

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
October 2016

Index				
S.N.	Particulars		Page No.	
(a)	Cause List of the cases taken up in October 2016 on 05.10.2016, 06.10.2016, 07.10.2016, 20.10.2016, 21.10.2016, 24.10.2016, 25.10.2016 and 27.10.2016		01 to 02	
(b)	Miscellaneous/ Interim orders passed in October 2016 on above dates		03 to 72	
(c)	Final recommendations/ Review orders passed in the following cases:-		73 to 113	
	S.N.	Date	Name of the School	
	1	21.10.2016	Review application of Kulachi Hansraj Model School, Ashok Vihar (B-40) disposed off as not maintainable	73 to 80
	2	21.10.2016	Review application of Cambridge School, Srinivaspuri (B-355) disposed off as not maintainable	81 to 89
	3	24.10.2016	Review application of D.A.V. Public School, Shreshtha Vihar (B-02) disposed off as not maintainable	90 to 97
	4	24.10.2016	Review application of Daisy Dales Sr. Sec. School, East of Kailash (B-685) disposed off as not maintainable	98 to 107
	5	27.10.2016	Recommendation in respect of Vidya Public School, Cannaught Place (B-317) recommending refund of unjustified fee alongwith 9% interest	108 to 113

Place: Delhi

Date:


Secretary

Delhi High Court Committee for Review of School Fee

Secretary
Delhi High Court Committee For Review of School Fee
(Formerly known as Justice Anil Dev Singh Committee for Review of School Fee)
C-Block, Vikas Bhawan-2, Upper Bina Road, Civil Lines, Delhi-110014

000001

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

Cause List for Wednesday 5th October 2016

Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-424	Pragati Public School, Sect.13, Dwarka
2	B-427	Vandana International School, Sect.10, Dwarka
3	B-429	M.D.H. International School, Sect.6, Dwarka
4	B-318	Navy Children School, Chanakya Puri
5	B-177	Bloom Public School, Vasant Kunj
6	B-439	National Public School, Kalindi Colony
7	B-488	Queen Mary's School, Sect.25, Rohini
8	B-492	G.D. Goenka Public School, Sect.22, Rohini
9	B-500	Sahodaya Sr. Sec. School, Safdarjung Dev. Area

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 Thursday 6th October 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
6	B-111	Sri Sathya Sai Vidya Vihar, Kalkaji Extension

Cause List for Friday 7th October 2016

Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-171	Poorna Prajna Public School, Vasant Kunj
2	B-336	Arwachin Bharti Bhawan Sr. Sec. School, Vivek Vihar
3	B-309	N.K. Bagrodia Public School, Sector 9, Rohini
4	B-449	Bal Bharati Public School, Ganga Ram Hospital Marg
5	B-455	Bosco Public School, Paschim Vihar
6	B-583	Ryan International School, Sector-25, Rohini
7	B-539	Rosary Sr. Sec. School, Kingsway Camp
8	B-541	Sant Nirankari Public School, Nirankari Colony
9	B-543	Dayanand Public School, Model Town-III
10	B-556	Richmond Global School, Paschim Vihar
11	B-557	Shah International Public School, Paschim Vihar

Cause List for Thursday 20th October 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-176	Vivekanand School, D- Block, Anand Vihar
4	B-86	Delhi Police Public School, Safdarjung Enclave
5	B-438	Springdales School, Dhaura Kuan
6	B-445	Air Force Golden Jubilee Institution, Subroto Park
7	B-560	Mamta Modern School, Vikas Puri

TRUE COPY

Secretary



Review Applications

000002

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-118	Manav Sthali School, Vasant Kunj
4	B-118	Manav Sthali School, New Rajinder Nagar
5	B-75	Indraprastha World School, Paschim Vihar

Cause List for Friday 21st October 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-146	Vishwa Bharti Public School, Sector 6, Dwarka
2	B-220	Presidium School, Ashok Vihar
3	B-46	Mother Divine Public School, Sector 3, Rohini
4	B-656	St. Thomas Girls S. S. School, Mandir Marg
5	B-137	St. Mary's School, Safdarjung Enclave
6	B-524	Lilawati Vidya Mandir, Shakti Nagar

Review orders for pronouncement of Judgment

1	B-40	Kulachi Hansraj Model School, Ashok Vihar-III
2	B-355	Cambridge School, Srinivaspuri

Cause List for Monday 24th October 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-456	Little Angels Sr. Sec. Public School, Paschim Vihar
2	B-474	Green Fields School, Safdarjung Enclave
3	B-132	St. Michael's S.S.School, Pusa Road
4	B-347	Ever Green Public School, Vasundhara Enclave
5	B-180	St. Paul's School, Safdarjung Development Area
6	B-443	Hope Hall Foundation School, R.K. Puram

Review orders for pronouncement of Judgment

1	B-685	Daisi Dales Sr. Sec. School, East of Kailash
2	B-2	DAV Public School, Shreshtha Vihar

Cause List for Tuesday 25th October 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-185	Chinmaya Vidyalaya, Vasant Vihar
2	B-188	The Mother's S.S.School, Sri Aurobindo Marg
3	B-231	Vivekanand Public School, B-Block, Anand Vihar
4	B-106	Apeejay School, Saket

Cause List for Thursday 27th October 2016**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-236	Maharaja Aggarsain Adarsh Public School, Pitampura
2	B-435	Ramjas School, Pusa Road
3	B-296	M.M. Public School, Pitam Pura
4	B-317	Vidya Public School, Cannaught Place
5	B-342	Rishabh Public School, Mayur Vihar Phase-I
6	B-290	Kasturi Ram International School, Narela
7	B-566	Bal Bharti Public School, Sector-12, Dwarka

TRUE COPY

Secretary



05.10.2016B-424Pragati Public School, Dwarka, Delhi

Present : Sh. Anil Jain, Authorized Representative, Sh. Rajiv Malik, Authorized Representative & Sh. Manoj Kulshrestha , Proxy (Advocate) of the school.

The authorized representatives of the school submit that there are some gaps in the information and the school required some time. As requested matter will come up for hearing on 10th Nov. 2016 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary




05.10.2016B-427Vandana International School, Dwarka, Delhi

Present : Sh. Manu RG Luthra, CA/AR, Sh. Manmohan Sharma, CA
and Sh. Harsh Prakash, Accounts Officer of the school

The school has filed copies of its ledger account of M/s Ved Educational Welfare Society, which is the parent society of the school, for the years 2006-07 to 2007-08 as was directed by the Committee on 23.08.2016. Perusal of the same shows that the school has received heavy amounts of cash from its parent society, particularly in the year 2006--07. The authorized representatives appearing for the school are unable to categorical state, the source of cash available with the society. He submit that the society has no activity other than running of the school. The school is required to file copies of balance sheet of its parent society for the years 2006-07 to 2010-11. The same be filed within one week. Matter will come up for hearing on 9th Nov. 2016 at 11.00 A.M.

