

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

Govt. of NCT of Delhi & Ors.

**Report of Delhi High Court Committee for Review of School Fee for
November 2016**

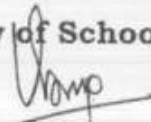
Index			
S.N.	Particulars		Page No.
(a)	Cause List of the cases taken up in November 2016 on 03.11.2016, 08.11.2016, 09.11.2016, 10.11.2016, 15.11.2016, 17.11.2016, 22.11.2016 and 28.11.2016		01 to 02
(b)	Miscellaneous/ Interim orders passed in November 2016 on above dates		03 to 58
(c)	Final recommendations/ Review orders passed in the following cases:-		
	S.N.	Date	Name of the School
	1	03.11.2016	Recommendation in respect of Sumermal Jain Public School, Janak Puri (B-65) recommending refund of unjustified fee alongwith 9% interest
	2	10.11.2016	Recommendation in respect of Banasthali Public School, Vikas Puri (B-255) recommending refund of unjustified fees alongwith 9% interest
	3	10.11.2016	Recommendation in respect of Rishabh Public School, Mayur Vihar (B-342) recommending refund of unjustified fees alongwith 9% interest
	4	15.11.2016	Recommendation in respect of G.D. Salwan Public School, Old Rajinder Nagar (B-441) recommending no intervention
	5	17.11.2016	Recommendation in respect of Sri Sathya Sai Vidya Vihar, Kalkaji Extension (B-111) recommending no intervention
	6	22.11.2016	Recommendation in respect of Poorna Prajna Public School, Vasant Kunj (B-171) recommending refund of unjustified fees alongwith 9% interest
	7	22.11.2016	Recommendation in respect of Bal Mandir Sr. Sec. School, Defence Enclave (B-350) recommending refund of unjustified fees alongwith 9% interest
	8	28.11.2016	Recommendation in respect of Hope Hall Foundation School, R.K. Puram (B-443) recommending refund of unjustified fees alongwith 9% interest

Place: Delhi

Date: 22-05-2017

Secretary

Delhi High Court Committee for Review of School Fee


Secretary

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

Cause List for Thursday 3rd November 2016
Regular Matters

000001

S. No.	Cat. No.	School Name & Address
1	B-145	Somerville School, Vasundhara Enclave
2	B-525	St. Xavier's Sr. Sec. School, Raj Niwas Marg
3	B-293	St. Xavier's School, Shahbad Daulatpur, Rohini
4	B-156	Ryan International School, Vasant Kunj
5	B-345	Ryan International School, Gharauli, Mayur Vihar
6	B-176	Vivekanand School, D- Block, Anand Vihar

Review Applications

S. No.	Cat. No.	School Name & Address
1	B-10	Universal Public School, Preet Vihar
2	C-397	National Public School, Jhilmil
3	B-618	Mount Carmel School, Anand Niketan
4	B-388	Mount Carmel School, Dwarka

Cause List for Tuesday 8th November 2016
Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-187	Balwantray Mehta Vidya Bhawan, GK-II
2	B-444	C.L.Bhalla Dayanand Model School, Karol Bagh
3	B-389	B.G.S International Public School, Sect.5, Dwarka
4	B-406	Happy School, Darya Ganj
5	B-356	Notre Dame School, BTPS Staff Colony, Badarpur
6	B-86	Delhi Police Public School, Safdarjung Enclave

Cause List for Wednesday 9th November 2016
Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-414	Jindal Public School, Dashrath Puri, Dwarka
2	B-402	Gitarattan Jindal Public School, Sect.7, Rohini
3	B-348	Ahlcon International School, Mayur Vihar Phase-I
4	B-249	G.D. Goenka Public School, A-2 Paschim Vihar
5	B-427	Vandana International School, Sect.10, Dwarka
6	B-488	Queen Mary's School, Sect.25, Rohini
7	B-492	G.D. Goenka Public School, Sect.22, Rohini

Cause List for Thursday 10th November 2016
Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-424	Pragati Public School, Sect.13, Dwarka
2	B-429	M.D.H. International School, Sect.6, Dwarka
3	B-318	Navy Children School, Chanakya Puri
4	B-177	Bloom Public School, Vasant Kunj
5	B-500	Sahodaya Sr. Sec. School, Safdarjung Dev. Area
6	B-137	St. Mary's School, Safdarjung Enclave
7	B-608	Cambridge Primary School, Darya Ganj
8	B-690	Cambridge Primary School, New Rohtak Road

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000002

Cause List for Tuesday 15th November 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-300	Adharshila Vidya Peeth, CD Block, Pitampura
2	B-301	Bharti Public School, Kondli, Mayur Vihar
3	B-302	Bharti Public School, Swasthya Vihar
4	B-304	Mother Teresa Public School, Preet Vihar
5	B-341	Starex International School, Vasundhara Enclave

Cause List for Thursday 17th November 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-336	Arwachin Bharti Bhawan Sr. Sec. School, Vivek Vihar
2	B-309	N.K. Bagrodia Public School, Sector 9, Rohini
3	B-449	Bal Bharati Public School, Ganga Ram Hospital Marg
4	B-455	Bosco Public School, Paschim Vihar
5	B-539	Rosary Sr. Sec. School, Kingsway Camp
6	B-557	Shah International Public School, Paschim Vihar

Cause List for Tuesday 22nd November 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-350	Bal Mandir Sr. Sec. School, Defence Enclave
2	B-95	Modern Convent School, Sector 4, Dwarka
3	B-438	Springdales School, Dhaura Kuan
4	B-560	Mamta Modern School, Vikas Puri
5	B-220	Presidium School, Ashok Vihar

Review Applications

S. No.	Cat. No.	School Name & Address
1	B-147	N.K. Bagrodia Public School, Sector-4, Dwarka
2	C-118	St. Krishna Bodh Public School, West Nathu Colony
3	B-88	Bhatnagar International School, Vasant Kunj
4	B-118	Manav Sthali School, New Rajinder Nagar
5	B-75	Indraprastha World School, Paschim Vihar
6	B-10	Universal Public School, Preet Vihar
7	C-397	National Public School, Jhilmil
8	B-618	Mount Carmel School, Anand Niketan
9	B-388	Mount Carmel School, Dwarka
10	B-615	Maxfort School, Parwana Road, Pitampura

Cause List for Monday 28th November 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-541	Sant Nirankari Public School, Nirankari Colony
2	B-543	Dayanand Public School, Model Town-III
3	B-556	Richmond Global School, Paschim Vihar
4	B-146	Vishwa Bharti Public School, Sector 6, Dwarka
5	B-656	St. Thomas Girls S. S. School, Mandir Marg
6	B-443	Hope Hall Foundation School, R.K. Puram

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03/11/2016

000003

B-145

Somerville School, Vasundhara Enclave, Delhi.

Present: Mr. Joby Joseph, Accountant, Mr. Cyril Basil, Office Asstt., Mrs. T. Gulshan, Accounts Clerk of the school.

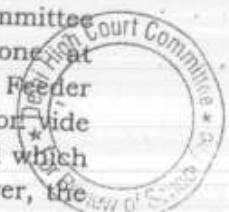
The Committee has perused circular dated 27/03/2012 issued by the School in pursuance of order dated 11/02/2009 issued by the Director of Education. The circular is not clear about the increase in fee effected by the school and the amount of arrears recovered by it for the purpose of implementation of the recommendations of VI Pay Commission. It merely mentioned that the total amount of arrears to be paid by the students, without giving any break up. The authorized representative of the school have furnished the break up. As per the break up so furnished, the school recovered sum of Rs. 3,500 as the lump sum arrear fee for the period 01/01/2006 to 31/08/2008 in two instalments. Further, arrears of tuition fee for the period 01/09/2008 to 31/03/2009 were recovered @ Rs. 400 per month, indicating that the tuition fee was hiked @ Rs. 400 per month w.e.f. 01/09/2008. The school also recovered arrears of development fee for the aforesaid period of 7 months @ Rs. 420 per student, which works out 15 % of the incremental tuition fee. Recoveries at lower rates were effected in respect of students admitted during the year 2007-08 and 2008-09. The Committee notes that as per the fee schedule of 2008-09, the school was charging development fee at fixed rates of Rs. 1500 per student irrespective of the level of tuition fee for different classes. At the highest slab of fee, which was Rs. 630 per month, the development fee worked out to 7.66% of the tuition fee. In 2009-10 also, the school charged development fee at a fixed rate of Rs. 2200 per annum irrespective of the regular tuition fee charged for different classes. At the highest level of fee, i.e. Rs. 2080 per month, the rate of development fee works out to 10.41% of the tuition fee. The Committee is therefore of view that the school was not justified in recovering arrears of development fee for the seven month period of 01/09/2008 to 31/03/2009 @ 15% of arrears of tuition fee for the corresponding period.

The school has furnished the required information with regard to fee and salary giving the necessary break up, under cover of its letter dated 05/06/2015. The school has also furnished copies of bank statements showing that all the arrears were paid either by direct bank transfer or by account payee cheques. The school has also furnished the details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010 as per which the accrued liability in respect of gratuity was Rs. 1,78,53,642 and that for leave encashment, it was Rs. 11,41,709. Perusal of the statement filed by the school, the Committee observes that the school has also considered gratuity as payable to employees who are not completed five years of service.

During the course of hearing on 15/09/2016, the Committee observed that the school had two pre primary schools one at Vasundhara Enclave and the other at Darya Ganj which run as Feeder schools to the main school. The school furnished the information vide its letter dated 10/10/2016 in respect of the Darya Ganj school which the school claims that it was closed w.e.f. 01/04/2009. However, the

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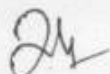
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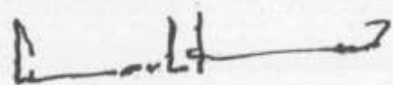
funds of the school were ultimately transferred to Lott Carey Bappist Mission registered in India which is the parent society of the school. This was done in the year 2010-11.


With regard to the other pre primary school which operates from the same premises of the main school, the authorized representatives submit that it is actually not pre primary school but pre school and to buttress their argument they have relied upon section 2(u) of the Delhi School Education Act, 1973. The school has also relied upon the judgment of the Hon'ble Supreme Court in the case of Society for unaided pvt schools of Rajasthan vs union of India & ors. in writ petition civil no. 95 of 2010 rendered in the context of section 12(1)(c) and 18 (3) and submit that the RTE Act 2009 shall not be applied with Minorities school. The school has also relied upon the judgment of the Hon'ble Supreme Court in the case of Pramati Educational & Culatural Trust & Ors. vs. Union of India writ petition civil no. 416 of 2012 vide which it was held that the RTE Act 2009 in so far as it applies to minority schools, aided or unaided, covered under clause of (1) of article 30 of the Constitution is ultra vires of constitution. The school accordingly claims that it is minority educational institute and it is not mandatory for them to submit the accounts of pre school before the Committee.

In response to queries raised by the Committee during the course of hearing, the authorized representatives appearing for the school submitted that the pre school has one class only and the students passing from the pre school automatically move to pre primary class which is part of the main school. The admissions of the students are made in the pre school. **Calculation sheet to be prepared. The school is given liberty to file the required information and financials of the pre school, if so advised within one week. Matter to come up for further hearing on 02/12/2016 at 11.00 a.m.**


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON


Secretary



03/11/2016

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B-525

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

Present: Fr. Jose Philip SJ, Manager, Mr. Sunny Thomas, Accountant of the school.

The school filed its objections to the preliminary calculations made by the Committee vide its letter dated 28/09/2016. The same is taken on record. Mainly the objection of the school is with regard to inclusion of funds which are represented by scholarship fund which is mainly created out of income arising on conducting a fete every year and this practice has been invoked for the last 40 years. The school submits that the fete is organized with the permission of the Home Department of Govt. of National Capital Territory of Delhi, which lays down certain conditions for conducting the fete. A sample copy of one such permission dated 25/10/2007 has been filed by the school. As per the letter granting permission, it is one of the conditions that the net profit of lucky draw conducted as part of fete shall be utilized for the benefit of students of socio economic weaker section of society (nothing would be diverted for any other purpose without the approval of this Govt.)". The authorized representatives of the school have taken us through the audited financials of the school which show that the amount is part of the scholarship fund (to the extent it is required) is utilized every year for the purpose of providing fee concessions to the students. The unutilized amount is carried to the next year. It is therefore submitted that the amount of scholarship fund as on 31/03/2008 amounting to Rs. 3,08,00,848 ought to be excluded from the figures of fund available as arrived at by the Committee as this amount was not available for the purpose of implementation of the recommendations of VI Pay Commission.

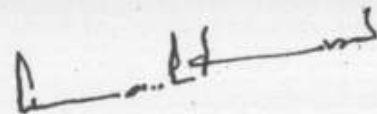
Arguments heard. Recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



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03/11/2016

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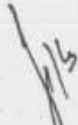
St. Xavier's School, Shahbad Daulatpur, Rohini, Delhi.

Present: Sh. John Thomas, Accountant of the school.

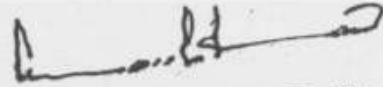
Arguments heard recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary

03/11/2016

000007

B-156

Ryan International School, Vasant Kunj, Delhi.

Present: Sh. Louis Rodrigues, Office Incharge, Sh. Mukesh Gupta, Sr. Accounts Officer of the school.

The authorized representatives appearing for the school have filed a written submission dated 03/11/2016 stating that the Committee has not considered liabilities on account of gratuity, leave encashment and reserve for contingencies as on 31/03/2010. If these are considered, there would be no amount to be refunded as there would be no surplus even after taking into account the development fee for the years 2009-10 and 2010-11 which have been treated as a revenue receipt.

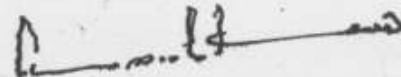
Arguments heard. Recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
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Secretary



03/11/2016

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B-345

Ryan International School, Gharauli, Mayur Vihar, Delhi.

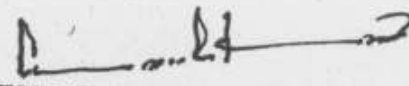
Present: Sh. Louis Rodrigues, Office Incharge, Sh. Mukesh Gupta, Sr. Accounts Officer of the school

A copy of the calculation sheet has been furnished to the authorized representatives appearing for the school. However, since the authorized representatives conceded during the course of hearing on 15/09/2016 that the school should have restricted the arrears of development fee @ 10% of the arrears of tuition fee for the period 01/4/2008 to 31/03/2009 and the refund of Rs. 34,63,628 is only on account of the excess recovery of development fee for the aforesaid period, the hearing is concluded. In case the school finds any discrepancy in the calculation of this amount, the same may be brought into the notice of the Committee within three days.


Recommendations reserved.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
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03/11/2016

000009

B-176

Vivekanand School, D Block, Anand Vihar, Delhi.

Present: Sh. Manu RG Luthra, CA/AR, Sh. Pradyumn Ahuja, Chairman of the school.


The school has disputed the calculation sheet prepared by the Committee on four counts.


Firstly, it is submitted that the regular salary expense for 2009-10 was Rs. 6,16,46,735 instead of Rs. 5,16,84,643 taken in the calculation sheet. The school claims that on account of increase in the total salary for the year 2009-10, the reserve for future contingencies which is a fraction of the total salary for the year 2009-10 would correspondingly increase. It is submitted that the Committee, while preparing the calculation sheet has omitted the reserves required to be maintained for gratuity, earned leaves and future contingencies, although the same have been mentioned in the calculation sheet. Lastly it is submitted that a miniscule amount of Rs. 6,57,567 arrear salary which was paid in cash to class IV employees and the same ought also be considered in the calculation sheet.

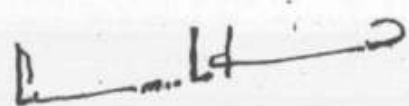
With regard to development fee, it is submitted that treatment of development fee is revenue receipt is merely an accounting issue. The school has submitted note thereof.

The Committee observes that the information furnished by the school with regard to arrear fee, regular fee, arrear salary and regular salary under cover of its letter dated 25/05/2015 does not agree with the Income & Expenditure Accounts of the relevant years although it is stated but all the arrears as well as regular fee and salary were routed through income and expenditure accounts. The authorized representatives appearing for the school request some time to be granted for furnishing the revised statement, which would duly tally with the Income & Expenditure accounts. The same may be done within one week.


Heard. Recommendations reserved.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
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08/11/2016

000010

B-187

Balwantray Mehta Vidya Bhawan, G.K.-II, Delhi.

Present: Geeta Malick, Admn. Officer, Ms. Alka Sharma, UDC & Sh. Piyush Tyagi, O.S. of the school.

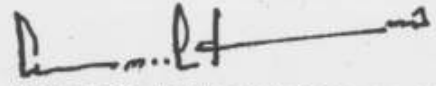
A request letter has been filed by the school seeking some more time for filing the calculation sheet. **As requested the matter will come up for further hearing on 7th Dec. at 11.A.M.**



**Dr. R.K. SHARMA
MEMBER**



**J.S.KOCHAR
MEMBER**



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

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08/11/2016

000011

B-444

C.L. Bhalla Dayaand Model Schol, Karol Bagh, Delhi

Present: Ms. Sharda Rani, Principal, Sh. B.K. Awasthi, UDC & Ms. Akansha Sahani, Computer Operator of the school.

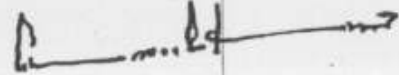
In partial compliance of the order dated 20.09.2016 passed by this Committee the school furnished copies of balance sheet of the main school as well as pupil fund for the years 2006-07 to 2010-11. However, in spite of having been directed on two occasions i.e. 11.8.2016 & 20.09.2016, the school has not clarified as to from which date the fee was hiked. In reply to the questionnaire issued by the Committee the school has mentioned that the fee was increased w.e.f. 01.09.2008, however, in the circular dated 3.2.2009 which was issued to the parents, the school demanded the increased fee w.e.f. 01.1.2009. The authorized representatives of the school even today are not able to provide any clarity on this issue. They produced the fee books and books of accounts from which it could be verified as to from which dated the fee was increased. They seek one more opportunity to provide this information. The clarifications may filed in writing by the school within one week. **The matter will come up for further hearing on 8th Dec. 2016 at 11.00 A.M. when the school is expected to produce all its fee and salary records along with books of accounts for examination by the Committee.**



Dr. R.K. SHARMA
MEMBER




J.S. KOCHAR
MEMBER



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08/11/2016

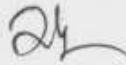
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B-389

B.G.S. International Public School, Sec.5, Dwarka, Delhi

Present: Sh. Boregowda, G.D., Accountant of the school.

