

WP(C) 7777/2009

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Delhi Abhibhavak Mahasangh & Ors.

Vs.

Govt. of NCT of Delhi & Ors.

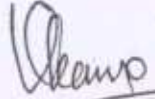
Report of Delhi High Court Committee for Review of School Fee for June-July 2016

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	5	15.07.2016	Review application of St. Vivekanand Sr. Sec. School, Ladpur (B-52) disposed off as not maintainable
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Place: Delhi

Date: 22.12.2016


Secretary 22/12/16

Delhi High Court Committee for Review of School Fee

Delhi High Court Committee For Review of School Fee
(Formerly Known as Justice Anil Dev Singh Committee For Review of School Fee)
C-Block, Vikas Bhawan-2, Upper Bata Road, Civil Lines, Delhi-1100

Delhi High Court Committee for Review of School Fee
(Formerly Justice Anil Dev Singh Committee for Review School Fee)

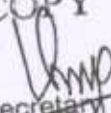
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Cause List for Monday 27th June, 2016

Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-156	Ryan International School, Vasant Kunj
2	B-345	Ryan International School, Gharauli, Mayur Vihar
3	B-220	Presidium School, Ashok Vihar
4	B-656	St. Thomas Girls S. S. School, Mandir Marg

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Delhi High Court Committee for Review of School Fee
(Formerly Justice Anil Dev Singh Committee for Review School Fee)

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Cause List for Friday 1st July, 2016
Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-171	Poorna Prajna Public School, Vasant Kunj
2	B-180	St. Paul's School, Safdarjung Development Area
3	B-137	St. Mary's School, Safdarjung Enclave
4	B-132	St. Michael's S.S.School, Pusa Road
5	B-136	Rattan Chand Arya Public School, Sarojini Nagar
6	B-146	Vishwa Bharti Public School, Sector 6, Dwarka

Cause List for Monday 4th July, 2016
Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-188	The Mother's S.S.School, Sri Aurobindo Marg
2	B-187	Balvantray Mehta Vidya Bhawan, Greater Kailash-II
3	B-186	Holy Child Auxilium School, Vasant Vihar
4	B-128	Shiksha Bharti Public school, Sector 7, Dwarka
5	B-145	Somerville School, Vasundhara Enclave
6	B-176	Vivekanand School, D-Block, Anand Vihar

Review Applications

S. No.	Cat. No.	School Name & Address
1	B-116	Bhai Joga Singh Public School, Karol Bagh
2	B-269	Gyan Jyoti Public Sec. School, Chhawla
3	B-239	S. D. Public School, West Patel Nagar
4	B-2	DAV Public School, Shreshtha Vihar
5	B-40	Kulachi Hansraj Model School, Ashok Vihar-III
6	B-76	Doon Public School, Paschim Vihar
7	B-213	Puneet Public School, Vishwas Nagar
8	C-376	Anglo Indian Public School, Gharauli
9	B-263	Rama Krishna Senior Sec. School, Vikas puri
10	B-144	Jhabban Lal DAV Public School, Paschim Vihar

Cause List for Friday 8th July, 2016
Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-86	Delhi Police Public School, Safdarjung Enclave
2	B-65	Sumermal Jain Public School, Janak Puri
3	B-80	Rich Harvest Public School, Janak Puri
4	B-95	Modern Convent School, Sector 4, Dwarka
5	B-231	Vivekanand Public School, B-Block, Anand Vihar
6	B-249	G.D. Goenka Public School (Formerly St. Martin's Public School), A-2 Paschim Vihar
7	B-51	Bal Bharti Public School, Rohini

Review Applications (08/07/2016)

S. No.	Cat. No.	School Name & Address
1	B-216	Tagore Public School, Naraina Vihar
2	C-292	Delhi International School, Rohini
3	B-388	Mount Carmel School, Dwarka
4	C-118	Krishna Bodh Public School, Nehru Nagar
5	A-49	Himalaya Public Sr. sec. School, Rohini
6	A-138	Shri Ram Bal Bharti School, Mandoli, shahdara
7	B-71	NC Jindal Public School, Punjabi Bagh

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8	A-154	Deen Bandhu Public School, Ghevra
9	B-529	Rukmani Devi Jaipuria Public School, Rajpur Road
10	B-335	Venishri International Girls School, Geeta Colony

Cause List for Friday 15th July, 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-250	St. Froebel Sr. Sec. School, Paschim Vihar
2	B-255	Banasthali Public School, Vikas Puri
3	B-246	St. Mary's Sr. Sec. School, Ambica Vihar
4	B-296	M.M. Public School, Pitam Pura
5	B-525	St. Xavier's Sr. Sec. School, Raj Niwas Marg
6	B-293	St. Xavier's School, Shahbad Daulatpur, Rohini
7	B-156	Ryan International School, Vasant Kunj
8	B-345	Ryan International School, Gharauli, Mayur Vihar

Review Applications

S. No.	Cat. No.	School Name & Address
1	B-549	Shri Ram Shiksha Mandir, Zindpur
2	B-52	St. Vivekanand Secondary School, Ladpur
3	B-460	ST. Mathews Public School, A-6 Paschim Vihar
4	B-536	Sri Guru Nanak Public School, Adarsh Nagar
5	B-113	Mater Dei School, Tilak Lane
6	B-72	Dharam Deep Sec. Public School, Nangloi
7	B-9	Mother Mary's School, Mayur Vihar-I
8	B-381	New Bal Vaishali Public School, Meetha pur Extension
9	B-75	Indraprastha World School, Paschim Vihar
10	B-4	Salwan Public School, Mayur Vihar

Cause List for Monday 18th July, 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-270	National Victor Public School, Patparganj
2	B-177	Bloom Public School, Vasant Kunj
3	B-300	Adharshila Vidya Peeth, CD Block, Pitampura
4	B-301	Bharti Public School, Kondli, Mayur Vihar
5	B-302	Bharti Public School, Swasthya Vihar
6	B-304	Mother Teresa Public School, Preet Vihar
7	B-171	Poorna Prajna Public School, Vasant Kunj

Cause List for Tuesday 19th July, 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-309	N.K. Bagrodia Public School, Sector 9, Rohini
2	B-316	South Delhi Public School, Defence Colony
3	B-317	Vidya Public School, Cannought Place
4	B-318	Navy Children School, Chanakya Puri
5	B-336	Arwachin Bharti Bhawan Sr. Sec. School, Vivek Vihar
6	B-341	Starex International School, Vasundhara Enclave
7	B-132	St. Michael's S.S.School, Pusa Road
8	B-136	Rattan Chand Arya Public School, Sarojini Nagar
9	B-146	Vishwa Bharti Public School, Sector 6, Dwarka
10	B-180	St. Paul's School, Safdarjung Development Area
11	B-61	Delhi International School, Sect. 9, Rohini

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Review Applications

S. No.	Cat. No.	School Name & Address
1	B-195	Vishal Sr. Sec. School, East of Kailash
2	B-606	St. George's School, Defence Colony
3	B-179	Father Agnel School, Gautam Nagar
4	B-618	Mount Carmel School, Anand Niketan
5	B-388	Mount Carmel School, Dwarka
6	B-280	Sonia Public School, Durgapuri Extension

Cause List for Wednesday 20th July, 2016

Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-342	Rishabh Public School, Mayur Vihar Phase-I
2	B-347	Ever Green Public School, Vasundhara Enclave
3	B-348	Ahlcon International School, Mayur Vihar Phase-I
4	B-350	Bal Mandir Sr. Sec. School, Defence Enclave
5	B-356	Notre Dame School, BTPS Staff Colony, Badarpur
6	B-376	Delhi International Happy School, Bhgal, Jungpura
7	B-220	Presidium School, Ashok Vihar
8	B-656	St. Thomas Girls S. S. School, Mandir Marg
9	B-137	St. Mary's School, Safdarjung Enclave

Review Applications

S. No.	Cat. No.	School Name & Address
1	B-126	Ambience Public School (Formerly Hill Grove Public School), Safdarjang Enclave
2	B-269	Gyan Jyoti Public Sec. School, Chhawla
3	B-239	S. D. Public School, West Patel Nagar
4	B-2	DAV Public School, Shreshtha Vihar
5	B-40	Kulachi Hansraj Model School, Ashok Vihar-III
6	B-76	Doon Public School, Paschim Vihar
7	B-213	Puneet Public School, Vishwas Nagar
8	B-144	Jhabban Lal DAV Public School, Paschim Vihar
9	B-216	Tagore Public School, Naraina Vihar
10	C-292	Delhi International School, Sect. 3 Rohini
11	B-522	Krishna Bodh Shiksha Sadan, Vill. Mandoli, Bank Colony
12	A-49	Himalaya Public Sr. sec. School, Rohini
13	A-138	Shri Ram Bal Bharti School, Mandoli, shahdara
14	B-71	NC Jindal Public School, Punjabi Bagh
15	A-154	Deen Bandhu Public School, Ghevra
16	B-529	Rukmani Devi Jaipuria Public School, Rajpur Road
17	B-305	Saai Memorial Girls School, Geeta Colony

Cause List for Friday 22nd July, 2016

Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-51	Bal Bharti Public School, Rohini
2	B-46	Mother Divine Public School, Sector 3, Rohini
3	B-45	Happy Home Public School, Sector 2, Rohini
4	B-44	Decent Public School, Sector 3, Rohini
5	B-185	Chinmaya Vidyalaya, Vasant Vihar
6	B-236	Maharaja Aggarsain Adarsh Public School, Pitampura
7	B-43	Rockfield Public School, Sector 3, Rohini

Review Applications

S. No.	Cat. No.	School Name & Address
1	B-214	J M International School, Dwarka
2	C-98	Guru Angad Public School, Ashok vihar-I

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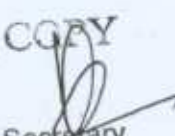
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3	B-88	Bhatnagar International School, Vasant Kunj
4	B-118	Manav Sthali School, New Rajinder Nagar
5	C-114	National Public School, Karkardooma
6	B-10	Universal Public School, Preet Vihar
7	B-17	Oscar Public School, Burari
8	B-192	Cambridge Foundation School, Rajouri Garden Ext.
9	C-397	National Public School, Jhilmil

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27.06.2016

Ryan International School, Mayur Vihar, Delhi

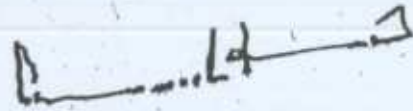
Present Sh. Louis R., Office Incharge and Sh. Mukesh Gupta, Sr. Accounts Officer of the School

The representatives of the school seek further time to respond to the notice dated 22/06/2016 issued by the Committee as they could not prepare the requisite details. The school is directed to file the fee schedule for 2008-09 and 2009-10 besides other documents mentioned in the notice.

Matter will come up for further hearing on 15/07/2016.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Ryan International School, Vasant Kunj, New Delhi

27.06.2016


Present Sh. Louis R., Office Incharge and Sh. Mukesh Gupta, Sr. Accounts Officer of the School.

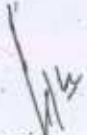
The representatives of the school have filed submission dated 27/06/2016 stating that separate books of accounts for pre primary section and primary section are maintained w.e.f. financial year 2010-11. Prior to that, the main balance sheet of the school itself contains financial of pre-primary and primary sections. The details of mode of payment of salary in 2008-09 and 2009-10 have also been filed. It is submitted that bulk of the payment of salary is made by bank transfer and only adhoc staff is paid salary in cash.

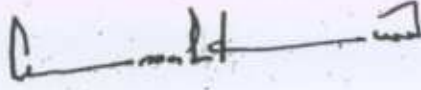
Perusal of the information filed by the school under cover of its letter dated 28/05/2015 particularly copy of circular issued to the parents, regarding fee hike in pursuance of circular dated 11.02.2009 issued by the Director of Education shows that the tuition fee for all the classes was hiked by Rs. 400 per month and development fee was hiked by Rs. 153 per month w.e.f. 01/09/08. It is submitted thata no further hike was effected for the year 2009-10.

With regard to the development fee, it is stated that the same is treated as a revenue receipt. As per the detail filed by the school, the utilization of development fee is mainly for the purpose of repair and maintenance of school building. The school is directed to furnish the fee schedule for the years 2008-09 and 2009-10 within seven days. The queries raised by the Committee have not been suitably answered by the representatives of the school as they are not carrying the requisite records. They seek further time to do so.


Matter will come up for further hearing on 15/07/2016.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


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Presidium School, Ashok Vihar, Delhi

27.06.2016

Present Ms. Dipti Jain, Scout/Guide Instructor of the school

The representative of the school files a letter requesting for postponement of the hearing after 7th July 2016. As requested, the matter will be relisted on 20/07/2016 at 11.00 a.m.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
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ST. THOMAS' SCHOOL, MANDIR MARG, NEW DELHI

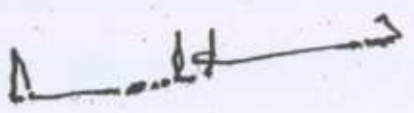
27.06.2016

Present Sh. R.K. Khanna, Chartered Accountant and Sh. Vinod Dayal, Accountant of the school.

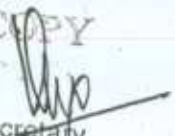
The information furnished by the school under cover of its letter dated 07/07/2015 has been perused. Perusal of the copy of the circular issued by the school to the parents regarding fee hike w.e.f. 01/09/2008 pursuant to the order dated 11/02/2009 issued by the Director of Education shows that the school hiked the tuition fee by Rs. 300 per month for all the classes. Further the school charged the development fee for classes nursery and KG @ Rs. 263 per month, for classes I to VIII @ 253 per month and for classes IX to XII @ Rs. 241 per month for the period 01/09/2008 to 31/03/2009. However as per the original fee schedule for the year 2008-09, the school was not charging any development fee at all. The basis of charging of development fee at these rates w.e.f. 01/09/2008 has not been explained and the school seeks time for doing so. Earlier in reply to the questionnaire issued by the Committee vide letter dated 17/05/2013, the school had conceded that the development fee is treated as a revenue receipt and consequently no separate depreciation reserve fund or development fund account were maintained. The representatives of the school submit that the information furnished is correct and the school treated the development fee as a revenue receipt in 2009-10 and 2010-11 also. The school is directed to furnish the basis of charging of development fee mentioned as above and also furnish the utilization thereof within seven days. At the request of the school, the matter will be relisted on 20/07/2016 at 11.00 a.m.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


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


1/7/2016

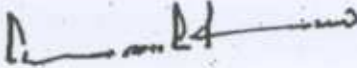
Poorna Prajna Public School, Vasant Kunj, Delhi

Present -Sh. Rattan Singh, Manager, Sh. Narayan Kulkare, Office Supdt., Ms. Sandhya Gupta, UDC & Sh. Dinesh Kumar, UDC of the school.


The Committee has perused the statement of salary filed by the school vide letter dated 1.06.2015. However, it finds that the figures particularly with regard to the arrears of development fee do not match with the circular issued to the parents for recovery of such arrears. Further the committee finds that the school was charging development fee at the rate which was less than 10% of tuition fee in 2008-09. However while recovering the arrears of development fee w.e.f. 01. Sept. 2008, the school has increased the rate of development fee to 15% of tuition fee. The figures of fee and salary are not verifiable as the representatives of the school have not brought their complete books of accounts. The school has also not submitted the statement of accounts of the parent trust /society as appearing in the books of the school. The statement of accrued liability of gratuity and leave encashment has also not been submitted. The representatives of the school seek time to produce /furnish these documents and records. The matter will be heard again on 18th July 2016 at 11.00 A.M. The school is directed to come fully prepared on that date. No further adjournment will be allowed.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


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St. Paul's School, Safdarjung Development Area, Delhi

1/7/16

Present -Sh. Jose P.T., Accountant & Sh. Roy T. Thomas,
Accountant of the school.

The representatives of the school have filed letter seeking
adjournment. As requested the matter adjourned for 20th July 2016.
No further adjournment will be allowed in the matter.

Sh

**R.K. SHARMA
MEMBER**

J.S. KOCHAR

**J.S. KOCHAR
MEMBER**

1/7/16

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

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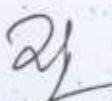


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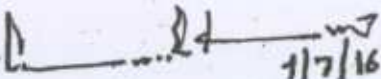
St. Mary's School, Safdarjung Enclave, Delhi.

Present - Sh. P.A. Sivichen Accounts Suptd. of the school.

The school has filed a letter seeking adjournment on account of the school being closed for summer vacations. As requested the matter will be relisted on 20th July 2016. The school is expected to come fully prepared with all the documents and records. The committee has perused the circular dated March 2009 issued to the parents regarding fee hike pursuant to order dated 11th Feb. 2009. The school has hiked the tuition fee by Rs. 400/- p.m. w.e.f. 1st Sept. 2008. Besides, the school has also hiked the development fee @ Rs. 60/- per month w.e.f. 1st Sept. 2008 which is 15% of the hike in tuition fee. Additionally, the school has recovered 5% of development fee from April 2008 to March 2009 which is purportedly the difference between the development fee charged earlier at 15% of the tuition fee. The school is required to justify the hike of further 5% of development fee for the period April 2008 to March 2009.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
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St. Michael's Sr.Sec. School, Pusa Road, Delhi

1/7/16

Present -Sh. Devender Kumar, Accountant of the school.

The representative of the school has filed a letter seeking 15 days time. In the detail of fee and salary filed by the school, recovery of arrear of development fee for the period 1.09.2008 to 31.03.2009 is also reflected besides the arrears of tuition fee. However, in the copy of circular issued to the parents filed by the school, it appears that no such arrears were demanded. The school is required to clarify this position. In case another circular was issued for charging arrears of development fee, the same be filed on the next date of hearing. The matter will be relisted on 19th July 2016.

Rk
R.K. SHARMA
MEMBER

J/S
J.S.KOCHAR
MEMBER

11/7/16
JUSTICE ANIL KUMAR (Retd.)
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Rattan Chand Arya Public School, Sarojini Nagar, Delhi

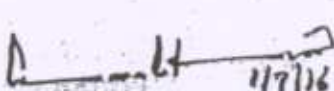
117/16

Present -- Ms. Namita Palit, Manager & Ms. Latesh, UDC of the school.


The representatives of the school have filed a letter seeking some more time. The Committee has perused the information filed by the school as well as copy of the circular issued to the parents regarding fee hike. It appears that the school hiked tuition fee by Rs. 200/- p.m. w.e.f. 1st Sept. 2008, besides recovery of lump sum arrears as per order dated 11.02.2009 issued by the Directorate of Education. The circular does not mention anything about recovery of arrears of development fee although the school charges development fee. The manager of the school has stated that the school did not hike any development fee and hiked only the tuition fee. The matter will be relisted on 19th July 2016. The school is expected to come fully prepared with all the records and documents.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER

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JUSTICE ANIL KUMAR (Retd.)
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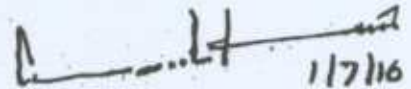
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Vishwa Bharti Public School, Sector-6, Dwarka, Delhi


1/7/2016

Present - Sh. K.K. Kundan, Accountant of the school.

The representative of the school has filed a letter seeking adjournment on ground that the relevant documents are lying at Jammu, where the office of the parent society is located. As requested the matter will be relisted on 19th July 2016 at 11.00 A.M.

R.K. SHARMA
MEMBERJ.S. KOCHAR
MEMBER 1/7/16JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary

04/07/2016

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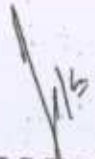
The Mother's S.S. School, Sri Aurobindo Marg, New Delhi

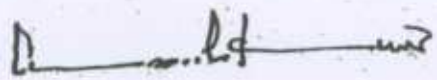
Present:- Sh. Om Prakash, UDC and Sh. Satish Agarwal, Audit Assistant of the school.

The documents filed by the school regarding fee hike have been partially examined. As per the circular issued to the parents, it appears that the school vide circular dated 2nd March 2009, hiked the tuition fee @ Rs. 400 per month w.e.f. 01/09/2008 and development fee @ Rs. 138 per month with effect from the same date. Again vide circular dated 12 April 2009, it appears that school further increased the tuition fee @ Rs. 324 per month w.e.f. 01/09/2008. Thereafter the school approached the Grievance Redressal Committee constituted vide order dated 11/02/2009 and was again allowed a further hike in the lump sum fee charged. Consequent to such order, the school, vide circular dated 11th May 2010 again recovered lump sum arrears from the students. The representatives of the school are not in a position to fully clarify as to how much fee was increased at different stages. The school is directed to produce the fee and accounting records before the audit officer of this Committee for verification who will put up a detailed note regarding the fee hike effected by the school.


The matter will come up for further hearing on 2nd August, 2016.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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04/07/2016

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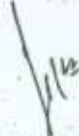
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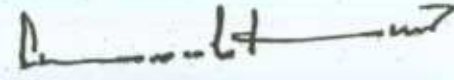
Balvantray Mehta Vidya Bhawan, Greater Kailash-II, New Delhi

Present:- Sh. Gp. Capt Bahri, Director-Manager, and Ms. Alka Sharma, UDC of the school.

The statement dated 26th May 2015 regarding the break up of fee and salary filed by the school has been examined. The Committee observes that as per the circular issued by the school to the parents, it hiked the tuition fee by Rs. 200 per month w.e.f. 01/09/2008 and recovered a lump sum arrears @ Rs. 2,500 per student. However, in the statement filed by the school, the lump sum arrear fee for the period 01/01/2006 to 31/08/2008 has only been shown. It is stated that the arrear fee for the period 01/09/08 to 31/03/2009 is "Not applicable", which position does not confirm to the circular issued by the school to the parents. Likewise, the school has not been shown any arrear salary paid to the staff for the period 01/09/2008 to 31/03/2009. However, the representatives of the school contend that the arrear salary of this period was also paid. The balance sheet of the school shows a loan of Rs. 3,72,29,057 to the parent Society of the school i.e. Servants of the Peoples Society. The representatives submit that the same has since been repaid but no evidence of the repayment has been produced. In respect of the accrued liabilities of gratuity and leave encashment also, the school states that they are "not applicable". However, the representatives of the school contend that there are a number of employees with the service exceeding 5 years. In reply to the questionnaire regarding development fee as well as in the statement of fee and salary filed by the school, it is conceded that development fee is treated as a revenue receipt. The representatives of the school seeks some time for filing a correct statement of fee and salary and also the details of accrued liabilities of gratuity and leave encashment. As requested by them, the matter will be further heard on 9th August 2016. The school is expected to be present with the entire records particularly regarding payment of salary and recovery of fee for the year 2008-09 to 2010-11.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



04/07/2016

B-186

Holy Child Auxilium School, Vasant Vihar, New Delhi

Present:- Sr. Teresina M. Administrator and Sh. Parmod Sinha,
Assistant of the school.