192AD - 9717580905
Renud photocopy
del 6/10/16


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary



05.10.2016B-429M.D.H. International School, Dwarka, Delhi

Present : Sh. R.K. Wadhera, Manager & Sh. Sarbeswar Nayar,
Accountant of the school.

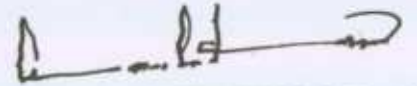
A copy of the calculation sheet is provided to the authorized representatives of the school as apparently some amount is found to be refundable. They seek time to file objections to the calculation sheet. Matter to come up for final hearing on 10th Nov. 2016 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary

05.10.2016B-318Navy Children School, Chanakya Puri, Delhi

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

The school has furnished the information which was required to furnish vide order dated 19th July 2016. However, the revised statement of fee and salary submitted at page 83 of the compilation dated 29th Aug. 2016 is again incorrect as the school has reflected the arrear fee and arrear salary for the years 1st Sept. 2008 to 30th Sep. 2009.

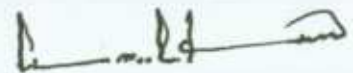
This was pointed out on the last date of hearing and the school was required to furnish the split figures of the period Sept. 2008 to March 2009 and April 2009 to Sept. 2009 separately for both fee and arrear salary. The school is required to file a revised statement as mentioned above by 24th Oct. 2016. Calculation sheet to be prepared thereafter. The matter will come up for further hearing on 10.11.2016 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary


05.10.2016

B-177

Bloom Public School, Vasant Kunj, Delhi

Present : Ms. Tarveen Kaur, Incharge Admn. of the school.

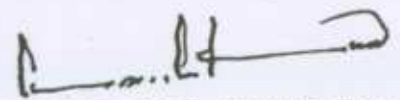
A copy of the calculation sheet is provided to the authorized representative of the school as apparently some amount is found to be refundable. She seeks time to file objections to the calculation sheet. Matter to come up for final hearing on 10th Nov. 2016 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary



05.10.2016

B-488

Queen Mary's School, Sec.25, Rohini, Delhi

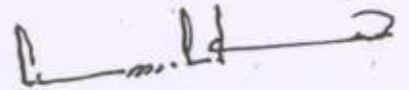
An application has been received on behalf of the school seeking adjournment on the ground that the Financial Consultant is not well. As requested the matter will come up for hearing on 9th November 2016 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY



Secretary




05.10.2016B-492G.D. Goenka Public School, Sec.22, Rohini, Delhi

Present; Sh. Ved Prakash, Administrator of the school

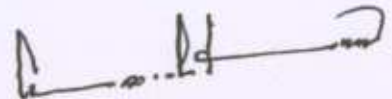
An application has been received on behalf of the school seeking adjournment on the ground that the Accounts Officer of the school is on medical leave. As requested the matter will come up for hearing on 9th November 2016 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary

05.10.2016

000011

PDF Compressor Free Version

B-500

Sahoday Sr. Sec. School, Safdarjung Dev. Area, Delhi

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

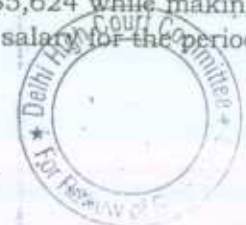
The Committee has perused the circular dated March 12,2009 issued by the school to the parents regarding fee hike effected by it in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school hiked the tuition fee w.e.f. 01/09/2008 @ Rs. 200 per month for classes Nursery to V, @ Rs. 300 per month for classes VI to XII. Accordingly arrears for 7 months from Sept. 2008 to March 2009 were collected. Additionally, the school also recovered lump sum development fee @ Rs. 100 from the students of each class and development fee arrears at a fixed rate Rs. 100 for the seven months period. It is submitted that the arrears of development fee as a percentage of arrears of tuition fee of the 7 months period is less than that originally charged in 2008-09. The authorized representatives of the school has submitted a copy of fee schedule of 2008-09 and 2009-10 in support of their contention.

Perusal of the fee structure for the year 2009 shows that the school further hiked the fee w.e.f. 1.4.2009 for all the classes. Whereas the order dated 11.2.2009 issued by the Director of education stipulated that the schools could not hike any further fee for the year 2009-10.

In response to an earlier notice dated 25th May 2015 issued by the Committee the school had furnished the information sought, which is relevant for the purpose of making calculations. The Committee has perused the statement of fee and salary filed by the school giving break up of different components of fee and salary including arrears for the period 1.1.2006 to 31.08.2008 and 01.09.2008 to 31.03.2009. On a query by the Committee, the authorized representative of the school submits that the recommendations of the Sixth Pay Commission were actually implemented w.e.f. Sept. 2009 and the school paid arrears for the period 1st Sept. 2008 to 31st Aug. 2009. However, the same has been inadvertently shown as arrears for the period 01.9.2008 to 31.03.2009. Arrears paid for the period 31.08.2009 in the original statement filed are shown to have been paid in the year 2010-11. On a query by the Committee the authorized representative of the school states that this figure includes arrears amounting to Rs.33,85,624 for the period 1.04.2009 to 31.08.2009 and has filed a statement to this effect signed by the Manager of the school. The normal salary shown as paid for the year 2009 -10 is Rs. 1,82,54,255. This has to be increased by Rs. 33,85,624 while making the relevant calculations and to this extent arrear salary for the period

TRUE COPY

Secretary



05.10.2016

01.09.2008 to 31.08.2009 requires to be reduced. It is submitted that the arrears of salary as well as the regular salary to the staff are paid through bank transfers by account payee cheques only along with the monthly salary. The school has also furnished details of its accrued liability of gratuity and leave encashment as on 31.03.2008 and 31.03.2010. The liability in respect of gratuity amounting to Rs. 97,06,928 as on 31.3.2010. And for leave encashment it was Rs. 41,57,619. The authorized representatives submit that they ought to be allowed to keep funds in reserve for future contingencies equivalent to four months salary.

11

So far as development fee is concerned as per the statement of fee and salary filed by the school it is treated as a revenue receipt in the accounts of the school. To the same effect was the reply given by the school to the questionnaire issued by the Committee vide dated 7th Oct. 2013. The Committee has also examined the audited financials of the school and finds that the submission of the school is correct.

While examining the audited financials of the school it has been observed by the Committee that the school also charged building fee in the year 2009-10. The amount collected on this account as per the receipt of payment account of the school was Rs. 6,10,000. In the year 2010-11 the school changed the nomenclature for the fee as one time fee and collected an amount of Rs.16,99,000 in that year. Calculation sheet to be prepared. Matter to come up for further hearing on 10th November 2016 at 11.00 A.M.

