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L. Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review of orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also noticed error apparent on the face of record in the Committee's recommendation and therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

" Kindly place this letter before the Hon'ble Division Bench dealing with the matter, as the Committee seeks urgent directions for grant of permission to rectify our recommendations, which may suffer from errors apparent on the face of the record."

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. The Hon'ble Court passed the following order:

"W.P (C) 7777/2009 & CM No. 3168 of 2013



In view of the letter dated 12.02.2014 received from the Committee, we permit the Committee to review the case of Rukmani Devi Public School, Pitam Pura - 110034 **only**.

The writ petition shall be re-notified on 09.05.2014"

7. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee in the case of Rukmani Devi Public School and consequently the School cannot contend on the basis of the order passed in the said case that the Committee has the power to review its order/recommendation and the power was given by the Hon'ble Court.

8. From the perusal of the applications/representations dated 10 November, 2014 and 16 July, 2017 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. It is also well established that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel NarshiThakershi and Ors. v. Pradyumansinghji Arjunsingji MANU/ SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably

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erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In *Patel Narshi Thakershi & ors.* (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal. The plea of the School that it is not seeking review and is only seeking to add to/amend what has already been submitted by the School cannot be accepted.

9. The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that vitiates the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a

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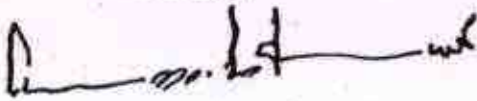


date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which were perused and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 20th March, 2014.


10. Applying these principles it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.
11. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 20th March, 2014 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and/or some of the facts were not disclosed earlier and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is

not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing the Committee to review its orders/recommendations either expressly or by necessary implication.

12. The applications/representations dated 10 November, 2014 and 16 July, 2017 seeking recalling/revoking of the order dated 20th March, 2014 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by the School. The applications/representation dated 10 November, 2014 and 16 July, 2017 by the school seeking review of the order/recommendation dated 20th March, 2014 are, therefore, not maintainable and they are disposed off as not maintainable

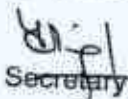

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON


J.S. KOCHAR
MEMBER


R.K. SHARMA
MEMBER

Date: 29/08/2017

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000109

**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE
AT NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of School Fee)

In the matter of:

The Pinnacle School (B-130),

D-Block, Panchsheel Enclave,

New Delhi 110 017

And in the matter of

**Application/representation dated
19th August, 2016 seeking review of
order Dated 25th April, 2016 passed by the
Committee in respect of the School.**

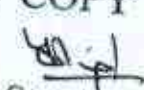
Present: Sh. K.K.George, C.A with Mr. Ramji Lal Jonwal Manager of the
School.

ORDER

1. The Committee passed the order/recommendation dated 25th April, 2016 in respect of The Pinnacle School, D Block, Panchsheel Enclave, New Delhi - 110017 referred to as 'The School' and recommended that the school should refund a sum of Rs.10,63,519/- charged as Development Fee in 2010-11 with simple interest @ 9% per annum from the date of collection to the date of refund. Before passing its recommendation the committee had issued a questionnaire to the school and the school had submitted its reply dated 6th March, 2012 contending that the school had implemented the recommendations of VI pay commission and the increased salary of the staff was paid with effect

Application/representations The Pinnacle School (B-130) D-Block, Panchsheel Enclave, New Delhi 110 017