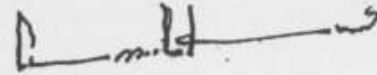
A copy of calculation sheet prepared by the Committee has been provided to the authorized representative of the school. The school may file its rebuttal to the calculation sheet, if so advised. **Matter will come up for further hearing on 14th Dec. 2016 at 11.00 A.M.**



**Dr. R.K. SHARMA
MEMBER**



**J.S.KOCHAR
MEMBER**



**JUSTICE ANIL KUMAR (Retd.)
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08/11/2016

000013

B-406

Happy School, Darya Ganj, Delhi

Present: Sh. Shreesh Sharma, Accountant & Sh. P.C. Pandey, Office In charge of the school.

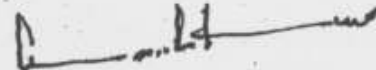
Copy of the calculation sheet has been provided to the authorized representatives appearing for the school. The school may file its rebuttal, if so advised. **Matter will come up for further hearing on 15th Dec. 2016 at 11.00 A.M.**



**Dr. R.K. SHARMA
MEMBER**



**J.S. KOCHAR
MEMBER**



**JUSTICE ANIL KUMAR (Retd.)
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08/11/2016

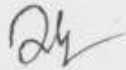
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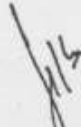
Notre Dame School, BTPS Staff Colony, Badarpur, Delhi

Present : Sh. Sunil Thomas, Accounts Officer & Sh. J.A. Martins, C.A.
of the school.

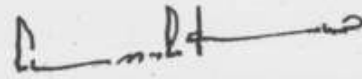
The authorized representatives of the school have been provided with a copy of the calculation sheet prepared by the Committee as prima facie the calculation revealed that the school may have refund the hiked fee in pursuance of order dated 11.2.2009. **The school may file its rebuttal, if so advised before the next date of hearing. Matter to be heard on 21st Dec. 2016 at 11.00 A.M.**



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



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08/11/2016

000015

B-86

Delhi Police Public School, Safdarjung Enclave, Delhi

Present :Sh. S.N. Joneja, Ex. Secretary, Sh.Mahesh Pandey, Admn. Officer, Sh. Trilochan Singh, Accountant & Sh. Radha Krishnan Accounts Asstt. of the school.

The calculation sheet prepared by the Committee shows that the school was in deficit despite hike in fee and recovery of arrears in pursuant to order dated 11.2.2009 issued by the Director of Education. The school conceded that the recovery of additional development fee of the existing tuition fee i.e. pre hiked tuition fee was a mistake, committed by the school and not authorized by the order dated 11.2.2009. They had also conceded that since the school was charging development fee at fixed amount which was not a percentage of tuition fee, there could have been no increase in development fee on account of increase in tuition fee w.e.f. 01.09.2008. **Heard. Recommendations reserved.**

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Dr. R.K. SHARMA
MEMBER

W/S

J.S.KOCHAR
MEMBER

A. H. S.

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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09/11/2016


000016

B-414

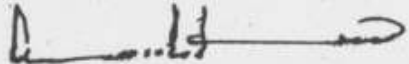
Jindal Public School, Dashrath Puri, Dwarka, New Delhi.

Present: Sh. Banne Singh, UDC of the school.

The school has not furnished the revised statement of fee and salary for which time was sought on 21/09/2016. However, the school has furnished a certificate from Oriental Bank of Commerce, Dwarka Branch to the effect that all the arrear payments were made either through bank transfer or through account payee cheques. The school has also furnished details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010. It is contended by the authorized representative of the school that these liabilities are not accounted for on accrual basis but accounted for as and when the respective payments are made. Authorized representative appearing for the school seeks time to furnish the revised statement of fee and salary. This may be done by 25/11/2016. Matter will come up for further hearing on 06/12/2016.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



09/11/2016

000017

B-402

Gitarattan Jindal Public School, Sector-7, Rohini New Delhi.

Jindal

Present: Sh. R.N. Singhal, Chairman, Ms. Niti Tandon, Accountant, Ms. Seema Gupta, Accounts Asstt. of the school.

The Committee has examined the circulars issued by the school regarding hike in fee effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circulars, the school hiked the fee for classes I to XII in senior wing by Rs. 300 per month w.e.f. 01/09/2008 and Rs. 400 per month for the pre primary classes. Besides, the school also recovered lump sum fee @ Rs. 3000 per student for classes I to XII and Rs. 3,500 per student for the pre primary classes. No arrears of development fee have been recovered by the school and it is the contention of the authorized representative appearing for the school that the development fee was introduced only w.e.f. 01/04/2010.

As per the information filed by the school regarding recovery of arrear fee, incremental fee and payment of arrear salary and incremental salary pursuant to the recommendations of VI Pay Commission, the senior wing of the school recovered total amount of Rs. 32,55,400 on account of arrear fee for the period 01/01/2006 to 31/03/2009 and Rs. 3,91,820 for the junior wing. The payment of arrear salary for the same period amounted to Rs. 49,70,399 for the senior wing and Rs. 10,18,631 for the junior wing.

In the proforma submitted by the school for the junior wing, no arrears of tuition fee for the period 01/09/2008 to 31/03/2009 are shown to have been recovered although as per the circular issued to be parents, the school hiked the tuition fee by Rs. 400 per month w.e.f. 01/09/2008 and recovered the amount of fee Rs. 2800 per student for the same period.

With respect to the regular salary paid by the school for the years 2008-09 and 2009-10, the Committee observes that as per the information furnished by the school (senior wing) , it paid a sum of Rs. 64,53,959 as regular salary during the year 2008-09 which balloon to Rs. 1,47,28,844. The Committee finds that the figure for 2009-10 includes the arrears salary for the period 1/09/2008 to 31/03/2009 amounting to Rs. 15,44,051 and if that is excluded, the regular salary would be 1,31,84,793, Even this reflects more than 100 % increase over the salary paid for 2008-09. Normally on implementation of recommendations of VI Pay Commission the salary was up about 35 to 40%. The school is required to submit justification for such abnormal increase in the year 2009-10 when apparently, the number of teachers employed during 2008-09 and 2009-10 remained almost the same. For this purpose, the school will furnish employee-wise details of salaries paid in 2008-09 and 2009-10 in a comparative form. Similar is the position with regard to junior school where the regular salary for the year 2009-10 has been shown to be Rs. 43,48,533 in 2009-10 as compared to Rs. 19,55,663 in 2008-09 reflecting the increase of 122%. In respect of the junior school also, the school will furnish the

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Secretary



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employee-wise detail. The information submitted by the school for the junior wing is ex facie incorrect as it does not show any recovery of arrear fee for the period 01/09/2008 to 31/03/2009 as well as payment of arrear salary for the same period. The school has not furnished the details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010 nor has furnished the statement of account of its parent society for the period 01/40/2006 to 31/30/2011 despite being specifically asked vide Committee notice dated 22/05/2015. The school has not furnished the audited financials of its junior wing for the years 2006-07 to 2010-11 in spite of being specifically asked vide this committee notice dated 22/05/2015. The school may furnish the above details/documents within two weeks. Matter to come up for further hearing on 06/12/2016 at 11.00 a.m.

Dr. R.K. SHARMA
MEMBER

J.S. KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



09/11/2016

000019

B-348

Ahlcon International School, Mayur Vihar, Phase-I, New Delhi.


Present: None.

On the last date of hearing i.e. 21.9.2016 the authorized representatives of the school had requested for some time to furnish details of accrued liabilities of leave encashment which the school had submitted on 30. Sept. 2016. **Calculation sheet to be prepared. Further hearing on 7.12.2016 at 11.00 A.M. for which fresh notice will be issued to the school alongwith the calculation sheet.**

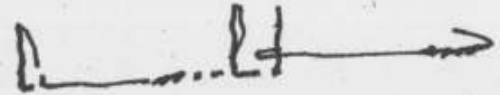
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15/11/2016



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary

09/11/2016

B-249 000023

G.D. Goenka Public School, A-2, Paschim Vihar, New Delhi.

Present: Mr. Mithun Khatri, CA and Sh. Sandeep Chadha, Accountant of the school.

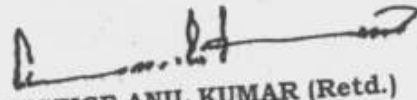
The calculation sheet is not get ready. Office to send the same to the school before the next date of hearing. Matter will come up for hearing on 06/12/2016 at 11.00 a.m.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



09/11/2016

000021

B-427

Vandana International School, Sector-10, Dwarka, New Delhi.

Present: Sh. Manav R.G. Luthra, CA & Sh. Harsh Tandon, A.O. of the school.

Although the school has filed the audited financials of Ved Educational & Welfare society as was directed by the Committee. The authorized representatives are directed to clarify the source of cash available in the society which was ultimately transferred to the school and this can be only from the books of accounts of the society. The authorized representatives who are appearing in the court seeks sometime for producing the books of the accounts of the society. They may do so on the next date of hearing. Matter will come up for hearing on 6th Dec. 2016 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary

09/11/2016

B-488

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

000022

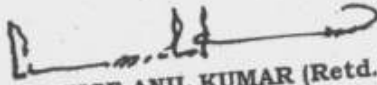
Present: Authorized representative of the school.

Adjournment is sought on behalf of the school on the ground that the school could not submit the details for staff salary Provision for a period of 4 months, Provision for staff gratuity, Provision for staff leave encashment,. Other statutory provisions such as for CBSE and Department of Education. In the circumstances, the school sought more time to submit the above noted documents.

The necessary documents be filed within 10 days. List the matter on 02/12/2016 at 11.00 a.m.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



09/11/2016

B-492

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

000023

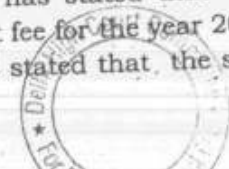
Present: Sh. N.K. Mahajan, C.A., Sh. Vipul Garg, Chairman & Sh. Deepak Arora, Accounts Officer of the school.

The authorized representatives appearing for the school submit that the school commenced its operations from the financial year 2007-08 but was granted recognition w.e.f. 2008-09. The Committee finds that the school has ^{not} filed the receipt and payment accounts for any of the year which is required to be filed as part of annual returns under rule 180 of Delhi School Education Rules 1973. The school is directed to furnish the same within one week. As per the copy of the circular filed by the school with regard to increase in fee in pursuance of order dated 11.2.2009 issued by the Director of Education, the school recovered arrears of tuition fee amounting to Rs.3500 per student for all the classes i.e. pre school to 8th class. The development fee arrears for the corresponding period recovered @ Rs. 2090 for classes pre school to 5th and Rs. 2220 for classes 6th to 8th. Prima facie the recovery on account of arrears of development fee are much more than 15% of the tuition fee, in fact it is about 60% of the tuition fee. The school is required to justify the recovery of arrears of development fee which is in excess of 15%. In addition, the school also recovered Rs.4500 as lump sum arrear fee. However, subsequently it provided credit of Rs. 750 to the students admitted in 2007-08 and Rs.1500 to the students admitted in 2008-09.

Although the school has furnished a valuation report of actuarial regarding the accrued liability of the school for gratuity as on 31.3.2010, however since the school was set up in 2007-08 and no employee would have completed 5 years of service, there is no accrued liability of gratuity as on 31.3.2010. The school has also furnished an actuarial report in respects of its accrued liability on account of leave encashment as on 31.3.2010 and as per that report the liability was Rs.16,34,246. The authorized representatives submit the detail of payment of arrear salary pertained to the period 01.04.2007 to 28.02.2009 has been wrongly mentioned in the statement furnished to the Committee as pertaining to the period 01.01.2006 to 31.3.2009. They further submit that in the year after 2010-11 a sum of Rs.87,669 was paid in the year 2011-12, to a teacher. The school has furnished payment sheet as well as bank statement in evidence of these payments.

With regard to development fee the school in its reply dated 22.11.2013 to the questionnaire issued to the Committee has stated that it recovered a sum of Rs.96,72,575 as development fee for the year 2009-10 and Rs.1,26,03,938 in the year 2010-11. It is stated that the same

Secretary



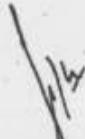
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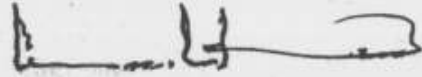
has been treated as a capital receipt w.e.f. 01.04.2009. It is also stated that the school maintains depreciation reserve fund equivalent to depreciation charge in the revenue account. However, no earmarked depreciation reserve fund or development fund accounts were maintained in the school Head. The school had utilized the entire amount for creation of the eligible assets. The school has also filed details of utilization of development fee showing a position of furniture fixtures equipments and IT equipments amounting to Rs. 81,99,992 in 2009-10 & Rs.1,30,76,521 in 2010-11. It is further stated that the school had not charged any depreciation on assets required for development fee and hence there was no requirement to maintain an earmarked depreciation reserve fund. Perusal of the statement of account of the parent society in the books of the school shows that the school had been transferring large sums of money to its parent society. It is submission of the authorized representatives, that the parent society has no activity other than running of the school. The school is directed to file audited balance sheet of the society for the years 2007-08 to 2010-11. The needful may be done within two weeks. Matter to come up for further hearing on 7th Dec. 2016 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary

10/11/2016

000025

B-424

Pragati Public School, Sec. 13, Dwarka, Delhi

Present : Sh. Rajiv Malik, Authorized Signatory, Sh. Anil Kumar Jain, Authorized Signatory & Sh. Inder Pal Singh, Accountant of the school.

The school has furnished the details as were required by the Committee vide order dated 23. Aug.2016. However the school has not produced its books of accounts for the years 2008-09 and 2009-10 to substantiate the details furnished. Matter to come up for further hearing on 8.12.2016 at 11.00 A.M., when the school is expected to be ready with all its books of accounts, fee and salary registers.


Dr.R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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10/11/2016

000026

B-429

M.D.H. International School, Sec.6, Dwarka

Present: Sh. R.K. Wadhwa, Manager, Sh. Accountant & Sh. R.N. Rai,
Secretary of the school

The school has filed written submission, dated 10.11.2016 contravening the addition of development fee charged for the years 2009-10 and 2010-11 in the total amount calculated is refundable by the Committee. So far as the surplus generated by the school on account of fee hiked effected in pursuance of order dated 11.2.2009 issued by the Director of Education, the authorized representatives appearing for the school concede that the same has been correctly calculated by the Committee.

With regard to the development fee for the years 2009-10 and 2010-11, the contention of the school is that no doubt it was treated as a revenue receipt in the books of the school, but the same has been spent for the purpose of accumulation of eligible fixed assets for furniture, fixtures and equipments. The school has furnished a detail of utilization of development fee charged in these two years. It is submitted that as against a collection of Rs.11,0420 in the year 2009-10 the school required fixed assets amounting to Rs.13,3,508 in that year. In the year 2010-11 as against a collection of Rs. 13,41,225, the school required fixed assets amounting to Rs. 20,21,443. The school relies upon its audited financials in support of this contention. So far as maintenance of earmarked accounts for depreciation reserve fund and development fund are concerned, the authorized representatives concede that they were not maintained till the financial year 2015-16.


Arguments heard. Recommendations reserved.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



10/11/2016

000027

B-318

Navy Children School, Chanakya Puri, Delhi

Present : Capt. Rakesh Dhall, Executive Director, Sh. Surendra S. Mehra, Accountant, Sh. Vinod Singh Bisht, Office Asstt. & Sh. Sarvjit Singh Jaswal, Office Asstt. of the school.

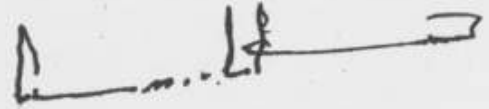
Arguments heard. Recommendations reserved.



**Dr.R.K. SHARMA
MEMBER**



**J.S.KOCHAR
MEMBER**



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

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Secretary



10/11/2016

000028

B-177

Bloom Public School, Vasant Kunj, Delhi

Present : Present:- Sh. Ashutosh Batia, Principal, Sh. Rajesh Gupta, Accountant & Ms. Tarleen Kaur, Admn. In charge of the school.

The school has filed written submissions dated 10.11.2016 contending that the school was fulfilling all the conditions for charging development fee and as such the same are not to have been determined to be refundable. In support of its contention the school has furnished the break up of utilization of development fund in different years. The school has also furnished details of development fund, depreciation reserve fund in its books as well as the details of FDRs held against the unutilized development fund and depreciation reserve fund. The authorized representatives contend that the bank does not issue FDRs for any particular fund as the name of the depositors have to match with the name given in Income tax permanent account no., however they have taken first through the balance sheet of the school showing that the interest on the earmarked FDRs not treated as income account but was credited with reserve account.

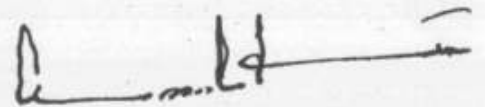
Arguments heard. Recommendations reserved.



Dr.R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



10/11/2016

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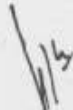
Sahodaya Sr. Sec. School, Safdarjung Enclave, Delhi

Present : Sh. Justin Fernandes, Sr. Most Member, Ms. Anjali Chadha, Accountant & Ms. K. Any Office In charge of the school.

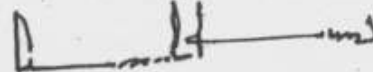
A copy of the calculation sheet prepared by the Committee has been provided to the authorized representatives of the school as apparently some refunds have been determined by the Committee. The school may file its submissions in rebuttal of the calculations made by the Committee on or before the next date of hearing. Matter will be taken up on 8th Dec. 2016 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



10/11/2016

000030

B-137

St. Mary's School, Safdarjung Enclave, Delhi

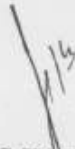
Present : Sh. George Kosh, Authorized signatory, Sh. P.A. Sivichen
Accounts Supdt., Sh. Nikhil Office Incharge & Sh. Biju N. Accountant
of the school.

The school has furnished the details of the bank accounts and FDRs of welfare fund and copy of ledger account of welfare fund for the years 2006-07 to 2010-11 as was required vide order dated 21.10.2016. The contention of the school that the balance held with welfare fund saving bank as well as fixed deposit may not to be considered as part of the funds available to the school for the purpose of meeting its liabilities on account of arrears and increased salary, as a consequence of implementations of the recommendations of the Sixth Pay Commission. The Committee has perused the copy of the ledger account of welfare fund. The authorized representatives contend that the welfare fund was exclusively utilized for the welfare of the students and thus was not available for paying increase of arrears to the staff.

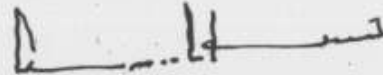
Arguments heard. Recommendations reserved.



Dr. R.K. SHARMA
MEMBER




J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



10/11/2016

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B-608

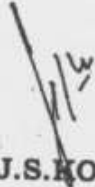
Cambridge Primary School, Darya Ganj, Delhi

Present : Sh. Ravi Arora, Office Asstt., Ms. Asha Sharma, Teacher of the school.

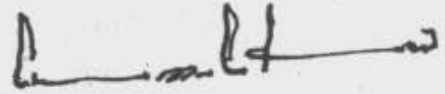
The matter will be re-listed for 7th Dec. 2016 at 11.00 A.M.