Dr. R.K. SHARMA
MEMBER

J.S. KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary



PDF Compressor Free Version


06/10/2016

B-300

Adharshila Vidya Peeth, CD Block, Pitampura New Delhi

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

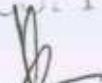
In compliance with the directions given to the school vide order dated 24/08/2016, the school filed the necessary statements under cover of its letter dated 01/09/2016. However on examining the same, the Committee finds that they are in disjointed form and not suitable for the purpose of relevant calculations. **The school is directed to give the figures of arrear salary paid in different installments on a single sheet instead of 56 sheets that the school has filed. Similarly the detail of regular salary for the year 2008-09, 2009-10 and 2010-11 may also be given on the single sheet. Matter to come up for further hearing on 15/11/2016 at 11.00 a.m.**


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



06/10/2016B-301Bharti Public School, Kondli, Mayur Vihar, New Delhi

Present: Sh. Mridul, Admn. Officer, Sh. Puneet Batra, Advocate, Sh. Devender, Accountant of the school.

The school has filed a list of new staff appointed during the year 2009-10. On a random check with the accounts of the school, the Committee has observed that most of the new teachers were paid salary through cheque from the very first month of their joining. This is contrary to the explanation given by the school that new teachers are generally paid salary in cash. **Hence there is still explanation for the abnormal increase in regular salary that were paid in cash in the year 2009-10 in which the school claimed to have implemented the recommendations of VI Pay Commission.**

Earlier the school had furnished on affidavit of the principal along with the confirmation from Canara bank regarding the mode of payment of arrears. The Committee observes that in the first installment of arrear that were paid 28/08/2009, out of total amount of Rs. 25,53,755 paid as arrears, a sum of Rs. 23,59,419 was paid by way of bearer cheques. On a query by the Committee, the authorized representatives of the school submit that the regular salary that was paid for the month of April 2009 was paid through account payee cheque. In the second installment paid on 06/02/2010 also an amount of Rs. 4,27,657 paid by bearer cheques. However, third installment there is no payment of arrear. **The counsel for the school submits that he will file a complete detail of salary paid in 2008-09 and 2009-10 individually in respect of all the teachers showing the mode of payment. This will be done by 31/10/2016. Matter will come up for further hearing on 15/11/2016 at 11.00 a.m.**

Signature
2/10/16

Signature
Dr. R.K. SHARMA
MEMBER

Signature
J.S. KOCHAR
MEMBER

Signature
JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Signature
Secretary



PDF Compressor Free Version

06/10/2016

B-302

Bharti Public School, Swasthya Vihar, New Delhi

Present: Sh. Mridul, Admn. Officer, Sh. Puneet Batra, Advocate, Sh. Devender, Accountant of the school.

In compliance of the directions of the Committee vide order dated 24/08/2016, the principal of the school filed an affidavit along with confirmation certificate from Canara Bank and Axis Bank regarding mode of payment of arrear salary. While payment made from Canara Bank are through bank transfers those made through Axis bank are through bearer cheques in case of the first and second installment and through direct bank transfer in the third installment. The overall picture that emerges is out of the total sum of Rs. 45,08,776 paid as arrears in the first installment, a sum of Rs. 21,22,860 was paid through bank transfer while the remaining amount Rs. 13,85,916, was paid through bearer cheques. In the second installment, out of total sum of Rs. 32,65,450, a sum of Rs. 27,73,627 was paid through bank transfers and the remaining amount of Rs. 4,91,803 was paid through bearer cheques. In the third installment, the amount paid was Rs. 32,41,588, out of that a sum of Rs. 30,68,776 was paid through bank transfer while a sum Rs. 1,72,812 was paid through bearer cheques.

On a query by the Committee, the authorized representatives of the school submits that the regular salary that was paid for the month of April 2009 was paid through account payee cheque. **The counsel for the school submits that he will file a complete detail of salary paid in 2008-09 and 2009-10 individually in respect of all the teachers showing the mode of payment.** This will be done by 31/10/2016. Matter will come up for further hearing on 15/11/2016 at 11.00 a.m.

Amal Kumar
21/10/16

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

Secretary



06/10/2016

B-304

PDF Compressor Free Version

Mother Teresa Public School, Preet Vihar New Delhi

Present: Ms. Neeta Jethy, Principal, Sh. Piyush Jain, CA, Sh. S.N. Dixit, Advisor, Sh. A.K. Jethy, Chairman, Sh. Sanjiv Soni, Accountant of the school.

In compliance with the directions given by the Committee vide order dated 24/08/2016, the school submitted its explanation vide letter dated 05/10/2016. With regard to justification of arrear fee for the seven months period from 01/09/2008 to 31/03/2009 @ Rs. 3,500 per student instead of Rs. 2,100 on which the school could legitimately recovered as per the order dated 11/0/2009 issued by the Director of Education, the authorized representatives of the school submit that the sum of Rs. 3,500 as aforesaid included an amount of Rs. 1,400 as arrears of development fee for the seven months period, which has been calculated @ 15% of the increased tuition fee. The sum of Rs. 200 per month recovered as arrear of development fee, was on an increase of Rs. 300 per month in tuition fee was on account of the fact that the school had not been charging any development fee prior 01/09/2008 but started charging the same w.e.f. that date and thus the arrears of development fee are not just on incremental tuition fee but also on the original amount of tuition fee charged by the school in the year 2008-09. The school relies on para 14 and 15 of the order dated 11/02/2009 to justify such hike.

With regard to the payment of arrears of VI Pay Commission, the authorized representative submits that the collection of arrear fee was credited to a separate bank account and was shown as a liability in the books of accounts out of which the payments were made. Neither the arrear fee nor the arrear salary was routed through Income & Expenditure Account. In the year 2010-11, the liability of VI Pay Commission arrear shown in the balance sheet is actually the excess arrear fee collected over the payments and is Rs. 28,08,759. However, the bank account maintained specifically for this purpose shows Nil balance, the authorized representatives state that in this year, the balance in the account is transferred to the main account. The school has furnished a list of teachers who had resigned and have not yet been paid the arrears. The total of the payments due to is Rs. 14,84,531. out of which a sum of Rs. 2,00,054 was paid in the year 2012-13. The remaining amount, the school claims is still payable.

The authorized representatives of the school contend that there is a liability of the school to pay the gratuity of the teachers who had resigned before 31/03/2010 but were not paid. However, consequent to amendment carried out in the Payment of Gratuity Act which was made retrospectively w.e.f. 1997, the liability has arisen. The authorized representative submit that the Hon'ble Supreme court also give a judgment after a validity of retrospective applicability of the amendment. **The school may file the details of such liability as on 31/03/2010 along with the particulars amendment carried out in Payment of Gratuity Act and copy of the order of the Hon'ble**

TRUE COPY



06/10/2016
PDF Compressor Free Version

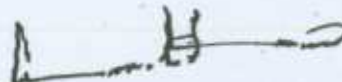
supreme Court within one week. Calculation sheet to be prepared thereafter. Matter will come up for further hearing on 15/11/2016 at 11.00 a.m.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary

*Photo Copy
of Receipt
14/10/2016*

06/10/2016B-341Starex International School, Vasundhara Enclave, New Delhi

Present: Sh. Parmod Kumar, Supdt. And Sh. Dilip Jha, Accountant of the school.

An application has been filed by the school seeking adjournment on the ground that the Chartered Accountant is suffering from Chikungunya. As requested matter is adjourned to 15 Nov. 2016 at 11.00 a.m.



Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER

15/21

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



06/10/2016



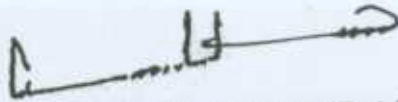
PDF Compressor Free Version

B-111

Sri Sathya Sai Vidya Vihar, Kalkaji Extension, New Delhi

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

Arguments heard. Order reserved.

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

TRUE COPY

Secretary



07/10/2016

000020

8-171

PDF Compressor Free Version

Poorna Prajna Public School, Vasant Kunj, Delhi

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

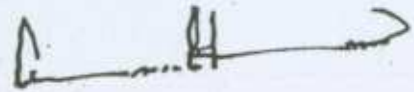
Arguments heard. Recommendations reserved.



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



**J.S. KOCHAR
MEMBER**



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

TRUE COPY

Secy



07/10/2016

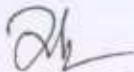
PDF Compressor Free Version

B-336

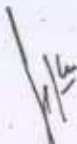
Arwachin Bharti Bhawan Sr. Sec. School, Vivek Vihar, Delhi

Present : S.S. Sharma, Member, Sh. Manoj, Computer Asstt & Sh. Jose Jacob, Teacher of the school.

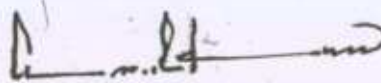
The authorized representatives of the school have been provided copy of the calculation sheet prepared by the Committee as prima facie some amount is found to be refundable. The school may file its objections, if any, before the next date of hearing. Matter to come up for hearing on 17th Nov. 2016 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary



07/10/2016

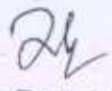
PDF Compressor Free Version

B-309

N.K. Bargodia Public School, Sector 9 Rohini, Delhi

Present : Sh..K. Gulati, C.A. of the school

The only issue in this case is regarding recovery of arrears of development fee for the period 01.09.2008 to 31 .3.2009 @ 15% of the tuition fee when the school was charging development fee @ 10% of tuition fee originally in the year 2008-09. The authorized representative of the school submits that he wants to make submission on this issue. Matter to come up for final hearing on 17th Nov, 2016 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary



07/10/2016

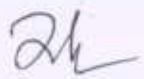
PDF Compressor Free Version

449
B-171

Bal Bharti Public School, Ganga Ram Hospital Marg, Delhi

Present : Sh. Anoop Handa, UDC of the school.

The only issue in this case is regarding recovery of arrears of development fee for the period 01.09.2008 to 31.3.2009 @ 15% of the tuition fee when the school was charging development fee @ 12% of tuition fee originally in the year 2008-09. The authorized representative of the school submits that he wants to make submission on this issue. Matter to come up for final hearing on 17th Nov, 2016 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary



07/10/2016

PDF Compressor Free Version

B-455

Bosco Public School, Paschim Vihar, Delhi

Present: Sh. Raju Duggal, Vice Principal, & Sh. Shyam Sunder Verma
Accounts Clerk of the school.

The authorized representatives of the school has submitted vide letter dated 07.10.2016 the details of recovery of the arrears of development fee charged for the period 01.9.2005 to 31.3.2009 and also a certificate from Axis Bank certifying that the arrears payment of salary were made through direct bank transfer.

The school was required to file these documents within one week of the date of last hearing i.e. 29th August 2016. In the light of these documents calculation sheet to be prepared afresh which will be sent to the school by post. The school may file its objection before the next date of hearing. Matter to come up for final hearing on 17th Nov. 2016 at 11.00 A.M.

*Received
on 4/10/2016
Shri K.*

Sh
Dr. R.K. SHARMA
MEMBER

[Signature]
J.S.KOCHAR
MEMBER

[Signature]
JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

08.11.2016

Preliminary Calculation sheet sent to the school through speed post as per direction of the Committee.

TRUE COPY

[Signature]
Secretary



07/10/2016

000025

PDF Compressor Free Version

B-583

Ryan International School, Sector-25, Rohini, Delhi

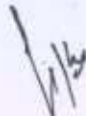
Present : Sh. Louis Rodrigues, Office Incharge and Sh. Mukesh Gupta,
Sr. Accounts Officer of the school.

The recommendations in this case were reserved earlier. But could not be finalized due to resignation of the previous Chairperson of the Committee. The school was given an opportunity for re heard. The authorized representatives of the school have been reheard and submit that they have already filed objections dated 9.12.2015 to the calculation sheet prepared by the Committee and has nothing more to say.

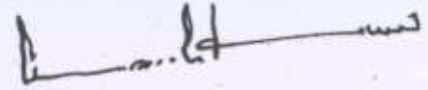
Recommendations reserved.



Dr. R.K. SHARMA
MEMBER




J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY



Secretary



Rosary Sr. Sec. School, Kingsway Camp, Delhi

Present : Sh. Justin Fernandes, Sr. Most Member of Governing Board,
Sh. Joseph Prabhakar Rayan, Accountant & Sh. Rajneesh Grover,
Office Assistant of the school.

The Committee has perused circular dated 23.2.2009 issued to the parents of 10th class vide which it demanded arrears of tuition fee for the period Sept. 2008 to March 2009 @ Rs. 300 per month (Rs. 2100 for 7 months) plus the first installment of lump sum arrear fee of Rs. 1500. No hike in development fee was demanded. Again the school issued circular to the parents of the 12th class students demanded a hike in tuition fee (Rs. 2100 for 7 months) plus the full amount of lump sum arrear fee of Rs.3000. In respect of remaining classes the circular was issued on 5.3.2009 as per which the arrears of tuition fee and arrears of development were demanded from the parents as per the following table.

Class	Arrears of tuition fee for 7 months	Arrears of development fee for 7 months
KG & I	1400	385
2	1400	385
3 to 5	1400	385
6 to 8	1400	420
9	2100	525
11	2100	560

Apparently the hike in development fee as percentage of hike in tuition fee is much more than 15%. The school was charging development fee @ 12% of tuition fee in respect of all the classes for the year 2008-009 prior to revision.

While perusing the statements filed by the school along with its letter dated 10.07.2015, the Committee observes that the same do not confirm to the figures given in the audited balance sheet and income and expenditure account. Particularly there is no explanation in respect of the liabilities of the arrears of Sixth Pay Commission amounting to Rs.97,68,642 as appearing in the balance sheet as on 31st March 2010. The authorized representatives of the school seek some time to give reconciliation of the statement filed and the audited accounts. With regard to regular development fee the school in its reply vide letter dated 15 Sept. 2015 to the questionnaire issued by the Committee, has stated that development fee is treated as a revenue receipt but utilized for capital expenditure. Further the school has stated that no depreciation reserve fund is maintained in the books. The school maintains an earmarked depreciation and development fund in Canara Bank, Tagore Park, Model Town, Delhi. However, the balance of this account is effected as on 31.3.2011 is nil. The authorized

TRUE COPY
Secretary

07/10/2016

PDF Compressor Free Version

representatives submit that the entire development fund has been utilized by 2011. The school is required to file a statement of the bank account of development fund for the period 01.4.2009 to 31.3.2011.