As per circular issued by the school to the parents, the school hiked the tuition fee @ Rs. 200 per month and development fee @ Rs. 30 per month for classes KG to V class, besides recovering the lump sum fee as provided in the order dated 11/02/2009. For classes VI to IX and XI, the hike in tuition fee @ Rs. 300 per month and development fee @ Rs. 45 per month. For classes X & XII also, the hike was Rs. 300 per month and Rs. 45 per month respectively. The hike in development fee was @ 15% of the hike in tuition fee. The Committee has examined the fee schedule of the year 2008-09 and observes that originally also the development fee was recovered @ 15% of the tuition fee. The school has filed actuarial valuation report of Sh. M.L. Sodhi, Consulting Actuary who as estimated the accrued liability of the school at Rs. 11,71,663 for leave encashment and Rs. 1,11,48,778 for gratuity. In the reply to the questionnaire regarding regular development fee as well as in the fee and salary statement subsequently filed, the school has conceded that it was treating development fee as a revenue receipt and as such no earmarked accounts were maintained for development fund and depreciation reserve fund. The amounts recovered on account of development fee were Rs. 57,81,575 in the year 2009-10 and Rs. 59,50,046 in the year 2010-11. In the statement of fee and salary filed by the school, the school has not been given any break up of arrear of tuition fee as well as arrear of development fee for different periods. The representatives submit that the same will be furnished within one week. The representatives submit that there are no transaction between the school and its parent society.

Matter will come up for further hearing on 2nd August 2010

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Secretary



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R.K. SHARMA
MEMBER

J.S. KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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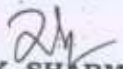
Shiksha Bharti Public School, Sector-7, Dwarka, New Delhi

Present:- Sh. S.K. Sharma, Accountant (P/T) and Sh. Prabasis Rait, Accountant (F/T) of the school.

The Committee perused the statement of salary for the year 2008-09 and 2009-10 filed by the school and observes that in 2008-09 out of total salary of Rs. 1,38,39,863, a sum of Rs. 99,16,135 was paid in cash and Rs. 28,10,890 by bearer cheques. A nominal amount of Rs. 11,12,838 was paid by Account Payee Cheques. Similarly, in the year 2009-10, out of total payment of Rs. 2,03,98,938, a sum of Rs. 77,09,897 was paid in cash, Rs. 1,11,42,893 by bearer cheques and a small amount of Rs. 15,46,148 by account payee cheques. Even the payment of arrear salary purportedly paid consequent to the implementation of VI Pay Commission report amounting to Rs. 37,76,116 was paid in cash. The school claims that the accrued liability of gratuity as on 31st March 2010 was Rs. 44,22,598 and that of leave encashment was Rs. 3,41,655.

As per the circular issued to the parents regarding fee hike in pursuance of order dated 11.02.2009, the school recovered a sum of Rs. 1400 as arrear of tuition fee for the period 01/09/2008 to 31/03/2009 for classes I to VIII and Rs. 2100 for classes IX to XII. Besides the school also recovered lump sum arrear of Rs. 2,500 per student of classes I to VIII and Rs. 3000 per student of classes IX to XII. Regular tuition fee hiked by the school was @ Rs. 200 per month for classes I to VIII and Rs. 300 per month for classes IX to XII w.e.f. 01/09/2008.

Matter is heard finally. Reserved for recommendations.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



04/07/2016

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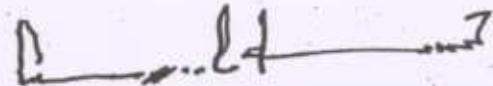
Somerville School, Vasundhara Enclave, New Delhi

Present:- Sh. Abraham Mathew, Chief Accountant, Sh. Joby Joseph, Accountant and Sh. Cyril Basil, Assistant of the school.

During the course of hearing, the Committee has observed that there are two complaints against the school, one filed by Ms. Ayesha S. Templeton, Ex Principal of the school and another filed by Sh. L.N. Yadav, apparently a parent of a student of the school. Both the complaints have some bearing on the matter being examined by the Committee. The office is directed to provide copies of both the complaints to the representatives of the school for their response, if any. Notices may also be issued to the complainants for hearing on 9th August 2016 at 11.00 a.m.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



04/07/2016

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Vivekanand School, D Block, Anand Vihar, Delhi

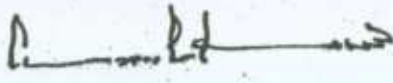
Present:- Sh. Manu RG Luthra, Chartered Accountant and Sh. Pradyumn Ahuja, Manager of the school.

As per the circular issued to the parents, the school hiked tuition fee of Rs. 300 per month w.e.f. September 2008 and development fee @ 15% of the hiked tuition fee for classes nursery to VIII. For classes IX to XII, the hike was Rs. 400 per month with corresponding hike of development fee @ 15% of tuition fee. Besides, the school recovered lump sum arrear as provided in the order dated 11/02/2009 of the Director of Education. Originally also the school was charging development fee @ 15% of the tuition fee for the year 2008-09. The Committee has perused the statement of fee and salary filed by the school. The school has claimed payment of arrear salary amounting to Rs. 78,86,017 for the period 01/01/2006 to 31/08/2008 and Rs. 75,38,213 for the period 01/09/2008 to 31/03/2009. It was submitted by the representatives of the school that the entire payment of arrears was either by bank transfer or by account payee cheques. However, on examining the copies of the bank statements filed by the school, the Committee observes that a number of payments have been made through bearer cheques against which cash has been withdrawn. The school is required to file a correct statement of the payment of arrears by bank transfer/account payee cheques and those purportedly paid by bearer cheques and also provide justification for payment by bearer cheques within one week. With regard to regular development fee, it is conceded that in the years 2009-10 and 2010-11, the same was treated as a revenue receipt in books. It is further submitted that although an earmarked development fund account was opened in the bank, the amount of development fee received was not deposited therein. The school has also filed details of accrued liabilities on account of gratuity as on 31/03/2010 which amounts to Rs.3,47,35,142 and leave encashment amounting to Rs. 94,97,208.

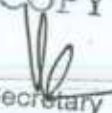
The matter will come up for further hearing on 02/08/2016.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Delhi Police Public School, Safdarjung Enclave, Delhi

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Present : Sh. S.N. Joneja, Executive Secy., Sh. Mahesh Pandey, Admn. Officer, Sh. Rama Shanker, Accounts Adviser, Sh. Trilochan Singh, Accountant & Sh. Radha Krishnan, Accounts Asstt. of the school.

The Committee has perused the copy of the circular issued to the parents regarding increase in fee pursuant to order dated 11.02.2009 issued by the Director of Education. The school charges differential fees from the students who are children of police personnel and those who are children of non police personnel. Amongst the children of police personnel also there are two categories P-1 & P-2 depending upon the rank of the parent of the child. As per copies of the circular filed by the school the school hiked tuition fee @ Rs. 200/- p.m. w.e.f. 1st Sept. 2008 from the wards of police personnel of both the categories while the increase in tuition fee from the wards of non police personnel was @ Rs. 400/- p.m. Further, the school recovered 15% of the hiked tuition fee for the periods 1st Sept. 2008 to 31st March 2009, which was Rs. 30/- p.m. from the wards of police personnel and Rs. 60/- p.m. from the wards of non police personnel. In addition, the school further recovered a sum of Rs. 449/- from the wards of P-1 category, Rs. 531/- from the wards of P-2 category and Rs. 1114/- from the wards of non police personnel as 15% on existing tuition fee. The school is required to show as to how it was authorized to increase the development fee on the existing tuition fee. Further, perusal of the statement of fee and salary filed by the school shows that the school has not given any breakup of the arrears of lump sum fee recovered for the period 1.1.2006 to 31st August 2008, arrears of tuition fee for the period 1.09.2008 to 31st March 2009, arrears of development fee for the period 01.09.2008 to 31st March 2009 and also increase in development fee on existing tuition fee. The school is required to furnish this break up also. Further, the figures of arrears of salary given by the school for the period 01.01.2006 to 31st Aug. 2008 and 01.09.2008 to 31st March 2009 given in consolidated form do not tally with break up of year wise payment 2009 to 2010-11. The school is required to reconcile these differences.

The Committee has also examined the original fee schedule for the period 2008-09. It is observed that while the tuition fee of different classes was different, the development fee charged was a fixed amount, irrespective of the tuition fee, although it was within 15% of tuition fee. The school may also submit as to how it was entitled to increase any development fee at all since the original development fee was not linked to the tuition fee.

So far as regular development fee is concerned the school has conceded in its reply to the questionnaire issued by the Committee as well as the statement of fee and salary filed subsequently that development fee charged in 2009-10 and 2010-11 was treated as a revenue receipt. It is further conceded that the development reserve fund was started only w.e.f. March 2013 and the earmarked development fund account was


Secretary


08/07/2016

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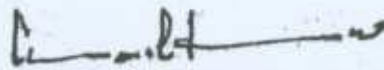
opened at Punjab National Bank, Naroji Nagar, Delhi, subsequently.
list the matter for further hearing is on 2nd August 2016.



R.K. SHARMA
MEMBER

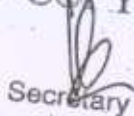


J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Secretary



Sumermal Jain Public School, Janak Puri, Delhi

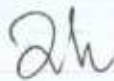
Present : Dr. G.R. Kanwal, Manager, Sh. Roopesh Jaipuria, Accountant, Sh. Deepak Singhal, Auditor & Sh. Nagendra Kumar, Accounts Clerk of the school.

The Committee has perused circular issued by the school to the parents regarding fee hike, consequent to the order dated 11.02.2009 issued by the Director of Education. As per the copies of the circular filed by the school, it hiked tuition fee by Rs. 300 p.m. w.e.f. 1st Sept 2008 besides lump sum fee of Rs. 3000/- per student for the period 1.1.2006 to 31st August 2008. Although the school was charging development fee, it is submitted that the school did not hike any development fee as a consequence of the hike in tuition fee.

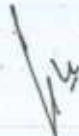
The school has filed audited balance sheet of Sumermal Jain Education & welfare Society which is the parent society of the school. It is submitted that the society incorporates the balance sheet of the school and in addition, also has revenues of pre-primary school which are not part of the revenue of the main school. The school has also furnished copies of the bank statements showing payment of arrears of salary, which are claimed to have been paid either by account payee cheques or by bank transfer. A nominal amount is stated to have been paid in cash. The statement of fee and salary, as per the proforma issued by the committee has also been filed. Perusal of the same shows that the school treated development fee as a revenue receipt in all the three years for which the information was sought i.e. 2008-09 to 2010-11. The development fee recovered in year 2009-10 was Rs. 5591458.00 and in 2010-11 it was Rs. 5724436.00. It is submitted that although the development fee was treated as revenue receipt, the net surplus of the school was transferred to retirement benefit fund, reserve fund, general fund and capital fund.

The school has furnished the details of its accrued liabilities, of gratuity and leave encashment. As per the details furnished the total accrued liability of gratuity as on 31.03.2010 was Rs.92,45,971/-. However, on perusal of the statement of gratuity the Committee observes that in respect of a few staff members the accrued liability is shown to be more than Rs. 350000/- which was the ceiling as prevailed on that date. With regard to liability of leave encashment the school has submitted its detail showing the total accrued liability as on 31st March 2010 was Rs.2430798/-.

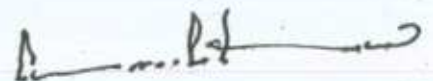
Calculation sheet to be prepared on the basis of Balance Sheet of the Society. List the matter for further hearing is on 2nd August 2016.



R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Secretary



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08/07/2016B-80Rich Harvest Public School, Janak Puri, Delhi

Present : Sh. Rajesh Vij, Chairman & Ms. Neeru, Office Supdt. of the school.

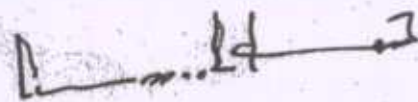
The school files a request for adjournment on the ground that its C.A. is not in Delhi. As requested the matter will come up for hearing on 2nd August 2016



R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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B-95


Modern Convent School, Sector-4, Dwarka, Delhi

Present: Ms. Sheetal Mann, Head of the school, Sh. Vinay Kaushik, O.S. & Sudhir Kumar, LDC of the school.

The school has furnished a statement giving the staff strength and mode of payment of salary for years 2008-09 & 2009-10.

The committee observes that in 2009-10 the staff employed by the school other than regular teachers, phenomenally increased as compared to 2008-09. The representatives of the school submit that in 2008-09 the support staff i.e. Aya, Sweepers, bus drivers etc. were outsourced but they were taken in the rolls of the school in 2009-10. It is further submitted that the support staff were employed through Manpower Suppliers in 2008-09 in pursuance of agreements signed with them. The representatives states that such agreements are not available with them at the moment and request for some time to produce the same.

The school is required to produce its complete salary records as well as the details of staff employed through Manpower agencies along with the agreements executed with such agencies and details of payment made to them and details of TDS deducted from such payments. Copies of TDS returns may also be produced for perusal. The reasons which prompted the school to discontinue the arrangement with the manpower agencies and take the staff on its rolls may be indicated. Further the school is required to produce provident fund returns to show the deduction of PF from such staff members in year 2009-10. These records may be produced before the Audit officer of the Committee on 21st July at 11.00 a.m. The matter will come up for further hearing on 2nd August 2016.


R.K. SHARMA
MEMBER


J.S. KOCHHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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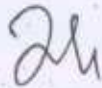
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Vivekanand Public School, B- Block, Anand Vihar, Delhi.

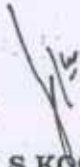
Present : Sh. Sunil Khanna, Manager & Sh. Sudhir Kumar, LDC of the school

Sh. Sunil Khanna authorized representative of the school stated that the accountant had taken away the relevant vouchers of 2009-10. Later on when he was confronted with the FIR dated 26 May 2015 which is just few days after the notice issued by this Committee was received by the school incorporating that the UDC was going from school to the Accountant of the school and he lost bills/vouchers of financial year 2009-10 (1st April 2009 to 31st March 2010). On being confronted with this anomaly the authorized representative has stated that the Accountant had taken away the vouchers of some other year.

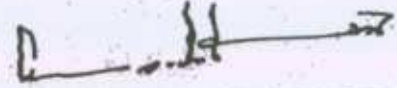
Later on to the query raised by the Committee, the authorised representative states that he got confused. He further states that he be given an opportunity to produce the records, which are with the school on its computer and bank statement, fee register, salary sheets etc. He seeks sometime. The records may be produced before the Audit officer of the committee on 21st July 2016 at 2.30 p.m. for examination by her and the matter will come up for further hearing on 4th August 2016 at 11.00 A.M.



R.K. SHARMA
MEMBER




J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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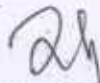
Secretary



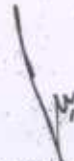
08/07/2016B-249G.D. Goenka Public School, Paschim Vihar, Delhi.

Present : Sh. Mithun Katry, C.A. & Sh. Sandeep Chadha Accountant of the school.

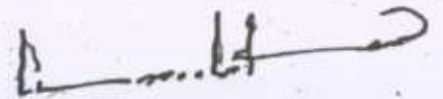
No time left. List on 4th August 2016 at 11.00 a.m.



R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Secretary

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B-51

Bal Baharti Public School, Rohini, Delhi.

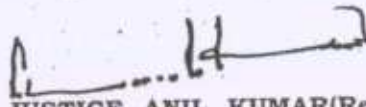
Present: Sh. A.B. Chakraborty, Admn. Officer & Sh. Pankaj Ahuja, Assistant of the school.

The recommendations in the matter were reserved earlier. However, the recommendations could not be pronounced on account of the resignation of the Chairperson. Consequently the matter is to be reheard.

The authorized representative of the school seeks time to make submission again. As requested the matter will come up for hearing on 22nd July 2016.


R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON.

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Secretary

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St. Froebel Sr. Sec. School, Paschim Vihar, Delhi

Present: Sh. Puneet Monga, Administrator, Ms. Kavita Monga, Principal, Sh. Mahavir Prasad, Accountant & Sh. S. Rana, Head Clerk of the school.

The Committee has perused copies of the circulars issued by the school regarding hike in fee, in pursuance of the order dated 11.2.2009 issued by the Director of Education. As per the circular and the fee structure for the year 2009-10, the school increased the tuition fee of students of different classes at different rates depending upon the existing tuition fee charged from them. The tuition fee for pre primary classes was increased by Rs. 300/- p.m., for classes 1st to 5th it was increased by Rs. 400/- p.m., for classes 6 to 10th it was increased by Rs. 300/- p.m. The hike in tuition fee of 11th and 12th classes was Rs. 300/- p.m. for students of commerce stream and Rs. 400/- p.m. for the students of science stream. Although the school was charging development fee in the year 2008-09, it claims not to have increased any development fee w.e.f. 1st Sept. 2008 to 31st March 2009, as a consequence of increase in tuition fee. Besides the hike in tuition fee as above, the school also recovered lump sum fee to cover the arrears of salary for the period 1.1.2006 to 31st Aug. 2008, as provided in the order dated 11.2.2009.

The school claims to have implemented the recommendations of 6th Pay Commission w.e.f. April 2009 and also paid arrears. The school claims to have paid the arrears of salary to the extent of the arrear fee recovered which was about 14 lakhs. The school claims that the actual liability was much more but it did not have the funds to pay the full amount of arrears. As per the statement of salary paid during the 2008-09 and 2009-10 filed by the school under cover of its letter dated 20.11.2015, the school has been paying bulk of the salary to the staff either in cash or by bearer cheques. In 2008-09, the total salary paid was Rs. 98.05 lakhs out of which only Rs. 7.24 lakhs was paid by account payee cheques. The rest was paid either in cash or by bearer cheques. Similarly in the year 2009-10 the total salary paid was Rs. 1.31 crores out of which the component paid by account payee cheque was only Rs. 11.12 lakhs. The Committee has perused the copies of the bank statement filed by the school and observes that even the arrear salary amounting to Rs. 14 lakhs approximately was paid either in cash or by bearer cheques. The authorized representative of the school concedes this position.

The school in its reply to the questionnaire issued by the Committee has vaguely stated that development fee is treated in the accounts as

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


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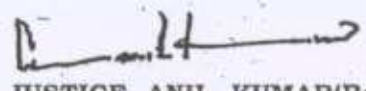
"capital receipt/revenue receipt" When asked to clarify, the authorized representative of the school concedes that it was treated as a revenue receipt and credited to the Income and Expenditure account of the school. Although the school claims that the development fee was utilized partially for purchase of fixed assets, perusal of Income and Expenditure accounts of school for the years 2009-10 & 10-11 shows that after taking credit of full development fee, the school incurred deficit of revenue account. The school further concedes that no earmarked development fee or depreciation reserve fund account were maintained by it. As per the documents filed by the school recovered a sum of Rs. 15,71,993/- as development fee in the year 2009-10 and Rs. 19,74,695 in the year 2010-11.

The school submits that the hike in tuition fee and recovery of lump sum arrear fee was justified as it did not have funds of its own for implementation of the recommendations of the Sixth Pay Commission.

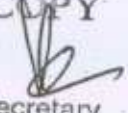
Heard. Recommendations reserved.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Banasthali Public School, Vikas Puri, Delhi.

Present:- Mrs. Shashi Mohan, Principal, Mrs. Anubha Goyal, Vice Principal, Dr. V.K. Goyal Chairman, Ms. Seema Malik, PGT & Sh. Manish Assistant of the school.

The Committee has perused copies of the circular issued by the school regarding hike in fee pursuant to the order dated 11.2.2009 issued by the Director of Education. As per the circular, the school hiked tuition fee w.e.f. 1st Sept. 2008 @ Rs. 200/- p.m. for classes 1st to 6th and Rs. 300/- p.m. for classes 7th to 12th. Besides, the school also recovered the lump sum arrears to cover the arrear salary for the period 1.1.2006 to 31st Aug. 2008, as provided the aforesaid order. Although the school was charging development fee for the year 2008-09, the circular does not mention anything about the increase in development fee. The authorized representatives of the school state that the development fee was not increased for this period.

The Committee has perused the statement of fee and salary filed by the school and observes that while the bulk of arrear fee was collected in the year 2008-09 and 2009-10, the school did not pay the arrear salary to the staff in those years. The first installment of arrear salary amounting to Rs. 4,15,000/- was paid only on 31st March 2011. The 2nd installment of arrear salary amounting to Rs. 3,80,000/- was paid on 5th March 2012. The representatives of the school submit that while the arrears were not paid in 2009-10, the school hiked the salary of the staff in accordance with the recommendations of the 6th Pay Commission w.e.f. 1st April 2009. In the statement of salary filed by the school giving the mode of payment, the school has vaguely mentioned that it was paid by cash as well as bank transfer. Separate amounts, paid in cash or by bank transfer have not given. The representatives submit that bulk of the salary was paid by bank transfer only. They have produced the ledger account to show this position, which has been examined by the Committee. The school has filed the audited balance sheet of Anand Prakash Charitable Education Trust (Society), which incorporates the accounts of the school. The representatives of the school submits that the society has no other activity apart from running the school.

With regard to the regular development fee charged by the school has conceded in the reply to the questionnaire issued by the Committee as well as in the fee and salary statement filed subsequently. During the hearing the authorized representatives of the school have conceded this position, that the same is treated as a revenue receipt and no

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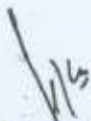
earmarked development fund or depreciation reserve funds accounts were maintained.

Calculation sheet to be prepared taking the funds availability as on 31st March 2008 taking the balance sheet of the society as the basis.

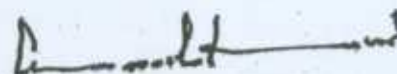
Matter to come up for further hearing on 4th August 2016.



R.K. SHARMA
MEMBER




J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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13/07/2016

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St Mary's Sr. Sec. School, Ambica Vihar, Delhi

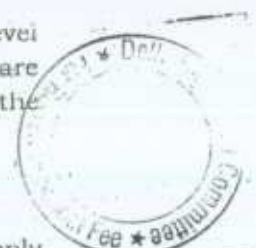
Present : Ms. Sylvia Paul, Principal, Sh. Sajan Kr. Agarwal, C.A. & Sh. Ashender Nigam, Clerk of the school.

The Committee has perused the circular dated 27.02.2009 issued by the school regarding hike in the fee pursuant to order dated 11.02.2009 issued by the Director of Education. As per the circular the school has increased tuition fee @ Rs. 300/- p.m. w.e.f. 1st Sept. 2008 for all the classes. Besides, the lump sum fee to cover the payment of arrears of salary for the period 1.1.2006 to 31st August 2008, as provided in the order dated 11.02.2009, was also recovered. The school claims that although the school was charging development fee in the year 2008-09, it did not hike the same w.e.f. 01st Sept. 2008.

The school claims that it had implemented the recommendations of the 6th Pay Commission w.e.f. from the month of Feb. 2008, the salary of which was paid in March 2008. The school has furnished the details of arrears salary paid for the period 1.1.2006 to 31st March 2009, which were paid in the years 2008-09, 2009-10 & 2010-11. The Committee has perused the bank statements filed by the school in support of payment of arrear salary. The arrears have been paid by individual cheques issued to the staff members. The Principal of the school states that all the cheques were account payee and nothing was paid in cash or by bearer cheques, except for two teachers of the nursery school who were paid by bearer cheques.