**Dr. R.K. SHARMA
MEMBER**




**J.S. KOCHAR
MEMBER**



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

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Secretary



10/11/2016

000032

B-690

Cambridge Primary School, New Rohtak Road, Delhi

Present : Sh. Ravi Arora, Office Asstt., Ms. Asha Sharma, Teacher of the school.

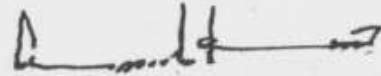
The matter will be re-listed for 7th Dec. 2016 at 11.00 A.M.



**Dr.R.K. SHARMA
MEMBER**




**J.S.KOCHAR
MEMBER**



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

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Secretary



15/11/2016


000033

B-300

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

Present: Sh. Byomkesh Mishra, Principal, Ms. Ruchika Khattar, TGT,
Sh. Vijay Kumar Sharma, Accountant & Ms. Pooja Aggarwal,
Consultant of the school.


The school had filed the statements of salary as was required vide order dated 6.10.2016. On perusal of the balance sheet of the school, the Committee finds that the school had taken term loan from Punjab & Sind Bank for construction of building and had been making repayments of loan installments as well as interest out of funds collected from the students by way of fee. The school has not filed copies of ledger account of the parent society for the period 01.4.2006 to 31.03.2011 as was required vide notice dated 01.6.2015. The authorized representatives seek some time for filing the same. The same may be filed within one week in the office of the Committee. **Calculation sheet to be prepared thereafter.** Matter will come up for further hearing on 8th Dec, 2016 at 11.000 A.M.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



15/11/2016

000034

B-301

Bharti Public School, Kondli, Mayur Vihar, Delhi

Present : Sh. Mridul Admn. Officer, Sh. Puneet Batra, Advocate, Sh. H.C. Balia, President B.E.T. & Sh. Devender Kumar Accountant the school.

The Committee has perused the circular dated 28.2.2009 issued by the school to the parents of the students regarding fee hike and recovery of arrears in pursuance of order dated 11.2.2009 issued by the Director of Education. As per the circular the school hiked the tuition fee for all the classes by Rs.300 per month and development fee by Rs. 45 per month. w.e.f 01.09.2008 and accordingly recovered arrears of tuition fee amounting to Rs. 2100 and development fee amounting to Rs.350 up to 31.3.2009. Besides, the school also recovered arrear fee @ Rs.3000 per student for the period 01.1.2006 to 31.08.2008. Perusal of the fee schedules for the years 2008-09 and 2009-10 which the school had filed as part of its annual returns under Rule 180 of the Delhi School Education Rules 1973, shows that the school hiked tuition fee by further amount of Rs.290 in respect of classes preschool to pre primary. As per the order dated 11.2.2009 the schools could not have increased any further tuition fee in the year 2009-10 apart from the hike allowed w.e.f. 01.09.2008. Further, perusal of fee schedules shows that in the year 2008-09 the school was charging development fee @ 10% of the tuition fee but while recovering the arrears for the period 01.09.2008 to 31.3.2009, the school hiked 15% of tuition fee.

In the written submissions dated 10.11.2016 filed by the school, the school while giving the explanation regarding the reason of payment of salary through bearer cheques, has submitted that staff had been paid through bearer cheques till October 2009 as they had no accounts in the banks. This submission is contrary to the submission made by the school on the earlier date of hearing. As noticed earlier the number of teachers employed in 2009-10 as compared to 2008-09 was disproportionately higher than the increase of number of students. The Committee also observes that the additional staff allegedly employed in the school in 2009-10 was not paid in accordance with the recommendations of the 6th pay commission. The month wise and employ wise details of salary filed by the school on 10.11.2016 also shows that very few teachers were paid salary by a/c payee cheques or bank transfer. Bulk of the arrears were also paid by bearer cheques.

Arguments heard. Recommendations reserved.

Sanjay
11/11/16

Dr. R.K. Sharma

Dr. R.K. SHARMA
MEMBER

J.S. Kochar

J.S.KOCHAR **MEMBER**

Justice Anil Kumar

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY



15/11/2016

000035

B-302

Bharti Public School, Swasthya Vihar, Delhi

Present : Sh. Puneet Batra, Advocate, Sh. H.C. Balia, B.E.T. & Sh. Devender Kumar Accountant the school.

The school has filed written submissions dated 10.11.2016 giving the particulars of employ wise salary paid every month with regard to their mode of payment. They submitted that salary paid to most of the staff members are paid through bank transfer and the remaining were paid through bearer cheques till November 2009. From Dec. 2009 they were paid through bank transfer and account payee cheques. The same is the position with regard to payment of arrear salary.

In response to notice dated 14.5.2015 issued by the committee, the school had furnished the required information under cover of its letter dated 01/06/2015. It is submitted that there were no transfer of funds by the school to its parent society nor vice versa. The school has not filed the details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010. The authorized representative seeks some time to submit the same. The same may be submitted within one week. **Calculation sheet to be prepared thereafter.** Matter to come up for further hearing on 08/12/2016 at 11.00 a.m.

Signature
11/11/16

Signature

Dr. R.K. SHARMA
MEMBER

Signature

J.S.KOCHAR
MEMBER

Signature

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Signature
Secretary



15/11/2016

000036

B-304

Mother Teresa Public School, Preet Vihar, Delhi

Present : Sh. Ashok K. Jetly, Chairman, Ms. Neeta Jetly, Principal, Sh. S.N. Dixit, Advisor, Sh. Piyush Jain, C.A. & Sh. Sanjiv Soni, Accountants of the school.

The calculations prepared by the Committee shows that the school was indeed in deficit to the extent of Rs.14,3,862. After taking into account the development fee of the year 2009-10 & 2010-11 which was recovered without fulfilling the fee conditions laid by the Hon'ble Supreme Court in the case of Modern school Vs. Union of India (2004) 5 SCC 583. However, the recovery of development fee for the period 01.09.2008 to 31.3.2009 amounting to Rs. 28,94,800, was prima facie not authorized by the order dated 11.2.2009 issued by the Director of Education. On account of the fact that the school was originally not charging any development fee in the year 2008-09 and therefore Clause 15 of the order dated 11.2.2009 would not be applicable as that authorized the recovery of additional development fee on account of increase in tuition fee that would become due. The authorized representatives of the school submit that the school was in deficit and could not have discharged its additional liabilities on account of payment of arrears and increased salary as a result of implementation of the recommendations of the 6th pay commission. The school charged development fee of Rs.1400 for the period 01.09.2008 to 31.3.2009 on tuition fee for the same period. Apparently there is a violation of Section 17(3) of Delhi School Education Act 1973 which requires specific approval of the Director of education in writing for any increase in fee after the start of the academic year.

Hearing is concluded. However the school is given liberty to file its written submissions on this aspect of the matter within one week. A copy of the calculation sheet has been provided to the authorized representatives of the school for its comments and rebuttal, if any.

*File in the file
17/11/16*

Dr. R.K. SHARMA
MEMBER

J.S. KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



15/11/2016

000037

B-341


Starex International School, Vasundhara Enclave, Delhi

Present : Ms. Anita Gupta, Principal, Sh. Pramod Kumar, Accountant,
Sh. Dilip Jha, Accountant & Sh. Rajiv Gupta, C.A. of the school.

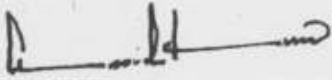
The information furnished by the school with regard to arrear fee, arrear salary, regular fee and regular salary under cover of its letter dated 23/09/2016 is ex facie incorrect as instead of the total collection and total payment of arrear fee and arrear salary, the school has furnished the outstanding liabilities of arrear salary. As per the accounting practice followed by the school, the arrear fee so collected shown as liability and the payments of arrear salary are set off against such liability as and when they are made. The school is required to furnish correct information with regard to the fee and salary as per the Performa given by the Committee in notice dated 14/05/2015. The same may be done within 10 days.

The reply to revised questionnaire furnished by the school is also incorrect. The school is required to file a correct reply. The school has also not filed the statement of account of its parent society for the period 01/04/2006 to 31/03/2011 as was required vide notice dated 14/05/2015. The same may also be furnished along with other information.

Matter to come up for hearing 14/12/2016 at 11.00 a.m.


Dr. R.K. SHARMA
MEMBER


J.S. HOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary




17/11/2016

B-336

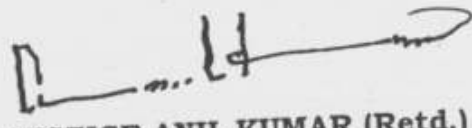
Arwachin Bharti Sr. Sec. School, Vivek Vihar, New Delhi.


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

The school has filed written submission in rebuttal the calculations made by the Committee and have contended that there was no surplus fund with the school which has to be refunded. We have also heard the representatives of the school. Recommendations reserved.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



17/11/2016

000039


B-309

N.K. Bagrodia Public School, Rohini, New Delhi.

Present: Sh. Sushil Kumar Gulati, CA of the school.

The school has filed written submissions contending that the increase in the rate of development from 10 to 15% was in accordance with clause 14 of the order dated 11/02/2009 of the Director of Education and the additional development fund was also kept in a earmarked account and not utilized for the purpose of payment of additional salaries and arrears on account of implementation of VI Pay Commission and in the circular 21/02/2009 issued to the parents it was wrongly mentioned that the amount was to be utilized for implementation of recommendations of VI pay Commission. The authorized representative of the school has been heard.


Recommendations reserved.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



17/11/2016

000043


B-449

Bal Bharti Public School, Ganga Ram Hospital Marg, New Delhi.

Present: Sh. L.V. Sehgal, Principal, Sh. J.L. Maini, Executive Officer, Ms. Deepika Bhola, Accounts Manager, Ms. Sumita Arya, Data Entry Operator and Sh. Anoop Handa, UDC of the school.

The school has furnished a statement showing the difference in incremental development fee for the period 01/09/2008 to 31/03/2009 by calculating the same at 12% of the incremental tuition fee as against the differential development fee actually recovered for the period 01/09/2008 to 31/03/2009 @ 15% of the gross tuition fee (original as well as increased). The statement filed by the school shows that a sum of Rs. 20,69,732 was recovered in excess of 12% of incremental tuition fee which was permitted vide order dated 11/02/2009 issued by the Director of Education. The school has also filed written submissions stating that the increased development fee was duly approved by the Managing Committee in its meeting dated 12/02/2009 which included two nominees of Director of Education. The school has relied on para 14 of the aforesaid order dated 11/02/2009 to contend that charging differential development fee @ 15% of the total annual tuition fee for supplementing the resources is justified. The authorized representatives of the school contend that the school charged 15% of tuition fee only on the tuition fee w.e.f. 01/09/2008. And accordingly they contend that the charge of development fee @ 15% of tuition fee was justified.

Arguments heard. Recommendations reserved.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER

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JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON




17/11/2016

B-455 000041

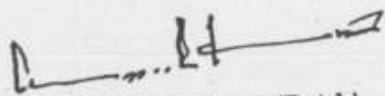
Bosco Public School, Paschim Vihar, New Delhi.

Present: Sh. Shyam Sunder Verma, Account clerk of the school.


An application has been filed on behalf of the school seeking adjournment on the ground that the CA of the school was not available on account of three consecutive holidays. As requested the matter will be taken on 14/12/2016 at 11.00 a.m.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



17/11/2016

B-539

Rosary Sr. Sec. School, Kingsway Camp, New Delhi.

Present: Representative of the school.

An application has been received on behalf of the school seeking a fresh date of hearing as the accountant of the school is on leave. The Committee notes that on the last date of hearing i.e. 07/10/2016, the matter was adjourned at the request of the school to file the revised statement of fee and salary duly reconciled with its audited financials within seven days. The same has not been done till today. In the interest of justice, another opportunity is given to file the revised statement within seven days. Matter will come up for hearing on 14/12/2016.

2/1
Dr. R.K. SHARMA
MEMBER

1/4
J.S.KOCHAR
MEMBER

Justice Anil Kumar
JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



17/11/2016

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B-557

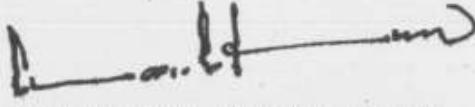
Shah International Public School, Paschim Vihar, New Delhi.

Present: Sh.Sushil Kumar Gulati, CA of the school.


Arguments heard. Recommendations reserved.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



Bal Mandir Sr. Sec. School, Defence Enclave, New Delhi.

Present:Nemo

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognized schools in Delhi (including the present school) which was followed by a reminder dated 27/03/2012. However, the school did not respond to the same. However, ^{earlier} in a communication dated 25/01/2012 addressed to the Dy. Director of Education (DDE), District East, the school on a requisition from the DDE ^{had} filed with it copies of returns filed under Rule 180 of the Delhi School Education Rules, 1973 for the years 2006-07 to 2010-11 and copies of statement of fees filed by it under Section 17(3) of the Delhi School Education Act, 1973. The school also stated that

- (a) The fee was not increased during any academic session from 2006-07 to 2010-11,
- (b) VI Pay Commission was implemented w.e.f. Sept. 2008, and
- (c) Fee was not increased during the session to meet increased expenditure on salary and no arrears were collected from the parents.

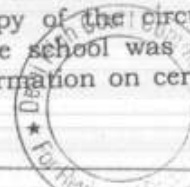
In order to show that it had implemented the recommendations of VI Pay Commission w.e.f. Sept. 2008, the school enclosed copies of the salary sheets for the month of August and September 2008.

The Committee examined the fee schedules submitted by the school for the years 2007-08 to 2010-11 under section 17(3) of the Delhi School Education Act, 1973. Contrary to the averment of the school, ^{the committee} found that the school had increased the fee every year from 2006-07 to 2010-11. In 2007-08, the school hiked the fee over that charged in 2006-07 by approximately 10%. In 2008-09, the hike was to the tune of 20%, in 2009-10, the hike was around 30%. In fact, the hike in the year 2009-10 was Rs. 300 per month across the board, which was the maximum hike allowed to the school by the order dated 11/02/2009 issued by the Director of Education for the purpose of implementation of the recommendations of VI Pay Commission. In 2010-11, again, the school hiked the fee by 10%.

In the first instance, the relevant calculations to examine the justifiability of fee hike for the purpose of implementation of the recommendations of VI Pay Commission were made by the Chartered Accountants attached to this Committee. The calculations were reviewed by the Committee in the light of the information available with it and since the Committee was doubtful about the implementation of the recommendations of VI Pay Commission by the school, the same were not relied upon.

The Committee ^{again} issued a notice dated 14/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment, a copy of the circular issued to the parents regarding the fee hike. The school was also issued a revised questionnaire seeking specific information on certain aspects.

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22.11.2016

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In response to the notice issued by the Committee, the school, under cover of its submissions dated nil which were filed in the office of the Committee on 29/05/2015, furnished the required information. The school stated that it had no surplus funds from which the school could have implemented the recommendations of VI Pay Commission and was in fact in deficit, for which it sought from the Committee appropriate recommendation to rectify the situation faced by the school. In other words, the school sought that the Committee should recommend further increase in fee over and above what the school had done in pursuance of order dated 11/02/2009 issued by the Director of Education. It now admitted that it had increased the tuition fee by Rs. 300 per month per student w.e.f. 01/04/2009. However, it stated that no arrears were recovered from the parents. At the same time, the school stated that the recommendations of VI Pay Commission were implemented **w.e.f. 01/03/2009**. This is contrary to what the school stated in its communication to the DDE, which is referred to above wherein the school stated that it increased the salary of the staff **w.e.f. 01/09/2008** and even filed copies of the salary statements for the month of August 2008 and September 2008 to show the increased salary. The school also submitted that while it had not recovered any arrear fee, it had paid the arrear salary amounting to Rs. 35,47,727 for the period 01/09/2008 to 28/02/2009 on 23/03/2009. From what source, the arrears were paid was not mentioned by the school. The Committee has examined the balance sheet of the school as on 31/03/2008, and finds that the school barely had any funds of its own from which it could have paid the arrear salary. Further, the receipt and payment account for the year 2008-09 show no such payment.

The school also stated in its submissions that a copy of the circular that was issued to the parents with regard to fee hike pursuant to order dated 11/02/2009 was enclosed at page 25 of the compilation submitted by the school. However, the Committee finds that the circular enclosed by the school at page 25 was dated 26/03/2008 and was in respect of the fee of the school for the year 2008-09.

With regard to development fee, the school in its submission stated that it had recovered development fee in all the five years for which the information was sought by the Committee. The school also stated that it was maintaining depreciation fund account in respect of assets acquired out of development fee and earmarked bank accounts were kept for depreciation reserve and unutilised development fund. However, on examining the balance sheet of the school, the Committee finds that no such earmarked accounts were maintained by the school and in fact, the school was even maintaining a depreciation reserve fund equivalent to the amount of depreciation charged to its revenue as stated by the school in its written submissions.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 30/06/2016 for hearing on 20/07/2016. Along with the notice, the school was also sent a proforma seeking information in respect of the mode of payment of salary paid by it in the years 2008-09 and 2009-10. However, on the date of hearing, an application was filed on behalf of the school seeking adjournment on the ground that the Manager of the school was not in town. The matter was accordingly adjourned 06/09/2016. On this date also, the school filed an application for adjournment on account of non availability of the Manager. The school was given a last opportunity of hearing on 20/10/2016 and it was clearly mentioned in the order that in case, the school again sought adjournment and does not attend the hearing, the matter would be disposed of on the basis of available record. The school did not furnish the information as sought by the

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22.11.2016

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B-350

Committee regarding the mode of payment of salary in the year 2008-09 and 2009-10.

On 20/10/2016, Sh. Manu Luthra, Chartered Accountant put in appearance without any authorization from the school. He was informed that the school had not furnished the statement of salary as aforesaid and the same ought to be filed within seven days. Matter was relisted for 22/11/2016.

Today, the matter was called for hearing in the morning. No body was present on behalf of the school. Accordingly the matter was passed over. On second call also, nobody is present.

It is evident that the school is avoiding production of its books of accounts and salary records before the Committee to support its claim of having implemented the recommendations of VI Pay Commission or of having paid arrear salary. In the written submissions filed by the school on 29.05.2015, the school had admitted that it had increased the tuition fee by Rs. 300 per month per student for the purpose of implementation of VI Pay Commission recommendation, in pursuance of order dated 11.02.2009 issued by the Director of Education. As the school has not produced its records before the Committee, an adverse inference is required to be drawn. In view of the position that ^{emerges} ~~arises~~ and the persistent defaults committed by the school while submitting the reply to the questionnaire, the recalcitrant attitude of the school in attending the hearings and the palpably wrong information given by the school at various stages, the Committee is of the view that the school has not actually implemented the recommendations of VI Pay Commission and is avoiding production of its records before the Committee.

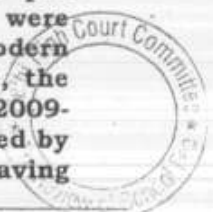
Since the hike in fee was permitted specifically for the purpose of implementation of recommendations of VI Pay Commission, the Committee is of the view that the school ought to refund the incremental amount of tuition fee @ Rs. 300 per month w.e.f. 01/04/2009, to the extent it exceeds 10% of the tuition fee charged by the school in the year 2008-09 before the fee hiked was effected along with interest @ 9% per annum from the date of collection to the date of refund.