As requested by the authorized representatives the matter is adjourned to 17th Nov. 2016 at 11.00 A.M. However, the school will file the revised statement of fee and salary duly reconciled by its audited financials within 7 days. On the date of next hearing the authorized representatives of the school to produce the books of accounts for the years 2008-09 to 2010-11.

Dr. R.K. SHARMA
MEMBER

J.S. KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Secretary



07/10/2016

000028

PDF Compressor Free Version

B-541

Sant Nirankari Public School, Nirankari Colony, Delhi

Present : Ms. Poonam Syal, Principal, Sh. Vijay Batra, Member, CMC & Ms. Madhu Manocha, Clerk of the school.

Mrs. Poonam Syal, Principal of the school is present. She states that the fee hike w.e.f 1.4.2009 was effected after calling a meeting of Parent Teacher Association but no circular was issued to the parents. On a query by the Committee she states that the school did not implement the recommendations of Sixth Pay Commission during 2009-10. But implemented the same w.e.f. 01.4.2010. However, she concedes that the fee was increased in terms of order dated 11.2.2009 issued by the Director of Education w.e.f. 01.04.2009. Further she submits that while the school did not recover any arrear fee nor any arrear salary. About 11 teachers of the school have filed a writ petition in the High Court of Delhi vide which they are claiming arrears arising on account of implementation of Sixth Pay Commission. She further submits that in the subsequent years the fee hike was restricted to 10% over the fee charged in the previous years, and the school is facing a huge liability on account of the arrears which would be payable to the staff.

The school will file copies of the minutes of the PTA meeting in which the fee hike for 2009-10 is mentioned and also the fee schedules as filed with the Directorate of Education under Section 73 the Delhi School Education Act 1973 for the years 2008-09 to 2016-17.

With regard to development fee the school in its reply dated 21.10.2015 to the questionnaire issued by the committee stated that the school treated development fee as a revenue receipt for the years even for 2011-12 & 2012-2013. It is further conceded that the school was not maintaining any earmarked development fund or depreciation reserve fund accounts. The details of utilization of development fee for 2006-07 to 2010-11 as furnished by the school show that development fee is utilized for building maintenance & upkeep. However, in the statement of fee and salary that was filed vide letter dated 29.2.2015 as revised vide letter dated 3.10.2016 the school has not shown any receipt of development fee for the years 2008-09 & 2009-10. However, the fee schedules for all the years from 2006-07 to 2010-11 show a development fee component every year. The authorized representatives seek some time to clarify the issue. **The aforesaid document may be filed within 15 days. Matter to come up for further hearing on 28th Nov. 2016 at 11.00 A.M.**

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Secretary



07/10/2016

000029

B-543

B-541

PDF Compressor Free Version

Dayanand Public School, Model Town-III, Delhi

Present : Sh. S.K. Jagnani, Manager, Sh.Ashok Bhutani, Teacher & Ms. Gayatri Accounts Exec. Of the school.

The committee has examined circular 18/02/2009 issued by the school to the parents of the students regarding fee hike effected in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school hiked the fee of the students of classes I to VIII Rs. 200 per month and @ Rs. 300 per month for students of classes IX & X. Accordingly, the arrears of tuition fee for the seven months period of 01/09/2008 to 31/03/2009 were recovered @ Rs. 1400/2100. Besides, the school also recovered arrears of development fee @ Rs. 455 from students of classes I to V, Rs. 490 from students of classes VI to VII and Rs. 700 from students of classes IX & X for the corresponding period. Besides, the school also recovered lump sum arrears of Rs. 2,500/Rs. 3,000 to cover the arrears of salary for the period 01/01/2006 to 31/08/2008. On the face of it, the arrears of development fee as a percentage of arrears of tuition fee are around 33%. In justification, the authorized representatives of the school contend that while the development fee was originally charged @ 10% of tuition fee in the year 2008-09, the arrears for the period 01/09/2008 to 31/03/2009 were recovered @ 15% of tuition fee. They contend that this was in accordance of the aforesaid order dated 11/02/2009.

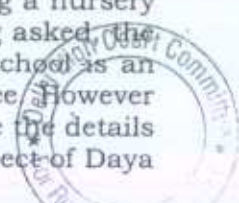
During the course of hearing, the authorized representatives of the school have informed that while the regular salary was increased w.e.f. 01/02/2009 in terms of recommendations of VI Pay Commission, the arrears were paid for the period 01/01/2006 to 31/08/2008. The arrears for the period 01/09/2008 to 31/01/2009 have not been paid. They submit that the staff is reconciled with this fact and are not claiming any arrear salary for this period. They have filed copy of bank statement showing that the arrears to staff were paid through direct bank transfer to their accounts. The school has also furnished details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010 which have been certified by M/s. Bhawani Sharma & Co., Chartered Accountants. The accrued liabilities amounted to Rs. 53,69,794 on account of gratuity and Rs. 13,88,536 are on account of leave encashment. It is submitted that the school has no financial transaction with the parent society i.e. Arya Samaj, Model Town-III, Delhi-110009.

With regard to regular development fee, the school in its reply dated 02/07/2013 to the questionnaire issued by the Committee had stated that development fee is treated as a revenue receipt and unutilized development fee is not kept in earmarked bank account. It was further stated that the school had not maintained head-wise utilization of development fund in books of accounts since it is taken as a revenue receipt and all expenditure on development fund various activities including sport, library, renovation etc. for betterment of facilities to students were carried out from combined various receipts in different head.

During the course of hearing, it has emerged that Arya Samaj, Model Town, the parent society of the school is also running a nursery school by the name of Daya Nand Nursery school. On being asked the authorized representatives state that Daya Nand Nursery school as an independent identity under different management committee. However it runs from the same premises. The school is required to file the details as sought vide Committee's letter dated 25/05/2015 in respect of Daya

TRUE COPY

Secretary



07/10/2016

B-543
000030

PDF Compressor Free Version


Need Nursery school also within one month. Calculation sheet to be prepared thereafter. Matter to come up for further hearing on 28/11/2016 at 11.00 a.m.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



07/10/2016

000031


PDF Compressor Free Version

B-556

Richmond Global School, Paschim Vihar, Delhi

Present: None

An application has been received from the school seeking adjournment on the ground that the Principal is out of country. As requested, the matter will come up for hearing on 28/11/2016 at 11.00 a.m.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



07/10/2016

B-557

Shah International Public School, Paschim Vihar, Delhi

Present : Sh. S.K. Gulati, C.A. of the school.

The Committee has perused circular dated ___ regarding fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education as per the circular, the school hiked the tuition fee by Rs. 400 per month w.e.f. 01/09/2008 and accordingly recovered arrears of Rs. 2,800 per student for the period 01/09/2008 to 31/03/2009. Although the school was charging development fee in the year 2008-09, it did not recover any incremental development fee consequent to any increase in tuition fee. Besides, the school also recovered Rs. 3,500 per student as lump sum fee for the period 01/01/2006 to 31/08/2008.