The school also has a separate nursery school, which is entry level school for the students. The balance sheet of the nursery school are prepared separately. The school has furnished the balance sheet of the nursery school for the years 2008-09 to 2010-11.

With regard to regular development fee, the school has stated in its reply to the questionnaire issued by the Committee that the development fee is treated as a capital receipt in its accounts. However, the school has also stated that it has not maintained any depreciation reserve fund as it is not charging any depreciation on its fixed assets. The balance sheets of the school also confirm this position.



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With regard to earmarked development fund, the principal of the school submit although earmarked development fund account was opened, but development fee collected by the school was not deposited in the


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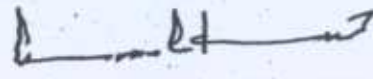
account and it remained a dormant account with a nominal balance. The balance sheets of the school also confirm this position.

Calculation sheet to be prepared by taking the balance sheet of the main school as well the nursery school as on 31.03.2008 to work out the funds availability with the school prior to fee hike.

Matter to come up for further hearing on 9th August 2016 at 11.00 A.M..


R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


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CHAIRPERSON

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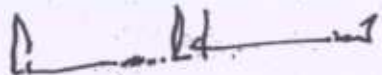
M.M. Public School, Pitam Pura, Delhi

Present: Sh. S.R. Pathak, Manager, Ms. Kavita Garg, LDC & Ms. Babita Goyal, LDC of the school.

The Committee has perused the statement of fee and salary filed by the school under cover of its letter dated 25.5.15. However, the authorized representatives of the school contend that the same does not reflect the correct picture with regard to arrears of salary as well as regular salary for the year 2009-10. They seek time to furnish the correct statement. As per their request the matter will come up for further hearing on 9th August 2016.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


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15/07/2016

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St. Xavier's Sr. Sec. School, Raj Niwas Marg, Delhi

Present : FR. M. Arockiam, S.J., Principal. Sh. Sunny Thomas, Accountant & Sh. Savin Chacko Accountant of the school.

Adjourned on the requested of the authorized representative of the school. List on 11th August 2016.

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R.K. SHARMA
MEMBER

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J.S.KOCHAR
MEMBER

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JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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
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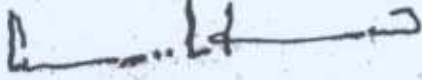
St. Xavier's School, Shahbad Daultpur, Rohini

Present : Sh. John Thomas, Accountant & Sh. Vinod Rawat, Accountant of the school.

Adjourned on the requested of the authorized representatives of the school. List on 11th August 2016.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


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15/07/2016

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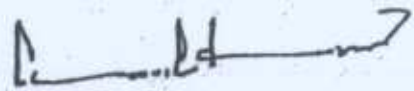
Ryan International School, Vasant Kunj, Delhi

Present: Sh. Louis Roorrigues, Office In charge of the school.

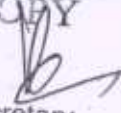
Adjourned on the requested of the authorized representative of the school. List on 11th August 2016.


R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


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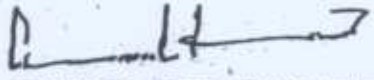
Ryan International School, Gharauli, Mayur Vihar, Delhi

Present: Sh. Louis Rorigues, Office In charge of the school.


Adjourned on the requested of the authorized representative of the school. List on 11th August 2016.


R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


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18/07/2016

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National Victor Public School, Patparganj, Delhi.

Present:- Sh. Rahul Jain, CA and Sh. Trilok Singh, Accountant of the school.

The Committee has perused the circular issued by the school regarding fee hike effected in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school hiked the tuition fee w.e.f 01.09.2008 @ Rs. 400 per month for class I and @ Rs. 300 per month for classes II to VIII. For classes IX to XII, the fee was hiked by Rs. 400 per month. Besides, the school also recovered lump sum fee @ Rs. 3,500 per student for classes in respect of which tuition fee was hiked by Rs. 400 per month and Rs. 3,000 per student for classes in respect of which fee was hiked by Rs. 300 per month. The school had filed the information required by the Committee vide its notice dated 14/05/2015, under cover of its letter dated 3rd June 2015 which includes the fee and salary break up for the years 2008-09 to 2010-11. The same has been perused by the Committee. As per the details and documents furnished, the school purportedly paid only 40% of the total amount due as arrears of salary and such payment amounted to Rs. 80,25,105. The remaining 60% was admittedly not paid. Almost the entire amount of arrears of around Rs. 80.00 lacs were paid by means of bearer cheques. Only a small amount of Rs. 4,38,379 is claimed to have been paid by account payee cheques. Perusal of the bank statement filed by the school shows that a number of cheques were encashed on the same date together in the month of November 2009 in respect of purported arrear payments. The school has also furnished a statement showing mode of payment of regular salary to the staff in the years 2008-09 and 2009-10. Out of a total salary of Rs. 2,78,42,871 for the year 2008-09, as much as Rs. 2,15,40,137 is admittedly paid, either in cash or by bearer cheques. In the year 2009-10, out of the total salary of Rs. 4,05,92,574, the component paid by cash or bearer cheques was as much as Rs. 3,16,03,937.

The school has furnished details of its accrued liability of gratuity and leave encashment as on 31/03/2008 and 31/03/2010. As per the details submitted, the school had a liability of Rs. 22,25,787 in respect of leave encashment and Rs. 16,64,128 in respect of gratuity as on 31/03/2010.

In reply to the questionnaire regarding development fee issued by the Committee, the school claims that it recovered development fee only in the year 2010-11 out of the five years for which the information was sought by the Committee. The amount recovered in this year was Rs. 68,39,905, which was admittedly credited to profit and loss account (i.e. treated as a revenue receipt). The school claims to have utilized an amount of Rs.39,84,630 on purchase of furniture, fixture and equipments. Although the school claims that the depreciation reserve fund on assets acquired out of development fee were kept in FDR, the Committee observes that the school had an FDR of Rs. 8,35,406 only as against the depreciation reserve amounting to Rs. 31,77,799. On a query by the Committee, the authorized representative of the school

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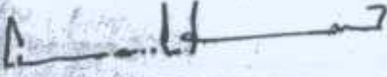
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concedes that even this FDR is pledged to the Directorate of Education and does not represent investment of depreciation reserve. The authorized representative of the school submits that treating development fee as revenue receipt is a technical accounting error and should not result in any consequence.

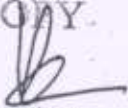
Hearing is closed. Recommendations reserved.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Secretary



18/07/2016

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B-177

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Blom Public School, Vasant Kunj, New Delhi-110070


Present: Mr. Ashutosh Batta, Principal, Ms. Tarveen Kaur, Incharge Admn., Mr. Rajesh Gupta, Accountant and Mr. Vijay Bansal, Chartered Accountant of the School.

The Committee has perused the copies of the circular issued to the parents regarding fee hike pursuant to order dated 11/02/2009 issued by the Direction of Education. As per these circulars the school hiked the tuition fee by Rs. 500 per month w.e.f. 1st Sept. 2008 for all the classes and also recovered the lump sum amount of Rs. 4,500 per student to cover the salary arrears for the period 01/01/2006 to 31/08/2008, as provided in the said circular. Additionally, the school recovered arrears of development fee for the period 01/09/2008 to 31/03/2009 @ Rs. 156 per month for standard Prep to I, @ Rs. 137 per month for standard II to V, @ Rs. 138 per month for standard VI to VIII, Rs. 144 per month for standard IX and X, Rs. 148 per month for standard XI and XII. The arrears of development fee recovered purportedly in pursuance of order dated 11/02/2009, were at a rate around 27% of the increased tuition fee. When asked to explain, the authorized representatives of the school contend that the school recovered the arrears of development fee calculated @ 15% of increased tuition fee. Besides, the school recovered the differential amount of development fee between 15% and 12%, which was earlier being charged and that is how the incremental development fee as a percentage of incremental tuition fee works out to around 27%. The representatives of the school contend that this was in accordance with para 14 and 15 of the order dated 11/02/2009.

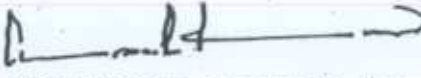
The Committee has perused the written submissions and the details filed by the school under cover of its letter dated 28/05/2015. However, it finds that the school had not furnished any details in respect of its accrued liabilities of gratuity and leave encashment as on 31/03/2008 and 31/03/2010. The authorized representatives seek some time to furnish the same.

With regard to regular development fee charged by the school, the school in reply to the questionnaire issued by the Committee has stated that the development fee recovered is treated as a capital receipt and the school is maintaining depreciation reserve fund on assets acquired out of development fee. It is further stated that the unutilized development fund and the depreciation reserve fund are held in earmarked bank account/FDRs as per the details given in the balance sheet as on 31/03/2011. The Committee has perused the balance sheet of the school 31/03/2011 and observes that though the school maintains substantial amount of FDRs, they are not earmarked against any specific fund. The school seeks time to furnish the details of its funds vis a vis the FDRs.

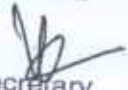
As requested, the matter will be listed for further hearing on 24/08/2016.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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18/07/2016

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B-300

Adharshila Vidya Peeth, CD Block, Pitampura, New Delhi.

Present:- Sh. Byomakesh Mishra, Principal, Sh. Vijay Kumar Sharma, Accountant, Ms. Geeta Kumar, Accountant, Ms. Dipali Garg, Chartered Accountant, Ms. Pooja Aggarwal, Consultant, Ms. Ruchika Khaïtar, TGT of the school.

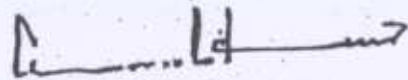
The Committee has perused the statement of fee and salary filed by the school vide letter dated 01/06/2014. However, the Committee observes that there are apparent mistakes in the statement so filed, in as much as the aggregate total fee and the total salary as given in the break up do not match with total fee and total salary as shown in the statement. The school seeks time to file a corrected statement. List the matter for further hearing on 24/08/2016.



R.K. SHARMA
MEMBER

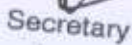


J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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18/07/2016B-301Bharti Public School, Kondli, Mayur Vihar, New Delhi.

Present:- Sh. Puneet Batra, Advocate, Sh. Mridul, A.O. and Sh. H.C. Batra, President, B.E.T. of the school.

The Committee has perused the statement of fee and salary giving the break up of mode of payment as well as student strength. The Committee observes that in 2008-09 the student strength was 1298 while in 2009-10 it was 1414. However, the number of teachers deployed by the school upto June 2009 were between 42 and 46. In July 2009, the number of teachers rose to around 62. The component of salary paid in cash or by bearer cheque rose from Rs.1,45,566 in June 2009 to Rs. 4,14,026 in July 2009. In October 2009, it further went upto Rs. 6,54,351 and thereafter remained around Rs. 4.00 lacs. The explanation given by the authorised representative of the school is that in 2009-10, the school got upgraded from class VII to class XII and therefore had to deploy new teachers. It is further stated that the new teachers are generally paid salary in cash or by bearer cheques. When asked to identify the new teacher in July 2009, the authorized representatives were not able to immediately identify the new teachers. They seek time to furnish the details in this regard.

At its request, the school is granted further time to furnish these details. Further the school will also file a copy of the letter of up-gradation received from Directorate of Education. Matter will come up for further hearing on 24/08/2016 at 11.00 a.m.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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18/07/2016

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B-302

Bharti Public School, Swasthya Vihar, Delhi

Present:- Sh. Puneet Batra, Advocate, Sh. H.C. Batra, President, B.E.T. and Sh. Devender Seth, Accountant of the school.

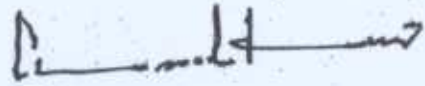
The representatives seek adjournment. Adjourned to 24/08/2016 at 11.00 a.m.



R.K. SHARMA
MEMBER




J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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18/07/2016

B-304

Mother Teresa Public School, Preet Vihar, Delhi

Present:- Sh. Ashok K. Sethi, Chairman, Ms. Neeta Jethy, Principal, Sh. Sanjiv Soni, Accountant, Sh. Piyush Jain, Chartered Accountant and Sh. S.N. Dixit, Advisor of the school.

The Committee finds that complete balance sheets of the school for the years 2008-09, 2009-10 and 2010-11 are not on record. The representatives of the school are also not able to provide the same immediately. The school seeks time to furnish the complete balance sheets for these years along with all its schedules and audit reports. The school files statement giving mode of payment of salary for the years 2008-09 and 2009-10, a detail giving employee wise payment of arrears consequent to implementation of VI Pay Commission report along with copies of TDS challans and a certificate from Punjab National Bank, Preet Vihar branch certifying that all the payment of arrear salaries were made through account payee cheques. The school also files employee wise detail of its accrued liabilities of gratuity and leave encashment as on 31/03/2010. These are taken on record.

As requested, the school may file the balance sheets for the years 2008-09, 2009-10 and 2010-11 within two weeks. Matter will come up for further hearing on 24/08/2016 at 11.00 a.m.

R.K. SHARMA
MEMBER

J.S. KOCHAR
MEMBER

JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Dated
20/8/2016*

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Poorna Pragna Public School, Vasant Kunj, New Delhi

Present:- Sh. Rattan Singh, Manager, Sh. Narayan Kulkarni, Supdt., Sh. Dinesh, Head Clerk, Ms. Sandhya, Acctt. Clerk(UDC) and Sh. N.K. Bhat, Chartered Accountant.

The Committee has perused the circular dated 3rd August 2009 issued by the school regarding fee hike in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, it appears that school did not increase the fee immediately after the receipt of order dated 11/02/2009 but effected the increase w.e.f. August 2009. However, the school recovered the arrears for fee from September 2008 to July 2009 as also the lump sum fee, as provided in the circular to cover the salary arrears for the period 01/01/2006 to 31/08/2008. The school recovered the arrears from September 2008 to July 2009 i.e. for a period of 11 months @ Rs. 300 per month for classes upto VIII and @ Rs. 400 per month for classes IX to XII.

Besides, the school recovered the differential amount of development fee arrears for the same period at rates which are approximately 40% of the hike in tuition fee. When asked to explain this, the authorized representative of the school rely upon an order dated 25th Feb. 2009 passed by the Director of Education vide which para 6 of the original order dated 11/02/2009 was substituted. According to the representatives of the school, this subsequent order authorize them to collect the difference of the original amount of development fee and 15% of the tuition fee as additional development fee.

As per the fee schedule of 2008-09, the school was charging development fee at a rate which was around 10% of tuition fee. The authorized representatives contend that differential development fee was worked out with respect to the increased tuition fee w.e.f. 1st April 2008 while the tuition fee itself was increased with w.e.f. 1st Sept. 2008 as development fee is calculated on annual basis.

The school has filed a revised statement of fee and salary on 15th July 2016 after making some corrections in the same. However, even the revised statement is incorrect, in so far as the school has given the figures of arrear fee and arrear salary in a consolidated manner which includes even the arrears for the period 01.04.2009 to 31.07.2009 in r/o fee and for the period 1.04.2009 to 31st August 2009 in respect of salary. The school is required to furnish the break up arrear fee and salary for the periods mentioned in the format which was provided by the Committee. The arrears of fee collected and the salary paid w.e.f. 1st April 2009 are required to be shown as the regular fee /salary for 2009-10. Further, the Committee has pursued the statement filed with reference to to the audited income and expenditure accounts and notes that the regular salary paid for the year includes not just salary but also bonus leave encashment and gratuity paid on cash basis, LTC, expenses on security and staff welfare. These are required to be excluded from the regular salary. The school has also shown regular development fee as a revenue

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receipt in the statement furnished, however, in reply the question raised by the Committee it had stated that the development fee is treated as a capital receipt. The school is required to clarify this position. The authorized representatives of the school have stated that the school has no transaction with its parent society and as such no account of the society appears in its books of accounts. However, on reconsidering the position the authorized representative submit that they had taken a loan from the parent body for constructing the school building, which they are repaying in instalments. The school is required to file the statement of loan account as appearing in its books for the years 2006-07 to 2010-11. The representative of the school contend that it did not have any separate pre-primary school however, the committee observes from the balance sheet of the main school that some balance is appearing in the name of PP play school. On reconsidering the position the representatives concede that the assets and liabilities of the play school/ pre-primary school were not transferred upto March 2010. They were transferred only in 2010-11. The school is required to file the balance sheet of the pre-primary school for the years 2006-07 to 2010-11.

Despite being given an opportunity to file the details of its accrued liability of gratuity and leave encashment on the last date of hearing the school has not filed the same and maintains that since they are making payments of gratuity and leave encashment on cash basis they are not required to file such details.

The matter will come up for further hearing on 24th August 2016. The school will comply with the directions as given in this order.

R.K. SHARMA
MEMBER

J.S. KOCHAR
MEMBER

JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Secretary



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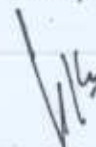
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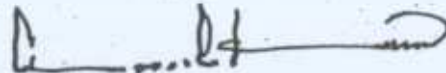
N.K. Bagrodia Public School, Sector-9, Rohini, Delhi.

Present: Sh. Sunil Kumar, Office Superintendent


The authorized representative filed an application seeking adjournment as Sh. Vinod Goel, Accountant is under treatment of kidney failure at Jaipur Golden Hospital, Rohini. As requested the matter will be listed for 24/08/2016 at 2.30 p.m.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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19/07/2016

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B-316

South Delhi Public School, Defence Colony, New Delhi.

Present: Sh. B.S. Rana, Bursor/AO of the school.

The Committee has perused circular dated 12/02/2009 issued by the school regarding fee hike effected by it in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school increased the tuition fee w.e.f. 01/09/2008 @ Rs. 300 per month for classes Prep to VIII and @ Rs. 400 per month for classes IX to XII. The school was previously charging development fee @ 10% of tuition fee. However, as per the circular, the school recovered the arrears of development fee for the period 01/09/2008 to 31/03/2009 @ 15% of the increased tuition fee. Besides the school also recovered lump sum fee @ Rs. 3,000/3,500 as provided in the order dated 11/02/2009.

The school has filed the details of fee and salary for the years 2008-09, 2009-10 and 2010-11 vide its letter dated 11/06/2015 as requisitioned by the Committee. It is submitted that the recommendations of VI Pay Commission have been implemented w.e.f. 01/02/2009 and the arrears of salary of salary for 01/01/2006 to 31/03/2009 were paid, 40% of the arrear amounting to Rs. 33,73,657 were paid on 7th March 2009 while the remaining 60% amounting to Rs. 47,36,497 were paid on 7/10/2009. The school has submitted copies of bank statements in support of payment of arrear salary which were stated to have been paid by account payee cheques.

The school has also filed copies of its capital fund account which is stated to be account of parent society running the school for the period 01/01/2006 to 31/03/2011. It is submitted that the school has never transferred any funds to the society. On the contrary, it keeps getting funds from the society from time to time.

The details of gratuity and leave encashment filed by the school do not represent the accrued liabilities of the school but the actual payments made during the year. The school is given liberty to file the details of its accrued liabilities as on 31/03/2010 within one week.

Regarding development fee, it is submitted that the school treats the development fee as a capital receipt and earmarked bank accounts are maintained for development fund as well as depreciation reserve fund. The school has furnished copies of bank statements/pass book of these accounts. As regards utilization of development fee the details of which have been filed by the school, the development fee is partially utilized for upgradation of school building.

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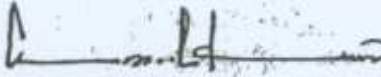
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Calculation to be prepared after the school files the details of accrued liabilities of gratuity and leave encashment.


Matter will come up for further hearing on 23/08/2016 at 2.30 p.m.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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19/07/2016

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Vidya Public School, Connaught Place, New Delhi.

Present: Sh. Narender Tiwari, representative of the school.

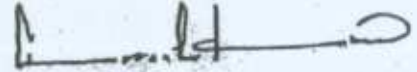
The school seeks adjournment. As requested the matter will come up for 23/08/2016 at 2.30 p.m.



R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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19/07/2016

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Navy Children School, Chanakya Puri, New Delhi

Present: Cdr. Rakesh Dhall, Executive Director, Sh. Surender Singh Mehra, Accountant, Sh. Vinod Singh Bisht, Office Assistant, Sh. Saryjit Singh Jaswal, Office Assistant of the School.

The Committee has perused the circulars issued by the school regarding fee hike pursuant to the order dated 11/02/2009 issued by the Director of Education. In the first instance, the school collected arrears of fee for the period 01/09/2008 to 31/03/2009 at certain rates, the calculations of which have not been given. Subsequently the school moved the Grievance Committee constituted by the Directorate Of Education vide order dated 11/02/2009 and after considering the case of the school, the Grievances Committee allowed the school to collect further amount of arrear fee @ Rs. 580 per month per student for the same period. Consequent to that the school issued another circular requiring them to pay the additional arrears, again at certain rates, the calculations of which have not been given. The school is required to furnish the calculations of fee hiked effected by it vide that two separate circulars. It is submitted that the school did not collect any arrear fee for period 01/01/2006 to 31/08/2008 as majority of the students had left the school. Consequently, in the first instance, the school did not pay the arrear salaries to the staff for that period. It is submitted that subsequently certain retired teachers initiated legal proceedings against the school for payment of arrears and the court ordered payment of arrear salary to all the teachers, whether working or retired. However no copy of the order of the court has been filed by the school. The school will file a copy of the final order passed by the court on next date of hearing. It is submitted that in compliance with the order of the court, the school paid a total amount of Rs. 1,02,03,917 to the existing teachers and a sum of Rs. 44,01,837 to the retired teachers. It is submitted that for payment of these arrears, the school did not recover any fee from the students and the same were paid out of the own funds of the school. A sum of Rs. 12,35,695 is still to be paid to the retired teachers. It is submitted that it has not been paid as their whereabouts are not known to the school. In support, the school has filed copy of the letter given to the bank for crediting the amount of arrears to the existing staff and detail of arrears paid and balance payable to the ex staff. Further the Committee has perused the statement of fee and salary filed by the school, which appears to be not complete as the arrears paid in Dec. 2015 are not incorporated in the said statement. An amount of Rs. 89,28,461 is shown as arrears of gratuity collected which the authorized representative are unable to explain. The school will file a corrected statement on the next date of hearing.

o/s And
A. S. R. S.

The school has also filed valuation reports given by Sh. M.L. Sodhi Consulting actuary who has estimated the accrued liability of the school on account of gratuity at Rs. 1,74,21,236, and leave encashment at Rs. 61,71,199 as on 31/03/2010.

With regard to Development fee, the school, in its reply to the questionnaire issued by the Committee, has vaguely mentioned that

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19/07/2016

the development fee is treated as 'Capital and Revenue receipt' in the account of the school. However, in the subsequent fee and salary statement filed by the school under cover of its letter dated 9/07/2015, the school has stated that the regular development fee is treated as a revenue receipt. During the course of hearing the authorized representatives of the school concede that it is indeed treated as a revenue receipt. The amount of development fee collected in 2009-10 is stated to be Rs. 54,43,263 and in 2010-11, Rs. 67,10,058.