As the fee hiked w.e.f. 01/04/2009 would also be part of the fee charged by the school in the subsequent years, the fee, in so far as it relates to the hike w.e.f. 01/04/2009, ought also be refunded along with interest @ 9% per annum.

In so far as development fee is concerned, the school in its submissions filed on 29.05.2015 stated that the development fee was treated as a capital receipt and the school is maintaining depreciation fund equivalent to depreciation charged to revenue in respect of assets acquired out of development fee. Further it was stated that the school was maintaining separate earmarked bank account for keeping the depreciation reserve fund and unutilized development fund. However, as noticed ^{above} ~~supra~~, neither any depreciation reserve fund was maintained by the school nor any earmarked bank account was maintained ^{therefore} for unutilized development fund and depreciation reserve fund, the Committee is of the view that the school was not fulfilling 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 (2004) 5 SCC 583 and therefore, the school ought to refund the development ^{fee} charged in the year 2009-10 and 2010-11 in pursuance of order dated 11.02.2009 issued by the Director of Education. The school has admitted having

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Secretary




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B-350

recovered a sum of Rs.-19,88,700 as development fee in the year 2009-10 and Rs.-32,92,950 in 2010-11 in its written submissions filed on 29/05/2015. The Committee has also verified from the balance sheets of the school that these amounts have indeed been recovered, the same also ought to be refunded along with interest @ 9% per annum from the date of collection to the date refund.


Recommended accordingly.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



22.11.2016


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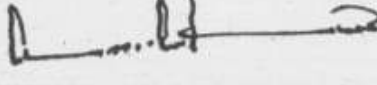
Modern Convent School, Sector-4, Dwarka, New Delhi.

Present: Ms. Sheetal Mann, HOS, Sh. Vinay Kaushik, O.S. of the school.

The authorized representatives of the school have furnished the detail of payments made to staff during the year 2008-09, which were taken on the rolls of the school in the year 2009-10. The total payments so made amount to Rs. 33,17,459. After necessary calculations, it appears that the school is required to make a refund of Rs. 95,08,062 out of the development fee charged in the year 2009-10 and 2010-11, after adjusting the apparent deficit, it incurred on account of implementation of the recommendations of VI Pay Commission. A copy of the calculation sheet has been given to the rep. of the school for rebuttal, if any. Matter will come up for hearing on 14/12/2016 at 11.00 a.m.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE


Secretary



Springdales School, Dhaula Kuan, New Delhi.

Present: Sh. S.S. Kalra, CA, Ms. Tejinder Kaur, Accountant and Sh. Som Datt, Accountant of the school.

On perusal of the records, the Committee has come across an anonymous complaint allegedly filed by a few parents addressed to the Director of Education. As the complaint is anonymous and not addressed to the Committee, no conversance of the same be taken.

The school has furnished the detailed working of the development fee recovered as part of the total arrear fee recovered for the period 01/09/2008 to 31/03/2009, purportedly in accordance with order dated 11/02/2009 issued by the Director of Education. The school has also furnished sample copies of fee bill for the arrears recovered in pursuance of the aforesaid order in respect of each class. The arrears so recovered are as follows:

Class	Arrears of tuition fee	Arrears of development fee	lump sum fee	Total
Preschool	930x3	600x3	583x2	2113
Pre primary	930x3	600x3	1167x2	2697
I	930x3	600x3	1750x2	3280
II	930x3	670x3	1750x2	3350
III	930x3	670x3	1750x2	3350
IV	930x3	670x3	1750x2	3350
V	930x3	670x3	1750x2	3350
VI	930x3	700x3	1750x2	3380
VII	930x3	700x3	1750x2	3380
VIII	930x3	700x3	1750x2	3380
IX	930x3	720x3	1750x2	3400
X	930x3	720x3	1750x2	3400
XI(Science)	930x3	770x3	1750x2	3450
XI (Commerce)	930x3	720x3	1750x2	3400
XII	2800x1	0	3500x1	6300

The authorised representatives of the school submit that prior to that, originally in 2008-09 the school was charging development fee at a fixed amount of Rs. 1550 for the whole year irrespective of the amount of tuition fee.

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Secretary




22.11.2016

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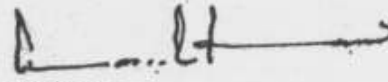
The Committee has examined the fee schedule for the year 2008-09 which was filed by it under section 17(3) of the Delhi School Education Act, 1973 and observes that while tuition fee varied from Rs. 1620 per month to Rs. 1910 per month for different classes, the development fee for all the classes was charged at a fixed amount of Rs. 1550 per annum. At the lowest tuition fee of Rs. 1620, the development fee worked out to 7.97% while at the highest tuition fee level of Rs. 1910, the development fee worked out to 6.76%.

As per the statement filed by the school, the school recovered arrears of development fee @ 15% of the arrears of the tuition fee i.e Rs. 2800, which amount to Rs. 420 per student. Additionally, the school also recovered the arrears of development fee @ 15% of tuition fee for the whole year i.e. 01.04.2008 to 31.03.2009 by calculating the same at the rate of 15% of the pre hiked tuition fee. The authorized representative of the school submits that the school was in deficit even after hiking the tuition fee in accordance with the order dated 11.02.2009 and therefore had to hike the development fee in the aforesaid manner. He relies on clause 14 and 15 of order dated 11.02.2009 and submits that the development fee hiked by the school was in accordance with the order dated 11.02.2009.

Calculation sheet to be prepared. To come up for further hearing on 15/12/2016 at 11.00 a.m.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



*Produced by
Ms. P. K. Sharma
11/12/16*

22.11.2016

000051 B-560

Mamta Modern School, Vikas Puri, New Delhi

Present: Sh. Rajesh Sharma, Accountant, Sh. Ajay Lal, Accountant, Sh. Manoj Sharma, Manager, Sh. R. S. Sharma, V. Chairman of the school.

The school has not yet furnished the employee wise detail of salary and arrears paid from 2008-09 to 2014-15 as was required vide order dated 20.10.2016. The school was required to file the details within three weeks. The authorized representatives submit that it would take a little more time to prepare the detail. The same may be done before 15.12.2016. Matter will be heard on 21.12.2016 at 11.00 a.m.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



22.11.2016

000052

B-220

Presidium School, Ashok Vihar, New Delhi.

Present: Sh.C.B. Mishra, V. Principal and Sh. Samarth Garg, Chartered Accountant of the school.

The authorized representatives of the school submit that since the school acquired furniture, fixtures and equipments for an amount which was more than the development fee recovered, there was no amount left to be deposited in the earmarked development fund account. However, they concede that no earmarked depreciation reserve fund was maintained. They have filed copies of the bills of the assets acquired by the school in 2009-10. The earmarked bank statement in respect of development fee may be filed latest by tomorrow.

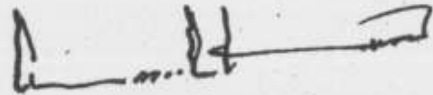
Recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



28.11.2016

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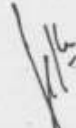
Sant Nirankari Public School, Nirankari Colon, Delhi

Present Sh. Vijay Batra, Member CMC & Ms. Sonia, Office In charge of the school.

The school has filed the fee structures for the years 2011 to 2015-16 alongwith the print out of the status report of writ petition WP (C)135/2009 filed by Ms. Beena Arora and Ors. The authorized representatives of the school contend that in the subsequent years also fee was hiked to the extent of around 10% and as such the school does not have sufficient funds to pay the arrear salary to the teachers as claimed by them in the writ petition. **The school is required to file a copy of the writ petition filed in the Hon'ble Delhi High Court along with copies of orders passed on various dates. Matter to come up for further hearing on 15.12.2016 at 11.00 A.M.**



**Dr. R.K. SHARMA
MEMBER**




**J.S. KOCHAR
MEMBER**



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

TRUE COPY



Secretary



28.11.2016

000054

B-543

Dayanand Public School, Moder Town-III, Delhi

Present : Sh. S.K. Jagnani, Manager, Sh. Ashok Bhutani, Treasurer & Taranjeet Incharge of the school.

The only issue in this case is recovery of arrears of development fee for the period 01.9.2008 to 31.3.2009 @ 15% of tuition fee instead of 10% which was being charged by the school originally. As per the calculations made by the Committee the excess amount recovered by the school on this account is Rs.2,89,759. The authorized representatives of the school has provided the copy of calculation sheet for the comments of the school, if any,. Hearing is concluded. The school is given liberty to file written submissions in rebuttal of the calculations made by the Committee within 7 days.

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Dr. R.K. SHARMA
MEMBER

1/6

J.S.KOCHAR
MEMBER

1/11

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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28.11.2016

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B-556

Richmond Global School, Paschim Vihar, Delhi

Present : Sh. Ashok Aggarwal, CA of the school.

On the last date of hearing i.e. 7.10.2016 the Committee had received a request from the school for adjournment on account of non availability of principal of the school. Matter was adjourned for today. It seems that the school was not issued notice for fresh date of hearing, the same may be issued for 15.12.2016.


At later stage Sh.Ashok Aggarwal, C.A. has appeared and after some arguments he seeks an adjournment. The Committee finds that the annual return might have not filed by the school for the year 2007-08 but is not on record. The school may furnish the same before the next date of hearing. Matter to come up for further hearing on 15.12.2016 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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28.11.2016

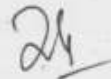
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B-146

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

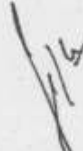
Present : Sh. K.K. Kundan, Accountant of the school.

The school claims that an additional liability of Rs. 11,82,191 on account of gratuity accrued as on 31.3.2010 on account of revision of the maximum gratuity payable from Rs. 3.50 lakhs to Rs. 10 lakhs and for this they received a demand for additional premium from Life Insurance Corporation of India which was paid subsequently. Arguments heard. However the school shall file copy of the complete audit report of the chartered accountant appointed by the Directorate of Education. The school will file copy of bank statement showing payment of additional demand made by LIC towards gratuity also. The school shall also file calculation sheet in respect of all the staff members who had been paid arrears of 5th Pay Commission during the year 2008-09. This will be done within 3 days.

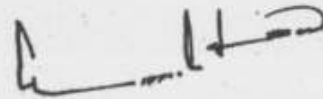
Recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



28.11.2016

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St. Thomas Girls S.S. School, Mandir Marg, Delhi

Present : Sh. R.K. Khanna, C.A. & Sh. Vinod Kr. Asstt. of the school.

The authorized representatives of the school have been heard. They were asked to justify the difference in figures in various accounts which were given by the school vide submissions dated 26.10.2016 vis-à-vis those given by submissions dated 7.7.2015. The differences are as follows:

Particulars	As per submissions dated 7.7.15	As per submissions dated 26.10.16	Difference
Arrears of Salary for the period 1.1.06 to 31.8.08	1,71,43,943	1,90,36,639	18,92,696
Arrears for the period 1.9.08 to 31.3.09	70,13,455	75,69,309	5,55,854
Incremental Salary for 2009-10	1,40,80,139	1,57,69,756	16,89,617
Reserve for Gratuity	2,22,08,438	2,65,84,483	43,76,045
Reserve for Leave Encashment	88,93,647	2,02,16,409	1,13,22,762
Reserve for Future Contingencies	1,55,28,509	2,32,36,770	77,08,261

School has made claim for the following additional deductions:

1. Contingency Reserve @ 2% of total expense as on 31.3.2010 - Rs.15,70,040.
2. Depreciation Fund for 3 years - Rs.1,02,26,683.
3. Amount utilised for the development of the school - Rs.1,66,79,205.

They submit that so far as arrears of salary for the period 1.1.2006 to 31.08.2008 and 01.9.2008 to 31.3.2009 are concerned the differences on account of the fact that in the figures given earlier, management share of Provident Fund was not included. The same explanation has been given for the figures given for the regular salary of 2008-09 and as well as 2009-10.

With regard to reserve for gratuity and leave encashment, they contend that earlier the figures were given on estimated basis without actually making calculations in respect of individual employees. The figures given subsequently are supported by detailed calculations employee-wise, the details of which have been filed. With regard to

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reserve for future contingencies, they contend that the actual salaries, Bonus, PF and MACP, as well as salary paid to outsourced staff have also been considered while giving the revised figures, while the Committee calculated the same on average of the actual salary paid during 2009-10. The school is required to file the details of arrears of MACP paid for the period 01.9.08 to 31.3.09 and for the period from 01.4.2009 to 31.3.2010, as the information filed by the school with regard to the same is on a consolidated basis for the period 01.9.2008 to 30.11.2011. The same may be filed within 3 days. Revised Calculation Sheet to be prepared thereafter. To come up for further hearing on 08.12.2016.

Dr. R.K. SHARMA
MEMBER

J.S. HOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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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:

Sumermal Jain Public School, Janak Puri, Delhi (B-65)

Recommendations of the Committee

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

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school). The school submitted its reply vide its letter dated 01/03/2012, stating as follows:

- (a) The School had implemented the recommendations of VI Pay Commission and the increased salary of the staff were being paid w.e.f. 01/04/2009.
- (b) The school had paid arrears consequent to implementation of VI Pay Commission report for the period 01/01/2006 to 31/03/2009.
- (c) The school had increased the fee in terms of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/04/2009.
- (d) The school recovered arrears 01/09/2008 to 31/03/2009 as per the aforesaid order.

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In support, the school furnished details of its salary for the month of March and for the month of April 2009 indicating the increase salary consequent to implementation of recommendations of VI Pay Commission. The school also filed statement showing the arrears of salary due for the period 01/01/2006 to 31/08/2008 and 01/09/2008 to 31/03/2009 and also gave details of arrears paid in the financial year 2008-09 and those paid in 2009-10. As per the statement filed by the school, it paid a total sum of Rs. 69,57,604 in the year 2008-09 and Rs. 48,20,991 for the year 2009-10.

The school also furnished details of its tuition fee and development fee recovered for the years 2008-09 and 2009-10. Besides the arrear fee and lump sum fee charged by the school in terms of the order dated 11/02/2009 issued by the Director of Education. As per the details filed by the school, there was an across the board increase in tuition fee by Rs. 300 per month for students of all the classes w.e.f. 01/09/2008. Arrears of tuition fee for the period 01/09/2008 to 31/03/2009 was recovered @ Rs. 2100 per student and one time lump sum fee was recovered @ Rs. 3000 per student as provided in the aforesaid order dated 11/02/2009. The school also increased development fee from 10 % of tuition fee in 2008-09 to 15% in 2009-10. However, there was no indication whether any arrears of development fee for the period 01/09/2008 to 31/03/2009 were recovered.

The Committee issued a notice dated 08/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears

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of development fee, if any, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment, a copy of the circular issued to the parents regarding the fee hike. The school was also issued a questionnaire regarding development fee.

In response to the notice issued by the Committee, the school vide its letter dated 19/05/2015, furnished the required information and documents. The school has also furnished copies of the bank statements showing payment of arrears of salary, which were 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 was also filed. Instead of furnishing the statement of account of the parent society, the school furnished the audited balance sheets of the parent society. In respect of the accrued liability of gratuity and leave encashment, the school submitted detailed statements showing the working of these liabilities as on 31/03/2010. As per the statement furnished, the school had an accrued liability of Rs.92,45,971 on account of gratuity and Rs. 24,30,798 on account of leave encashment.

The school also furnished copies of circulars dated 12th Feb. 2009, 16th Feb. 2009, 27th Feb. 2009 and 9th March 2009. As per the circulars, the Sumermal Jain Public School, Janak Puri, Delhi (B-65) / Recommendations

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arrears of fee that was required to be paid by the students was found to be the same as the school had stated in its reply to the questionnaire dated 27th Feb. 2009. No arrears of development fee was demanded by the school.

The school also furnished its reply to the questionnaire regarding development fee that was issued by the Committee. As per the reply furnished, the school stated that it charged development fee in all the five years for which the information was sought by the Committee. In particular, the school stated that during the year 2009-10, it recovered a sum of **Rs. 55,91,458** on account of development fee and **Rs. 57,24,456** in the year 2010-11. The development fee utilised for the purpose of purchase of furniture & fixture and equipment was Rs. 8,28,900 only in the year 2009-10 and Rs. 25,93,487 in the year 2010-11. However, in this year, the school showed the utilisation of development fee to the tune of Rs. 14,22,963 for purchase of a bus

With regard to treatment of development fee in the accounts, the school stated that it was treated as a capital receipt from financial year 2014-15 onwards. Similarly with regard to maintenance of separate depreciation reserve fund, it stated that it was doing so from financial year 2014-15. However nothing was said about the years prior to 2014-15. The school also gave details of FDRs amounting to Rs. 80,66,725, purportedly held against development fund. However, the date of issue of FDRs was mentioned as 23rd January 2015 and 19th March 2015.

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In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 23/06/2016 for hearing on 08/07/2016.

The authorized representatives (ARs) appearing for the school were heard in the matter and the information and documents furnished by the school from time to time were examined by the Committee. It was submitted by the ARs that the school also ran a pre primary school and its revenues and expenditures are incorporated in the financials of the parent society i.e. Sumermal Jain Education & welfare Society. The balance sheet of the parent society thus contained the financials of the main school as well as the pre primary school. They agreed that the balance sheets of parent society be considered for making the relevant calculations.

The ARs of the school were heard. Perusal of the audited financials of the parent society showed 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. It was 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.

Based on the information furnished by the school and examination of records by this Committee, the following calculation sheet was prepared:

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Statement showing Fund available as on 31.03.2008 with Sumermal Jain Educational and Welfare Society and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report

	Particulars	Amount (Rs.)	Amount (Rs.)
	<u>Current Assets + Investments</u>		
	Cash in Hand	131,598	
	Cash at Bank	666,248	
	Fixed Deposits with Bank	31,870,256	
	Advance to Staff	60,994	
	TDS Receivable on FDRs	249,860	
	Advance to Party	37,100	33,016,056
Less	<u>Current Liabilities</u>		
	Overdraft with Bank	3,350,896	
	PTA	12,963	
	TDS Payable Salary	4,305	
	Security Deposit	15,000	
	Caution Money	2,078,884	
	Anuvrat store	1,345	5,463,393
	Net Current Assets (Funds available)		27,552,663
Less	Reserves required to be maintained:		
	for future contingencies (equivalent to 4 months salary)	9,062,144	
	for accrued liability towards Leave Encashment as on 31.03.2010	2,430,798	
	for accrued liability towards Gratuity, as on 31.03.2010	8,890,095	20,383,037
	Funds available for implementation of 6th Pay Commission before Fee hike		7,169,626
Less	Total Liabilities after implementation of 6th Pay Commission:		
	Arrear of Salary as per 6th CPC	13,147,324	
	Incremental Salary for 2009-10 (as per calculation given below)	11,605,192	24,752,516
	Excess / (Short) Fund Before Fee Hike		(17,582,890)
Add	Total Recovery after 6th Pay Commission		
	Arrear of tuition fee	9,127,275	
	Arrear of Development fee		
	Incremental tuition fee for 2009-10 (as per calculation given below)	7,707,744	16,835,019
	Excess / (Short) Fund After Fee Hike		(747,871)

Development fee refundable being treated as revenue receipt :

For the year 2009-10	5,591,458
For the year 2010-11	5,724,436
Total	11,315,894
Less: Shortfall in Tuition Fee	(747,871)
Net amount refundable	10,568,023

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Working Notes:

	2008-09	2009-10
Normal/ regular salary	15,581,240	27,186,432
Incremental salary in 2009-10	11,605,192	
	2008-09	2009-10
Normal/ Regular Tuition fee as per I & E A/c	28,532,018	36,239,762
Incremental tuition fee in 2009-10	7,707,744	

A copy of the preliminary calculation sheet was provided to the ARs of the school for rebuttal, if any. They sought some time to go through the same. The matter was accordingly adjourned for 20/09/2016.