The school implemented the recommendations of VI Pay Commission w.e.f. 1/02/2009 and paid arrears of salary for the period 01/01/2006 to 31/01/2009. The arrears were paid through direct bank transfer to the accounts of staff.

The Committee has examined the information furnished by the school with regard to arrear fee, regular fee, arrear salary, regular salary paid in the years 2008-09, 2009-10 and 2010-11. While furnished the figure of arrears of salary for the period 01/09/2008 to 31/01/2009, the school has also included notionally the incremental salary for the month of February and March 2009 in the arrear salary. The Committee has examined the figures furnished by the school with reference to its audited financials. The school had included certain additional expenses like teaching expenses, staff welfare etc. in the figure of regular/normal salary, which have nothing to do with its increased liability on account of implementation of VI Pay Commission. After making the necessary corrections, the committee has arrived at the following figures which have been agreed to by the authorized representatives appearing for the school.

Arrear fee for the period 01/01/2006 to 31/03/2009	Rs, 23,93,465
Arrear of tuition fee for the period 01/09/2008 to 31/03/2009	Rs. 18,88,668
Incremental tuition fee for the year 2009-10 as a consequence of fee hike as per DOE order dated 11/02/2009	Rs. 43,86,477
Arrear salary for the period 01/01/2006 to 31/08/2008	Rs. 23,13,874
Arrear salary for the period 01/09/2008 to 31/03/2009 (including notional arrears for Feb. and March 2009)	Rs. 20,32,724
Incremental salary in 2009-10 on account of implementation of VI Pay Commission	Rs. 50,19,073



TRUE COPY

Secretary

Agreed with Director
7/10/16

7/10/16

The school has filed statement of account of its parent society as its books for the period 01/04/2006 to 31/03/2011. The

07/10/2016

authorized representatives of the school state that as per the statements, there is no diversion of funds from the school to the society.

The school has also furnished details of its accrued liability of gratuity and leave encashment as on 31/03/2010. As per the details furnished which have been examined by the Committee, the school had an accrued liability of Rs. 15,74,030 on account of gratuity and Rs. 9,61,641 on account of leave encashment.

With regard to regular development fee, the school had furnished its reply dated 08/08/2013 to the questionnaire issued by the Committee stating that development fee was charged in all the year starting from 2006-07 to 2010-11. The same has treated as a capital receipt in the accounts of the school. However, the school has not maintained any depreciation reserve fund in respect of assets acquired out of development fee. It is submitted that the cost of the entire assets acquired out of development fee is charged to the development fund. However, the school has maintained earmarked FDRs and saving bank accounts in respect of development fee the balances of which as on 31/03/2011 were as follows:

Fixed Deposit	Rs. 26,53,587
Saving Bank Account development fund	Rs. 5,94,864
Saving Bank (Depreciation fund account)	Rs. 2,19,726

As against these earmarked funds, the unutilized development fund was Rs. 23,76,237.

Calculation sheet to be prepared. Matter to come up for further hearing on 17/11/2016 at 11.00 a.m.

7/10/16
Rishi


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



20/10/2016B-350Bal Mandir Sr. Sec. School, Defence Enclave, Delhi

Present : Sh. Manu Luthra, CA

Sh. Manu Luthra, authorized representative of the school appeared. Arguments party heard. The school has not filed the details of salary as asked for by the Committee vide its notice dated 30/06/2016 in the format. The school is required to file the same within seven days. Matter will come up for further hearing on 22/11/2016.


Dr. R.K. SHARMA
MEMBER
J.S. ROCHAR
MEMBER
JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary

20/10/2016

000035

PDF Compressor Free Version

B-95

Modern Convent School, Dwarka, Delhi

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

The Head of the school Ms. Sheetal Mann who is present at the time of hearing has stated that the school did not issue any circular to the parents regarding fee hike effected consequent to order dated 11.2.2009 issued by the Director of Education. However, the details of additional amount recovery from the students were included in the fee slips issued to them. She has filed a summery of the amounts recoverable from different classes for which the fee circular was issued. On perusing the summary filed it is apparent that the school hiked the tuition fee w.e.f. 01.09.2008 @ Rs. 300 p.m. for classes up to 5th and @ Rs. 400 p.m. for classes 6th to 10th and @ Rs. 500 p.m. for classes 11th & 12th. Accordingly arrears amounting to Rs. 2100/2800/3500 per student were recovered for the period 01.09.2008 to 31.3.2009. besides the school also recovered arrears of development fee, purportedly on account of increase in tuition fee amounting to Rs. 820 per student for classes upto 5th, Rs. 985 for classes 6th to 8th, Rs. 1035 for classes 9th and 10th and Rs. 1231 for classes 11th & 12th per student. The school also recovered lump sum fee amounting to Rs. 3000/3500/4500 for different classes in accordance with the slabs prescribed by order dated 11.2.2009.

On the face of it, it appears that the arrears of development fee recovered for the period 01.09.2008 to 31.3.2009 are @ 35 to 40% of the arrears of tuition fee. The authorized representatives of the school were asked to explain this apparent anomaly. They stated that the development fee which was originally charged by the school was @ of 10% of tuition fee. However, while recovering the arrears for the period 1.9.2008 to 31.3.2009 the school hiked it to 15% of tuition fee, it not only increased amount of tuition fee but also on the tuition fee which was originally charged.

In reply to the questionnaire issued by the Committee to the school, the school vide its letter dated 01.3.2012 had represented that the recommendations of the 6th Pay Commission were implemented w.e.f. 01.04.2009 and the school paid arrears to the staff for the period 01.1.2006 to 31.3.2009. It also filed details of arrears paid employee-wise amounting to Rs.1,73,55,427. However, the school has details of arrears paid which amounting to Rs. 1,67,15,785 which include Rs. 24,33,785 paid on 30.3.2013. These payments are evidence by copies of

TRUE COPY

Secretary

20/10/2016

0001
B-95


PDF Compressor Free Version

bank statements filed by the school. It seems that the earlier details by the school was not correct. The head of the school also states that the recommendations of 6th pay commission were implemented only in respect of the teaching staff and some administrative staff.

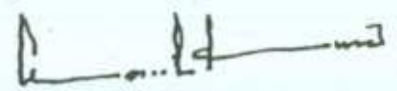
Perusal of the copies of receipt and payment of the school for different years along with the balance sheet shows that the school had taken loans for construction of school building as well as vehicles. Further shows transfer of funds to its parent society in different years. The school has not furnished any details of its accrued liabilities in respect of gratuity and leave encashment as on 31.3.2010 in fact vide its submission dated 26.5.2015 the school had stated that there were no accrued liabilities in these accounts as on 31.3.2008 and 31.3.2010. However, at the time of hearing the head of the school states that this position requires to be revisited. **In case there were any accrued liability as on 31.3.2010, the school may furnish the details of the same within one week.**

With regard to regular development fee the school in its reply to the questionnaire issued by the Committee has stated that up to financial year 2008-09 development fee was treated as a capital receipt. However, w.e.f. financial year 2009-10 it is shown as a revenue receipt. Moreover, no depreciation reserve fund or earmarked development fund are maintained by the school.