In the fee and salary statement, the school has given the figures of arrears of tuition fee and arrears of dev. fee for the period Sept. 08 to Sept. 09. The school is required to clarify the position as to how much was the arrear fee upto march 2009, and how much was the arrear fee for the period April 2009 to Sept. 2009.

The matter will come up for further hearing on 23/08/2016 at 2.30 p.m.





R.K. SHARMA **J.S. KOCHAR** **JUSTICE ANIL KUMAR(Retd.)**
MEMBER **MEMBER** **CHAIRPERSON**

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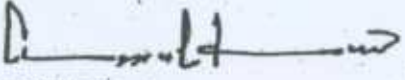
B-336Arwachin Bharti Bhawan Sr. Sec School, Vivek Vihar, Delhi.

Present: Sh. Anurup Sharma, Director, Sh. Dinesh Chawla, Chartered Accountant, Sh. Vicky Sumbly, Chartered Account of the school.

The representatives of the school are not ready with all the records. They seek some time. As requested the matter will be listed on 24/08/2016 at 2.30 p.m. In particular the school will ensure to submit the break up salary for 2008-09 in the format which has been sent with the notice.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

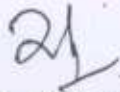
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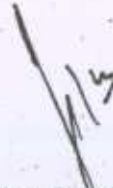
19/07/2016B-341Starex International School, Vasundhara Enclave, New Delhi

Present: Ms. Amita Gupta, Manager, Mr. Parmod Kumar, Accounts Officer, Mr. Rajiv Gupta, Chartered Accountant, Ms. Mili S. Menon, Accounts Assitant of the school.

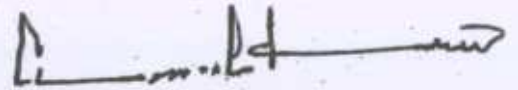
The submissions made by the school vide letter dated 25/05/2015 as also the reply to the questionnaire issued by the Committee earlier are not in order as they have been given on the letter head of this Committee itself. The representatives seek time to furnish proper replies on the letter head of the school. Matter will be relisted on 24/08/2016 at 2.30 p.m.



R.K. SHARMA
MEMBER

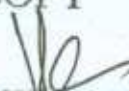


J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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B-132

St. Michael's S.S. School, Pusa Road, New Delhi.


Present Sh. Devender Kumar accountant of the school. He states that CA of the school is not available at present and requests that matter may be relisted. As requested, matter will come up for hearing on 29/08/2016 at 2.30 p.m.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Rattan Chand Arya Public School, Sarojini Nagar, New Delhi.

Present: Mrs. Namita Parit, Manager, Sh. Vijay Kumar, CA-Auditor and Ms. Latesh, UDC of the School.

The information filed by the school on 21/05/2015 is not in accordance with the format given by the Committee. The school has shown the arrear salary for the period 01/09/2008 to 31/03/2009 at Rs. 3,75,005 however the calculation sheet produced by the school shows the same to be pertained to the period 01/09/2008 to 31/07/2009. The school is required to correct this amount and furnish the revised statement of fee and salary within one week.

It is further submitted by the Manager of the school that the school has not fully implemented the recommendations of VI Pay Commission. Only the basic salary has been revised as per its recommendations. The school does not pay any transport allowance or House Rent allowance as per the recommendations of VI Pay Commission. Further even the Dearness allowance was not fully paid at the respective rates. The representatives of the school submit that the school treats the development fee as a capital receipt. However no earmarked bank accounts have been maintained for development fund and further no depreciation reserve fund had been maintained up to 2011.

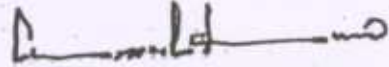
Hearing is concluded. Recommendations reserved.



R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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19/07/2016

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Vishwa Bharti Public School, Sector-6, Dwarka, New Delhi.

B-146

Present:- Sh. K.K. Kundan, Accountant & Sh. Gyan Prakash, Accounts Manager of the school.

The Committee has perused the circulars issued to the parents regarding fee hike effected by the school in pursuance of order dated 11.02.2009 issued by the Directorate of Education. As per the circulars, the school hiked the tuition fee w.e.f. 1.09.2008 @ Rs.400/- p.m. for classes LKG & SKG, by Rs. 200/- p.m. for classes 1st to 8th, by Rs. 300/- p.m. for class 9 & 10th. Besides, the school also recovered jump sum arrear fee to the extent it was allowed vide circular dated 11.02.2009. It is submitted that the school charges development fee only from the new students at the time of admission. The same is treated as a revenue receipt.

It is submitted that the school has implemented the recommendations of the VIth Pay Commission w.e.f. August 2009 and paid arrears of salary for the period January 2006 to July 2009. However, the arrears of salary for the period 01.01.2006 to 31 Aug. 2008 amounting to Rs.15,89,718/- were paid only in 12th July 2011. The authorized representatives of the school admit that the bulk of the arrear fee of this period was recovered in the year 2008-09. It is submitted that the payment of arrear salary was withheld as some social organizations had filed a writ petition in the Hon'ble Delhi High Court and the school was not certain whether the fee collected by the school could be retained by it or would have to refunded.

The committee has perused details of fee and salary of the school filed vide its letter dated 06.07.2014. In the said statement the school has shown a sum of Rs. 24,40,614/- as arrears for the period 01.09.2008 to 31.03.2009. However, during the course of hearing the authorized representatives clarified that the same pertains to the period April 2009 to July 2009 and ought to be considered as part of regular salary for the period 2009-10.

The school has also filed copies of the account of its parent body as appearing in its books for the period April 2006 to March 2011 and it is submitted that there was no transfer of funds from the school to its parent body.

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With regard to the accrued liability of gratuity, the authorized representatives state that the school has taken a group gratuity policy of LIC and contribute to it on annual basis. As such, the school did not have any liability for payment of gratuity to the staff. With regard to accrued liability of leave encashment the representatives state that the same is paid at the time of retirement and as such the school cannot estimate its liability as on 31st March 2010.

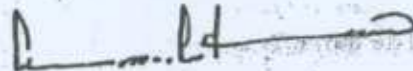
Calculation sheet to be prepared. Matter to come up for further hearing on 1st Sept. 2016 at 11.00 A.M.



R.K. SHARMA
MEMBER



J.S. ROCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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
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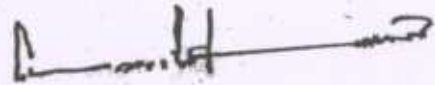
St. Paul's School, Safdarjung Development Area, New Delhi.

Present : Sh. Mathew TP, Sr. Accountant, Sh. Jose P.T. Accountant, Sh. Roy T Thomas, Accountant & Sh. Naveen Sharina Liaison Asstt. of the school.


The authorized representatives of the school are not prepared to represent the case properly and are unable to answer the queries raised by the Committee. They seek some time. As requested the matter will come up for further hearing on 1st Sept. 2016 at 11.00 A.M.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Secretary



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Delhi International School, Rohini, Delhi.

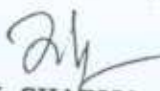
Present : Sh. Vipin Bhatia, Secretary/Manager & Sh. I. Sengupta,
Accounts Officer of the school.

The matter was heard earlier on 09.12.2015 when the school was given liberty to file written submissions on the issue of maintenance of earmarked development fund and depreciation reserve fund. The school filed its submission, dated 10.12.2015 stating that the school was treating development fee as a capital receipt and not as a revenue receipt. However, no mention was made with regard to the maintenance of earmarked development fund and depreciation reserve fund. It is further stated that the diversion of funds amounting to Rs.13,83,506 which has been considered as funds deemed to be available with the school is not actually diversion of funds but represents payment of bank interest from loan borrowed for the purpose of construction of extra rooms in the school building and for purchase of buses for the school.

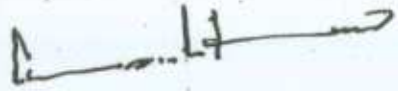
Today during the course of hearing the authorized representatives of the school concede that no earmarked depreciation reserve fund or development fund accounts were maintained by the school. However, they seek liberty to furnish details of accrued liabilities of gratuity and leave encashment as on 31.03.2010. They submit that these details were not furnished earlier under a mistaken belief that no liabilities on these account would accrue as the school was granted recognition w.e.f. 01.04.2007. They submit that the school was established w.e.f. 01.04.2005 and the liabilities of these accounts definitely accrued under the law.

Hearing is concluded. However, the school is given liberty to file details of accrued liabilities of gratuity and leave encashment as on 31.03.2010 within one week.

Recommendations reserved.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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20/07/2016

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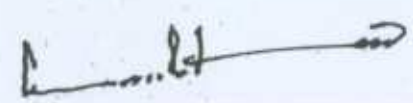
Rishabh Public School, Mayur Vihar, Phase-I, Delhi

Present : Sh. Narain Sharma, Accountant of the school

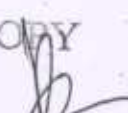
The school has filed an application for adjournment on account of the chairman of the school being not in town. As requested the matter will be re-listed on 1st Sept. 2016 at 11.00 A.M.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Secretary



20/07/2016

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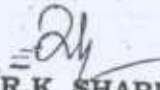
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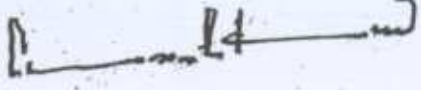
Ever Green Public School, Vasundhara Enclave, Delhi

Present : Sh. Rahul Gaur, Accountant of the school.

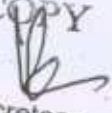
The authorised representative of the school has filed an letter for adjournment on account of some personal reasons. As requested the matter will come up for hearing on 1st Sept. 2016 at 11.00 A.M.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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20/07/2016B-348Ahlcon International School, Mayur Vihar, Phase-I, Delhi

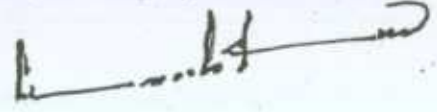
Present : Sh. Vishal Sehgal, C.A. & P.K. Bhatnagar, Manager of the school.

The Committee has examined the fee and salary statement filed by the school vide letter dated 25th May 2015. Ex-facie the statement is incorrect as no recovery of arrear fee in 2009-10 & 2010-11 is shown while the Income and Expenditure account of the school of those years show the arrear fee has been recovered in those years. Likewise no payment of arrears salary is shown in 2009-10 & 2010-11 which is contrary to what is mentioned in Income and Expenditure accounts. The authorized representatives of the school seek some time to file revised statement.

They are given liberty to file it within one week. Matter is re-listed for hearing on 22nd August 2016 at 2.30 p.m.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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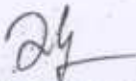

Secretary



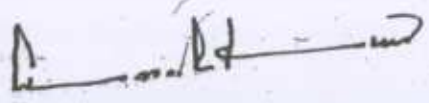
20/07/2016B-350Bal Mandir Sr. Sec. School, Defence Enclave, Delhi

Present : Narender Kumar.

The school has filed an application seeking adjournment. As requested the matter will be listed on 6th Sep. 2016 at 11.00 A.M.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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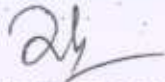
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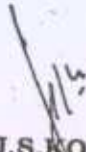
Notre Dame School, BTPS Staff Colony, Badarpur, Delhi

Present : Justine Varghese, Teacher of the school.

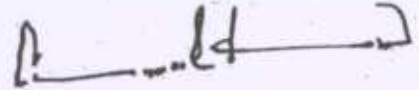
The Manager of the school has filed an application seeking adjournment after 2nd week of Aug. As requested the matter will come up of hearing on 1st Sept. 2016 at 11.00 A.M.



R.K. SHARMA
MEMBER

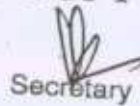


J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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20/07/2016

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Delhi International Happy School, Bhogal, Jangpura, Delhi

Present : Sh. K.S. Jha, Principal & Sh. Rajender Singh, Cashier of the school.

The school has not filed copy of the circular which might have been issued to parents regarding fee hike in pursuance of order dated 11.02.2009 issued by the Directorate of Education, despite being specifically asked to file the same vide notice dated 22nd May 2015. The Principal of the school who is present at the time of hearing is unable to state as to how much fee was hiked in pursuance to the aforesaid order. On perusal of the returns filed by the school under Rule 180 of Delhi School Education Rules 1973 for the years 2008-09 & 2009-10, shows that the school hiked the tuition fee @ Rs. 250/- p.m. for classes 1 & 2, Rs. 300/- p.m. for classes 3, Rs. 200 p.m. for class 4th, Rs. 250 p.m. for classes 5th to 10th. The principal of the school further states that no arrear fee was recovered from the students and consequently no arrear salary was paid to the staff.

In 2008-09 the fee charged by the school for all the classes was between Rs.750/- & Rs. 950/-; thus as per order dated 11.2.2009, the school was entitled to raise the tuition fee by maximum amount of Rs. 200/- p.m. only and that too if the school had implemented the recommendations of the sixth pay commission. The fee hike actually effected by the school was more than even the maximum hike that was furnished vide order dated 11.2.2009.

The school claims that it prospectively implemented the recommendations of 6th pay commission w.e.f. 01.04.2009. The committee has examined the salary records and the salary statement of monthly payment and it does not appear that the school has implemented the recommendations of the 6th pay commission even prospectively w.e.f 01.04.2009. Although the school claims that the salary was paid by means of account payee cheques, perusal of the pass book of the bank account shows that all the salary cheques are encashed on the single date. As per the statement filed by the school the total salary paid by the school for the year 2008-09 was Rs 29,14,807 and that for the year it was 41,76 346 showing an incremental expenditure of Rs. 12,61,539. Perusal of the balance sheet of the school as on 31st March 2009 shows that the school had available the sum of Rs. 56,78,041 in its bank account. The balance in the bank account rose to 64,17,672 as on 31st March 2010. It is obvious that the school did not require any fee hike to meet its additional liabilities on account of the recommendations of the sixth pay commission w.e.f 01.04.2009.



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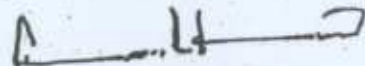
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In view of the forgoing discussion the Committee is of the view that the school ought to refund the entire amount of fee hiked effected for the year 2009-10 alongwith interest @ 9% p.a. from the date of collection to the date of refund. Further since the hike effected in 2009-10 also forms part of the fee for the subsequent years, the school ought to refund the fee hike effected by it in the subsequent years also to the extent the hike is related to hike in fee in 2009-10. This also ought to be refunded alongwith interest of @ 9% p.m. from the date of collection to the date of refund.


Recommended accordingly.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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20/07/2016

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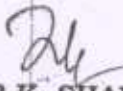
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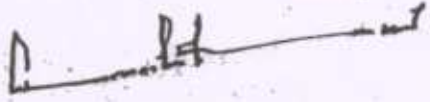
Presidium School, Ashok Vihar, Delhi

Present : Nemo


On the last date of hearing the Scout & Guide Instructor of the school Ms. Dipti Jain had appeared on behalf of the school without any authority letter. The matter was adjourned to today on the basis of a request letter of the Principal of the school. However even on 2nd call, today no body is present on behalf of the school. Fresh notice may be issued for 6th Sept. 2016 mentioning therein that adverse inference will be drawn against the school, if no body appears on that date.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
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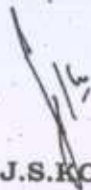
St. Thomas Girls S.S. School, Mandir Marg, Delhi

Present : R.K. Khanna, C.A. & Sh. Vinod Kumar Accountant of the school.

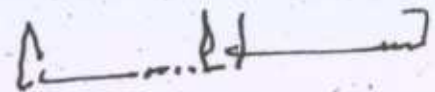
The authorized representatives of the school have been provided a copy of the preliminary calculation sheet prepared by the committee. They seek time to have their say on the calculation sheet. They are given liberty to file written submissions which may be filed before the next hearing. Matter will come up for further hearing on 6th Sept. 2016 at 11.00 A.M.



R.K. SHARMA
MEMBER




J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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St. Mary's School, Safdarjung Enclave, Delhi

Present : Sh. George Kosh, C.A., Sh. P.A. Sivkhon, Accounts Supdt.,
Sh. Nikhil, Office Incharge & Sh. Biju N.U. Accountant of the school.

The Committee has perused the circular dated 2nd March 2009 issued by the school to the parents regarding fee hike effected in pursuance of the order dated 11.02.2009 issued by the Director of Education. As per the circular, it hiked the tuition fee @ Rs. 400/- p.m. w.e.f. 1st Sept. 2008 for all the classes. Additionally, the school recovered arrears of development fee for the aforesaid period @ Rs.60/- which is 15% of the incremental tuition fee. (prior to the fee hike, the school was charging development fee @ 10% of tuition fee). In addition to these hikes w.e.f. 1st Sept. 2008 the school also retrospectively hiked the development fee @ 5% of the tuition fee for the period 1.4.2008 to 31st March 2009 and this amount worked out to Rs. 1140/- per student. The school also recovered lump sum fee @ Rs.3500 per student as per the order dated 11.2.2009.

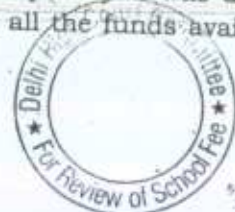
The school relies on clauses 14 & 15 of the order dated 11.2.2009 in support of its submission that the development fee hiked to the extent it was hiked, was authorized by this order.

The school has furnished the information sought vide notice dated 13.5.2015 issued by the Committee on the notice of the Committee itself. The school is required to furnish the same on its own letter head duly signed by the competent authority within one week.

The school claims that it fully implemented the recommendations of the 6th pay commission and paid the full amount of arrears of salary in four tranches starting from the year 2008-09 to 2011-12. With regard to regular development fee, the school, in its reply to the questionnaire issued by the committee stated that development fee is treated as a capital receipt in its accounts. It is further stated that depreciation reserve is maintained in the books of the school but no earmarked bank accounts of FDRs of investment are kept for unutilized development fund and depreciation reserve fund. The authorized representative of the school submits that the school did not have unutilized development fund as whatever funds were available were utilized for the purpose of construction of new building. It is submitted that at that time there was an earthquake and old building developed cracks, consequently it was demolished and a new building was constructed and all the funds available with

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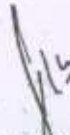
the school, including the development fund, were utilized for the construction of building.

It is further submitted that the school could not have implemented the recommendations of the 6th pay commission out of its own funds which were available, as at that time the building was under construction and for the purpose of meeting the additional expenditure on account of implementation of 6th pay commission, fee hike was necessary.

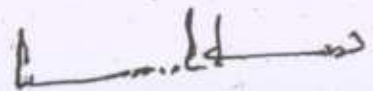
Calculation sheet to be prepared. Matter to come up for further hearing on 6th Sept. 2016 at 11 00 A.m.



**R.K. SHARMA
MEMBER**




**J.S. KOCHAR
MEMBER**



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

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Secretary



Bal Bharti Public School, Rohini, Delhi

Present : Sh. Jatish Pokhwal, Finance Manager, Ms. Rekha Sharma, Principal, Sh. S.K. Bhattachary, Advisor and Sh. Suraj Prakash Secy./Manager of the school.

The matter was heard earlier and the school had been given a copy of calculation sheet prepared by the Committee. The calculation sheet was disputed only on the issue of fixed deposits which were taken as part of funds available. It was contended that the FDRs which have been issued in the joint name of the school and Directorate of Education should be included from the funds was taken. It was also contended that the school had an off balance sheet liability pertaining to arrears of provident fund which included employers as well as employees share, interest and damages which amounted to Rs.2.25 crores. It was also contended that the liability was on account of a judgment of a division bench of Delhi High Court in the case of a sister school run by the same society.

The final recommendations in the case could not pronounced on account of resignation of the previous Chairperson of the Committee. Accordingly the school was given a fresh opportunity to make its submissions.

Today the authorized representatives of the school have filed written submissions dated 22nd July 2016, reiterating that the liabilities of Provident Fund dues amounted to Rs. 2.25 crores upto the year 2010-11. Subsequent to the judgment of Hon'ble High Court in the case of the sister school, it is contended that this school has also received a notice dated 1st April 2016 from the Employees Provident Fund organization vide which the school has been directed to comply with the directions by the Hon'ble High Court in the case of the sister school.

It is submitted that the Managing Committee of the society has accepted the said judgment of the Hon'ble Delhi High court and has not filed any appeal in the Supreme Court. It is also submitted that the Managing Committee of the school has accepted the liability of Provident Fund etc. and is not contesting the same. However, the liability has not yet been discharged. On a query raised by the Committee as to why the burden of employees' share of provident fund, interest and damage charges which are payable to the Provident Fund authorities should be passed on to the students, it is submitted that as per the Employees Provident Fund Act, the school cannot recover employees share from the employees. However, the specific provision barring such recovery has not been brought to the notice of the committee. With regard to interest and damages, charges it is submitted that the school has no other source of income except the fee received from the students. As such the interest and damage

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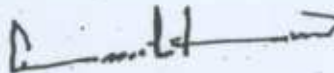
charges have also to be paid out from the funds of the school which as saving out of the prior year fees.

The school is required to file copies of the resolutions passed by the Managing Committee of the Parents Society vide which the judgment of the division bench of the Hon'ble High Court in the case of the sister school has been accepted and also the decision of the Managing Committee accepting the liability of their school to unconditionally pay the amount of arrears of provident fund etc.


List for further hearing on 9th August 2016 at 11.00 A.M.


R.K. SHARMA
MEMBER


J.S. ROCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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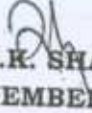
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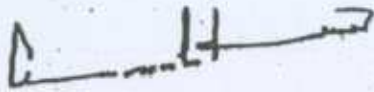
Mother Divine Public School, Sector-3, Rohini, Delhi

Present : Sh. Puneet Batra, Advocate of the school.

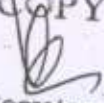
The counsel of the school seeks adjournment stating that Mr. Manan, the authorized representative of the school, is unwell. As requested the matter will be relisted for hearing on 6th Sept. 2016 at 11.00 a.m.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Happy Home Public School, Sector-3, Rohini, Delhi

Present :Ms. Anita Hans, Principal, Sh. Vinod Arora, PGT, Sh. Jitender Kumar, LDC, of the school.

The Committee has perused the circular issued by the school pursuant to order dated 11.2.2009 issued by the Directorate of Education regarding fee hike for purpose of implementation of the VIth Pay Commission. It is apparent from the said circular that for classes pre-school to 10th, school hiked the tuition fee by Rs.200/- p.m. w.e.f. 1.09.2008. And accordingly recovered arrears of Rs.1400/- per student for the period 01.09.2008 to 31st March 2009. For classes 11 & 12th the school hiked the tuition fee by Rs.300/- and accordingly recovered the arrears @ Rs.2100/- per student for the same period. However, the arrears of development fee recovered by the school for this period varied between Rs. 420/- per student and Rs.770/- per student, which worked out to 30% to 36% of the hike in tuition fee. The authorized representatives of the school contend that the development fee originally charged in 2008-09 was @ 10% of tuition fee, The development fee for the period 01.09.2008 to 31st March 2009 was increased to 15% of the tuition fee and the differential amount was recovered as arrears for the period 01.09.2008 to 31st March 2009.