On 20/09/2016, the school filed its written objections dated 19/09/2016 stating as follows:

(a) The calculations made by the Committee itself recognised that the school was in deficit to the tune of Rs. 7,47,871. It is only after considering and assuming the development fee as revenue receipt being available to the school that the notional calculation of refundable surplus funds have been arrived at.

(b) The Delhi School Education Act and Rules, 1973 categorically specified that development fee not exceeding 10% of total annual tuition fee for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment and the said development fee be treated as capital receipt only. The 10% development fee was increased to 15 % vide DOE's order dated 11/02/2009.

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(c) Rule 153 of the Delhi School Education Rules provides that development fee shall be utilised exclusively for the purpose for which it is levied and collected. "Thus, it is abundantly clear that as per the provisions of relevant Act viz. Delhi School Education Act & Rules, 1973, the development fee shall be treated as capital receipt only and shall be utilised only for the specified purposes of purchase, upgradation and replacement of furniture, fixture and equipment." Therefore, development fee as revenue receipt cannot be considered as available for the purpose of meeting the increased salary expenditure pursuant to implementation of VI Pay Commission.

(d) The Committee has assumed that whatever funds are at the disposal of Sumermal Jain Educational Society, in addition to the funds available with Sumermal Jain Public School, are to be utilised for the purpose of increased salary expenditure and the society may need and utilise funds for development and expansion of other educational institutions.

(e) Rule 177 (ii) (c) of Delhi School Education Rules, 1973 ought to be taken into consideration because the school building is in the process of expansion and some other projects like establishment of hostels etc. would require funds.

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The objections filed by the school were considered by this Committee and the ARs of the school were heard. The Committee is of the view that none of the objections taken by the school is tenable for the following reasons:

Firstly, the objection of the school regarding consideration of balance sheet of the parent society for determining the funds available with the school instead of considering the balance sheet of the main school has to be rejected outrightly as the school was admittedly running a pre primary school whose financials were not incorporated in the balance sheet of the main school but were incorporated in the balance sheet of the parent society. The Director of Education has issued an order stating that the pre primary school that were running from the same premises or from the outside are to be considered as part of the main school for all purposes. This order was issued in pursuant to an order passed by the Hon'ble Delhi High Court in a writ petition filed before it. The school cannot be heard to say that the society needs funds for other purposes and therefore the funds available with the society ought not be considered as available for meeting the additional expenditure of the school on account of implementation of VI Pay Commission report. Further, the ARs of the school themselves agreed during the course of hearing that the balance sheet of the parent society be considered for the purpose of making relevant calculations

The reliance placed by the school on Rule 153 of the Delhi School Education Rules is misconceived as this Rule is contained in Part A of Chapter

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XIII of the Delhi School Education Rules, 1973 which applies only to Aided schools. Admittedly the school is not an aided school and as such recourse to Rule 153 does not further the case of the school. There is no provision in the Delhi School Education Act, 1973 or the Rules framed thereunder which permits the schools to charge any development fee by unaided private schools. The concept of development fee to be charged by unaided private schools was for the first time introduced by Justice Santosh Duggal Committee (Duggal Committee for short), which was constituted by the Hon'ble Delhi High Court to consider the issue of fee hike by unaided private schools pursuant to implementation of the recommendations of V Pay Commission, vide judgment in the case of **Delhi Abibhavak Mahasangh v. Union of India and others AIR 1999 Delhi 124**. It made the following recommendations:

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

The charge of development fee in case of unaided private schools was permitted for the first time by order no. De.15/Act/Duggal.Com./203/99/23033-23980 dated 15/12/1999 which was issued in pursuance of the recommendations of Duggal Committee constituted by the Hon'ble Delhi

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High Court in the case of Delhi Abhibhavak Maha Sangh vs. Union of India AIR 1999 Del 124. Para 7 of this order read as under:

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

The aforementioned order of the Director of Education was considered by the Hon'ble Supreme Court in the case of Modern School (supra) and it was held as follows:

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

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15th December, 1999 and 31st December, 2003 we are of the view that the management of recognized unaided schools should be permitted to charge development fee not exceeding 15% of the total annual tuition fee.

The direction no. 7 of the aforesaid order dated 15/12/1999 was repeated verbatim as direction no. 14 of order no. F.D.E./15(56)/Act/2009/778 dated 11/02/2009, which was issued by the Director of Education, permitting schools to hike the tuition fee for the purpose of implementation of the recommendations of VI Pay Commission. The only change that was made by this order was that instead of 10% of annual tuition fee, the schools were permitted to charge 15% of the annual tuition fee in line with the judgment of the Hon'ble Supreme Court in the case of Modern School (supra). All the pre conditions for charging development fee i.e. treating development fee as a capital receipt and maintenance of earmarked development fund and depreciation reserve fund were retained.

This Committee, by its mandate given to it by the judgment in WP (C) 7777 of 2009 is required to follow the principles laid down by the Hon'ble Supreme Court in the case of Modern School (supra).

The Hon'ble Supreme Court has affirmed the pre conditions laid down by the Duggal Committee for the purpose of charging development fee by unaided private schools. The main pre condition is that development fee will be treated as a capital receipt by the school. Only if it is treated as capital receipt, will there be a need to consider whether the school was maintaining earmarked depreciation reserve fund and development fund.

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In this case, the school is not, of its own saying, fulfilling any of the pre conditions, as aforesaid. The school on its own admitted that these pre conditions were being followed from the year 2014-15 onwards. While the Committee is of the view that the school was not justified in charging development fee in any of the years prior to 2014-15, it is not making any recommendations with regard to the development fee charged prior to 2009-10 as it is considering only the fee charged by the schools pursuant to order dated 11/02/2009, which would obviously come into effect w.e.f. 2009-10. As the Committee has before it only the audited financials for the year 2009-10 and 2010-11 after the issuance of order dated 11/02/2009, it is making its recommendations in respect of development fee only for the years 2009-10 and 2010-11.

It is in light of these facts, the Committee is of the view that the development fee charged by the school for the years 2009-10 and 2010-11 amounting to Rs. 1,13,15,894 ought to be refunded along with interest @ 9% per annum as mandated by the Hon'ble Delhi High Court in its judgment in

WP(C) 7777 of 2009. However, since the Committee has determined that the school incurred a shortfall of Rs. 7,47,871 on implementation of the recommendations of VI Pay Commission, the same ought to be adjusted against the refund of development fee determined to be paid to the students. However, a small correction in the calculations made by the Committee would be in order although the school has not taken any objection to it. The school

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had furnished the details of its accrued liability of gratuity which amounted to Rs. 92,45,971. However, the Committee reduced this figure Rs. 3,55,876 and took the figure of Rs. 88,90,095 in its calculations. This was done as at that time, the Committee was of the view that the maximum ceiling in respect of gratuity which was increased from Rs. 3,50,000 to Rs. 10,00,000 came into force from May 2010 when the amendment to the Payment of Gratuity Act came into force and as such as on 31/03/2010, the old ceiling of Rs. 3,50,000 would apply. However, at that time, the Committee did not have the benefit of the Office Memorandum dated 2nd Sept. 2008 which was issued by the Ministry of Personnel, Public Grievances and Pensions, Govt. of India, conveying that the President of India had accepted the Government's decision on the recommendations of the VI Pay Commission. One of the recommendations provided for the maximum limit of gratuity to be increased to Rs.10 lakhs for the government servants who retire/die in harness on or after 01.01.2006. This office Memorandum was filed subsequently before the Committee by South Delhi Public School.

Section 10 (1) of the Delhi School Education Act 1973 (DSEA) provides that the scales of pay and allowances , medical facilities, pension , **gratuity** , provident fund and other prescribed benefits for the employees of a recognized private school shall not be less than those of the employees in corresponding schools run by the appropriate authority.

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The Committee therefore took the view that the increase ceiling of Rs. 10,00,000 would apply and would be available as on 31/03/2010. Accordingly, the Committee is of the view that the deficit of Rs. 7,47,871 determined by the Committee would stand increased to Rs. 11,03,747.

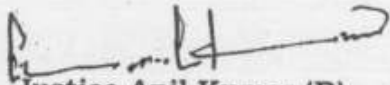
It therefore recommends that the school ought to refund Rs. 1,02,12,147 (1,13,15,894- 11,03, 747) out of the development fee charged by it in the years 2009-10 and 2010-11, along with interest @ 9% per annum from the date of collection to the date of refund.

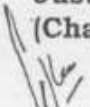
Recommended accordingly.

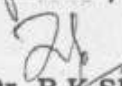
Chairperson

CA J.S. Kochar
(Member)

Date: 03/11/2016


Justice Anil Kumar (R)
(Chairperson)


CA J.S. Kochar
(Member)


Dr. R.K.Sharma
(Member)

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Secretary



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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:

Banasthali Public School, Vikas Puri, New Delhi-110018 (B-255)

Recommendations of the Committee

Present : Dr. V.K. Goyal, Chairman, Mrs. Anubha Goyal, Vice Principal & Mrs. Seema P.G.T of the school.

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school), which was followed by a reminder dated 27/03/2012. The school did not respond to the questionnaire. A revised questionnaire was sent to the school vide letter dated 27/12/2013. In response thereto the school furnished the required information under cover of its letter dated 08/01/2014. It submitted as follows:

- (a) The School had implemented the recommendations of VI Pay Commission and the increased salary of the staff were being paid w.e.f. 01/04/2009. A comparative statement showing the pre implementation and post implementation salary of each employee was submitted.

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Secretary



- (b) A total of Rs.7,95,000 was paid as arrears of salary for the period 01/01/2006 to 31/03/2009 to the staff in two instalments- one in March 2011 and other in March 2012. An employee wise list of total payment of arrears was furnished by the school.
- (c) The school had increased the fee in terms of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/04/2009.
- (d) The school recovered arrear fee amounting to Rs.7,68,550 for the period 01/01/2006 to 31/03/2009 in pursuance of the aforesaid order.
- (e) The school recovered development fee in all the five years for which the information was sought. In particular, it recovered Rs. 13,92,055 in 2009-10 and Rs. 14,48,405 in 2010-11.
- (f) The development fee was treated as a revenue receipt. All the development fee recovered by the school has been utilised by it. A statement of utilisation of development fee was also filed by the school showing the details of utilisation. The amount was shown as having been utilised mainly for repair and maintenance of building.
- (g) The development fee was treated as a revenue receipt in the accounts of the school.
- (h) No earmarked account was maintained to park the depreciation reserve fund or unutilised development fund.

The Committee issued a notice dated 13/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears

of development fee, if any, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment, a copy of the circular issued to the parents regarding the fee hike.

In response to the notice issued by the Committee, the school vide its letter dated 22/05/2015, furnished the required information regarding fee and salary but did not furnish the details of its accrued liabilities of gratuity and leave encashment nor did it furnish the statement of account of the parent society/trust and documents. Instead the school furnished copies of the balance sheets of its parent society.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 29/06/2016 for hearing on 15/07/2016.

On the date of hearing, the authorized representatives of the school were partly heard by the Committee. The Committee perused copies of the circulars 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 by the aforesaid order. It was observed

that although the school was charging development fee for the year 2008-09, the circular did not mention anything about the increase in development fee. The authorized representatives of the school stated that the development fee was not increased for this period and consequently no arrears of development fee were recovered.

The Committee also perused the statement of fee and salary filed by the school and observed 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 submitted 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. It was also observed that in the statement of salary filed by the school giving the mode of payment, the school vaguely mentioned that it was paid by cash as well as bank transfer. Separate amounts, paid in cash or by bank transfer were not given. The representatives submitted that bulk of the salary was paid by alleged bank transfer only. They produced the ledger account to show this position, which was examined by the Committee. The Committee also perused the audited balance sheets of Anand Prakash Charitable Education Trust (Society), which incorporated the accounts of the school. The representatives

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of the school submitted that the society had no other activity apart from running the school.

With regard to the regular development fee charged by the school, the authorized representatives of the school reiterated the position which had been mentioned by the school in its reply to the questionnaire viz. that the development fee is treated as a revenue receipt and no earmarked development fund or depreciation reserve funds accounts were maintained.

The Committee observed that the school had taken loans for creation of its fixed assets and was meeting repayment of the same and also paying interest thereon out of the fee collected by it from the students. In view of the law laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 to the effect that capital expenditure cannot form part of the fee structure of the schools, the Committee considered that the funds so utilised ought to be considered as funds available to the school for the purpose of implementation of the recommendations of VI Pay Commission. Further taking into account the information furnished by the school from time to time which was examined by the Committee with reference to the books of accounts of the school, the Committee prepared the following calculation sheet to examine the justifiability of fee hiked by the school in pursuance of order dated 11/02/2009 issued by the Director of Education:

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Statement showing Fund available as on 31.03.2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report based on the Balance Sheet of the Society

	Particulars	Amount (Rs.)	Amount (Rs.)
	Funds diverted towards repayment of loans taken for Fixed Assets and payment of interest from 2006-07 to 2009-10) (As per Annexure 1)		5,028,805
	<u>Current Assets + Investments</u>		
	Cash in Hand	188,451	
	Cash at Bank	2,280,497	
	Fixed Deposits with Bank	141,714	
	Accrued Interest	6,586	2,617,248
Less	<u>Current Liabilities</u>		
	Student Caution Money	947,965	
	Expenses Payable	477,883	
	TDS Payable	1,500	1,427,348
	Net Current Assets + Funds diverted (Funds available for implementation of 6th CPC)		6,218,705
Less	Reserves required to be maintained:		
	for future contingencies (equivalent to 4 months salary)	3,062,700	
	for accrued liability towards Leave Encashment as on 31.03.10		
	for accrued liability towards Gratuity as on 31.03.2010		3,062,700
	Funds available for implementation of 6th Pay Commission before Fee hike		3,156,005
Less	Total Liabilities after implementation of 6th Pay Commission:		
	Arrear of Salary as per 6th CPC (paid in 2010-11 and 2011-12)	795,000	
	Incremental Salary for 2009-10 (as per calculation given below)	4,125,923	4,920,923
	Excess / (Short) Fund Before Fee Hike		(1,764,918)
Add	Total Recovery after 6th Pay Commission		
	Arrear of tuition fee	938,535	
	Arrear of Development fee		
	Incremental tuition fee for 2009-10 (as per calculation given below)	3,530,450	4,468,985
	Excess / (Short) Fund After Fee Hike		2,704,067

Development fee refundable being treated as revenue receipt :

For the year 2009-10	1,392,055
For the year 2010-11	1,448,405
Total	2,840,460
Add: Excess Funds	2,704,067
Total Amount Refundable	5,544,527

Working Notes:

	2008-09	2009-10
Normal/ regular salary	5,062,176	9,188,099
Incremental salary in 2009-10	4,125,923	
	2008-09	2009-10
Normal/ Regular Tuition fee as per I & E A/c	6,381,227	9,911,677
Incremental tuition fee in 2009-10	3,530,450	

While preparing the calculation sheet, out of the sum of Rs. 62,18,705 which was determined by the Committee to be amount of funds available with the school, it had set aside a sum of Rs. 30,62,700 which is equivalent to four months salary of the school for the year 2009-10, as reserve for future contingencies and only the balance of Rs. 31,56,005 was taken as available to the school for implementation the recommendations of VI Pay Commission. The Committee did not set aside any funds to cover the accrued liability of gratuity and leave encashment as the school did not furnish this information when it was specifically asked to vide notice dated 13/05/2015. A copy of the calculation sheet was furnished to the school for its response and rebuttal, if any.

In response, the school filed its own calculation sheet to show that the school did not have surplus funds which needed to be refunded out of the arrear and incremental tuition fee in pursuance of order dated 11.2.2009 issued by the Directorate of Education.

The Committee has perused the calculation sheet filed by the school in which the school has claimed an additional amount of Rs. 30,11,798 as arrears which are still payable on account of implementation of 6th Pay Commission. No other figure in the calculation sheet prepared by the Committee is disputed. With regard to development fee, the school has claimed that the expenses incurred against the same ought to be reduced from the same and if they are so considered, the school would be having a deficit of Rs. 15,43,202 as against a surplus of Rs. 55,44,527 determined by the Committee.

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The Committee has considered both the issues raised by the school.

In so far as the expenses against development fee are concerned, the Committee finds that the development fee for the years 2009-10 and 2010-11, which alone was considered as refundable, the same has been treated as a revenue receipt. The expenses incurred on revenue account against the same have already been debited to the Income & Expenditure Account and only thereafter, the funds available with the school for implementation of the recommendations of VI Pay Commission, have been worked out. Allowing the expenses against development fee once again would result in double deduction of the same expenses, once against tuition fee and again against development fee. Hence this contention of the school is not acceptable and is rejected.

The second contention that the school ought to be allowed to retain funds amounting to Rs. 30,11,798 which represent Arrears of VI Pay Commission which are still outstanding, also cannot be accepted as the school, despite collecting the arrear fee in 2008-09 and 2009-10, did not pay the arrears of salary to its existing staff till the end of 2010-11 and 2011-12. The school cannot be allowed to perennially carry forward this liability as the same have not been paid even by 2016. Moreover, the school has not furnished any details of the liability owed to its staff on account of such arrears. If the school has not paid such arrears in nine years, it can be assumed that no such liability exists or the same has been settled or compromised with the staff.

Recommendations:

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In view of the foregoing discussion, the Committee recommends that

- (1) The school ought to refund a sum of Rs. 27,04,067 representing the incremental fee on account of fee hike in the year 2009-10 in pursuance of order dated 11/02/2009 issued by Director of Education along with interest @ 9% per annum from the date of collection to the date of refund.
- (2) The school ought to refund the development fee amounting to Rs. 28,40,460 charged by the school in 2009-10 and 2010-11 along with interest @ 9% per annum from the date of collection to the date of refund, on account of non fulfillment of the pre conditions laid down by the Hon'ble Supreme Court for charging development fee.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Date: 10/11/2016

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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:

Rishabh Public School Mayur Vihar Phase -I, Delhi

Recommendations of the Committee

Present: Sh. N.S. Bhati, Chairperson, Sh. L.K. Singh, Staff, Sh. S.H. Sharma, Accountant of the school.