Calculation sheet to be prepared after one week to take into consideration the details of accrued liabilities of gratuity and leave encashment that may be filed by the school. Matter to come up for further hearing by 22nd Nov. 2016 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



20/10/2016

000037

PDF Compressor Free Version

B-176

Vivekanand School, Anand Vihar, Delhi

Present : Sh. Manu Luthra, CA of the school.

Sh. Manu Luthra, CA has appeared and requested for a short adjournment. As requested, matter will come up for hearing on 03/11/2016 at 11.00 a.m.



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



**J.S. KOCHAR
MEMBER**



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

TRUE COPY



Secretary



20/10/2016

000038

PDF Compressor Free Version

B-86

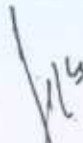
Delhi Police Public School, Safdarjung Enclave, Delhi

Present : Sh. Mahesh Pandey, Admn. Officer, Sh. S.N. Juneja, Exe. Secy, Sh. Trilochan Singh, Accountant & Sh. Radha Krishnan, Accountant of the school,

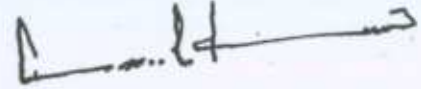
The matter was fixed for hearing today for providing a calculation sheet to the school. However, the same is not ready yet. The matter is adjourned for 8th Nov. 2016 at 11.00. A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



Secretary




20/10/2016

B-438

Springdales School, Daulan Kuan, Delhi

Present : Ms. Tejender Kaur, Accountant & Sh. Som Datt,
Accountant of the school.


An application has been filed on behalf of the school seeking adjournment on the ground that the Manager of the school is unwell and is unable to appear today. As requested the hearing is adjourned to 22nd November 2016 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



20/10/2016

000040

PDF Compressor Free Version

B-445

Air Force Golden Jubilee Institution, Subroto Park, Delhi

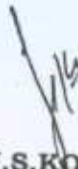
Present : Sh. S.K. Gaur, Accountant of the school.

The matter had already been heard on 9.12.13, but the recommendations could not be finalized on account of resignation of the previous Chairperson of the Committee.

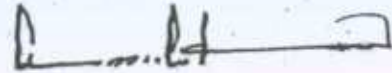
The matter has been re-heard Recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary



20/10/2016

000041

PDF Compressor Free Version

B-560

Mamta Modern School, Vikas Puri, Delhi

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

The Committee has perused copies of the circular dated 16.2.2009 issued by the school regarding fee hike consequent to order dated 11.2.2009 issued by the Director of Education. As per the circulars, the school hiked the tuition fee of the students of classes prep. to 8th @ Rs.,200 per month w.e.f. 1.9.2008, Rs.300 per month for classes 9th to 12th . Besides the school also recovered lump sum arrear fee @ prescribed vide order dated 11.2.2009. The authorized representatives of the school submit that although the school was entitled to recover arrears of development fee also but the school did not do so.

With regard to implementation of the recommendations of 6th pay commission, the representatives the school submit that the arrears of salary for the period 01.1.2006 to 31.3.2009, were not paid. However, the school paid arrears to the extent the arrear fee was recovered from the students. In the statement filed under cover of its letter dated 5.6.2015, the school has stated that the arrears of salary paid were actually in excess of arrear fee recovered by an amount of Rs.57,501. The school has shown recovery of arrear fee as well as payment of arrear salary over the period of 7 years from 2008-09 to 2014-15. It is submitted that the arrears were not paid in lump sum but at fixed monthly installments along with the regular salary for each month. It is also submitted that the neither the arrears of tuition fee nor the arrears of salary are routed through income and expenditure accounts. However, whatever the arrear fee was received, was shown as liability towards payment of arrear salary in the balance sheet of the school.

The committee has examined the bank statements of the school along with its salary registers. It is observed that almost about 40% of the salary is paid through bearer cheques. The school is required to file consolidated statement of salary/arrears paid for the 7 different years. During which the arrears were paid , indicating therein whether the amount was paid through bank transfer or through bearer cheques or through account payee cheques. The statement will be submitted in respect of each employee. This may be done within three weeks. The school has furnished a detail of accrued liabilities, gratuity and leave encashment . As per the detail filed, the school had a accrued liability of Rs. 88,34,984 on account of gratuity and

TRUE COPY

Secretary


000042
B-560

PDF Compressor Free Version

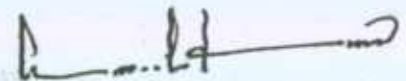
20/10/2016

Rs. 3,72,746 on account of leave encashment as on 31.3.2010. The school has not furnished the statement of account of the parents society as appear in its books from 01.4.2006 to 31.3.2011 and was required by Committee vide its letter dated 25.5.2015. The same may also be filed along with the details of salary as noted above.

As regards development fee, the school in its reply dated 27.09.2013 to the questionnaire issued by the Committee has conceded that the development fee though charged every year is treated as a revenue receipt and no earmarked depreciation reserve fund and development funds are maintained. The development fee charged by the school in the years 2009-10 and 2010-11 as per the details filed by is Rs. 17,62,370 and Rs.20,1,700 respectively. The matter will come up for further hearing on 22.11.2016 at 11.00. a.m. on which date the school should produce its bank statements for the years 2008-09 to 2014-15.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



21.10.2016

000043

PDF Compressor Free Version

B-146

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

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


The school has disputed the calculation sheet prepared by the Committee on the following grounds:

- (i) Advance of Rs. 53,357 and TDS of Rs. 82,520 ought not be included in the current assets.
- (ii) There was a requirement of Rs. 23,86,600 for creating development fund out of the development fee received prior to 2008-09 and that ought to have been taken into consideration as the auditors appointed by the Delhi Admn. had opined that the school had wrongly treated development fee as a revenue receipt for all the previous years.
- (iii) The reserve required for future contingencies ought to have factored in expenses other than salary for a period of 4 months.
- (iv) Arrears of salary amounted to Rs. 15,89,718 for the period January 2006 to August 2008 were paid in 2011-12 have been omitted from the calculation sheet.
- (v) The incremental salary on account of implementation of recommendations of VI Pay Commission have been wrongly worked out as the salary for 2008-09 which has been taken by the Committee including Rs. 53,40,190 which were as arrears of V Pay Commission in 2008-09.

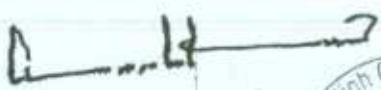
The authorized representative of the school has also filed written submissions dated 17th Oct. 2016 containing all the objections and has also given a calculation sheet which has been prepared by the school which shows a net deficit of Rs. 13,18,169 instead of a surplus of Rs. 1,18,79,229 as calculated by the Committee. The school has objected to inclusion of development fee for the year 2009-10 and 2010-11 amounting to Rs. 14,81,016 which has been taken by the Committee to be refundable on account of the same having been treated as a revenue receipt.