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000110

from 4 September, 2008 and the arrears for the period 1st January, 2006 to 31st August, 2008 have also been paid. It was also contended that the fee had been increased in accordance with the order dated 11th February, 2009 issued by Director of Education with effect from September, 2008 and recovered the arrears in terms of the aforesaid order. During the proceedings before the Committee, it had also received a complaint/representation against the school from Ms. Bindu Khanna alleging that the school had unjustifiably increased the fee in 2009 - 10. The complainant also alleged that the school had diverted huge funds to the society and the members of the society. Some complaints were also filed with the Department of Education and the Minister of Education. An enquiry was conducted into the affairs of the school which report was also produced before this Committee. On the basis of the record produced before this Committee, a calculation sheet was prepared a copy of which was also given to the school and its response to the calculation sheet got prepared by the Committee was also sought. It was inferred that the school is run by a family consisting of Chairman his wife and his brother. It was also noticed that the Chairman was given considerable amount as honorarium though the Chairman could not be an IT expert as he did not have any IT qualification. The school is forbidden from transferring any funds to its society and consequently the amounts transferred to such persons and the society were considered to be the funds available with the school. The liability of sundry creditors was also not taken into consideration as it was conceded that the amounts were actually not payable. The school had filed written submission dated 10th December, 2015. In the hearing on 15 December, 2017 it was conceded that the calculation carried out by the Committee were not disputed and only certain points were argued. The Committee, however, directed to

Application/representations The Pinnacle School (B-1301, D-Block, Panchsheel Enclave, New Delhi) 19/017

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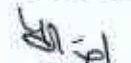


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refund of the amount as stated here in above out of the development fund recovered by the school from the students.

- 2.. The school has filed an application/representation dated 19th August, 2016 seeking review of the recommendation/order of the committee dated 25th April, 2016. The school has contended that the school made tremendous development due to all-round and sincere efforts of Wg. Cdr. Raeburn DeMonte and he's working on full-time basis as Advisor (Finance and Administration) in the school and the services are utilized in the best interest of the school. The school has challenged the observation and finding of the Committee holding that the said Chairman could not draw any remuneration being member of the Managing Committee. According to the school there is no bar for a member of the managing committee to take up full-time position and be paid remuneration. The review of the order dated 25th April, 2016 is sought seeking that the funds paid to the society and/or Chairman be not considered as funds diverted by the school.
3. Apparently the school has sought review of the order/recommendation of the committee dated 25th April, 2016 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 25th April, 2016. It is apparent that the Committee has become functus officio after it passed the order dated 25th April, 2016. The school has not produced any law or precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its order on merits.

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4. It is well settled that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

"Thus a judge , when he has decided a question brought before him, is functus officio, and cannot review his own decision."

Black's Law Dictionary (6th Edn., p 673) gives the meaning of functus officio as follows:

"Having fulfilled the function, discharged the office, or accomplished the purpose, and therefore of no further force or authority"

Consequently after the Committee had made its recommendations and passed the order in the case of Applicant school and notified the same to the Hon'ble High Court, the Committee became functus officio as it had decided the question brought before it.

5. Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review of orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also noticed error apparent on the

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face of record in the Committee's recommendation and therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

" Kindly place this letter before the Hon'ble Division Bench dealing with the matter, as the Committee seeks urgent directions for grant of permission to rectify our recommendations, which may suffer from errors apparent on the face of the record."

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. The Hon'ble Court passed the following order:

"W.P (C) 7777/2009 & CM No. 3168 of 2013

In view of the letter dated 12.02.2014 received from the Committee, we permit the Committee to review the case of Rukmani Devi Public School, Pitam Pura - 110034 **only**.

The writ petition shall be re-notified on 09.05.2014"

6. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee.

7. From the perusal of the applications/representations dated 19th August, 2016 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept

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'Procedural lapse'. It is also well established that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel NarshiThakershi and Ors. v. Pradyumansinghji Arjunsingji MANU/ SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In Patel Narshi Thakershi & ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debit a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

8. The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall

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of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that vitiates the proceeding and invalidate the order made therein, in as much the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representatives of the school had appeared and produced record which were perused and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 25th April, 2016.

9. Applying these principles it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

10. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 25th April, 2016 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which

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vitiating the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing the Committee to review its orders/recommendations either expressly or by necessary implication.