The Committee has examined a copy of the circular dated 28/03/2009 issued by the school to the parents of the students in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular the school increased tuition fee by Rs.- 200 per month for students of classes I to VIII @ Rs.- 300 for students of classes IX to XII. Besides, the school also requested the parents to deposit the arrears of tuition fee from 01/09/2008 to 31/03/2009. With regard to arrears fee for 01/01/2006 to 31/08/2008, the parents were advised the same could be paid in suitable instalments.

However, Sh. N.S. Bhati, Chairperson of the school, submitted that there was lot of agitation from the parents with regard to payment of arrear fee and consequently the school did not recover any arrear fee.

Rishabh Public School Mayur Vihar Phase I- B 342

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For this reason, the school did not pay any arrear salary to the staff which could have been payable to them consequent to the implementation of recommendations of VI Pay Commission. The Committee has examined the mode of payment of salary for 2008-09 and 2009-10, as submitted by the school in the statement filed under cover of its letter dated 16/11/2015. As per the aforesaid statement, the school was paying only a miniscule portion of the salary to the staff by account payee cheques. In the year 2008-09, out of a total payment of Rs.- 59,42,080 on account of salary, a sum of Rs.- 15,73,869 was paid in cash and Rs.- 38,99,636 by bearer cheques. Similarly in 2009-10, out of total payment of Rs.- 76,22,291 paid as salary, a sum of Rs.- 13,56,515 was paid in cash and Rs.- 54,47,066 by bearer cheques.

The Committee has examined the pass books produced by the school of Indian Bank from which the salary was paid by bearer cheques and account payee cheques. The Committee has observed that in almost every month, the bearer cheques were withdrawn on two or three dates together and on the same date, there was cash deposit in the bank.

The Chairman of the school submitted that the school is located and caters to lower strata of the society and as such they have not recovered the arrears from the students.

The school claims to have implemented the recommendations of 6th Pay Commission w.e.f. August 2009.

Conclusions

In the facts and circumstances it is reasonable to infer that the school has shown implementation of the recommendations of the 6th Pay Commission by paying the salary/arrears of salary to the teachers in cash/bearer cheques. No cogent reason has been disclosed by the school for payment by cash or bearer cheques as the amount could be paid by cheques. In order to show compliance, the school resort to show payment in cash or by bearer cheques where as in fact the amount is not paid. This is done to circumvent the compliance of the recommendations of the VI Pay Commission. The salaries that are shown to have been paid are not actually fully paid in these circumstances. 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. This is not the case of the school that the teachers did not have the bank account or not willing to open the accounts. The teachers represent an educated section of the society and it is unfathomable that they do not have bank accounts. The reasonable inference which can be drawn in such cases is that the salaries which are shown to have been paid in the books were not paid or were paid partially

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

Recommendations regarding the hiked tuition fee:

In view of the above reasonable inference in the facts and circumstances the Committee is of the view that the school did not implement the recommendations of the 6th Pay Commission. 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 reasons, 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.

Since the fee hike in 2009-10 would also be a part of the fee for

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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

As per record the school has collected development fee and it has been treated in the accounts as revenue receipt. Further, no earmarked Development Fund or Depreciation Reserve Fund accounts were maintained by the school. As per the documents filed by the school, it recovered a sum of Rs. 65,700/- as development fee in the year 2009-10 and Rs. 2,63,450/- in the year 2010-11.

The school did not comply 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. 3,29,150/- 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 also along with interest @ 9% per annum from the

Rishabh Public School Mayur Vihar Phase I- B 342

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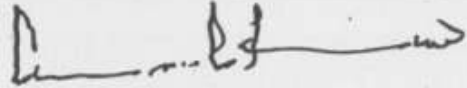
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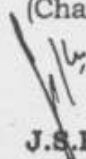
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date of its collection to the date of its refund.

Recommended accordingly.



Justice Anil Kumar (R)
(Chairperson)




J.S. Kochar
(Member)



Dr. R.K. Sharma
(Member)

Dated :- 10-11-2016

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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:

**G.D. Salwan Public School, Old Rajinder Nagar, New Delhi-
110060 (B-441)**

Present : Sh. J.N. Chopra, Director, Sh. S.N. Dixit, Advisor, Ms. Seema Hamrol, Supdt., Sh. Yogesh Dixit, HC/Asstt., Sh. Manish Dutta, UDC of the school.

Recommendations of the Committee

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school), which was followed by a reminder dated 27/03/2012. However, the school did not respond to the questionnaire and reminder of the Committee. Subsequently, a revised questionnaire was issued to the school on 31/07/2013. This time the school responded by submitting its reply vide its letter dated 08/08/2013. As per the reply, the school stated as follows:

- (a) The School had implemented the recommendations of VI Pay Commission and the increased salary of the staff was being paid w.e.f. 01/09/2008.
- (b) It had paid arrears of salary amounting to Rs.75,79,992 consequent to implementation of VI Pay Commission report.

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However, the period to which the arrears related was not mentioned.

- (c) The school had increased the fee in terms of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/09/2008. The tuition fee was increased by Rs.400 per month and the development fee by Rs.60 per month.
- (d) The school recovered one time arrear fee @ Rs.3,500 per student for the period 01/01/2006 to 31/08/2008. The total collection of arrear fee was Rs.29,05,860.
- (e) The school was charging development fee in all the five years for which the information was sought by the Committee i.e. 2006-07 to 2010-11. In particular, the school recovered a sum of Rs.31,59,531 in 2009-10 and Rs.39,92,157 in 2010-11.
- (f) The development fee collected from the students was utilised for addition to the fixed assets of the school like building equipments and furniture & fixtures and vehicles.
- (g) The development fund was treated as capital receipt and unutilised development fund and depreciation reserve fund were kept in earmarked account.

In the first instance, the preliminary calculations with regard to funds available with the school and the justification for hike in fee were done by the Chartered Accountants assisting this Committee. As per the calculations, the school had incurred a deficit after implementation of the recommendations of VI Pay Commission, despite no provision having been made for reserve for future contingencies or accrued liabilities of

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gratuity and leave encashment. However, on a review of the calculations by the Committee, it was found that the same were not based on the audited financials of the school but were done by extrapolating the monthly differences in fee and salary consequent to implementation of recommendations of VI Pay Commission. Therefore, the Committee chose not to act on those calculations.

The Committee issued a notice dated 22/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment, a copy of the circular issued to the parents regarding the fee hike.

The school furnished the required information and details vide its letter dated 04/07/2015.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 18/07/2016 for hearing on 09/08/2016. The authorized representatives of the school were heard by the Committee and the information, documents and the records of the school were examined.

The Committee perused the circulars issued by the school with regard to fee hike effected for the purpose of implementation of VI Pay

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Commission report. Initially the school issued a circular dated 10/02/2009 vide which a lump sum amount of Rs.5,500 was demanded from the parents, without any details of the working of the said amount. Subsequently, after the issuance of order dated 11/02/2009 by the Director of Education, the school vide circular dated 06/04/2009 provided the break up of the amount of Rs. 5,500 recovered from the students. As per the break up so provided, the school appropriated a sum of Rs. 2,800 towards arrears of tuition fee for the period 01/09/2008 to 31/03/2009, Rs. 420 towards arrears of development fee for the same period. The balance of Rs. 2280 was adjusted towards the lump sum fee recoverable by the school to cover the arrears of salary for the period 01/01/2006 to 31/08/2008 out of a total sum of Rs.3,500 which was recovered as per the order dated 11/02/2009. The balance of Rs.1,220 was recovered as second installment of the lump sum fee.

During the course of hearing, the school filed a revised statement of fee and salary in place of the one filed earlier vide submissions dated 04/07/2015. It was submitted by the authorized representative appearing for the school that the earlier statement was incorrect to the extent that the arrears of salary for the period 01/09/2008 to 31/03/2009 were mentioned as nil and instead were included in the figures given as normal salary during 2008-09, the second reason for revision is that in the earlier statement filed, regular development fee was shown as a revenue receipt which is contrary to

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facts. Actually it was treated as capital receipts in the accounts of the school.

The authorised representative submitted that the school, on its own, implemented the recommendations of VI Pay Commission w.e.f. 01/09/2008 after they were accepted by the government. The school did not wait for issuance of order dated 11/02/2009 by the Director of Education. Consequently, technically no arrears were paid for period 01/09/2008 to 31/03/2009 and that is the reason they were shown as nil in the earlier statement filed. However, for the purpose of making relevant calculation to examine the justifiability of fee hike effected by the school pursuant to order dated 11/02/2009, the additional salary paid for the period 01/09/2008 to 31/03/2009 on account of implementation of the recommendations of VI Pay Commission, have to be segregated from the normal salary paid for the year 2008-09 and in the revised statement filed by the school, the additional salary amounting to Rs.32,04,834 has notionally been shown as arrears paid for the period 01/09/2008 to 31/03/2009 and reduced from the normal salary for the year 2008-09. The school also furnished copy of a certificate dated 08/08/2016 issued by M/s. Chartered Accountants which quantified the additional salary of Rs.32,04,834.

With regard to the treatment of development fee in the accounts, the authorized representatives contended that a separate income and expenditure account of development fund is prepared by the school to

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which the development fees is credited, besides interest on the saving earmarked saving bank and FDRs maintained to cover the depreciation reserve fund. The depreciation is charged to the income and expenditure account of the development fund and the corresponding amount is credited to depreciation reserve fund which is reflected in the balance sheet. It is submitted that the school maintains earmarked investments in the shape of FDRs and saving bank account which are utilized for the purpose of purchase of furniture and fixture and equipments and the remaining amount is kept earmarked. The authorized representatives submitted that this accounting treatment is in accordance with the Guidance note on Accounting by schools issued by the Institute of Chartered Accountant and also conforms with para 14 of order dated 11/02/2009 issued by the Director of Education. It is thus submitted that the school complied with all the pre conditions laid down by the Duggal Committee regarding charging of development fee, 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 authorized representatives submitted that the remaining information/documents sought by the Committee vide notice dated 22/05/2015, as furnished vide written submission dated 04/07/2015 are in order and do not call for any change.

The Committee has examined the information and documents furnished by the school. It observed that the school had not

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furnished the details of accrued liabilities of gratuity and leave encashment as on 31/03/2010. The authorized representatives undertook to submit the same within one week. On 12/08/2016, the school submitted calculation sheet showing the accrued liabilities of gratuity at Rs.46,98,286. However, no detail of accrued liability towards leave encashment was submitted.

The Committee has examined the audited financials, information furnished by the school in response to various communications by the Committee and during the course of hearing. The same have been verified with reference to books of accounts of the school. The Committee is of the view that so far as development fee is concerned, the school was fulfilling all the pre conditions, laid down by 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. Therefore, while making the relevant calculations, the Committee has excluded the balances of saving bank account and FDRs earmarked against development fund. The following calculation sheet has been prepared by the Committee in order to determine whether the fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education was justified or not:

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Statement showing Fund available as on 31.03.2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report				
	Particulars	School Fund	Pupil Fund	Total
	<u>Current Assets + Investments</u>			
	Cash in hand	-	-	-
	Balances in Savings Bank Account other than Dev. Fund	2,357,092	42,154	2,399,246
	Investments (FDRs & Securities other than Dev. Fund)	3,856,841	1,100,000	4,956,841
	Interest accrued on FDRs other than against Dev. Fund	154,588	82,183	236,771
	Prepaid Insurance	103,420	-	103,420
	Advance to Air Force Auditorium	-	50,000	50,000
	School Fund	-	775	775
	TDS	114,072	14,600	128,672
	Total Current Assets	6,586,013	1,289,712	7,875,725
Less	<u>Current Liabilities</u>			
	Security Fee Refundable	601,000	-	601,000
	Loan against FDR	-	152,934	152,934
	Provision for expenses payable	1,297,284	14,911	1,312,195
	Fee received in advance other than Dev. Fee	502,250	49,200	551,450
	Total Current Liabilities	2,400,534	217,045	2,617,579
	Net Current Assets (Funds available)	4,185,479	1,072,667	5,258,146
Less	Reserves required to be maintained:			
	for future contingencies (equivalent to 4 months salary)			6,709,509
	for accrued liability towards Leave Encashment as on 31.03.10			4,698,286
	for accrued liability towards Gratuity as on 31.03.10			
	Total reserves required to be maintained			11,407,795
	Funds available for implementation of 6th Pay Commission before Fee hike			(6,149,649)
				0
Less	Additional Liabilities after implementation of Vith Pay Commission:			
	Arrear of Salary as per 6th CPC for 1.1.06 to 31.8.08			6,285,645
	Notional Arrears of Salary as per 6th CPC for 1.9.08 to 31.3.09			3,204,834
	Incremental Salary for 2009-10 (as per calculation given below)			9,056,970
	Total additional liabilities			18,547,449
	Excess / (Short) Fund Before Fee Hike			(18,547,449)
Add	Total Recovery for implementation of 6th Pay Commission :			
	Arrear of tuition fee for 1.1.06 to 31.8.08			2,905,860
	Arrear of tuition fee for 1.9.08 to 31.3.09			2,282,000
	Arrear of Development fee			342,300
	Incremental tuition fee for 2009-10 (as per calculation given below)			5,997,082
	Total additional recovery of Fees			11,527,242
	Excess / (Short) Fund After Fee Hike			(7,020,207)

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Working Notes:

	2008-09	2009-10
Normal/ regular salary	11,071,557	20,128,527
Incremental salary in 2009-10	9,056,970	
	2008-09	2009-10
Normal/ Regular Tuition fee	14,960,694	20,957,776
Incremental tuition fee in 2009-10	5,997,082	

The above calculations show that the school had funds available with it to the tune of Rs.52,58,146 as on 31/03/2008. If the funds required to be kept in reserve for the accrued liability of gratuity and for future contingencies (equivalent to four months salary) are taken into account, the school did not have any funds available with it for meeting the additional expenditure on account of implementation of VI Pay Commission. The additional liability that befell on the school for implementing the VI Pay Commission report amounted to **Rs.1,85,47,499**. The additional revenue generated by the school by way of recovering the arrear fee and incremental fee as per the order dated 11/02/2009 issued by the Director of Education, amounted to **Rs.1,15,27,242**.

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In view of the position as obtained, the fee hike and arrears recovered by the school in pursuance of order dated 11/02/2009 were justified. It may be recorded that school has not made any request for being allowed to raise the fee over and above that allowed by the aforesaid order dated 11/02/2009.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K.Sharma
(Member)

Date: 15/11/2016

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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:

Sri Sathya Sai Vidya Vihar, Kalkaji Extension, New Delhi (B-111).

Present : Smt. Rekha Agarwal, Principal and Sh. R.P. Malhotra, Manager of the school.

Recommendations of the Committee

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school). The school responded by submitting its reply vide its letter dated 02/03/2012.

As per the reply, the school stated as follows:

- (a) The School had implemented the recommendations of VI Pay Commission and the increased salary of the staff was being paid w.e.f. 01/01/2006 (sic). The monthly expenditure on salary for the pre implementation period was Rs.8,36,589 which rose to Rs.11,92,746 after the implementation.
- (b) It had paid arrears of salary consequent to implementation of VI Pay Commission report in three years, starting from 2008-09 to 2010-11. However, the period to which the arrears related was not mentioned.
- (c) The school had increased the fee in terms of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/09/2008. The tuition fee was increased by Rs.300 per month for all the classes and the development fee by Rs.60 per month.

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(d) The school recovered one time arrear fee @ Rs.3,000 per student for the period 01/01/2006 to 31/08/2008 and the arrear fee for the period Sept. 2008 to March 2009 @ Rs.2,100 per student.

In a subsequent communication dated 16/10/2012, the school gave details of arrear fee collected and arrear salary paid. As per the information furnished by the school, it collected a total amount of Rs.50,92,275 as arrear fee and paid Rs.75,12,965 as arrear salary.

In the first instance, the preliminary calculations with regard to funds available with the school and the justification for hike in fee were done by the Chartered Accountants assisting this Committee. As per the calculations, the school had ample funds of its own from which the additional liabilities on account of salary hike and arrear salary consequent to implementation of the recommendations of VI Pay Commission, could be paid and there was no need for a fee hike. However, on a reconsideration of the calculations by the Committee, it was found that the same were not based on the audited financials of the school but were done by extrapolating the monthly differences in fee and salary consequent to implementation of recommendations of VI Pay Commission. Therefore, the Committee chose not to rely on those calculations.

The Committee issued a notice dated 02/03/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity

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and leave encashment, a copy of the circular issued to the parents regarding the fee hike. The school was also given an opportunity of being heard on 16/03/2015 and was directed to produce its entire accounting fee records and salary records for the years 2006-07 to 2010-11.

On the date of hearing, Sh. R.P. Malhotra, Manager, Ms. Rekha Agarwal, Principal and Sh. Sunil Nagpal, Office Asstt. appeared and furnished the required information under cover of its letter dated 13/03/2015. The information now furnished was slightly at variance with the information furnished in response to the questionnaire issued by the Committee. However, since the information now furnished was in agreement with the audited financials of the school, the Committee accepted the revised information. The school was also issued a questionnaire regarding development fee, in response to which the school stated that it had not charged the development fee in any of the five years for which the information was sought. The school also filed copies of its bank statements showing the payment of arrear salary through account payee cheques.