Besides the aforesaid fee hikes w.e.f. 1st Sept. 2008, the school also recovered lump sum arrear fee @ Rs.2500/Rs.3000/- per student. The school has furnished the required information which was sought by the Committee vide notice dated 08.5.2015. Perusal of the same shows that the school treats the development fee recovered by it as a revenue receipt. This is also confirmed by its reply to the questionnaire issued by the Committee regarding development fee. It is further conceded that no separate depreciation reserve fund for development fund are maintained by the school. The development fee recovered by the school in 2009-10 amounted to Rs.24,32430/- and Rs. 30,61,660 in 2010-11. The school has filed copies of its bank statement and has also produced its TDS returns to show that the arrears of salary paid by the school were through account payee cheques and proper TDS was deducted and deposited with the government.

Perusal of the balance sheet of the school shows that the school has taken loans from different banks to fund its capital expenditure for construction of school building as well as purchase of buses. The repayments of loan and payment of interest are being made from the fee charged from the students. The transport fee charged is more or



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22/07/2016

less fully consumed in the revenue expenditure of running and maintenance of buses.

The school has furnished actuarial valuations reports of gratuity issued by M/s Charan Gupta, Consultant Pvt. Ltd.. The accrued liability in respect of gratuity, as estimated by the actuary, is Rs. 17, 73,823 as on 31st March 2010.

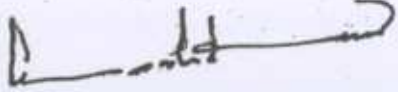
The school seeks sometime to file the details of its accrued liability on account of leave encashment as on 31st March 2010. As requested the school is given liberty to file the same within two weeks.

Calculation sheet to be prepared.

Matter re- listed for further hearing on 6th Sept. 2016 at 11.00 A.M.


R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Decent Public School, Sector-3, Rohini, Delhi

Present : Ms. Renu Gupta, Principal & Sh. Basant Gupta, Manager of the school.

The Committee has perused the circular dated 27.02.2009 issued by the school to the parents regarding fee hike effected by pursuant to the order dated 11.2.2009 of Directorate of Education. As per the circular, school hiked the fee w.e.f. 1st Sept. 2008 and also recovered the lump sum arrear fee as provided in the aforesaid order dated 11.02.2009. The circular does not mention the quantum of fee hike effected for different classes and merely reproduces the contents of the order dated 11.2.2009. It is submitted that the tuition fee originally charged by the school was between Rs.950/- and Rs. 1450/-. The tuition fee for classes 1st to 6th which were up to Rs. 1000/- p.m. was increased by Rs. 200/- p.m. and for classes 7th to 12th which was in excess of Rs.1000/- was increased by Rs. 300/- p.m. Further, the school also recovered lump sum fee to cover the arrear of salary for the period 1.1.2006 to 31st August 2008 @ of Rs. 2500/- per student whose tuition fee is upto Rs.1000/- and @ Rs.300/- per student whose tuition fee was in excess of Rs.1000/-. It is also submitted that although the school mentioned 15% of tuition fee to be charged as development fee in the year 2009-10 in the fee schedule, the same was not actually charged. The Committee has pursued the audited financials of the school for the year 2009-10 and finds that the contention of the representatives of the school is correct.

With regard to the payment of arrear salary the authorized representatives of the school submit that the same were largely paid in cash as the teachers were not prepared to accept payments by cheques. With regard to payment of regular salary, the school has filed a statement showing the mode of payment of salary every month. As per the statement filed by the school, out of a total salary of Rs.50,38,797/-, as much as Rs.44,68,568 was paid by account payee cheques and only small part of Rs. 4,70,229/- was paid in cash or by bearer cheques in the year 2008-09. In the year 2009-10 when the recommendations of the 6th Pay Commission were purportedly implemented, the payment by account payee cheques was Rs. 45,91,778, which is more or less the same amount of payment by such mode in 2008-09. The entire incremental salary in the year 2009-10 is shown to have been paid in cash.

The Committee has examined the passbook of the bank account maintained by the school with Punjab National Bank, and observes that even the payment purportedly made by account payee cheques, appears to have been made through bearer cheques as all the cheques are encashed on a single date and the order of



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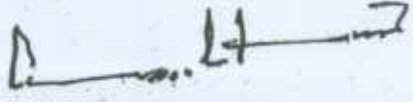
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encashment of cheques from the bank is in the same serial no. in which the cheques were issued. When confronted with this position, the Principal of the school Ms. Renu Gupta, who is present has conceded that the cheques purportedly issued to the teachers/staff, which were shown as account payee cheques, were indeed by bearer cheques.

Hearing concluded. Recommendations reserved.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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22/07/2016

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Chinmaya Vidyalaya, Vasant Vihar, Delhi

Present: Dr. Abint Bose, Principal, Sh. Krishnan Raju Nair, School Administrator & Ms. Sarojini Gaur, Accounts In charge of the school.

The authorized representatives of the school state that the school has implemented the recommendations of the 6th Pay commission. However it did not pay the arrears salary for the period 1.1.2006 to 31st March 2008. For this period the arrears of fee were also not recovered. The school recovered one time arrear for the period 1st April 2008 to 31st March 2009 at different rates for different classes. The calculation of the arrear fee recovered by the school, as given in the circular dated 29th April 2009 issued to the parents, conforms to the arrear fee recovery as provided in the order dated 11.2.2009 issued by the Directorate of Education for the period Sept. 2008 to March 2009. However, Instead of recovering the lump sum fee for the period 1.1.2006 to 31 August 2008, the school recovered arrear fee for the period April 2008 to August 2008 which was provisionally calculated to cover the payment of arrear salary for that period.

The school has furnished the information that was sought by the Committee vide its notice dated 13.5.2-015, which has been perused by the committee. From the fee and salary statement furnished by the school, the Committee observes that the school treats the development fee charged by it as a revenue receipt. This is also confirmed by the school in its reply to the questionnaire issued by the Committee. The details of utilization of development fee, as furnished by the school shows that the same were utilized for building maintenance, property tax and ground rent, all of which are revenue expense. The school has furnished the actuarial valuation of its accrued liability of gratuity as on 31st March 11 instead of 31st March 2010 which was required by the Committee. The school has not furnished the details of its accrued liability of leave encashment as on 31st March 2010. The representatives of the school seek some time to furnish the same.

The Committee had received a complaint against the school from one Sh. Y.K. Singh purportedly on behalf of Parents Association. However the complainant has not mentioned his address on the complaint and it appears ^{to be} pseudonymous ^{one} ~~news~~. Moreover the complaint is vague, therefore no cognizance of it can be taken by the Committee.

The school is given liberty to furnish the actuarial valuation report of its accrued liability of gratuity as on 31st March 2010 and employ wise details of its accrued liability for leave encashment within two weeks.



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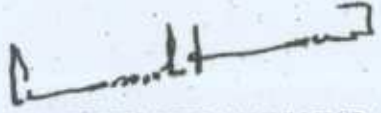
Calculation sheet to be prepared thereafter.

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The matter will come up for further hearing on 8th Sept. 2016 at 11.00 A.M.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Maharaja Aggarsain Adarsh Public School, Pitampura, N. Delhi

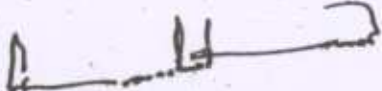
Present: Sh. Harsh Arya, Principal, Sh. Sushil Gupta, CA, Sh. Lalit Kumar, Accountant, Ms. Aruna Seth, UDC, Sh. Anil Kumar, Office Asstt., Sh. Ram Kumar, Office Asst.

The school has not filed copy of the circular issued to the parents regarding hike in fee for implementation of the recommendations of VI Pay Commission, despite being specifically asked to do vide the notice of the Committee dated 13/05/2015. Further the figures of fee and salary as required in the format given in the notice have been filled up in the notice itself and that too without any authentication from the school. The school has also not furnished the details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010. The school seeks time for furnishing proper and complete reply to the notice dated 13/05/2015. The school will submit its reply within four weeks. The matter will come up for hearing on 08/09/2016 at 11.00 a.m.

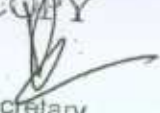
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R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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Rockfield Public School, Sector-3, Rohini, New Delhi

Present :Sh. Manu R.G. Luthra, CA and Sh. Deepak Malik, Director of the school.

The Committee has perused copy of the circular dated 24/02/2009 issued to the parents regarding fee hike for implementation of the recommendations of VI Pay Commission. As per the circular, the school hiked the fee @ Rs. 200 per month w.e.f. 01/09/2008 and recovered Rs. 1400 as arrear fee for the period Sept. 2008 to March 2009 i.e. for 7 months. It appears from the circular that the school did not recover any lump sum fee for payment of arrear salary for the period 01/01/2006 to 31/08/2008. During the course of hearing the authorized representative of the school confirm this position. They submit that as the school did not recover any lump sum fee for payment of arrears from January 2006 to August 2008, the arrears of salary due to staff for the same period were also not paid. In reply to the questionnaire issued by the Committee regarding development fee, the school has stated that the development fee is treated as a capital receipt and the school was maintaining depreciation fund equivalent to the depreciation charged in the revenue in respect of assets acquired out of development fee. However the earmarked bank accounts for keeping depreciation reserve fund and unutilized development fund, are now being maintained. On a query by the Committee, the authorized representative states that the earmarked bank accounts are being maintained w.e.f, financial year 2013-2014. The school has submitted that the development fund is being utilized only for the permitted purposes. The development fee charged by the school in 2009-10 was Rs. 7,76,220 and Rs. 9,71,630 in 2010-11. The school has also filed details of its accrued liability of gratuity amounting to Rs. 10,93,685 as on 31/03/2010 and leave encashment amounting to Rs. 4,25,000. The school has also furnished its own calculation sheet as per which the school was in deficit after partial implementation of the recommendations of VI Pay Commission. Accordingly, it is submitted that the fee hike effected by the school w.e.f. 01/09/2008 was justified. Committee to prepare its own calculation sheet.

Matter will come up for further hearing 08/09/2016.



R.K. Sharma
R.K. SHARMA
MEMBER

J.S. Kochar
J.S. KOCHAR
MEMBER

Justice Anil Kumar
JUSTICE ANIL KUMAR(Retd.)
CHAIRPERSON

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PDF Compressor Free Version**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:

**Ramakrishna Senior Secondary School,
M Block, Vikas Puri, New Delhi**

And in the matter of:

**Application for review dated 27.10.2014 seeking
review of recommendations dated 23.07.2013 in
the matter of school (B-263)**

ORDER

Present : Sh. I.P. Aggarwal, Chairman, Sh. Lalit Agarwal, Manager,
Sh. Rakesh Dhingra, C.A. Ms. Deepika, Office Asstt. & Ms.
Sangeeta Sharma, Office Asstt. Of the school.

The matter pertaining to the applicant/school was disposed of by the order dated 23.07.2013. The committee had recommended by its order that the school was in deficit after implementation of 6th Pay Commission and it did not have sufficient funds to provide for future contingencies, the school ought to refund the development fees recovered in 2009-10 and 2010-11 with interest @ 9% per annum after setting off the deficit in recovering the tuition fees and deficit in reserve for future contingencies. The Committee held that the school/applicant is liable to refund a total amount of Rs.27,03,054 with interest @ 9% per annum

By application dated 27th October,2014 the applicant/school is seeking review and rectification of order/recommendation dated 27th July, 2013 of the Committee on the ground that inadvertent errors have crept in the order. It is contended that unutilized amount in development fees and,

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depreciation reserve fund and other deposits/liabilities are being kept in FDRs and Bank Deposits which had explained during the hearing and no query had been raised by the committee. The applicant has alleged inadvertent errors, incremental salary for the year 2009-10; adjustment made by the committee by deducting the amount of Rs.16,63,536/- on account of arrears paid is not correct; the gratuity payable is Rs.14,32,620/- whereas the Committee has taken the amount to be Rs.10,72,415/-; charging of development fund has been disallowed on the ground that no earmarked FDRs were held and has claimed total deficit of Rs.51,50,473/-

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. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi 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. It was held that there is difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Court or 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 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 a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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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 it 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.

Applying these principles it is apparent that where a Court or 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 Court or the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

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The Applicant in the present case seeks recall/review of the order passed by the Committee dated 23rd July, 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 some matters have been apparently considered incorrectly and the school/applicant is seeking review and rectification. Apparently the recall or review 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.

In the circumstances the application of the applicant is not maintainable and is disposed of as not maintainable.

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4.7.2016/B-116

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Justice Anil Kumar (R)

(Chairperson)

A handwritten signature in black ink.

J.S. Kochar

(Member)

A handwritten signature in black ink.

R.K. Sharma

(Member)

PDF Compressor Free Version**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:

**Bhai Joga Singh Public School,
Karol Bagh,
Delhi.**

And in the matter of:

**Application for review dated
11.9.2014 seeking review of
recommendations dated
20.12.2012 in the matter of
school (B-116)**

ORDER

Present : Ms. Amrita Narula, Principal, Sh.
Gurmeet Soudhi, Teacher & Ms.
Tanpreet Kaur, Account Assistant of the
school/Applicant.

The matter pertaining to the applicant/school was disposed of by the order dated 20.12.2012. The committee had recommended by its order that the school may be liable for refund of a sum of Rs.451 to each student out of monthly fees hiked in 2009-10 along with interest @9% per annum. However, since the implementation of VI pay commission would have impact for the full 12 months w.e.f 2010-11, refund of fees for the subsequent years has not been recommended on account of ripple effect. Regarding the development fees, the committee had recommended refund of Rs.1100/- per annum charged for the year 2009-1010 and refund of the

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development fee charged in the subsequent years along with interest @ 9% per annum.

By application dated 11. Sept. 2014 the applicant/school is seeking to dispose of the case though the case of the applicant has already been disposed of by order dated 20.12.2012. The school/applicant has also contended that the school has not hiked any fees in the years 2006-07; 2007-2008; or 2008-2009 prior to the implementation of the sixth pay commission report in the year 2009-10 and the fees hiked was in accordance with recommendation, as the school was in B category. According to the school/applicant this aspect has not been considered in the order dated 20.12.2012 and if found to be correct the refund of Rs.451 out of tuition fees be reconsidered. The applicant is thus seeking review of order dated 20 Dec. 2012.

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. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi 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. It was held that there is difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Court or 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 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 procedural defect, the inadvertent error committed by the Tribunal must be

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corrected *ex debito justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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 it 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.

Applying these principles it is apparent that where a Court or 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 Court or the



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quasi-judicial authority is vested with power of review by express provision or by necessary implication.

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 20.12.2012 it has not considered certain aspects and not on the ground 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 some matters which ought to have been considered by the committee were not duly considered or apparently considered incorrectly and the school/applicant is seeking rehearing. Apparently the recall or review 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.

In the circumstances the application of the applicant is not maintainable and is disposed of as not maintainable.

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Justice Anil Kumar (R)

(Chairperson)

J.S. Kochar

(Member)

R.K. Sharma

(Member)

4.7.2016/B-116

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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:

**Anglo Indian Public School,
Gharoli, Mayur Vihar Phase III,
Delhi-96.**

And in the matter of:

**Application dated 07.11.2014 for
reconsideration/ review of
recommendations dated 22.04.2014 in
the matter of school (C-376)**

ORDER

Present : None.

The matter pertaining to the applicant/school was disposed of by the order dated 20.04.2014. The committee had held that the school had utilized the order dated 11.02.2009 for enhancing the tuition fee, without implementing the recommendations of 6th Pay Commission. The increase of fee in excess of tolerance limit of 10% was held to be unjustified and therefore, it was recommended that fee in the year 2009 in excess of 10% ought to be refunded along with interest @ 9% per annum from the date of collection. It was also held that the fees of subsequent years relatable to the fee hiked in 2009-10 be also refunded with interest @ 9% per annum from the date of collection to the date of refund.

By application dated 7th November, 2014 the applicant/school has contended that the school is not able to implement the recommendations of 6th Pay Commission as the fee structure of the school is not sufficient to pay

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back the amount. It is also alleged that the school has not charged development fee from the students and the school/applicant had hiked the tuition fee up to 40% in 2009-10 for different classes which was allegedly necessary to maintain additional expenditure. In the circumstances the applicant/school has prayed to give another opportunity to re-consider the case and allow applicant to explain.

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. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi 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. It was held that there is difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Court or 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 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 a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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

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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 it 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.

Applying these principles it is apparent that where a Court or 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 Court or the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 22.04.2014 not on the ground 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

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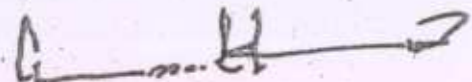
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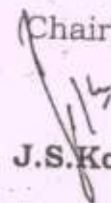
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grounds taken by the applicant are that some matters which ought to have been considered by the committee were not duly considered or apparently considered incorrectly and the school/applicant is seeking rehearing. Apparently the recall or review sought 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.


In the circumstances the application of the applicant is not maintainable and is disposed of as not maintainable.

**Justice Anil Kumar (R)**

(Chairperson)


J.S. Kochar

(Member)


R.K. Sharma

(Member)

4.7.2016/C-376

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PDF Compressor Free Version**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:

MOTHER MARY'S SCHOOL (B-0009),
FORMERLY QUEEN MARY'S SCHOOL,
MAYUR VIHAR, PHASE I
NEW DELHI 110091

And in the matter of

Application/representation dated
30TH March, 2016 to review the order
Dated 10th August, 2015 passed in respect
of the School.

Present: Shri R.K.Khanna Financial Consultant with Shri C.S. Mishra Manager
of the school.

ORDER**15.7.2016**

The Mother Mary's School, formerly known as 'Queen Mary's School' herein after referred to as 'The School' was asked the information vide questionnaire dated 27th February, 2012. The school had sent a letter dated 29th February, 2012 communicated that it had implemented the recommendations of the commission with effect from March, 2008. It was also communicated that the school was recognised at the time. It also enclosed the copies of the circulars issued to the parents of the students demanding areas of fees. Copies of the annual returns filed by the school under rule 180 of Delhi School Education Rules, 1973 were also received from the Director of



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Education. The committee had also issued another notice dated 22nd January, 2015 requiring the school to furnish the aggregate figures of areas of free four different periods. The school was also an issue a notice to elicit information regarding development fees charged by the school. The school was also given a hearing. During the hearing manager of the school appeared with an advocate and an account. The pleas raised by the advocate and other officials of the school were considered. A calculation sheet was prepared by the committee and the copy was furnished to the school for its comments. After considering all pleas and contentions and the documents produced on behalf of the school the committee held by its order dated 10th August, 2015 that the school is liable to refund a sum of Rs.21,51,316/- out of the development fees charged for the year 2010 – 11 as the same was collected contrary to the law laid down by the Hon'ble Supreme Court with interest at 9% per annum from the date of collection to the date of refund.

The school has sought review of the order of the committee dated 10th August, 2015 by an application/representation dated 30th March, 2016 contending inter-alia that the school was recognised with effect from March, 2008 and it being a new entity, it took some time to set up and follow certain guidelines during initial years for which they school offered its regrets. It has been contended that not showing – creating separate depreciation reserve in the books should not be considered as the sole criteria for disallowing charging of development fees. It has also been contended that apparently the school was in deficit on account of development fees in the relevant years. The school also contended about not making the provision about the Gratuity during the



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initial years as the gratuity is available only after five years of continuous service of an employee. With these pleas and contentions the school has sought review of order dated 10th August, 2015 and issue appropriate revised direction accordingly.

Before considering the merits of the grounds raised by the school to review the order dated 10th August, 2015, it has to be seen whether the Committee has such powers or not which are invoked by the School to review its order. This is apparent that the Committee has become functus officio after it passed the order dated 10th August, 2015. After passing its order dated 10th August, 2015 whether the committee will still have the power to review its said order, is to be decided first.

This is no more res integra 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:



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"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.

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 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 ~~by~~ permitted the committee to review the order of Rukmani Devi Public School. The Hon'ble Court passed the following order:

~~Wikipedia~~



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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.

The writ petition shall be renotified on 09.05.2014"

From the above it is apparent that the Committee does not have the powers to review its own orders and though the Committee had sought permission to review orders having errors on the face of the record, however, no general permission was granted to the Committee.

From the perusal of the application/representation dated 30th March, 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. This is also no more *res integra* that no review lies on merits unless a statute specifically provides for it. In *Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya MahaVidyalaya, Sitapur (U.P.) and Ors.* MANU/SC/0104/1987 and *Patel Narshi Thakershi 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 misapprehension 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 a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.



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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 it 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.

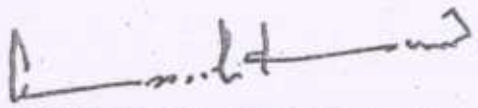
Applying these principles it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 10th August, 2015 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any


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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 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.

The application/representation dated 30th March, 2016 seeking rescinding of the order dated 10th August, 2015 and passing the order/recommendation again is not maintainable as this Committee does not have such powers. The application/representation dated 30th March, 2016 seeking reopening of the case of the school is, therefore disposed of as not maintainable



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



J.S. KOCHAR

MEMBER



R.K. SHARMA

MEMBER

15.07.2016

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Secretary



PDF Compressor Free Version**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:

St. Vivekanand Sr. Sec.School (B-0052),

Qutab Garh Road, Ladpur,

Delhi 110081

And in the matter of

Application/representation dated

23rd November, 2015 to review the order

Dated 25th May, 2015 passed in respect

of the School.

Present: Shri Yuvraj Punj, Manager; Shri R.K.Sharma, Dean Academics; Shri Puneet Batra, Accountant and Shri Pankaj Bhardwaj Jr. Accountant of the school.

ORDER

15.7.2016

The St. Vivekanand School, hereinafter referred to as 'The School' was sent questionnaire dated 27th February, 2012 to get the information and to determine whether or not they school had implemented the recommendations of the 6th pay commission and if so, whether or not the fee was hiked for the purpose of implementation. The school did not respond to the notice sent by the committee. However, the returns filed by the school under Rule 180 from

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the concerned Deputy Director of Education. The school was again sent a notice dated 10 January, 2014 directing the school to appear on 5th February, 2014 and to produce entire accounting, fee and salary records for the year 2008 - 09 and 2010 - 11. On 5th February, 2014, the manager and the accountant appeared and produced the record. The record produced by the school was got examined by the committee through its audit officers and the record was returned. Another notice dated 27 April, 2015 the school was asked to produce entire accounting, fee and salary records on 6th May, 2015. The manager and the accountant of the school again appeared and produced the record which was perused by the committee. After hearing the officials of the school and perusing the records of the school that the hike in fee was more than the permissible limit of 10% and therefore fee in excess of 10% was not justified. Consequently it was ordered that the fee the year 2009 - 10 in excess of 10% ought to be refunded along with interest at 9% per annum from the date of collection to the date of its refund. Consequently it was also ordered that fees of the subsequent years, 2009 - 10 ought also to be refunded with interest at 9% per annum from the date of collection to the date of its refund. The committee also held that the school did not comply with the conditions for the development fees therefore, the fee charged by the school to the tune of Rs.8,55,150/-during the year 2010 - 11 should also be refunded with interest at 9% per annum from the date of its collection to the date of its refund.