11. The applications/representations dated 19th August, 2016 seeking recalling/revoking of the order dated 25th April, 2016 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by the School. The applications/representation dated 19th August, 2016 by the school seeking review of the order/recommendation dated 25th April, 2016 is, therefore, not maintainable and it is disposed off as not maintainable



**JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON**



**J.S. KOCHAR
MEMBER**



**R.K. SHARMA
MEMBER**

Date: 30/8/17

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000117

**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE
AT NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of School Fee)

In the matter of:

Good Samaritan School (B-131),

Sector 8, Jasola

New Delhi 110 025

And in the matter of

Applications/representations dated

16th June 2017 & 20th July 2017

seeking review of order Dated

13th August, 2013 passed by the

Committee in respect of the School.

Present: Dr. Ananthi Jeba Singh, Founder Manager, Ms. Roselin Vincent, Assistant of Founder Member, Sh. Babloo Prasad, Accountant, Ms. Princess Jebaseeli, Office staff of the School.

ORDER

1. The Committee passed the order/recommendation dated 13th August, 2013 in respect of Good Samaritan School, Sector 8, Jasola, New Delhi 110 025 referred to as 'The School'. The Committee by order dated 13th August, 2013 recommended that since the school had used a large proportion of development fee in purchase of buses which was not permitted uses of development fee and the School did not maintain any separate fund account for the development fee and depreciation reserve, therefore, the development fee collected by the school amounting to Rs. 1,246,651/- for the years 2009 - 10 and Rs. 2,136,391/- is to be

Applications for Review dated 126.6.2017 & 20.7.2017, Good Samaritan School (B-131)

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refunded by the school with interest @ 9% per annum. Regarding the tuition fee taking into consideration all the facts and circumstances it was inferred that school is not liable to refund the excess of tuition fee amounting to Rs. 266,275/- as the school was required to have reserved funds.

2. The school has filed the applications/representations dated 16th June, 2017 and 20th July, 2017 seeking review of order/recommendation of the Committee dated 13th August, 2013. The school has contended that it kept the Development fund separately and Capital Expenditure accounts separately. The School however admitted that its auditor failed to post as a Development Fund Account. It has also been contended that the money has not been misused and was in the same bank account, the only bank account which the school had at that time. Regarding the buses purchased by the school it is contended that since the Hon'ble Supreme Court had ordered that the school should provide buses for students, the buses were purchased. The loans were taken for purchasing the bus and the loan amount was paid through IC account. The money was also paid from the transport money and the applicant has filed bank statements and the details of other loan payments. The school has sought review of orders/recommendations of the committee directing refund of development charges as stated here in above.

3. Apparently the school has sought review of the order/recommendation of the committee dated 13th August, 2013 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 13th August, 2013. It is apparent that

the Committee has become functus officio after it passed the order dated 13th August, 2013.

4. It is well settled that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

"Thus a judge , when he has decided a question brought before him, is functus officio, and cannot review his own decision."

Black's Law Dictionary (6th Edn., p 673) gives the meaning of functus officio as follows:

"Having fulfilled the function, discharged the office, or accomplished the purpose, and therefore of no further force or authority"

Consequently after the Committee had made its recommendations and passed the order in the case of Applicant school and notified the same to the Hon'ble High Court, the Committee became functus officio as it had decided the question brought before it.

000120

5. Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review of orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also noticed error apparent on the face of record in the Committee's recommendation and therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

" Kindly place this letter before the Hon'ble Division Bench dealing with the matter, as the Committee seeks urgent directions for grant of permission to rectify our recommendations, which may suffer from errors apparent on the face of the record."

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. The Hon'ble Court passed the following order:

"W.P (C) 7777/2009 & CM No. 3168 of 2013

In view of the letter dated 12.02.2014 received from the Committee, we permit the Committee to review the case of Rukmani Devi Public School, Pitam Pura - 110034 **only**.

The writ petition shall be re-notified on 09.05.2014"

6. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee in the case of Rukmani Devi Public School and consequently the School cannot contend on the basis of the order passed



000121

in the said case that the Committee has the power to review its order/recommendation and the power was given by the Hon'ble Court.