The Committee verified the information filed by the school with reference to its books of accounts and audited financials and based thereon, prepared the following calculation sheet:

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Statement showing Fund available as on 31.03.2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars	Amount (Rs.)	Amount (Rs.)
	<u>Current Assets + Investments</u>		
	Cash in hand	97,513	
	Bank Balance	752,865	
	Cheques in hand	85,000	
	Fixed Deposits	18,365,079	
	Recoverable from SST Delhi & Punjab	512,757	
	Money recoverable from students	46,307	
	Prepaid Expenses	9,466	
	Hostel Stationery	12,872	
	TDS recoverable	10,122	
	Advances	533,825	20,425,806
Less	<u>Current Liabilities</u>		
	Current liabilities other than Gratuity payable	884,236	
	Sundry Creditors	155,112	
	Caution Money (including that of hostel)	1,506,200	2,545,548
	Net Current Assets + Investments (Funds Available)		17,880,258
	Total Liabilities after implementation of Vith Pay Commission		
Less	Arrear of 6th CPC from 01.01.2006 to 31.08.2008	4,828,834	
	Arrear of 6th CPC from 01.09.2008 to 28.02.2009	3,124,677	
	Incremental salary for March 2009	356,154	
	Incremental Salary in 2009-10 as per calculation given below	4,618,663	12,928,328
	Excess / (Short) Fund Before Fee Hike		4,951,930
Add	Total Recovery after VI th Pay Commission		
	Arrears of tuition fee from 01.01.2006 to 31.08.2008	3,563,375	
	Arrears of tuition fee from 01.09.2008 to 31.03.2009	1,488,900	
	Incremental Tuition Fee in 2009-10 as per calculation given below	3,900,142	8,952,417
	Excess / (Short) Fund After Fee Hike		13,904,347
Less	Reserves required to be maintained:		
	for future contingencies (equivalent to 4 months salary)	5,218,672	
	for Gratuity as on 31.03.2010 *	7,268,007	12,486,679
	Excess / (Short) Fund		1,417,668

School does not charge Development fee

* Capped at Rs. 3.50 lacs per employee (maximum payable as on 31.3.2010)

Working Notes:

	2008-09	2009-10
Regular/ Normal Salary as per I & E Account	10,447,756	15,087,176
PF Admn. Charges	47,657	49,543
School Contribution (EPF)	360,627	330,773
School Contribution (FPF)	159,214	165,554
EDLP Admn. Charges	439	451
FLDP School contribution	21,660	22,519
Total	11,037,353	15,656,016
Incremental Salary in 2009-10 as per I & E A/c	4,618,663	
Regular/ Normal Tuition Fee as per I & E Account	15,441,475	19,341,617
Incremental Tuition Fee in 2009-10 as per I & E A/c	3,900,142	



As would be apparent from the above calculation sheet, the school had funds available with it to the tune of Rs.1,78,80,258 as on 31/03/2008. The school had a requirement of Rs.72,68,007 for keeping funds in reserve for meeting its accrued liability on account gratuity. The details furnished by the school with regard to its accrued liability of gratuity showed the same was Rs.75,22,291 as on 31/03/2010. The liability in respect of some of the employees as claimed by the school was in excess of Rs.3,50,000 while in some of the cases, the length of service of the employees was less than five years. The Committee while preparing its calculations excluded the liability allegedly owed to employees with less than five years of service as in view of the Committee, the gratuity had not accrued to them while in case of the employees, whose liability was shown at more than Rs.3,50,000, the Committee restricted the same to Rs. 3,50,000 as the Committee was of the view that as on 31/03/2010, the maximum gratuity that could be paid was Rs.3,50,000. Therefore, the amount considered by the Committee as the accrued liability of gratuity was Rs.72,68,007.

Besides, the Committee considers that the school ought to have kept funds in reserve to the tune of Rs.52,18,672 (equivalent to four months salary) for meeting any unforeseen contingencies. After taking these two into account, the school had Rs.53,93,579 which was available with it for discharge of its additional liabilities on account of implementation of recommendations of VI Pay Commission. The additional liabilities of the school for implementation were Rs.1,29,28,328 upto 31/03/2010. Therefore, the school needed to

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bridge the gap of **Rs.75,34,749** by recovering arrear fee and hiking the tuition fee in pursuance of order dated 11/02/2009. However, the total recovery effected by the school by way of arrear fee and incremental tuition fee for the year 2009-10 amounted to **Rs.89,52,417**. Thus apparently the school recovered a sum of **Rs.14,17,668** in excess of its requirement, which prima facie it is required to refund to the students.

A copy of the calculation sheet was furnished to the school and a fresh notice of hearing was issued on 04/11/2015 for hearing on 30/11/2015. The Principal and Manager of the school appeared on that date and were heard. They filed written submissions dated 26/11/2015 refuting the calculations made by the Committee and maintained that the school was actually in deficit to the tune of Rs.5,48,735. The calculation sheet was disputed on various grounds, which we feel need not be discussed in detail. However, they raised the contention that an amount of **Rs.1,70,811** out of the FDRs amounting to Rs.1,83,65,079 ought not to have been considered as available to the school as the FDRs were pledged with CBSE. They further contended that the Committee has not considered the liability on account of leave encashment as on 31/03/2010 which amounted to **Rs.12,08,000**. During the course of hearing, the authorized representatives were informed that these had not been considered as the school had not furnished this information which it was specifically asked to furnish vide notice dated 02/03/2015. The school was given liberty to furnish the same by 01/12/2015 which it did.

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However the final recommendations could not be finalized in this case on account of the resignation of the previous Chairperson of the Committee.

Accordingly the school was given an opportunity of being heard again on 06/10/2016, vide notice dated 21/09/2016. On this date, the Principal and Manager of the school appeared and were heard again.

The Committee has considered the contentions raised by the school and is of the opinion that the same need to be accepted as the school has filed the relevant details and evidence of FDRs having been pledged with CBSE. If these two amounts are taken into consideration, the surplus with the school would get reduced to **Rs.38,857.**

In view of the position as obtained, the fee hike and arrears recovered by the school in pursuance of order dated 11/02/2009 were justified.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Date: 17/11/2016



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

000106

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

In the matter of:

**Poorna Prajana Public School, Vasant Kunj, New Delhi-
10070 (B-171)**

Present : Sh. Rattan Singh, Manager, Sh. Narayan, Office Supdt.,
Ms. Sandhya Gupta, UDC, Sh. Dinesh Kumar, UDC & Sh. N.K.Bhat,
C.A. of the school.

Recommendations of the Committee

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools for implementation of the recommendations of VI Pay Commission in pursuance of order dated 11/02/2009 issued by the Director of Education (DOE), the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school). The school submitted its reply vide its letter dated 05/03/2012, stating as follows:

- (a) The School had implemented the recommendations of VI Pay Commission and the increased salary of the staff were being paid w.e.f. 01/01/2006 (sic).
- (b) The school had paid arrears consequent to implementation of VI Pay Commission report amounting to Rs.1,02,00,940. (It was not mentioned as to the arrears related to which period.)

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- (c) The school had hiked the fee pursuant to order dated 11/02/2009 issued by the Director of Education w.e.f. 01/04/2009.
- (d) The school had recovered a total sum of Rs.71,80,565 as arrear fee for implementation of the recommendations of VI Pay Commission.

Subsequently the school clarified the recommendations of VI Pay Commission were actually implemented w.e.f. 01/09/2009 and stated that the salary for the month of August 2009 (pre implementation) was Rs.6,85,375 and Rs.10,97,800 for the month of September 2009.

In the first instance, the preliminary calculations with regard to funds available with the school and the justification for hike in fee were done by the Chartered Accountants assisting this Committee. However, on a review of the calculations by the Committee, it was found that the same were not based on the audited financials of the school but were done by extrapolating the monthly differences in fee and salary consequent to implementation of recommendations of VI Pay Commission. Therefore, the Committee chose not to rely on those calculations.

The Committee issued a notice dated 13/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and

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2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment, a copy of the circular issued to the parents regarding the fee hike. The school was also issued a questionnaire regarding development fee.

In response to the notice issued by the Committee, the school vide its letter dated 01/06/2015 furnished the required information and documents. The school also submitted copies of bank statements in support of payment of arrear salary which were stated to have been paid by direct bank transfer. Copy of the circular issued to the parents regarding fee hike in pursuance of order dated 11/02/2009 was also furnished. However, neither the details of accrued liability of gratuity nor leave encashment nor the statement of account of parent society was filed.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 23/06/2016 for hearing on 01/07/2016. The Committee perused the statement of fee and salary filed by the school under cover of its letter dated 01/06/2015 and observed that the figures, particularly with regard to arrears of development fee did not match with the circular issued to the parents for payment of such fee. The school did not produce the books of accounts and the details with regard to accrued liability of gratuity and leave encashment. The Committee also observed that the



statement of fee and salary by the school did not match with its audited financials. They sought time for furnishing a revised statement and accordingly the matter was directed to be relisted on 18/07/2016.

On that date, the Committee 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 appeared 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. The school recovered the arrears of 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 also recovered the differential amount of development fee arrears for the same period at rates which are approximately 40% of the hike in tuition fee. The authorized representative of the school relied 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 authorized the school to collect the difference of the original amount of development fee and 15% of the tuition fee as additional development fee.

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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 contended that the 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.

In the meantime, the school filed a revised statement of fee and salary on 15th July 2016 in the office of the Committee after making some corrections in the same. However, even the revised statement was found to be incorrect, in so far as the school gave the figures of arrear fee and arrear salary in a consolidated manner which included even the arrears for the period 01.04.2009 to 31.07.2009 in respect of fee and for the period 1.04.2009 to 31/08/ 2009 in respect of salary. The school was again 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. The Committee also noted that the regular salary paid for the year included not just salary but also bonus leave encashment and gratuity paid on cash basis, LTC, expenses on security and staff welfare. The school had also shown regular development fee as a revenue receipt in the statement furnished, but in reply to the questionnaire issued by the Committee,



it had stated that the development fee was treated as a capital receipt. The school was required to clarify this position. The authorized representatives stated that the school had no transaction with its parent society and as such no account of the society appears in its books of accounts. However, on reconsidering this position they submitted that it had taken a loan from the parent body for constructing the school building, which they are repaying in instalments. The school was once again asked to file the statement of loan account as appearing in its books for the years 2006-07 to 2010-11.

With regard to pre primary school, the authorized representatives contended that the school did not have any separate pre-primary school. However, the Committee observed from the balance sheet of the main school that some balance is appearing in the name of PP play school. When required to explain, they conceded that the assets and liabilities of the play school/ pre-primary school were not transferred to the main school upto March 2010. They were transferred only in 2010-11. The school was accordingly required to file the balance sheets 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 again did not file the same and maintained that since the school is making payments of gratuity and leave encashment



on cash basis they are not required to file such details. The matter was directed to be relisted on 24th August 2016 and the school was required to comply with the directions given by the Committee.

On the next date of hearing, the school filed revised statement of fee and salary, after making some corrections. It also filed the audited balance sheet of Poorna Prajna Play House which was earlier a feeder school but was subsequently closed, as per the submissions made by the authorized representatives of the school. However the assets and liabilities of the pre primary school were not merged with the assets and liabilities of main school. The Committee observed that funds were diverted to Poorna Prajna Education Centre, Sada Shiv Nagar to the tune of Rs. 2 lakhs and Admar Mutt Education Council, Banglore to the tune of Rs. 14 lakhs as on 31.3.2008. These funds were obviously generated from the fee of the students. The school also furnished the details of its accrued liabilities for gratuity for the year 31.03.2010 which it estimated at Rs. 51,27,126. However the detail in respect of liability of leave encashment was not filed presumably as no such liability existed.

The school still did not file copy of the account of the parent society in its books for the years 2006-07 to 2010-11. The school was required to furnish the same within one week and it was made clear to the authorized representatives that failure to do so would result in an adverse view to be taken against the school.

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The school submitted the account of the parent society on 01/09/2016 in the office of the Committee.

Based on the information furnished by the school from time to time and its audited financials, the Committee prepared the following calculation sheet:

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Statement showing Fund available as on 31.03.2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report				
	Particulars	Main School	Nursery	Total
	Current Assets			
	Cash in Hand	4,468	-	4,468
	Bank Balance	8,278,728	472,524	8,751,252
	PP Play House/ PPP School	(170,917)	170,917	-
	Fixed Deposits with Bank	1,940,907	136,941	2,077,848
	Total Current assets	10,053,186	780,382	10,833,568
Less	Current Liabilities			
	Audit Fee payable	20,225	-	20,225
	Security Deposits	737,352	-	737,352
	Total Current Liabilities	757,577	-	757,577
	Net Current Assets	9,295,609	780,382	10,075,991
Less	Funds to be kept in reserve (Combined):			
	for future contingencies equivalent to 4 months salary			6,441,211
	towards accrued liability for Gratuity as on 31.3.2010 (in respect of employees who have rendered service of more than 5 years)			4,737,133
	towards accrued liability for Leave Encashment as on 31.3.10			-
	Total funds to be kept in reserve			11,178,344
	Excess / (Short) Funds before implementation of 6th CPC			(1,102,353)
Less	Arrear of Salary as per 6th CPC w.e.f. 01.01.06 to 31.03.09			7,563,101
	Incremental Salary as per 6th CPC in 2009-10			8,152,350
	Excess / (Short) Funds Before Fee Hike			(16,817,804)
Add	Tuition Fee Arrear from 01.01.06 to 31.03.09			4,160,358
	Development Fee arrear from 01.09.08 to 31.07.09			849,891
	Incremental Tuition fee in 2009-10			3,514,694
	Excess / (Short) Funds After Fee Hike			(8,292,861)

Development fee refundable on account of pre-conditions for charging the same not being fulfilled:

	Rs.
For the year 2009-10	1,358,639
For the year 2010-11	2,933,854
Total	4,292,493
Less: Shortfall in tuition fee	(8,292,861)
	(4,000,368)

Working Notes:

Increase in Normal/ regular salary	2008-09	2009-10
Normal/ regular salary & PF of Main+ Nursery School	11,171,282	19,323,632
Incremental salary in 2009-10	8,152,350	
Increase in tuition fee	2008-09	2009-10
Regular/ Normal Tuition fee of Main+ Nursery School	13,942,204	17,456,898
Incremental tuition fee in 2009-10	3,514,694	

As would be apparent from the above calculation sheet, the school was in deficit after implementation of the recommendations of



000115

VI Pay Commission even after considering the regular development fee charged by the school in the years 2009-10 and 2010-11. Therefore the issue regarding fulfillment of pre conditions for charging development fee is not being discussed here as the same would be of academic interest only. However, the arrears of development fee recovered by the school for the period 01/09/2008 to 31/03/2009, which the school was authorized to recover vide order dated 11/02/2009 of the Director of Education has to be discussed as, in view of the Committee, the school illegally recovered the arrears of development fee not only at a rate which was higher than the rate at which development fee was being originally charged for the year 2008-09 but also the recovery of arrears on the pre revised tuition fee for the period 01/04/2008 to 31/08/2008 for which the tuition fee was neither increased nor authorized to be increased by the aforesaid order dated 11/02/2009.

The schools are entitled to recover development fee at the rate which is not in excess of 15% of the tuition fee. The 15% is the upper cap at which the development fee can be recovered. However, the schools are at liberty to charge development fee at a rate which is less than 15% of tuition fee. This is apparent from the recommendations of the Duggal Committee which was constituted by the Hon'ble Delhi High Court to examine the issue of fee hike in fee consequent to the implementation the recommendations of V Pay Commission. The recommendation of the Duggal Committee was as follows:



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

The recommendations of Duggal Committee were considered by Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583. Affirming the above recommendation, the Hon'ble Supreme Court held as follows:

25. In our view, on account of increased cost due to inflation, the management is entitled to create Development Fund Account. For creating such development fund, the management is required to collect development fees. In the present case, pursuant to the recommendation of Duggal Committee, development fees could be levied at the rate not exceeding 10% to 15% of total annual tuition fee. Direction no.7 further states that development fees not exceeding 10% to 15% of total annual tuition fee shall be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipments. It further states that development fees shall be treated as Capital Receipt and shall be collected only if the school maintains a depreciation reserve fund. In our view, direction no.7 is appropriate. If one goes through the report of Duggal Committee, one finds absence of non-creation of specified earmarked fund. On going through the report of Duggal Committee, one finds further that depreciation has been charged without creating a corresponding fund. Therefore, direction no.7 seeks to introduce a proper accounting practice to be followed by non-business organizations/not-for-profit organization. With this correct practice being introduced, development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipments is justified. Taking into account the cost of inflation between 15th December, 1999 and 31st December, 2003 we are

of the view that the management of recognized unaided schools should be permitted to charge development fee not exceeding 15% of the total annual tuition fee.

It is apparent from the above that the schools are free to charge development at a rate which is less than 15% of the tuition fee. In this case, the school was charging development fee at a rate which was around 10% of tuition fee w.e.f. 01/04/2008. The order dated 11/02/2009 vide which the school was authorized to increase the fee for implementation of the recommendations of VI Pay Commission, to increase the tuition fee at five different slabs, depending upon the existing tuition fee being charged by the schools w.e.f. 01/09/2008. However, since development fee is charged as a percentage of tuition fee, the increase in tuition fee w.e.f. 01/09/2008 would result in an increase in development fee at the same percentage at which the school was charging development fee prior to 01/09/2008. The order dated 11/02/2009 took cognizance of this fact and vide clause 15, it authorized the schools to increase the development fee which would be sequitor to increase in tuition fee with the rider that the same is used for paying increased salaries as per the recommendations of VI Pay Commission. Clause 15 of the order reads as under:

"However, the additional increase in development fee on account of increase in tuition fee shall be utilised for the purpose of meeting any shortfall on account of salary/arrears only."

There was no authority to the school either to increase the development fee for the period 01/04/2008 to 31/08/2008 or at a

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rate which was higher than the rate of development fee which the school was charging prior to 01/09/2008.

In this case, the school recovered arrears of tuition fee amounting to Rs.18,69,572 and arrears of development fee amounting to Rs.8,49,891 as per the statement dated 24/08/2016 filed by the school. The authorised representatives in their submission made on 18/07/2016, conceded that not only the arrears recovered at the rate of 15% of tuition fee but also the differential development fee was worked out on the tuition fee charged for the period 01/04/2008 to 31/08/2008.

Thus the school recovered arrears of development fee at a rate which was more than 45% of the arrears of tuition fee. The school could have recovered arrears of development fee only to the tune of Rs.1,86,957 being 10% of the arrears of tuition fee for the period 01/09/2008 to 31/03/2009. Thus the school illegally recovered sum of Rs.6,62,934 as arrears of development fee. The subsequent order dated 25/02/2009 issued by the Director of Education which is relied upon by the school, can in no way be construed to be authorizing the schools to recover the arrears of development fee for the period 01/04/2008 to 31/08/2008 or at a rate which is necessarily 15%. In fact by this order the Director of Education only substituted clause 6 of the order dated 11/02/2009 which related to the time schedule of deposit of arrear fee by the students.

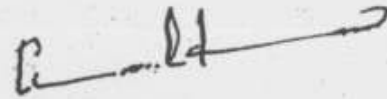
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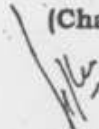
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In view of the foregoing discussion, the Committee is of the view that the school unauthorisedly and illegally recovered a sum of Rs. 6,62,934 as arrears of development fee and the same ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund. The Committee is conscious of the fact that the school was in deficit after implementation of the recommendations of the VI Pay Commission but that reason cannot justify the recovery of a fee illegally and unauthorisedly.

Recommended accordingly.



Justice Anil Kumar (R)
(Chairperson)



CA J.S. Kochar
(Member)



Dr. R.K. Sharma
(Member)

Date: 22/11/2016

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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:

**Bal Mandir Sr. Sec.School, Defence Enclave, Vikas Marg,
Delhi-110092 (B-350)**

Present : Nemo

Recommendations of the Committee

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school) which was followed by a reminder dated 27/03/2012. The school did not respond to the same. However, earlier in a communication dated 25/01/2012 addressed to the Dy. Director of Education (DDE), District East, the school on a requisition from the DDE had filed with it copies of returns filed under Rule 180 of the Delhi School Education Rules, 1973 for the years 2006-07 to 2010-11 and copies of statement of fees filed by it under Section 17(3) of the Delhi School Education Act, 1973. The school also stated that

(a) The fee was not increased during any academic session from 2006-07 to 2010-11,

(b) VI Pay Commission was implemented w.e.f. Sept. 2008 and

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(c) Fee was not increased during the session to meet increased expenditure on salary and no arrears were collected from the parents.