The school by its representation/application dated 23rd November, 2015 has sought that the order of refund dated 25th May, 2015 be condoned after



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reconsidering the same on the grounds as detailed in the representation. It is contended that the fees charged by their school was very nominal. The school despite its financial constraints with meagre income provided salary to all the employees working in the school. It was further pleaded that the fees was increased by Rs.100/- hundred based on the approval by the managing committee. In case the school is compelled to pay other benefits it will be beyond the financial capacity of their school and the school may have to be closed down or they school will have to charge extra fees which the parents may not be able to afford. The school is doing laudable community service and the children in the school are from disadvantaged sections of the society. The review/reconsideration of the order of the committee is also sought on the ground that the development fees which were charged by the school in 2010 - 11 was not to be utilised in the same year and could be accumulated as per the requirement. Regarding gratuity, encashment of leave etc., the school is contended that the provision for the same was not in the account books by mistake and now the management has decided to create provision for the same in the balance sheets 2015 - 16 onwards.

Before considering the merits of the grounds raised by the school to review the order dated 25th May, 2015, it has to be seen whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 25th May, 2015. This is apparent that the Committee has become functus officio after it passed the order dated 25th May, 2015. After passing its order dated 25th May, whether the committee will still

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have the power to review/reconsider its said order dated 25th May, 2016, is to be adjudicated first.

It cannot be disputed by the School/applicant 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.



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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. 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 renotified on 09.05.2014"

From the above it is apparent that the Committee does not have the powers to review its own orders and though the Committee had sought permission to review orders having errors on the face of the record, however, no general permission was granted to the Committee.



From the perusal of the application/representation dated 23rd November, 2015 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. This is also no more res integra 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 misapprehension 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 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



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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 it 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.

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.

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 25th May, 2015 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 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


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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.

The application/representation dated 23rd November, 2015 seeking recalling/revoking of the order dated 25th May, 2015 and passing the order/recommendation again and condoning the refund recommended by the Committee is not maintainable as this Committee does not have such powers. The application/representation dated 23rd November, 2015 seeking condoning the refund of fees and development fee by the school is, therefore disposed of as not maintainable




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



J.S. KOCHAR

MEMBER



R.K. SHARMA

MEMBER

15.07.2016

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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:

New Bal Vaishali Public School (B-0381),

Shri Sai Nagar,

Meethapur Extension,

New Delhi 110044

And in the matter of

Application/representation dated

25th April,, 2016 to review the order

Dated 10th September,2015 passed in respect

of the School.

Present: Shri J.K.Sharma Manager of the school with S.K.Sharma, Accountant.

ORDER

15.7.2016

In the case of the school, New Bal Vaishali Public School (B-0381) the committee had concluded that on the examination of the books of accounts and the salary records, it had transpired that the school had paid the salary in cash though it was maintaining a bank account. The representative of the school had admitted that till 2015 the said plea was paid in cash and the school started deducting TDS only in 2013 - 14. The manager of the school in his affidavit dated 10th July, 2015 had affirmed that the school did not implement the recommendations of the sixth pay commission. It has also transpired that the school increased the fee during the year 2009 - 10 in

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accordance with the order of Directors of Education and during the year 2010 - 11 by 10%. From the record and it also transpired that the school had not charged the development fee. In the circumstances the committee passed the order/recommendation holding that increase in fee for class 6 to 8 in excess of 10% was not justified and therefore, it was held that in the years 2009 - 10 fees hiked and charged in excess of 10% ought to be refunded with interest @9% per annum from the date of its collection to the date of its refund. Since the fee hike in 2009 - 10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and consequently fee of the subsequent year is also ought to be refunded which was more than 10% with interest @ 9% per annum from the date of its collection to the date of its refund.

The school has filed a representation/application dated 25th April 2016 seeking review of the order/recommendation of the committee dated 10th September, 2015. The school has contended that it did not increase the tuition during the Session 2008 - 09 at increase tuition fee in the administration 2009 - 10 just to decrease the shortfall for payment of salary. The fee charged by the school for the last five years was placed before the committee shows that the fee charged was much on the lower side as the school is functioning in unauthorized colony inhabited by low income group. There has not been any direction of the Director of Education to increase the fee only by 10%. Rather increase of fees has to be in accordance with the proposed expenditure on account of salary and other recurring expenditure. The committee had erred in not considering the application of the school during the hearing on



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21st July, 2015. In the circumstances it is contended that the order/recommendation of the committee is not correct and is liable to be set aside. The school also contended that it has not complied with the order/recommendation of the committee dated 10th September, 2015 and has not refunded the tuition fee and has not paid any interest as ordered/recommended.

The school has sought review of the order/recommendation of the committee 10th September, 2015 on merits. 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 10th September, 2015. This cannot be disputed by the School that the Committee has become functus officio after it passed the order dated 10th September, 2015. After passing the order which is sought to be reviewed whether the committee will still have the power to review/reconsider its said order/recommendation is to be adjudicated first.

It cannot be disputed by the School/applicant 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".



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"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.

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:

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The writ petition shall be renotified on 09.05.2014"

From the above it is apparent that the Committee does not have the powers to review its own orders and though the Committee had sought permission to review orders having errors on the face of the record, however, no general permission was granted to the Committee.

From the perusal of the application/representation dated 25th April, 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. This is also no more *res integra* 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 misapprehension 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 a justitiae* to prevent abuse of its process, and such power inheres in every Court or Tribunal.



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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 it 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.

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.



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The Applicant in the present case seeks recall/review of the order passed by the Committee dated 10th September, 2015 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 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.

The application/representation dated 25th April, 2016 seeking recalling/revoking of the order dated 10th September, 2015 and passing the order/recommendation again is not maintainable as this Committee does not have such powers. The application/representation dated 25th April, 2016 by the school seeking review of the order/recommendation dated 10th September, 2015 is, therefore disposed of as not maintainable

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15.07.2016


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON


J.S.KOCHAR

MEMBER


Dr. R.K. SHARMA

MEMBER

PDF Compressor Free Version**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

St. Mathews Public School,

A-6 Paschim Vihar, New Delhi.

And in the matter of

**Application dated 29.12.2015 for
reconsideration/review of
recommendations dated 26th May, 2015
in the matter of school. (B-460)**

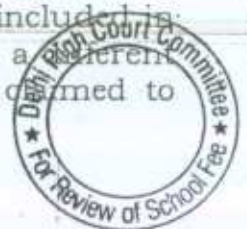
Present: Ms. Anita Sethi, Principal, Mr. Pramod Sharma, CA, Ms. Tanya Sharma; Legal Advisor, Mr. Kishan Kumar, Teacher of the School.

The matter pertaining to the applicant/school was disposed of by the the Committee by order dated 26th May, 2015. The committee had recommended that the school ought to refund the arrears of fee charged by the School @ Rs.3900 per student; regular fee hiked in 2009-10 in excess of 10% and the regular fee for the years subsequent to 2009-10, to the extent they relate to the regular fee for 2009-10, of which the Committee has recommended the refund. While making these recommendations the committee had observed :

"..The account books and salary registers were examined by the Committee. The Committee observed that the arrears salary purportedly paid by the school was shown to have been paid in installments along with the monthly salary. The Committee observed that the amount of arrear salary that was included in the register along with regular salary was entered in a different ink and handwriting. Further although the school claimed to

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have made the payment of regular salary and installments of arrear salary together as per the salary register, the entries in the books of accounts i.e cash book and ledger were made on different dates. Besides, the school produced a separate register also which showed payment of arrears salaries and on which the acknowledgement of receipt of payment were obtained across revenue stamps. Thus, against one payment of arrears, the school obtained acknowledgement of payment twice - once in the salary register along with regular salary and again in arrears payment register. When confronted, the representative of the school conceded that the arrear payment register was prepared subsequently after the school was subjected to an inspection by the Directorate of Education. The Committee also observed that all the arrear payment were shown to have been made in cash."

The Committee had also noticed that the school had been seeking repeated adjournment and was extremely reluctant to produce its records before the audit officer as well as before the Committee. On the basis of various observation the Committee held that the school has not paid any arrears of salary to the staff nor implemented the recommendations of the VI Pay Commission even prospectively and took undue advantage of order dated 11th February, 2009 issued by the Director of Education and recommended refund of fees.

Now by application dated 29th December, 2015 the applicant/school is seeking review and rectification of order/recommendation dated 26th May, 2015, of the Committee on the various grounds inter alia that the accounts of the school can be inchoate but they are not false; that due to some unfortunate incidents, like sad demise of chairman of the school, harassment being faced by female staff in the School by one mischievous student & his father, school might not have been able to represent its case in a timely, proper and emphatic manner in front of the commission, which is highly regretted. The school has also given various other explanations and has sought that the case of the School should be reopened and the school undertake to re-produced any record as may be required by the Committee.

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In the circumstances, it is not disputed and cannot be disputed 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. This is no more *res integra* that no review lies on merits unless a statute specifically provides for it. In *Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.)* and *Ors. MANU/SC/0104/1987* and *Patel Narshi Thakershi 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. It was held that there is difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Court or 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 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 a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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 illustrative cases in which the power of procedural review may be invoked.

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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 it 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.

Applying these principles it is apparent that where a Court or 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 Court or the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 26th May, 2015 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 the school/applicant is seeking reopening of 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

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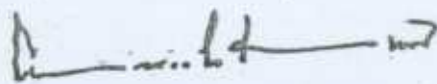
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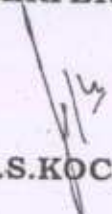


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specific provision or the orders of the Hon'ble Court authorizing the Committee to review its orders/recommendations either expressly or by necessary implication.

The application is not maintainable as this Committee does not have the power to review its recommendations/order. The application/representation seeking reopening of the case of the school is disposed of as not maintainable


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

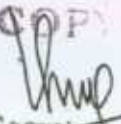

J.S.KOCHAR
MEMBER


R.K. SHARMA
MEMBER

New Delhi

15.7.2016

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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:

**Mater Dei School,
Tilak Lane, New Delhi**

And in the matter of

**Application dated 23rd January, 2016
& 15th July, 2016 for reconsideration/
review of recommendations dated
14th May, 2015 in the matter of school.**

Present: Sh. K.K. George, CA, Sh. Romy Chacko, Advocate, Sh. Martin Pinto, CA, Sh. Stankly, Office Administrator of the School.

ORDER

15.7.2016

In the case of the Applicant, the Committee by its order dated 14th May, 2015 had inferred on the basis of documents produced by the school and contentions made that the fee hiked by the school to the extent of Rs.9,96,001 was more than what was justified and therefore the school ought to refund the same to the students along with 9% interest from the date of collection to the date of refund. The committee also inferred and ordered that the school was not justified in charging development fee in any of the years and therefore, in view of order dated 11th February, 2009 of the Director of Education, the refund of development fee charged for the years 2009-10 and 2010-11 was ordered to be refunded. The school was found to have charged Rs.47,70,425/- as development fees in the year 1009-2010 and Rs.53,68,850/- in the year

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2010-2011. Therefore, it was recommended to refund the said amounts with 9% simple interest from the date of collection to date of refund.

The school/Applicant by applications/representations dated 23rd January, 2016 and 15th July, 2016 has sought review of order dated 16th May, 2015 of the Committee on various ground

Before considering the merits of the grounds on which the review has been sought by the school, it is to be considered whether the Committee will have power to review its order after it has become functus officio. This is apparent that the Committee has become functus officio after it passed the order dated 16th May, 2015. After passing its order dated 16th May, 2015 whether the committee will still have the power to review its said order, is to be decided first.

A quasi-judicial authority will become funtus 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:

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"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, the Committee became functus officio as it had decided the question brought before the Committee.

Earlier in other matters, the three 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 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 only. 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 renotified on 09.05.2014"

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From the above it is apparent that the Committee does not have the powers to review its own orders and though the Committee had sought permission to review orders having errors on the face of the record, however, no general permission was granted to the Committee.

From the applications/representations of the school it cannot be denied 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. This is no more *res integra* 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 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 a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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 mistake

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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 it 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.

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.

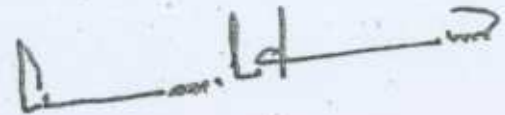
The Applicant in the present case seeks recall/review of the order passed by the Committee dated 16th May, 2015 on merits on various grounds. It is not alleged that in passing the order the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself 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 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




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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.

The applications/representations are not maintainable as this Committee does not have the power to review its recommendations/orders. The applications/ representations seeking reopening of the case of the school are disposed of as not maintainable

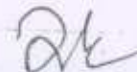


**JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON**



J.S. KOCHAR

MEMBER



R.K. SHARMA

MEMBER

15.07.2016

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PDF Compressor Free Version**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:

Shri Ram Shiksha Mandir Sr. Sec. School (B-0549),

Jindpur,

Delhi 110036

And in the matter of

Application/representation dated

30th November, 2015 to review the order

Dated 17th March, 2015 passed in respect

of the School.

Present: Shri K.C.Arora, representative; Shri Amit Bhardwaj, Office Superintendent; Shri Vinod Kumar, Accountant with Shri Mohinder Kansal, Chartered Accountant of the school.

ORDER**15.7.2016**

In the case of the school, Shri Ram Shiksha Mandir (B-0549) the committee after consideration of the record and the pleas and contentions of the school had recommended that the development fees charged by the school to the tune of Rs.40,62,023/- during the years 2009-10 and 2010-11 was not in accordance with law and therefore, held that the school is liable to refund the said fees with interest @ 9% per annum from the date of collection to the



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date of its refund. The committee noted that the development fee had been treated as revenue receipts and no separate depreciation reserve fund and development fund had been maintained by the school. It had also been noticed that during the year 2010 - 11 the hike was more than 10%. It was also inferred that the the facts and circumstances of the school that the school had not implemented the recommendations of the sixth pay commission and the increasing of fees in excess of 10% was not justified and therefore, recommended for refund of fees in excess of 10% with interest @9% per annum from the date of its collection to the date of its refund.

The school has filed a representation/application dated 30th November, 2015 to reconsider the findings of the committee. The school has filed the copies of the salary records running into 65 pages. The applicant contended that the school is continuously following the directions as given in the order dated 15th December, 1999; 2nd February, 2006 and 11 February 2009. The issue of fee schedule was considered by PTA followed by managing committee and communicated to the Department. The total amount received from the students in the form of tuition fee has been disbursed as salary. According to the school it was demolished dated before the committee that the school has been maintaining separate bank account for the tuition fee and for the development charges. The development charges have also been qualified either as the revenue receipts or as the capital receipts. The school on the basis of the figures given in the representation/application has contended that increase in fee was never over and above the permitted limit of 10% hike in the existing fee schedule. It is also contended that the order/recommendation of



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the committee may not be implemented as the students of 2006 have already left to school and it will be impossible to contact them despite all the efforts made by the school authority and therefore the recommendations/order of the committee should be withdrawn and should not be forced upon the school. It is also contended that the copy of the representation/application is also submitted to the Director of Education with annexures to reconsider the findings of the committee.

It is apparent from the representation/application of the school dated 30th November, 2015 that it has also been submitted to the Director of Education with a request to reconsider the findings/order dated 17th March, 2015 of the committee. If the school is of the view that the Director of Education is competent to reconsider the order dated 17th March, 2015 of the committee, then the representation/application dated 30th November, 2015 seeking review of said order will not be maintainable before the committee.

In case the representation/application dated 30 November, 2015 is a student maintainable before the committee, before considering the merits of the grounds raised by the school to review the order dated 17th March, 2015, it has to be seen whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 17th March, 2015. Perhaps this cannot be disputed by the School that the Committee has become functus officio after it passed the order dated 17th March, 2015. After passing its order dated 17th March, 2015 whether the committee will still have the power to review/reconsider its said order is to be adjudicated first.

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It cannot be disputed by the School/applicant 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".

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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.

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



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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. 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 renotified on 09.05.2014"

From the above it is apparent that the Committee does not have the powers to review its own orders and though the Committee had sought permission to review orders having errors on the face of the record, however, no general permission was granted to the Committee.

From the perusal of the application/representation dated 23rd November, 2015 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. This is also no more res integra that no review lies on merits



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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 misapprehension 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 a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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

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the Court or the quasi-judicial authority suffered from such illegality that it 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.

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.

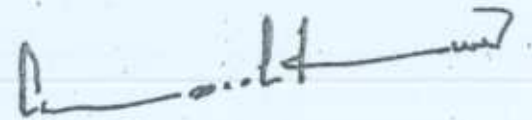
The Applicant in the present case seeks recall/review of the order passed by the Committee dated 17th March, 2015 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself 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 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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The application/representation dated 30th November, 2015 seeking recalling/revoking of the order dated 17th March, 2015 and passing the order/recommendation again is not maintainable as this Committee does not have such powers. The application/representation dated 30th November, 2015 by the school seeking review of the order/recommendation dated 17th March, 2015 is, therefore disposed of as not maintainable



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



J.S. KOCHAR

MEMBER



R.K. SHARMA

MEMBER

15.07.2016

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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:

Sri Guru Nanak Public School (B-0536),

Adarsh Nagar,

Delhi 110033

And in the matter of

Applications/representations dated

4th April, 2016 and 14th January, 2016

to review the order Dated 9th April, 2015

passed by the Committee in respect of the School.

Present: Shri Dhiren M.Doshi, Principal; Shri Sukhbir Singh Puri, Hony. Secretary; Shri H.S.Dua, C.A; Shri Rakesh Dhingra, C.A; Ms. Vandana Trehan, Head Clerk and Ms. Baljeet Kaur, LDC

ORDER

15.7.2016

The school, Sri Guru Nanak Public School (B-0536) by its letter dated 18th February, 2012 had submitted copies of annual returns filed under Rule 180 of Daily School Education Rules, 1973; copies of statement of fees, for the year 2006 - 07 to 2010 - 11; the details of salary paid to the staff before implementation of sixth pay commission report and after its implementation and the statement indicating the extent of fees hiked pursuant to order dated 11th February, 2009 of the Department. The committee had sent a questionnaire followed by a notice requiring the school to produce the fee records, salary records, book of accounts and TDS and provident fund returns.

The school had submitted that arrears of salaries paid by the school amounting to Rs.24,45,800/- were paid by bank transfer. It was also contended that the school treated the development fee as a capital receipt, and the unutilized development fund and the depreciation reserve fund were not kept in the earmarked accounts. No provision was made by the school for the leave encashment. The school was however, given liberty to file the details of its liability for the leave encashment. From the records of the school, it also transpired that the school had sufficient funds and it could have implemented the recommendations of the sixth pay commission without fee hike. The contention of the school was that it was anticipating huge liabilities on account of the litigation. It was however, conceded that the entire reserves were built out of the fee revenues of the school. With regard to the development fund the representative of the school had conceded that the reserve fund was not earmarked by the School. It also held that the school arrears recovered by the school was in excess of its requirement of Rs.12,79,920/- and in terms of order dated 11.2.2009, the School ought not to have hiked the regular tuition fees. Therefore, it held that the additional Revenue of Rs.51,62,400 ought to be refunded with interest @ 9% per annum from the date of collection to the date of refund. It also held that the school should refund the development fee amounting to Rs.20,85,020 charged during the period 2009-10 and Rs.21,46,565 charged during the period 2010-11 with interest @ 9% per annum from the date of collection to the date of refund.

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The school has filed representations/applications dated 4th April 2016 and 14th January, 2016 seeking review of the order/recommendation of the committee dated 9th April, 2015. The school has contended that it made a technical mistake that the annual charges and the development charges were not marked in FDRs. Had the school marked the annual and development charges in separate FDRs, the contention of the school would have been accepted easily. The school also contended that it has resolved to open a separate bank account for development charges in future. They school had uncovered liability against the depreciation reserved fund which was in the process and therefore, it was not submitted during the hearing before the committee. According to the school the actual calculation has been done by its Chartered Accountant with utmost priority and the same has been contended in the application seeking review/reconsideration of the order dated 9th April, 2015 and preparation of a new calculation sheet keeping into consideration the principle of natural Justice. The school contended that it had not utilized development charges for payment of arrears of sixth pay commission. It is contended that the fees of the school is minimum possible considering the school programs and facilities offered by it. School is paying large amount as legal expenses which necessitated utilization of the FDR's for the contingent liability. If this result was not, the management of the school had no alternative but to close the school. On these grounds the school has sought review of final order dated 9th April, 2015.

The school has sought review of the order/recommendation of the committee dated 9th April, 2015 on merits. 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 9th April, 2015. This cannot be disputed by the School that the Committee has become functus officio after it passed the order dated 9th April, 2015. After passing the order which is sought to be reviewed whether the committee will still have the power to review/reconsider its said order/recommendation is to be adjudicated first.

It cannot be disputed by the School/applicant 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".

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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.

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:

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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. The Hon'ble Court passed the following order:

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The writ petition shall be renotified on 09.05.2014"

From the above it is apparent that the Committee does not have the powers to review its own orders and though the Committee had sought

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permission to review orders having errors on the face of the record, however, no general permission was granted to the Committee.

From the perusal of the applications/representations dated 4th April, 2016 and 14th January, 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. This is also no more *res integra* 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 misapprehension 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 a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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-

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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 it 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.

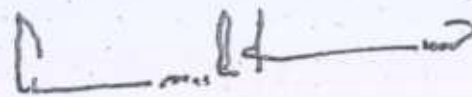
Applying these principles it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 9th April, 2015 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 the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review

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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.

The applications/representations dated 4th April, 2016 and 14th January, 2016 seeking recalling/revoking of the order dated 9th April, 2015 and passing the order/recommendation again is not maintainable as this Committee does not have such powers. The applications/representations dated 4th April, 2016 and 14th January, 2016 by the school seeking review of the order/recommendation dated 9th April, 2015 are, therefore, disposed of as not maintainable



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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J.S.KOCHAR

MEMBER



Dr. R.K. SHARMA

MEMBER

15.07.2016

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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:

Dharam Deep Public School (B-0072),

Adhyapak Nagar,

Nangloi

Delhi 110041

And in the matter of

Application/representation dated

15th February, 2016 to review the order

**Dated 24th January, 2014 passed in respect
of the School.**

Present: Shri Rajesh Dabas Advocate for the School.