7. From the perusal of the applications/representations dated 16th June, 2017 and 20th July, 2017 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. It is also well established that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel NarshiThakershi and Ors. v. Pradyumansinghji Arjunsingji MANU/ SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In Patel Narshi Thakershi & ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debita a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal. The plea of the School that it is not seeking review and is only seeking to add to/amend what has already been submitted by the School cannot be accepted.


Smt. J. P. Singh



8. The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that vitiates the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which was perused and the pleas and contentions of the

000123

school were taken into consideration before passing the order/recommendations dated 13th August, 2013.

9. Applying these principles it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.
10. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 13th August, 2013 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and/or some of the facts were not disclosed earlier and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing the Committee to review its orders/recommendations either expressly or by necessary implication.
11. The applications/representations dated 16th June, 2017 and 20th July, 2017 seeking recalling/revoking of the order dated 13th August, 2013 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by

000124

the School. The applications/representations dated 16th June, 2017 and 20th July, 2017 by the school seeking review of the order/recommendation dated 13th August, 2013 are, therefore, not maintainable and they are disposed off as not maintainable

**JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON**

**J.S. KOCHAR
MEMBER**

**R.K. SHARMA
MEMBER**

Date: 30/8/17

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000125

**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE
AT NEW DELHI**

(Formerly Justice Anil Dev Singh Committee for review of School Fee)

In the matter of:

N C JINDAL PUBLIC SCHOOL (B-071),

Road No. 73, Punjabi Bagh (West),

New Delhi 110026

And in the matter of

Applications/representations dated

6th January, 2017 seeking review of

Order dated 13th August, 2013 directing

Refund of excess of development fee and

Review of order dated 11th August, 2016

Disposing off the application of the school

For review as not maintainable

in respect of the School.

Present: Sh. Ravi Gupta Sr. Advocate, Sh. Ujjwal Kumar Jha Advocate,
Sh. Sachin Jain Advocate, Dr. D.K.Pandey, Principal & Sh.
K.S.Singhal consultant of the school.

ORDER

- 1.. The Committee passed the order/recommendation dated 13th August, 2013 in respect of N.C.Jindal Public School, Road No. 73, Punjabi Bagh (West) New Delhi-110026 referred to as 'The School'. The Committee had held by order/recommendation dated 13th August, 2013 that the school ought to refund the excess development fee arrears



000126

charge for the period 1 September, 2008 to 31 March 2009, amounting to ₹ 1,345, 862 as the same had been illegally charged without obtaining the specific approval of the Director of Education as required under section 17 (3) of Delhi School Education Act, 1973. The Committee also ordered refund with simple interest@ 9% per annum.

2. The school sought review of order dated 13th August, 2013 of the Committee by filing the application/representation dated 10th July, 2015. The application for review filed by the school was disposed of by the committee by order dated 11 August 2016 holding that the application for review is not maintainable.

3. It appears that thereafter the School filed a writ petition W.P (C) 9532 of 2016 titled N.C.Jindal Public School Vs Govt. of NCT and arr. which was disposed off by order dated 14th December, 2016 by the Hon'ble High Court. The Hon'ble High Court passed the following order:

* File taken up today as 12 December, 2016 was declared holiday on account of Milad-Un-Nabi.

Learned counsel for the respondents states that he has taken instructions. According to his instructions, the petitioner would be at liberty to file a rectification application of orders dated August 11, 2016 and August 13th, 2013 before the Fee Anomaly Committee. The said the statement is taken on record.

In view of the statement made by the learned counsel for the respondents, Mr. Rajiv Bansal seeks to withdraw the writ petition to approach the Fee Anomaly Committee by way of a rectification application. The petition as well as connected application is dismissed as withdrawn.