In order to show that it had implemented the recommendations of VI Pay Commission w.e.f. Sept. 2008, the school enclosed copies of the salary sheets for the month of August and September 2008.

The Committee examined the fee schedules submitted by the school for the years 2007-08 to 2010-11 under section 17(3) of the Delhi School Education Act, 1973. Contrary to the averment of the school, the Committee found that the school had increased the fee every year from 2006-07 to 2010-11. In 2007-08, the school hiked the fee over that charged in 2006-07 by approximately 10%. In 2008-09, the hike was to the tune of 20%, in 2009-10, the hike was around 30%. In fact, the hike in the year 2009-10 was Rs. 300 per month across the board, which was the maximum hike allowed to the school by the order dated 11/02/2009 issued by the Director of Education for the purpose of implementation of the recommendations of VI Pay Commission. In 2010-11, again, the school hiked the fee by 10%.

In the first instance, the relevant calculations to examine the justifiability of fee hike for the purpose of implementation of the recommendations of VI Pay Commission were made by the Chartered Accountants attached to this Committee. The calculations were

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reviewed by the Committee in the light of the information available with it and since the Committee was doubtful about the implementation of the recommendations of VI Pay Commission by the school, the same were not relied upon.

The Committee again issued a notice dated 14/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment, a copy of the circular issued to the parents regarding the fee hike. The school was also issued a revised questionnaire seeking specific information on certain aspects.

In response to the notice issued by the Committee, the school, under cover of its submissions dated nil which were filed in the office of the Committee on 29/05/2015, furnished the required information. The school stated that it had no surplus funds from which the school could have implemented the recommendations of VI Pay Commission and was in fact in deficit, for which it sought from the Committee appropriate recommendation to rectify the situation faced by the school.

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In other words, the school sought that the Committee should recommend further increase in fee over and above what the school had done in pursuance of order dated 11/02/2009 issued by the Director of Education. It now admitted that it had increased the tuition fee by Rs. 300 per month per student w.e.f. 01/04/2009. However, it stated that no arrears were recovered from the parents. At the same time, the school stated that the recommendations of VI Pay Commission were implemented **w.e.f. 01/03/2009**. This is contrary to what the school stated in its communication to the DDE, which is referred to above wherein the school stated that it increased the salary of the staff **w.e.f. 01/09/2008** and even filed copies of the salary statements for the month of August 2008 and September 2008 to show the increased salary. The school also submitted that while it had not recovered any arrear fee, it had paid the arrear salary amounting to Rs. 35,47,727 for the period 01/09/2008 to 28/02/2009 on 23/03/2009. From what source, the arrears were paid was not mentioned by the school. The Committee has examined the balance sheet of the school as on 31/03/2008, and finds that the school barely had any funds of its own from which it could have paid the arrear salary. Further, the receipt and payment account for the year 2008-09 show no such payment.

The school also stated in its submissions that a copy of the circular that was issued to the parents with regard to fee hike pursuant to order dated 11/02/2009 was enclosed at page 25 of the compilation

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submitted by the school. However, the Committee finds that the circular enclosed by the school at page 25 was dated 26/03/2008 and was in respect of the fee of the school for the year 2008-09.

With regard to development fee, the school in its submission stated that it had recovered development fee in all the five years for which the information was sought by the Committee. The school also stated that it was maintaining depreciation fund account in respect of assets acquired out of development fee and earmarked bank accounts were kept for depreciation reserve and unutilised development fund. However, on examining the balance sheet of the school, the Committee finds that no such earmarked accounts were maintained by the school and in fact, the school was even maintaining a depreciation reserve fund equivalent to the amount of depreciation charged to its revenue as stated by the school in its written submissions.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 30/06/2016 for hearing on 20/07/2016. Along with the notice, the school was also sent a proforma seeking information in respect of the mode of payment of salary paid by it in the years 2008-09 and 2009-10. However, on the date of hearing, an application was filed on behalf of the school seeking adjournment on the ground that the Manager of the school was not in town. The matter was accordingly adjourned 06/09/2016. On this date

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also, the school filed an application for adjournment on account of non availability of the Manager. The school was given a last opportunity of hearing on 20/10/2016 and it was clearly mentioned in the order that in case, the school again sought adjournment and does not attend the hearing, the matter would be disposed of on the basis of available record. The school did not furnish the information as sought by the Committee regarding the mode of payment of salary in the year 2008-09 and 2009-10.

On 20/10/2016, Sh. Manu Luthra, Chartered Accountant put in appearance without any authorisation from the school. He was informed that the school had not furnished the statement of salary as aforesaid and the same ought to be filed within seven days. Matter was relisted for 22/11/2016.

Today, the matter was called for hearing in the morning. No body was present on behalf of the school. Accordingly the matter was passed over. On second call also, nobody is present.

It is evident that the school is avoiding production of its books of accounts and salary records before the Committee to support its claim of having implemented the recommendations of VI Pay Commission or of having paid arrear salary. In the written submissions filed by the school on 29.05.2015, the school had admitted that it had increased the tuition fee by Rs. 300 per month per student for the

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purpose of implementation of VI Pay Commission recommendation, in pursuance of order dated 11.02.2009 issued by the Director of Education. As the school has not produced its records before the Committee, an adverse inference is required to be drawn. In view of the position that emerges, and the persistent defaults committed by the school while submitting the reply to the questionnaire, the recalcitrant attitude of the school in attending the hearings and the palpably wrong information given by the school at various stages, the Committee is of the view that the school has not actually implemented the recommendations of VI Pay Commission and is avoiding production of its records before the Committee.

Since the hike in fee was permitted specifically for the purpose of implementation of recommendations of VI Pay Commission, the Committee is of the view that the school ought to refund the incremental amount of tuition fee @ Rs. 300 per month w.e.f. 01/04/2009, to the extent it exceeds 10% of the tuition fee charged by the school in the year 2008-09 before the fee hiked was effected along with interest @ 9% per annum from the date of collection to the date of refund.

As the fee hiked w.e.f. 01/04/2009 would also be part of the fee charged by the school in the subsequent years, the fee, in so far

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as it relates to the hike w.e.f. 01/04/2009, ought also be refunded along with interest @ 9% per annum.

In so far as development fee is concerned, the school in its submissions filed on 29.05.2015 stated that the development fee was treated as a capital receipt and the school is maintaining depreciation fund equivalent to depreciation charged to revenue in respect of assets acquired out of development fee. Further it was stated that the school was maintaining separate earmarked bank account for keeping the depreciation reserve fund and unutilized development fund. However, as noticed above, neither any depreciation reserve fund was maintained by the school nor any earmarked bank account was maintained for unutilized development fund and depreciation reserve fund. Therefore, the Committee is of the view that the school was not fulfilling 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 (2004) 5 SCC 583 and therefore, the school ought to refund the development fee charged in the year 2009-10 and 2010-11 in pursuance of order dated 11.02.2009 issued by the Director of Education. The school has admitted having recovered a sum of Rs.19,88,700 as development fee in the year 2009-10 and Rs.32,92,950 in 2010-11 in its written submissions filed on 29/05/2015. The Committee has also

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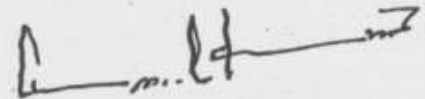
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verified from the balance sheets of the school that these amounts have indeed been recovered, the same also ought to be refunded along with interest @ 9% per annum from the date of collection to the date refund.

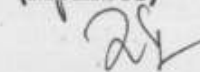
Recommended accordingly.



Justice Anil Kumar (R)
(Chairperson)



CA J.S. Kochar
(Member)



Dr. R.K. Sharma
(Member)

Date: 22/11/2016

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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:

**Hope Hall Foundation School, R.K. Puram, New Delhi-110022 (B-
443)**

Present : Nemo

Recommendations of the Committee

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school) which was followed by a reminder dated 27/03/2012. However, the school did not respond to the same. A revised questionnaire was issued to the school by email on 29/07/2013 requiring it to furnish the information by 09/08/2013. However, the same was also not responded by the school. Again a reminder was sent on 26/08/2013 by email. This was also ignored by the school. The Committee vide its letter dated 05/12/2013 once again sent a reminder to the school by speed post to submit its reply by 13/12/2013. In response to this letter, the school furnished its reply stating as follows:

(a) The school had implemented the recommendations of VI Pay Commission.

(b) Although the school did not specifically state as to from which date the increased salary as per the recommendations of VI Pay

Commission was paid. The school submitted copy of the salary statement for the month of January 2009 showing a total payment of Rs.10,00,568 and March 2009 showing a total payment of Rs.12,44,197, suggesting that it had implemented the recommendations w.e.f. March 2009 and the incremental salary on account of implementation of VI Pay Commission Report was Rs.2,43,629 per month.

(c) In respect of payment of arrear salary the school enclosed a statement showing payment of Rs.12,55,158 as payment in 2008-09, Rs.28,28,730 in 2009-10, Rs.33,66,395 in 2010-11 and Rs.2,33,605 in 2011-12 without furnishing any employee wise detail.

(d) The school had increased the fee in pursuance of order dated 11/02/2009 issued by the Director of Education and in annexure to the reply, it mentioned that the total fee received by the school was Rs.203.93 lacs in 2008-09 and Rs.230.61 in 2009-10. It also enclosed a fee structure of 2008-09 as revised w.e.f. Sept. 2008 which showed that the tuition fee had been increased by Rs.300 per month for classes I to V and Rs.400 per month for classes VI to XII. It was mentioned by way of note that *"the development fee has been enhanced 15% on tuition fee only as per the sealing imposed vide Govt. of NCT Notification No. F.DE/15(56)/Act/2009/778 dated 11th February 2009"*.

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- (e) The school had recovered a sum of Rs.17,49,630 as arrear fee in 2008-09 and Rs.42,25,595 in 2009-10.
- (f) The school was charging development fee and in an annexure, it gave details of development fee charged from 2006-07 to 2010-11. The development fee for 2009-10 and 2010-11 charged by the school was Rs.21,92,865 and Rs.39,33,255. The development fee was partially utilised for purchase of furniture, fixture and equipments.
- (g) The development fee was treated as a revenue receipt upto 31/03/2011 and as capital receipt w.e.f. 01/04/2011.

No answer was given as to whether the school was maintaining earmarked accounts for unutilised development fund or depreciation reserve fund.

The Committee issued a notice dated 25/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment and a copy of the circular issued to the parents regarding the fee hike. The school was required to furnish its reply within 10 days. However, this notice remained unresponded. A fresh notice to the same effect was issued on 23/09/2015 and

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vide this notice the school was also given an opportunity of being heard on 15/10/2015. It was clearly mentioned in the notice that the school ought to produce its entire accounting, fee and salary records i.e. cash books, ledgers, bank statements, fee register, fee receipts, salary registers, TDS returns and Provident Fund returns for the years 2006-07 to 2010-11, for examination by the Committee.

On this date, Ms. Umesh Rana, Ms. Sarla Malik and Sh. Sukhram, Assistants of the school appeared without any authorisation from the Manager/Principal. They also did not produce any books of accounts or records of the school. They sought to file a statement of fee and salary which did not reconcile with the Income & Expenditure Account. Accordingly they were directed to produce fee records before the audit officer of the Committee on 19/10/2015. However, on 15/10/2015, they made a telephonic request for more time for producing the records for verification. In the interest of justice, the Committee granted time till 29/10/2015.

On this date, Sh. Pramod Kumar, Manager Accounts and Smt. Sarla Malik and Smt. Umesh Rana, Assistants, appeared before the audit officer and produced the records for verification. They also filed statement of fee and salary as per the format prescribed by the Committee. The same was verified by the audit officer with reference to the audited balance sheet and Income & Expenditure Account of the school.

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After verifying, the audit officer recorded that besides the hike in tuition fee, as intimated by the school in reply to the questionnaire, the school had also recovered arrears of development fee for seven months i.e. 01/09/2008 to 31/03/2009. The same was recovered @ 15% of annual tuition fee in 2009-10. Out of the regular development fee charged in 2009-10, a sum of Rs.15.00 lacs was transferred to the provision of payment of salary arrears.

She also noted that the school had implemented the recommendations of VI Pay Commission w.e.f. 01/02/2009. However, she recorded that the entire amount of arrear salary, as claimed to have been paid by the school was purportedly paid in cash. On the other hand, the school pays its regular salary mainly through direct bank transfers.

The Committee examined the observations made by the audit officer and also heard the authorized representatives of the school. They reiterated what was stated by them before the audit officer and affirmed that the bulk of regular salary was paid by direct bank transfer. *However, the arrears of salary on account of implementation of the recommendations of VI Pay Commission, were paid in cash as per the decision of the Management.*

The Committee also observed that as per the original fee schedule for the year 2008-09, the school recovered a fixed amount of development fee @ Rs. 1200 per annum from all the students, irrespective of the tuition fee charged from them. But the differential development fee for the period 01/09/2008 to 31/03/2009 was recovered @ 15% of tuition fee, which obviously was different

for different classes as the tuition fee was different for different classes. The revised development fee w.e.f. 01/09/2008 to 31/03/2009 was Rs.230 per month for class I, Rs.255 for classes II to V, Rs.285 for classes VI to X and Rs.305 for classes XI & XII. The development fee charged as per the original fee schedule was Rs.1200 per annum for all the classes, which amounts to Rs. 100 per month. Thus the school increased development fee by Rs. 130 per month for class I, Rs.155 per month for classes II to V, Rs.185 per month for classes VI to X and Rs.205 per month for classes XI & XII.

The authorized representatives of the school also conceded that regular development fee was treated as a revenue receipt without maintain any earmarked depreciation reserve fund.

The school had not filed any details of its accrued liability of gratuity and leave encashment and merely submitted that the school makes regular provision in the balance sheet. The school was directed to file the details of its accrued liability of gratuity and leave encashment as on 31/03/2010 by 04/11/2015. On this date, the school filed a letter dated 03/11/2015 and submitted the details of its liabilities for gratuity as on 31/03/2010, which amounted to Rs.15,87,545. It also stated that there was no liability in respect of leave encashment as the school had already paid for the unutilised leaves. The school filed a copy of ledger account of EL encashment in support of its submission.

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A calculation sheet was prepared on the basis of information furnished by the school and the observations made by the audit officer. As the Committee was not satisfied with the claim of the school of having paid arrear salary amounting to Rs.76,83,888 in cash despite the fact that the bulk of regular salary was paid by cheque and the decision to pay the same in cash was taken by the Management, which in this case would mean the Management of the Parent Society, the aforesaid payment of Rs.76,83,888 was not taken into reckoning by the committee. The funds available with the school were reckoned with reference to the audited balance sheet as on 31/03/2008 and the Committee found that the net current assets (funds available) of the school were Rs.8,76,748 while the incremental regular salary paid by the school was Rs.63,56,238. Thus there was a cash deficit of Rs.54,79,490 which needed to be bridged by fee hike. As a result of recovery of arrears of tuition fee and incremental tuition fee for the year 2009-10, the school collected total funds amounting to Rs.86,43,444. The Committee has considered a sum of Rs. 66,73,644 equivalent to four months salary as reasonable which the school ought to maintain as reserves for future contingencies. Apart from that, the school also had an accrued liabilities of Rs.15,87,545 on account of gratuity. After factoring in these amounts, the Committee was of the view that the school had indeed incurred a short fall of Rs.50,97,235 on account of implementation of the recommendations of VI Pay Commission. However, the matter does end there. As noted above, the school was not fulfilling any of the pre conditions laid down by the Duggal Committee which were subsequently affirmed by the

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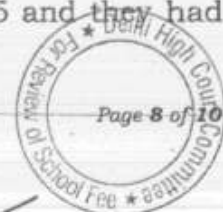


Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583, the development fee recovered in 2009-10 amounting to Rs. 21,92,865 and Rs.39,33,255 in 2010-11, aggregating Rs.61,26,120, was unauthorisedly charged. After setting of the deficit on account of tuition fee, the school is, prima facie required to refund a sum of Rs.10,28,885.

Accordingly notice dated 27/11/2015 was issued to the school along with which a copy of the calculation sheet was enclosed for rebuttal, if any. The hearing was fixed for 07/12/2015. However no body appeared on that date on behalf of school. The Committee verified from the tracking report of India Post that a notice had been served to the school on 30/11/2015. Accordingly the recommendations were reserved on that date. However, the recommendations could not be finalized on account of the resignation of the previous Chairman of the Committee.

Accordingly the school was given a fresh opportunity of being heard on 24/10/2016 vide notice dated 26/09/2016. Sh. Sukh Ram Rao, Sr. Accountant of the school appeared and sought time to furnish the details of the accrued liability of gratuity and leave encashment as on 31/03/2010. It was directed that the same may be filed within two weeks and the matter was directed to be relisted on 28/11/2016.

Today, no body has appeared on behalf of the school. The Committee finds that the details of accrued liabilities of gratuity and leave encashment had already been submitted by the school on 04/11/2015 and they had also



been taken into consideration by the Committee in its calculations. In the circumstances, the Committee is of the view that the school has nothing to say in rebuttal of the calculation sheet and the same is accepted by the school.

Accordingly, the Committee recommends that the school ought to refund a sum of Rs.10,28,885 out of the development fee for the year 2010-11 recovered by it along with interest @ 9% per annum from the date of collection to the date of refund.

The Committee is also of the view that the school was not authorized to recover arrears of development fee for the period 01/09/2008 to 31/03/2009 as clause 15 of the order dated 11/02/2009 issued by the Director of Education clearly stated the additional increase in development fee on account of increase in tuition fee shall be utilised for the purpose of meeting any shortfall on account of salary/arrears only. It follows that the school could be entitled to charge additional development fee only if it had arisen on account of increase in tuition fee. It does not authorize the schools to recover additional development fee to bring it to the level of 15% of tuition fee, if the schools were charging development fee at a rate which was less than 15% of tuition fee or where the schools were charging development fee within 15% of tuition fee but at a fixed rate which was not linked to the tuition fee. As noted above, the school was charging development fee at a fixed rate of Rs.1200 per annum, irrespective of the level of tuition fee. In view of the

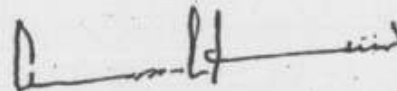
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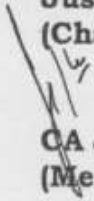


Committee, as per clause 15 of the aforesaid order dated 11/02/2009, the school was not entitled to recover any additional development fee to bring it to the level of 15% of tuition fee. The school increased development fee by Rs.130 per month for class I, Rs.155 per month for classes II to V, Rs.185 per month for classes VI to X and Rs. 205 per month for classes XI & XII and recovered the arrears for seven months period of 01/09/2008 to 31/03/2009, which the school ought to refund along with interest @ 9% per annum from the date of collection to the date of refund.


Recommended accordingly.



Justice Anil Kumar (R)
(Chairperson)




CA J.S. Kochar
(Member)



Dr. R.K. Sharma
(Member)

Date: 28/11/2016

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