ORDER

15.7.2016

In the case of the school, Dharam Deep Public School (B-0072) the committee after consideration of the record and the pleas and contentions of the school had ordered that the increase in fee in excess of 10% was unjustified and thus ordered that the fee hike effected by the school in 2009 - 10 in excess of 10% ought to be refunded with interest @9% per annum. The school had treated the development fee as revenue receipt and no earmarked the depreciation reserve fund was maintained and therefore it was held that

Application/representation dated 30.11.2015, Shri Ram Shiksha Mandir (B-0549)

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the school was charging development fee without complying with the earlier directions and therefore, recommended that an amount of Rs.18,37,926.00 charged as development fee during 2009 - 10 and 2010 - 11 ought to be refunded with interest @ 9% per annum. The committee noted that the development fee had been treated as revenue receipts and no separate depreciation reserve fund and development fund had been maintained by the school. On the basis of the records of the school, the committee also inferred that the claim of the school to have implemented the recommendation of the sixth pay commission is hard to believe. It was noticed that had the recommendation of sixth pay commission been implemented, most of the teachers would have fallen in the tax bracket and the school would have deducted TDS from their salaries.

The school has filed a representation/application dated 15th February, 2016 contending that there are discrepancies in the order/recommendation of the committee and in the circumstances the direction to refund the excess amount may be withdrawn as the school has implemented the recommendation of the sixth pay commission and has not charged excess fee from the students. The school has also prayed that a personal hearing be given so that more requisite documents may be produced by the school. According to the school the children studying in the school are that of daily wagers, factory workers, small shopkeepers and rickshaw pullers and the fee charged by the school from the student is in consonance with the rural background of the area. The school admitted that it did not recover the arrears from the students as it was thought that it will be unwarranted burden on the parents.

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The development charges were utilized in making payment to the teachers as per sixth pay commission. The school had already furnished the information sought by the committee pursuant to a questionnaire which was sent to the school. The representatives/manager of the school had appeared and had presented all the relevant records relating to the account of fee and salary for the year 2008 - 2009 and 2010 - 2011. According to school the inferences drawn by the committee are contradictory and in the circumstances the committee could not recommend/direct to refund the excess fee with interest @9% per annum. The committee failed to appreciate the observations of the Audit officer of the committee who had categorically stated that the school had implemented the report of the sixth pay commission. The contention of the school is that the recommendations/order of the committee to the facts on record and in the circumstances there could not be any direction and/or observations to refund of fees with interest.

Before deciding the representation/application of the school dated 15th February, 2016, it has to be seen whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 24th January, 2014. Perhaps this cannot be disputed by the School that the Committee has become functus officio after it passed the order dated 24th January, 2014. After passing its order dated 24th January, 2014 whether the committee will still have the power to review/reconsider its said order is to be adjudicated first.

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It cannot be disputed by the School/applicant 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.

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

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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. 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 renotified on 09.05.2014"

From the above it is apparent that the Committee does not have the powers to review its own orders and though the Committee had sought permission to review orders having errors on the face of the record, however, no general permission was granted to the Committee.

From the perusal of the application/representation dated 15th February, 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. This is also no more res integra that no review lies on merits



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unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya MahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi 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 misapprehension 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 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 it



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vitiate 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.

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.

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 24th January, 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 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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The application/representation dated 15th February, 2016 seeking recalling/revoking of the order dated 24th January, 2014 and passing the order/recommendation again, is not maintainable as this Committee does not have such powers. The application/representation dated 15th February, 2016 by the school seeking review of the order/recommendation dated 24th January, 2014 is, therefore disposed of as not maintainable

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15.07.2016


 JUSTICE ANIL KUMAR (Retd.)
 CHAIRPERSON


 J.S. KOCHAR
 MEMBER


 Dr.R.K. SHARMA
 MEMBER

PDF Compressor Free Version**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:

St. George's School (1924141),

E-7, Defence Colony,

New Delhi

And in the matter of

Application dated 2nd June, 2016

for recalling the order dated

8th October, 2015 passed in respect

of the School.

Present: Sh. P.K.Copan, Manager of the School with Jinu Samual, Accountant of the School.

ORDER**19.7.2016**

The St. George's School, hereinafter referred to as 'The School' had been issued a questionnaire dated 27/02/2012. It was followed by a reminder dated 27/03/2012. No response was received from the school. By another notice dated 16/07/2012, the Committee required the school to produce on 27/07/2012 the copies of fee receipts and salary payment registers, besides detail of arrear fee received from the students. Again no one appeared on that date nor any records were produced for verification by the Committee.

Application/representation dated 02.06.2016

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On perusal of the annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973, the Committee noticed that the schedules forming part of audited balance sheet for the year 2010-11, were not submitted by the school. The Committee sent another notice dated 03/12/2013 requiring the school to furnish the said schedules in the office of the Committee by 10/12/2013. A revised questionnaire was also issued incorporating the relevant queries regarding receipt and utilization of Development Fees and maintenance of Development Fund and depreciation reserve fund by the school, besides the queries raised vide the earlier questionnaire dated 27/02/2012 regarding fee hike and salary hike consequent to implementation of VI Pay Commission report. Again no reply was received from the school. Another reminder dated 10/01/2014 was sent by the Committee for furnishing the aforesaid information and documents by 20/01/2014. The school responded vide letter dated 20.01.2014 and gave specific but cryptic reply. In order to complete the relevant calculations, notice dated 26.5.2015 was issued requiring it to furnish aggregate figures of arrears of fee for different periods, regular tuition fee for 2008-09; 2009-10 and 2010-11; arrear if salary and regular expenditure account and accrued liabilities, gratuity and leave encashment. However, no reply was furnished. Despite not furnishing the information, the School was given another notice dated 20.08.2015 for hearing on 10th September, 2015. Shri P.K.Copan, Manager with Jinu Samula, Manager Accounts appeared but they again did not submit the information sought by the committee.



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In view of the admitted position that the school did not implement the recommendations of VI Pay Commission and did pay any arrears of salary, the Committee ordered refund of entire amount of arrears of fees recovered from the students pursuant to notification dated 11th February, 2009 of the Director of Education with interest @ 9% from the date of collection to the date of refund. The School was directed to refund the tuition fee hiked w.e.f 1.4.2009 so far as it exceeds 10% of tuition fee charged in the year 2008-09 with interest @ 9% per annum from the date of collection to the date of refund. The School was ordered to refund the fee of subsequent years relating to fees of 2009-10 with same interest. It was also held by said order dated 8th October, 2015 that the school is liable to refund Development Fee of rs.2,06,059 charged in 2009-10 and Rs.1,46,702 charged in 2010-11 with 9 % interest from the date of collection to the date of refund.

The school/Applicant by applications/representations dated 2nd June, 2016 has sought reconsideration of the order dated 8th October, 2015 (DE.15/ACT-I/F.H./JADSC/2016/7208-7214 dated 15th March, 2016) passed by the Committee contending inter-alia that the school is run from a rented building and the total strength of the school is around 60 students each year. The School is getting funds from the society for running it. The School alleged that the development fee charged from the students used for overall development of the School. It is alleged that since the school incurred deficit, the development fee was also used to meet the deficit. It is alleged that the school is not engaged in profiteering and shall suffer financially if the order dated 8th October, 2015 passed by the Committee is not recalled.

The School in its application for review dated 2nd June, 2016 has not denied that the notices were given to the school to produce the relevant

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information and reasonable opportunity of hearing. No explanation or reason has been given as to why the school did not produce the relevant information which was required to be produced.

Before considering the merits of the grounds on which the review has been sought by the school, it is to be considered whether the Committee will have power to review its order after it has become functus officio. This is apparent that the Committee has become functus officio after it passed the order dated 8th October, 2015. After passing its order dated 8th October, 2015 whether the committee will still have the power to review its said order, is to be decided first.

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:

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"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, the Committee became functus officio as it had decided the question brought before the Committee.

Earlier in other matters, the three 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 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 only. The Hon'ble Court passed the following order:



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"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 renotified on 09.05.2014"

From the above it is apparent that the Committee does not have the powers to review its own orders and though the Committee had sought permission to review orders having errors on the face of the record, however, no general permission was granted to the Committee.

From the application/representation of the school it cannot be denied 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. This is no more res integra 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 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

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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.

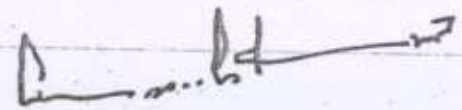
The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently 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 it 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.

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.


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The Applicant in the present case seeks recall/review of the order passed by the Committee dated 8th October, 2015 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 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.

The application/representation is not maintainable as this Committee does not have the power to review its recommendations/orders. The applications/ representations seeking reopening of the case of the school is disposed of as not maintainable



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



J.S.KOCHAR

MEMBER



R.K. SHARMA

MEMBER

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19.07.2016



PDF Compressor Free Version**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:

FATHER AGNEL (B-0179),

Gauttam Nagar,

New Delhi 110049

And in the matter of

Application/representation dated

26th May, 2016 to rescind the order

Dated 8th August, 2015 passed in respect

of the School.

Present: Fr. S.A Caryaliho Principal of the School with Mr. Sunil Rustgi
Accountant.

ORDER**19.7.2016**

The Father Agnel School hereinafter referred to as 'The School' was asked the information vide questionnaire dated 27th February, 2012. The school had filed the letter dated 14th March, 2012 giving the information which was sought from the school. The school was placed in the category 'B' for verification. Copies of the annual returns filed by the school under rule 180 of Delhi School Education Rules, 1973 were also received from the Director of Education. On considering the documents and information furnished, it was found that certain information was lacking and consequently the school was



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asked to furnish the additional document. The school provided additional information by letter dated 29th July, 2013. The figures given by the school were verified with the figures of the audited financials which did not match. On verification it also transpired that the liability on account of Gratuity was over stated to an amount of Rs.9,00,783/-. Considering the information furnished and the documents filed, it was inferred that the school was not justify in imposing a fresh levy for the year 2008-09 amounting to Rs.31,50,000/- for the period 1st September, 2008 to 31st March, 2009. In the entirety of facts and circumstances and the reasons incorporated in the order dated 8th August,2015 it was ordered that the school should refund the development fees for the year 2008-09 amounting to Rs.31,50,000/-which was recovered in the guise of incremental development fee for the period 1st September, 2008 to 31st March,2009 with interest at the rate of 9% per annum from the date of collection to the date of refund.

The school/Applicant by applications/representations dated 26th May, 2016 has challenged the order of the committee dated 8th August,2015 contending inter-alia that the school beg to disagree with the order of the Committee on most of the inferences except on certain points. The school has challenged the entire order parawise. The school has, therefore, has prayed that the order dated 8th August, 2015 be rescinded. The contention of the school is that no illegality has been committed and therefore the school should not be directed to refund the development fees. The school has also prayed that the language of the order be amended since the language smacks of dishonesty on the part of the school and the school has been fined for being honest. In the circumstances the school has prayed that the order be rewritten and reviewed

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on the grounds as raised in the representation/application dated 26th May, 2016.

The Committee cannot hear the appeal against its own order as is, it appears, sought by the school. If the school is seeking reconsideration/review of order dated 8th August, 2015, before considering the merits of the grounds raised by the school to review the order dated 8th August, 2015, it has to be seen whether the Committee has such powers or not which are invoked by the School. This is apparent that the Committee has become functus officio after it passed the order dated 8th August, 2015. After passing its order dated 8th August, 2015 whether the committee will still have the power to review its said order, is to be decided first.

This is no more res integra 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. Therefore, the Committee became functus officio as it had decided the question brought before the Committee.

Earlier in other matters, the three 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 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 **only**. 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 renotified on 09.05.2014”

From the above it is apparent that the Committee does not have the powers to review its own orders and though the Committee had sought permission to review orders having errors on the face of the record, however, no general permission was granted to the Committee.

From the perusal of the application/representation dated 26th May, 2016 of the school it cannot be denied 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. This is also no more *res integra* 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 misapprehension 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.



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 it 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.

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.

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 8th August, 2015 on merits on various grounds. It is not alleged that in passing the order the committee has committed

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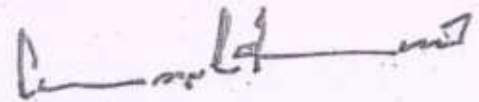
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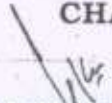
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procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and 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.

The application/representation dated 26th May, 2016 seeking rescinding of the order dated 8th August, 2015 and passing the order/recommendation again is not maintainable as this Committee does not have such powers. The application/representation dated 26th May, 2016 seeking reopening of the case of the school is disposed of as not maintainable



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



J.S.KOCHAR

MEMBER



R.K. SHARMA

MEMBER

19.07.2016

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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

Gyan Jyoti Public Sec. School,

Chhawala, Delhi (B-269)

And in the matter of

Application dated 25/9/14 for

reconsideration / review of

recommendations dated 29/2/12

in the matter of school.

Present: Mr. Naresh Kumar, General Secretary of the Society appears on behalf of the school and states that since the school has complied with the recommendations made by the Committee, the application for review dated 25/09/2014 be allowed to be withdrawn.

Consequently, the application dated 25/09/2014, seeking review of recommendation 29/02/2012 is allowed to be withdrawn.

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

J.S. KOCHAR
MEMBER

R.K. SHARMA
MEMBER

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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:

**Delhi International Happy School,
Bhogal, Jangpura, New Delhi-110014 (B-376)**

Recommendations of the Committee

Present : Sh. K.S. Jha, Principal & Sh. Rajender Singh, Cashier of the school.

The school has not filed copy of the circular which might have been issued to parents regarding fee hike in pursuance of order dated 11.02.2009 issued by the Directorate of Education, despite being specifically asked to file the same vide notice dated 22nd May 2015. The Principal of the school who is present at the time of hearing is unable to state as to how much fee was hiked in pursuance to the aforesaid order. On perusal of the returns filed by the school under Rule 180 of Delhi School Education Rules-1973 for the years 2008-09 & 2009-10, shows that the school hiked the tuition fee @ Rs. 250/- p.m. for classes 1 & 2, Rs. 300/- p.m. for classes 3, Rs.200 p.m. for class 4th, Rs.250 p.m. for classes 5th to 10th. The principal of the school further states that no arrear fee was recovered from the students and consequently no arrear salary was paid to the staff.

In 2008-09 the fee charged by the school for all the classes was between Rs.750/- & Rs. 950/-, thus as per order dated 11.2.2009, the school was entitled to raise the tuition fee by maximum amount of Rs.

Delhi International Happy School, Bhogal, Jangpura, New Delhi-110014 / Recommendations by B-376

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200/- p.m. only and that too if the school had implemented the recommendations of the sixth pay commission. The fee hike actually effected by the school was more than even the maximum hike that was furnished vide order dated 11.2.2009.

The school claims that it prospectively implemented the recommendations of 6th pay commission w.e.f. 01.04.2009. The committee has examined the salary records and the salary statement of monthly payment and it does not appear that the school has implemented the recommendations of the 6th pay commission even prospectively w.e.f. 01.04.2009. Although the school claims that the salary was paid by means of account payee cheques, perusal of the pass book of the bank account shows that all the salary cheques are encashed on the single date. As per the statement filed by the school the total salary paid by the school for the year 2008-09 was Rs 29,14,807 and that for the year it was 41,76,346 showing an incremental expenditure of Rs. 12,61,539. Perusal of the balance sheet of the school as on 31st March 2009 shows that the school had available the sum of Rs. 56,78,041 in its bank account. The balance in the bank account rose to 64,17,672 as on 31st March 2010. It is obvious that the school did not require any fee hike to meet its additional liabilities on account of the recommendations of the sixth pay commission w.e.f. 01.04.2009.

In view of the forgoing discussion the Committee is of the view that the school ought to refund the entire amount of fee hiked

Delhi International Happy School, Bhogal, Jangpura, New Delhi-110014 / Recommendation No. 376

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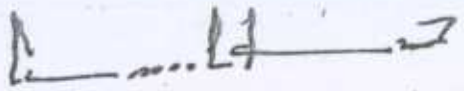
effected for the year 2009-10 alongwith interest @ 9% p.a. from the date of collection to the date of refund. Further since the hike effected in 2009-10 also forms part of the fee for the subsequent years, the school ought to refund the fee hike effected by it in the subsequent years also to the extent the hike is related to hike in fee in 2009-10. This also ought to be refunded alongwith interest of @ 9% p.m. from the date of collection to the date of refund.

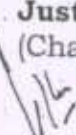
Recommended accordingly.


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20.07.2016/B-376


Justice Anil Kumar (R)
(Chairperson)


J.S. Kochar
(Member)


R.K. Sharma
(Member)



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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:

Decent Public School, Sector-3, Rohini, Delhi (B-44)

Recommendations of the Committee

Present:- Ms. Renu Gupta, Principal & Sh. Basant Gupta, Manager of the school.

The Committee has perused the circular dated 27.02.2009 issued by the school to the parents regarding fee hike effected by pursuant to the order dated 11.2.2009 of Directorate of Education. As per the circular, school hiked the fee w.e.f. 1st Sept. 2008 and also recovered the lump sum arrear fee as provided in the aforesaid order dated 11.02.2009. The circular did not mention the quantum of fee hike effected for different classes and merely reproduces the contents of the order dated 11.2.2009. It was submitted that the tuition fee originally charged by the school was between Rs.950/- and Rs. 1450/-. The tuition fee for classes 1st to 6th which were up to Rs. 1000/- p.m. was increased by Rs. 200/- p.m. and for classes 7th to 12th which was in excess of Rs.1000/- was increased by Rs. 300/- p.m. Further, the school also recovered lump sum fee to cover the arrear of salary for the period 1.1.2006 to 31st August 2008 @ of Rs. 2500/- per student whose tuition fee was upto Rs.1000/- and @ Rs.300/- per student whose tuition fee was in excess of Rs.1000/-. It was also submitted that although the school mentioned 15% of tuition fee to be charged as development fee in the year 2009-10 in the fee schedule, the same was

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Decent Public School, Sector-3, Rohini, Delhi- B44

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not actually charged. The Committee has pursued the audited financials of the school for the year 2009-10 and found that the contention of the representatives of the school was correct.

With regard to the payment of arrear salary the authorized representatives of the school submitted that the same were largely paid in cash as the teachers were not prepared to accept payments by cheques. The Committee had earlier called for the details regarding mode of salary paid by the school every month during the years 2008-09 and 2009-10. These were filed by the school under cover of its letter dated 18/05/2015. During the course of hearing the Committee perused these statements and observed that in 2008-09, out of a total salary of Rs.50,38,797/-, as much as Rs.44,68,568 was paid by account payee cheques and only small part of Rs. 4,70,229/- was paid in cash or by bearer cheques in the year 2008-09. In the year 2009-10 when the recommendations of the 6th Pay Commission were purportedly implemented, the payment by account payee cheques was Rs. 45,91,778, which is more or less the same amount of payment by such mode in 2008-09. The entire incremental salary in the year 2009-10 was shown to have been paid in cash.

The Committee has examined the passbook of the bank account maintained by the school with Punjab National Bank, and observed that even the payment purportedly made by account payee cheques, appeared to have been made through bearer cheques as all the cheques were encashed on a single date, and the order of encashment of cheques from the bank was in the same serial no. in which the cheques were issued. When confronted with this position, the Principal

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of the school Mrs. Renu Gupta, who was present has conceded that the cheques purportedly issued to the teachers/staff which were shown as account payee cheques, were indeed bearer cheques.

We find the many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by paying the salary/arrears of salary to the teachers in cash/bearer cheques. It is common knowledge that the schools show payment of inflated amount of salaries having been paid to the staff and the payment by cash or by bearer cheques facilitates this mechanism. The salaries that are shown to have been paid are not actually fully paid. When the amount of monthly salary and arrears is sizeable, there is no reason why they could not be paid through either crossed account payee cheques or by direct or electronic transfer to the accounts of the teachers. The teachers represent an educated section of the society and it is unfathomable that they do not have bank accounts. The only conclusion that can be drawn in such cases is that the salaries which are shown to have been paid in the books were not fully paid and the recommendations of 6th Pay Commission were not implemented by the school. Therefore, in our view the school had not implemented the recommendations of the Sixth Pay Commission.

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Recommendations regarding the hiked tuition fee and the arrear fee:

In the above premises, the Committee is of the view that the school neither implemented the recommendations of the 6th Pay Commission nor paid any arrears of salary to the staff. The order dated 11/02/2009 issued by the Director of Education permitted the schools to hike the fee for the purpose of meeting its additional expenditure on salaries on account of implementation of the recommendations of 6th Pay Commission. When, in view of the Committee, the recommendations of the 6th Pay Commission were not implemented, the school was not justified in hiking the tuition fee as provided in the aforesaid order. It could have, at best, hiked the tuition fee by 10%, which would have covered additional expenditure on the salary on account of annual increments and increase in other expenses on account of inflation.

In view of the foregoing discussion, the Committee is of the view that the school ought to refund the tuition fee for the year 2009-10, which was hiked in excess of 10% over the fee for the year 2008-09. The school also ought to refund the arrear fee for the period 01/09/2008 to 31/03/2009 that was recovered by the school. Likewise the school

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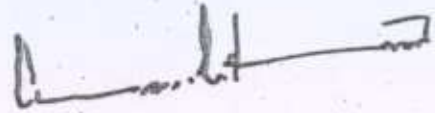


ought to refund the lump-sum fee recovered by it to cover the arrear payments for the period 01/01/2006 to 31/08/2008.

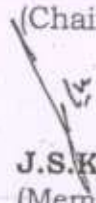
Since the fee hike in 2009-10 would also be a part of the fee for the subsequent years, the school ought to refund the fee for the subsequent years to the extent it is relatable to the fee hiked in 2009-10.

All the aforesaid refunds ought to be made alongwith interest @ 9% per annum from the date of collection to the date of refund.

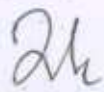
Recommended accordingly.



Justice Anil Kumar (R)
(Chairperson)




J.S. Kochar
(Member)



R.K. Sharma
(Member)

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22/07/2016/B-44



PDF Compressor Free Version**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:**Shiksha Bharti Public School, Sector-7, Dwarka, New Delhi****Recommendations of the Committee**

Present:- Sh. S.K. Sharma, Accountant (P/T) and Sh. Prabasis Rait, Accountant (F/T) of the school.

The Committee has perused the circular issued to the parents regarding fee hike in pursuance of order dated 11.02.2009, the school recovered a sum of Rs. 1400 as arrear of tuition fee for the period 01/09/2008 to 31/03/2009 for classes I to VIII and Rs. 2100 for classes IX to XII. Besides the school also recovered lump sum arrear of Rs. 2,500 per student of classes I to VIII and Rs. 3000 per student of classes IX to XII. Regular tuition fee hiked by the school was @ Rs. 200 per month for classes I to VIII and Rs. 300 per month for classes IX to XII w.e.f. 01/09/2008.

The Committee had earlier called for the details regarding mode of salary paid by the school every month during the years 2008-09 and 2009-10. These were filed by the school under cover of its letter dated 05/11/2015. During the course of hearing the Committee perused these statements and observed that in 2008-09, out of total salary of Rs.