The petition shall be at liberty to seek such remedy as available in law, if the petitioner is still aggrieved by order of the Fee Anomaly Committee.*

4. Before passing order dated 13th August, 2013 a questionnaire was issued to the school to ascertain whether the school had implemented the recommendations of sixth pay commission or not. Preliminary examination of the financials of the school was carried out by the



000127

Chartered Accountants of the committee. The school was issued a notice dated 20th February, 2013 for providing the school an opportunity of being heard as prima facie it had appeared that the school had increased fee more than what was required to meet the additional burden on account of implementation of sixth pay commission. It had also transpired that the school did not maintain an earmarked bank account or FDRs or investments for development fee. It had also transpired that the depreciation reserve was also maintained only in books and no separate fund was maintained. The details of accrued liabilities of gratuity and leave encashment along with actuarial valuation were also taken into consideration. The Committee had inferred that the contentions of the school on account of increased expenditure on provident fund contribution, deposit linked insurance, administrative charges and security and housekeeping expenses was not supported by the financials of the school. The Committee, however, recommended/ordered refund of the excess development fee arrears charged for the period 1st September, 2008 to 31 March, 2009 as it was charged without obtaining the permission/specific approval of the Director of Education. The Committee also ordered/recommended refund along with interest @9% per annum.

5. The School had filed an application for review dated 10 July 2015 which was disposed of by the committee by order dated 11th August, 2016 holding that the application is not maintainable. The Committee dealt in detail as to why the application for review was not maintainable as the Committee does not have power of review. The power of review has not been conferred on the committee either by any statute or by the order of any Hon'ble Court. The Committee also detailed that the power was sought by the Committee in a number of cases, however, the permission to consider review was granted only in case of one school. Consequently

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the application for review dated 10th July, 2015 was disposed of as not maintainable.

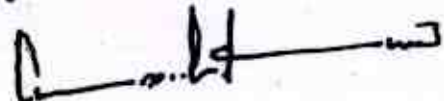
6. The order dated 14 December, 2016 cannot be construed to mean that the power of review has been conferred on the Committee nor the said order has set aside the order dated 11 August 2016 of the Committee holding that the application of review on merits is not maintainable. The Hon'ble Court has also held that the applicant shall be at liberty to seek such remedy, as available in law. Relying on various precedents this Committee had held that it does not have power of review on merits. The order dated 11th August, 2016 of the Committee has not been set aside or modified nor the power of review has been conferred on the Committee. Consequently the application dated 6th January, 2017 seeking review on merit is not maintainable. The learned senior counsel for the applicant has also relied on 2015 (4) SLR 115 (Delhi), Ajit Thapliyal & ors. v/s All India Institute of Medical Sciences to contend that the Committee has power to review its order/recommendation dated 13th August, 2013.

7. In Ajit Thapliyal (supra) the Division Bench of Hon'ble Delhi High Court had held that an Administrator decision which is wrong can be reviewed at any time and corrective action can be taken with respect to the wrong. However, the judicial decision, merely because they are wrong is no ground to review them. It was further held that two types of decisions are different. The Hon'ble Court had held as under:

- * 10. The argument is premised as if administrative decisions are subject to the same rigorous pertaining to review jurisdiction as we find in judicial decisions. An administrative decision which is wrong can be reviewed at any time and corrective action taken with respect to the wrong. With respect to judicial decisions, merely because they are wrong is no ground to review them. The two types of decisions are different."



8. The assumption by the applicant that the order dated 13 August 2013 of the Committee directing the School/applicant to refund the development fee with interest is only an administrative order and is therefore, can be reviewed by the Committee cannot be accepted. Similarly the assumption by the applicant that the order dated 11th August, 2016 passed by the Committee holding that the application for review of order dated 13th August, 2013 is not maintainable, is an administrative order cannot be accepted. The applicant has also been permitted and given liberty to seek such remedy as available to him in law. The Hon'ble Court by order dated 14 December, 2016 has not ^{set} aside or modified the order dated 11th August, 2016 passed by the Committee holding that the Committee does not have the power to review its orders on merits.
9. In the circumstances the orders passed by the Committee dated 13th August, 2013 and 11th August, 2016 cannot be reviewed on the basis of the application dated 6th January, 2017 of the applicant/school. The application is disposed off accordingly.




JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



J.S. KOCHAR

MEMBER



R.K. SHARMA

MEMBER

Date: 30/8/17

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