Shiksha Bharti Public School, Bhogal, Sector 7, Dwarka, New Delhi-110077 / Recommendations/B-128

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1,38,39,863, a sum of Rs. 99,16,135 was admittedly paid in cash and Rs. 28,10,890 by bearer cheques. A nominal amount of Rs. 11,12,838 was paid by Account Payee Cheques. Similarly, in the year 2009-10, out of total payment of Rs. 2,03,98,938, a sum of Rs. 77,09,897 was paid in cash, Rs. 1,11,42,893 by bearer cheques and a small amount of Rs. 15,46,148 by account payee cheques. Even the payment of arrear salary that was purportedly paid consequent to the implementation of VI Pay Commission report amounting to Rs. 37,76,116 was paid in cash.

The arrears purportedly paid consequent to implementation of recommendations of 6th Pay Commission as well as monthly salary after such implementation are quite sizeable. There is no reason why the same had to be paid in cash. When the representatives of the school were asked for an explanation, they offered none.

We find the many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by paying the salary/arrears of salary to the teachers in cash/bearer cheques. It is common knowledge that the schools show payment of inflated amount of salaries having been paid to the staff and the payment by cash or by bearer cheques facilitates this mechanism. The salaries that are shown to have been paid are not actually fully paid. When the amount of

Shiksha Bharti Public School, Bhogal, Sector 7, Dwarka, New Delhi-110077 / Recommendations/B-128

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monthly salary and arrears is sizeable, there is no reason why they could not be paid through either crossed account payee cheques or by direct or electronic transfer to the accounts of the teachers. The teachers represent an educated section of the society and it is unfathomable that they do not have bank accounts. The only conclusion that can be drawn in such cases is that the salaries which are shown to have been paid in the books were not fully paid and the recommendations of 6th Pay Commission were not implemented by the school. Therefore, in our view the school had not implemented the recommendations of the Sixth Pay Commission.

Recommendations regarding the hiked tuition fee and the arrear fee:

In the above premises, the Committee is of the view that the school neither implemented the recommendations of the 6th Pay Commission nor paid any arrears of salary to the staff. The order dated 11/02/2009 issued by the Director of Education permitted the schools to hike the fee for the purpose of meeting its additional expenditure on salaries on account of implementation of the recommendations of 6th Pay Commission. When, in view of the Committee, the recommendations of the 6th Pay Commission were not implemented, the school was not justified in hiking the tuition fee as provided in the aforesaid order. It

Shiksha Bharti Public School, Bhogal, Sector 7, Dwarka, New Delhi-110077 / Recommendations/B-128

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could have, at best, hiked the tuition fee by 10%, which would have covered additional expenditure on the salary on account of annual increments and increase in other expenses on account of inflation.

In view of the foregoing discussion, the Committee is of the view that the school ought to refund the tuition fee for the year 2009-10, which was hiked in excess of 10% over the fee for the year 2008-09. The school also ought to refund the arrear fee for the period 01/09/2008 to 31/03/2009 that was recovered by the school in toto. Likewise the school ought to refund the lump-sum fee recovered by it to cover the arrear payments for the period 01/01/2006 to 31/08/2008.

Since the fee hike in 2009-10 would also be a part of the fee for the subsequent years, the school ought to refund the fee for the subsequent years to the extent it is relatable to the fee hiked in 2009-10.

All the aforesaid refunds ought to be made alongwith interest @ 9% per annum from the date of collection to the date of refund.

Recommendations regarding Development Fee

The Committee had issued a questionnaire to the school to ascertain whether the school was compliant with the pre-conditions laid down by the Duggal Committee, which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India (2004) 5 SCC 583. The school under cover of its letter dated Shiksha Bharti Public School, Bhogal, Sector 7, Dwarka, New Delhi-110077 / Recommendations/B-128

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29/05/2015 submitted its reply, vide which it conceded that the school was treating development fee as a revenue receipt and no earmarked accounts were maintained to park un-utilised development fund and Depreciation Reserve Fund. In fact, the school stated that it did not even maintain a Depreciation Reserve Fund.

It is apparent that the school was not complying with any of the pre-conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). This Committee, by the judgement of the Hon'ble Delhi High Court in WP(C) 7777 of 2009, is mandated to follow the principles laid down in the judgment of the Hon'ble Supreme Court in the case of Modern School. Since the school was not complying with the pre-conditions laid down in the aforesaid judgment in the case of Modern School, the Committee holds that the development fee charged by the school was not justified. However, since this Committee has been constituted to examine the issue of fee charged by the school pursuant to the order dated 11/02/2009 issued by the Director of Education, it is restricting its recommendations only to the development fee charged by the school for the years 2009-10 and 2010-11. For the earlier and the subsequent years, the Director of Education may take an appropriate view in accordance with law.

Shiksha Bharti Public School, Bhogal, Sector 7, Dwarka, New Delhi-110077 / Recommendations/B-128

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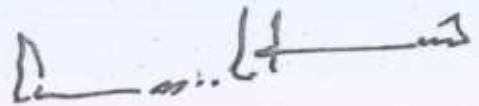
As per the reply to the questionnaire issued by the Committee, the school has stated that it charged development fee amounting to Rs. 35,53,646 for its Senior Secondary and Nursery schools in the year 2009-10 and a sum of Rs. 40,26,670 in the year 2010-11. The Committee is of the view that the school ought to refund these amounts alongwith interest @ 9% per annum from the date of collection to the date of refund.

Recommended accordingly.

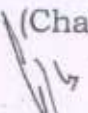
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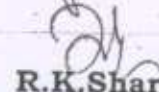
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22/07/2016/B-128



Justice Anil Kumar (R)
 (Chairperson)


J.S. Kochar
 (Member)


R.K. Sharma
 (Member)


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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:

Rattan Chand Arya Public School, Sarojini Nagar, New Delhi

Present:- Mrs. Namita Parit, Manager, Sh. Vijay Kumar, CA-Auditor
and Ms. Latesh, UDC of the School.

The Committee has perused the information filed by the school as well as copy of the circular issued to the parents regarding fee hike. It appears that the school hiked tuition fee by Rs. 200/- p.m. w.e.f. 1st Sept. 2008, besides recovery of lump sum arrears as per order dated 11.02.2009 issued by the Directorate of Education. The circular does not mention anything about recovery of arrears of development fee although the school charges development fee. The manager of the school has stated that the school did not hike any development fee and hiked only the tuition fee. It is further submitted by the Manager of the school that the school has not fully implemented the recommendations of VI Pay Commission. Only the basic salary has been revised as per its recommendations. The school did not pay any transport allowance or House Rent allowance as per the recommendations of VI Pay Commission. Further even the Dearness allowance was not fully paid at

Rattan Chand Arya Public School, Sarojini Nagar, New Delhi. B-136

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the respective rates. The representatives of the school submit that the school has treated the development fee as a capital receipt. However no earmarked bank accounts have been maintained for development fund and further no depreciation reserve fund had been maintained up to 2011.

Recommendations regarding the hiked tuition fee and the arrear fee:

Admittedly, the school has not implemented the recommendations of the 6th Pay Commission fully, but has hiked the tuition fee and has recovered arrears of fee as per the order of the Director of Education dated 11.02.2009. The said order of the Director of Education permitted the schools to hike the fee for the purpose of meeting its additional expenditure on salaries on account of implementation of the recommendations of 6th Pay Commission. Therefore, the school was not justified in hiking the tuition fee as provided in the aforesaid order. It could have, at best, hiked the tuition fee by 10%, which would have covered additional expenditure on the salary on account of annual increments and increase in other expenses on account of inflation.

Rattan Chand Arya Public School, Sarojini Nagar, New Delhi. B-136

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In view of the foregoing discussion, the Committee is of the view that the school ought to refund the tuition fee for the year 2009-10, which was hiked in excess of 10% over the fee for the year 2008-09. The school also ought to refund the arrear fee so collected by the school. Since the fee hike in 2009-10 would also be a part of the fee for the subsequent years, the school ought to refund the fee for the subsequent years to the extent it is relatable to the fee hiked in 2009-10.

All the aforesaid refunds ought to be made alongwith interest @ 9% per annum from the date of collection to the date of refund.

Recommendations regarding Development Fee

The Committee had issued a questionnaire to the school to ascertain whether the school was compliant with the pre-conditions laid down by the Duggal Committee, which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India (2004) 5 SCC 583. The school representatives, during the course of hearing had admitted that no earmarked accounts were maintained to park un-utilised development fund and Depreciation Reserve Fund. In

Rattan Chand Arya Public School, Sarojini Nagar, New Delhi. B-136

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fact, the school stated that it did not even maintain a Depreciation Reserve Fund.

It is apparent that the school was not complying with pre-conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). This Committee, by the judgement of the Hon'ble Delhi High Court in WP(C) 7777 of 2009, is mandated to follow the principles laid down in the judgment of the Hon'ble Supreme Court in the case of Modern School. Since the school was not complying with the pre-conditions laid down in the aforesaid judgment in the case of Modern School, the Committee holds that the development fee charged by the school was not justified. However, since this Committee has been constituted to examine the issue of fee charged by the school pursuant to the order dated 11/02/2009 issued by the Director of Education, it is restricting its recommendations only to the development fee charged by the school for the years 2009-10 and 2010-11. For the earlier and the subsequent years, the Director of Education may take an appropriate view in accordance with law.

As per the record produced by the school, it has collected development fee amounting to Rs. 23,96,50 in the year 2009-10 and a

Rattan Chand Arya Public School, Sarojini Nagar, New Delhi. B-136

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sum of Rs. 24,31,50 in the year 2010-11. The Committee is of the view that the school ought to refund these amounts alongwith interest @ 9% per annum from the date of collection to the date of refund.

Recommended accordingly.

[Handwritten Signature]

Justice Anil Kumar (R)
(Chairperson)

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Secretary

J.S.Kochar
(Member)

[Handwritten Signature]

R.K.Sharma
(Member)

22/07/2016/B-136



**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:

St. Frobels School, Pashchim Vihar. New Delhi-110063

Recommendations of the Committee

Present: Sh. Puneet Monga, Administrator, Ms. Kavita Monga, Principal, Sh. Mahavir Prasad, Accountant & Sh. S. Rana, Head Clerk of the school.

The Committee has perused copies of the circulars issued by the school regarding hike in fee effected by it, in pursuance of the order dated 11.2.2009 issued by the Director of Education. As per the circular and the fee structure for the year 2009-10, the school increased the tuition fee of students of different classes at different rates depending upon the existing tuition fee charged from them. The tuition fee for pre primary classes was increased by Rs. 300/- p.m., for classes 1st to 5th it was increased by Rs. 400/- p.m., for classes 6 to 10th it was increased by Rs. 300/- p.m.. The hike in tuition fee of 11th and 12th classes was Rs. 300/- p.m. for students of Commerce stream and Rs. 400/- p.m. for the students of Science stream. Although the school was charging development fee in the year 2008-09, it claims not to have increased any development fee w.e.f. 1st Sept. 2008 to 31st March 2009, as a consequence of increase in tuition fee. Besides the hike in tuition fee as above, the school also recovered lump sum fee to cover

St. Frobels School, Pashchim Vihar. New Delhi-63/ Recommendations/ B-250

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the arrears of salary for the period 1.1.2006 to 31st Aug. 2008, as provided the in order dated 11.2.2009.

The school claims to have implemented the recommendations of 6th Pay Commission w.e.f. April 2009. The school further claims to have paid the arrears of salary to the extent of the arrear fee recovered by it which was about 14 lakhs. The school claims that the actual liability was much more but it did not have the funds to pay the full amount of arrears.

As per the statement of salary showing mode of payment every month, paid filed by the school under cover of its letter dated 20.11.2015, the school has been paying bulk of the salary to the staff either in cash or by bearer cheques. In 2008-09, the total salary paid was Rs. 98.05 lakhs out of which only Rs. 7.24 lakhs was paid by account payee cheques. The rest was paid either in cash or by bearer cheques. Similarly in the year 2009-10 the total salary paid was Rs. 1.31 crores out of which the component of salary paid by account payee cheque was only Rs. 11.12 lakhs. The rest was paid by bearer cheques or in cash.

The Committee has perused copies of the bank statements filed by the school and observes that even the arrear salary amounting to Rs.14 lakhs approximately, was paid either in cash or by bearer cheques. The authorized representative of the school concedes this position at the time of hearing.

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The school submits that the hike in tuition fee and recovery of lump sum arrear fee was justified as it did not have funds of its own for implementation of the recommendations of the Sixth Pay Commission.

Discussion

The arrears purportedly paid consequent to implementation of recommendations of 6th Pay Commission as well as monthly salary after such implementation are quite sizeable. There is no reason why the same had to be paid in cash. When the representatives of the school were asked for an explanation, they offered none.

We find the many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by paying the salary/arrears of salary to the teachers in cash/bearer cheques. It is common knowledge that the schools show payment of inflated amount of salaries having been paid to the staff and the payment by cash or by bearer cheques facilitates this mechanism. The salaries that are shown to have been paid are not actually fully paid. When the amount of monthly salary and arrears is sizeable, there is no reason why they could not be paid through either crossed account payee cheques or by direct or electronic transfer to the accounts of the teachers. The teachers represent an educated section of the society and it is unfathomable that they do not have bank accounts. The only conclusion that can be drawn in such cases is that the salaries which are shown to have been paid in the books were not

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fully paid and the recommendations of 6th Pay Commission were not implemented by the school. Therefore, in our view the school had not implemented the recommendations of the Sixth Pay Commission.

Recommendations regarding the hiked tuition fee and the arrear fee:

In the above premises, the Committee is of the view that the school neither implemented the recommendations of the 6th Pay Commission nor paid any arrears of salary to the staff. The order dated 11/02/2009 issued by the Director of Education permitted the schools to hike the fee for the purpose of meeting its additional expenditure on salaries on account of implementation of the recommendations of 6th Pay Commission. When, in view of the Committee, the recommendations of the 6th Pay Commission were not implemented, the school was not justified in hiking the tuition fee as provided in the aforesaid order. It could have, at best, hiked the tuition fee by 10%, which would have covered additional expenditure on the salary on account of annual increments and increase in other expenses on account of inflation.

In view of the foregoing discussion, the Committee is of the view that the school ought to refund the tuition fee for the year 2009-10, which was hiked in excess of 10% over the fee for the year 2008-09. The school also ought to refund the arrear fee for the period 01/09/2008 to 31/03/2009 that was recovered by the school in toto. Likewise the school ought to refund the lump-sum fee recovered by it to cover the arrear payments for the period 01/01/2006 to 31/08/2008.

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Since the fee hike in 2009-10 would also be a part of the fee for the subsequent years, the school ought to refund the fee for the subsequent years to the extent it is relatable to the fee hiked in 2009-10.

All the aforesaid refunds ought to be made alongwith interest @ 9% per annum from the date of collection to the date of refund.

Recommendations regarding Regular Development Fee

The school in its reply to the questionnaire issued by the Committee has vaguely stated that development fee is treated in the accounts as "capital receipt/revenue receipt" When asked to clarify at the time of hearing, the authorized representative of the school concedes that it was treated as a revenue receipt and credited to the Income and Expenditure account of the school. Although the school claims that the development fee was utilized partially for purchase of fixed assets, perusal of Income and Expenditure accounts of school for the years 2009-10 & 10-11 shows that after taking credit of full development fee, the school incurred deficit of revenue account. The school further concedes that no earmarked development fee or Depreciation Reserve Fund account were maintained by it. As per the documents filed by the school, it recovered a sum of Rs. 15,71,993/- as development fee in the year 2009-10 and Rs. 19,74,695 in the year 2010-11.

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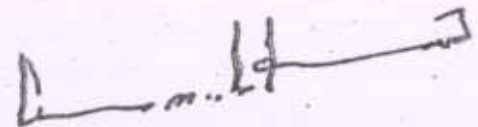


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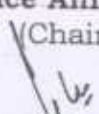
The school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India & Ors. (2004) 5 SCC 583. In such circumstances, the Committee is of the view that the Development Fee charged by the school to the tune of Rs. 35,46,688.00 during the years 2009-10 and 2010-11 in the garb 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.


Recommended accordingly.



Justice Anil Kumar (R)
(Chairperson)



J.S. Kochar
(Member)



R.K. Sharma
(Member)

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Dated :- 22/07/2016/B-250



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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:

National Victor Public School, Patparganj, Delhi

Recommendations of the Committee

Presentt:- Sh. Rahul Jain, CA and Sh. Trilok Singh, Accountant of the school.

The Committee has perused the circular issued by the school regarding fee hike effected in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school hiked the tuition fee w.e.f 01.09.2008 @ Rs. 400 per month for class I and @ Rs. 300 per month for classes II to VIII. For classes IX to XII, the fee was hiked by Rs. 400 per month. Besides, the school also recovered lump sum fee @ Rs. 3,500 per student for classes in respect of which tuition fee was hiked by Rs. 400 per month and Rs. 3,000 per student for classes in respect of which fee was hiked by Rs. 300 per month. The school had filed the information required by the Committee vide its notice dated 14/05/2015, under cover of its letter dated 3rd June 2015 which includes the fee and salary break up for the years 2008-09 to 2010-11. The same has been perused by the Committee. As per the

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details and documents furnished, the school purportedly paid only 40% of the total amount due as arrears of salary and such payment amounted to Rs. 80,25,105. The remaining 60% was admittedly not paid. Almost the entire amount of arrears of around Rs. 80.00 lacs were paid by means of bearer cheques. Only a small amount of Rs. 4,38,379 was claimed to have been paid by account payee cheques. Perusal of the bank statement filed by the school shows that a number of cheques were encashed on the same date together in the month of November 2009 in respect of purported arrear payments. The school has also furnished a statement showing mode of payment of regular salary to the staff in the years 2008-09 and 2009-10. Out of a total salary of Rs. 2,78,42,871 for the year 2008-09, as much as Rs. 2,15,40,137 was admittedly paid, either in cash or by bearer cheques. In the year 2009-10, out of the total salary of Rs. 4,05,92,574, the component paid by cash or bearer cheques was as much as Rs. 3,16,03,937.

The school has furnished details of its accrued liability of gratuity and leave encashment as on 31/03/2008 and 31/03/2010. As per the details submitted, the school had a liability of Rs. 22,25,787 in respect of leave encashment and Rs. 16,64,128 in respect of gratuity as on 31/03/2010.

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In reply to the questionnaire regarding development fee issued by the Committee, the school has claimed that it recovered development fee only in the year 2010-11 out of the five years for which the information was sought by the Committee. The amount recovered in this year was Rs. 68,39,905, which was admittedly credited to profit and loss account (i.e. treated as a revenue receipt). The school has claimed to have utilized an amount of Rs.39,84,630 on purchase of furniture, fixture and equipments. Although the school claimed that the depreciation reserve fund on assets acquired out of development fee were kept in FDR, the Committee observed that the school had an FDR of Rs. 8,35,406 only as against the depreciation reserve amounting to Rs. 31,77,799. On a query by the Committee, the authorized representative of the school conceded that even this FDR was pledged to the Directorate of Education and did not represent investment of depreciation reserve. The authorized representative of the school submitted that development fee has been treated as revenue receipt.

Discussion

We find the many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by paying the salary/arrears of salary to the teachers in cash/bearer cheques. It is

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common knowledge that the schools show payment of inflated amount of salaries having been paid to the staff and the payment by cash or by bearer cheques facilitates this mechanism. The salaries that are shown to have been paid are not actually fully paid. When the amount of monthly salary and arrears is sizeable, there is no reason why they could not be paid through either crossed account payee cheques or by direct or electronic transfer to the accounts of the teachers. The teachers represent an educated section of the society and it is unfathomable that they do not have bank accounts. The only conclusion that can be drawn in such cases is that the salaries which are shown to have been paid in the books were not fully paid and the recommendations of 6th Pay Commission were not implemented by the school. Therefore, in our view the school had not implemented the recommendations of the Sixth Pay Commission.

Recommendations regarding the hiked tuition fee and the arrear**fee:**

In the above premises, the Committee is of the view that the school neither implemented the recommendations of the 6th Pay Commission nor paid any arrears of salary to the staff. The order dated 11/02/2009 issued by the Director of Education permitted the schools to hike the fee for the purpose of meeting its additional expenditure on salaries on.

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account of implementation of the recommendations of 6th Pay Commission. When, in view of the Committee, the recommendations of the 6th Pay Commission were not implemented, the school was not justified in hiking the tuition fee as provided in the aforesaid order. It could have, at best, hiked the tuition fee by 10%, which would have covered additional expenditure on the salary on account of annual increments and increase in other expenses on account of inflation.

In view of the foregoing discussion, the Committee is of the view that the school ought to refund the tuition fee for the year 2009-10, which was hiked in excess of 10% over the fee for the year 2008-09. The school also ought to refund the arrear fee for the period 01/09/2008 to 31/03/2009 that was recovered by the school in toto. Likewise the school ought to refund the lump-sum fee recovered by it to cover the arrear payments for the period 01/01/2006 to 31/08/2008.

Since the fee hike in 2009-10 would also be a part of the fee for the subsequent years, the school ought to refund the fee for the subsequent years to the extent it is relatable to the fee hiked in 2009-10.

All the aforesaid refunds ought to be made alongwith interest @ 9% per annum from the date of collection to the date of refund.

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Recommendations regarding Regular Development Fee

In reply to the questionnaire regarding development fee issued by the Committee, the school has claimed that it recovered development fee only in the year 2010-11. The amount recovered in this year was Rs. 68,39,905, which was admittedly credited to profit and loss account (i.e. treated as a revenue receipt). The school has claimed to have utilized an amount of Rs.39,84,630 on purchase of furniture, fixture and equipments. Although the school claimed that the depreciation reserve fund on assets acquired out of development fee were kept in FDR, the Committee observed that the school had an FDR of Rs. 8,35,406 only as against the depreciation reserve amounting to Rs. 31,77,799. On a query by the Committee, the authorized representative of the school conceded that even this FDR was pledged to the Directorate of Education and did not represent investment of depreciation reserve. The authorized representative of the school submitted that development fee has been treated as revenue receipt.

The school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India & Ors. (2004) 5 SCC 583. In such circumstances, the Committee is of the view that the Development Fee charged by the school to the tune of Rs.

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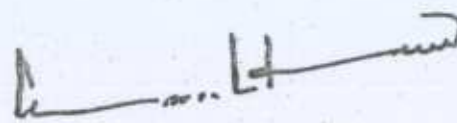
Secretary



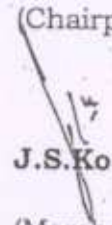
68,39,905 during 2010-11 in the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law.

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.

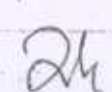
Recommended accordingly.


Justice Anil Kumar (R)

(Chairperson)

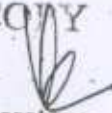

J.S. Kochhar

(Member)


R.K. Sharma

(Member)

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Secretary

Dated :- 22/07/2016/B-270