The school is required to produce its books of accounts, salary register and bank statements for the year 2008-09 to substantiate its claim of having claim of Rs. 53,40,190 as arrears of V Pay Commission in that year. The school will also file a copy of the audit report of the auditors appointed by the Delhi Admn., as is referred to in its written submission. These will be produced before the audit officer of the Committee on 03/11/2016. Matter will come up for further hearing on 28/11/2016 at 11.00 a.m.

Copy
27/11/16


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary



J.S.KOCHAR JUSTICE ANIL KUMAR (Retd.)
MEMBER CHAIRPERSON

20/10/2016

20/10/2016

000044

PDF Compressor Free Version

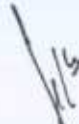
Presidium School, Ashok Vihar, Delhi

Present : Ms. Deepti Jain, Scout Instructor of the school.

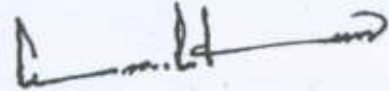
The matter was fixed for hearing on 21st Oct. 2016. Ms. Deepti Jain has appeared on behalf of the school today with the request that the hearing be postponed after 24th Oct. 2016 on account of Annual Conference of Sahodaya School Complex to be conducted by CBSE from 21st to 23rd Oct. 2016. In view of this the hearing fixed for 21st October 2016 is cancelled and the next date of hearing is 22.11.2016 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY



Secretary



21.10.2016

000045

PDF Compressor Free Version

B-46

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

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

Arguments heard. Recommendations reserved.

*copy
received
28/10/16*

21
Dr. R.K. SHARMA
MEMBER

11/5
J.S.KOCHAR
MEMBER

11/5
JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

11/5
Secretary



21.10.2016

000046

B-656

PDF Compressor Free Version

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

Present: Sh. R.K. Khanna, CA and Mr. Vinod Kumar, Acctt. of the school.

The school has filed objections to the calculation sheet before the Committee vide its written submission dated 18/10/2016. Practically the school has revised almost the entire information which was given earlier vide letter dated 07/07/2015. The revision has been made mainly on account of the fact that the school did not factor in MACP and the employer share of Provident Fund on the arrears as well as the regular salary paid by the school.


The school is required to furnish a fresh correct information earlier asked for by the Committee vide its notice dated 26/05/2015. The information ought to be submit in respect of both the school i.e. main school and pre primary school. In case of payment revised salary on account of MACP, the school will also produce the bank statements showing such payment as well as Provident Fund challans showing payment of provident fund on arrear salary as well as regular salary. In case of MACP, only the amount due upto 31/03/2010 would be included. This may be done within one week. **Fresh calculation sheet to be prepared based on revised information provided by the school.** Matter will come up for further hearing on 28/11/2016 at 11.00 a.m.



Dr. R.K. SHARMA
MEMBER



J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary

21.10.2016

000047

PDF Compressor Free Version

B-137

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

Present: Sh. George Koshi, Administrator, Sh. P.A. Sividren, Accountant, Sh. Nikhil Philip, Office Incharge, Sh. Biju N.V., Accountant of the school.

The school has filed its own calculation sheet showing that instead of surplus as worked out by the Committee, the school has a deficit. The difference in calculation sheet as prepared by the Committee and that of by the school is on account of the following reasons:

- (i) The Committee had included all the FDRs amounting to Rs. 1,69,89,444 in the figures of funds available. Similarly the Committee had included the entire bank balance Rs. 66,00,878 as available with the school. The authorized representatives appearing for the school contend that the FDRs including a sum of Rs. 3,58,009 which is in the joint name of school and the Director of Education and also Rs. 91,16,563 lying in the student welfare fund were not available for the purpose of payment of increased salaries for implementation of VI pay Commission report. Similarly, the balances with banks including Rs. 22,04,919 was lying in student welfare fund account. It is contended that both the saving bank account and Fixed Deposit account are specifically designated as being on account of student welfare account and as such ought not be included in the funds available for the purpose of implementation of recommendations of VI Pay Commission.
- (ii) The school has taken a sum of Rs. 99,88,664 as its requirement of reserve for future contingencies as against Rs. 91,43,471 taken by the Committee. The authorized representative of the school stated that the requirement of reserves ought to be based on the salary and employers contribution provident fund for the month of march 2010 instead of taking the average of the entire year 2009-10.
- (iii) The school has filed actuarial valuation reports of a certified actuary who has estimated the accrued liability on account of leave Rs.92,81,023 and gratuity amounting to Rs. 1,18,12,907. The school has also filed a statement from Life Insurance Corporation of India showing that it had fund balance of Rs. 64,18,555 as on 31/03/2010 in the group gratuity policy taken by the school and contends that the difference of Rs. 53,94,352 ought to be taken into account for the purpose of keeping funds in reserve.
- (iv) The school has also taken a sum of Rs. 1,02,21,034 as the arrear of tuition fee and development fee recovered in pursuance of order dated 11/02/2009 of the Director of

TRUE COPY

Secretary



21.10.2016

000048 B-137

PDF Compressor Free Version

Education as against Rs. 1,02,27,274 taken by the Committee.

- (v) The authorized representative also contend that out of the development fee for the years 2009-10 and 2010-11, the amount utilized for purchase of furniture and fixture and equipments amounting to Rs. 31,69,941 and Rs. 50,61,365 ought to be deducted as the school had already spent these amounts.

The Committee has considered the contentions of the school and notes that the school had not filed complete balance sheets along with schedules and details earlier. Similarly, no information was provided with regard to the accrued liability of gratuity and leave encashment despite being specifically asked vide the committee's notice dated 13/05/2015 and for these reasons the calculation sheet prepared by the Committee did not take into account the contentions of the school as are now being raised.

The Committee also notes that the school seeks exclusion of Rs. 1,13,21,482 on account of earmarked funds in the student welfare account. However, the balance in the welfare fund account as on 31/03/2008 was only Rs. 95,73,718, indicating that the school had spent money for the purpose of welfare of students out of its revenues from fee instead of drawing upon earmarked FDRs from saving bank accounts. **The school will furnish copies of its earmarked FDRs for student welfare fund and saving bank account of student welfare fund and also file the ledger account of welfare fund for the years 2006-07 to 2010-11 indicating the source of accretion to Welfare fund account within two weeks. Matter will come up for further hearing on 10/11/2016 at 11.00 a.m.**

24
Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

Justice Anil Kumar
JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary



21.10.2016

000049

B-524


PDF Compressor Free Version

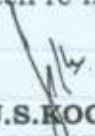
Lilawati Vidya Mandir, Shakti Nagar, Delhi.

Present: Smt. Sushma Khurana, Principal, Sh. D.K. Chandwal, CA and Sh. Yash Raj Gupta, Joint Secretary of the school.

The matter was heard on 09/12/2015 but the recommendations could not be finalized on account of the resignation of the previous Chairperson. The school was given an opportunity to be reheard in the matter.


The matter has been re-heard. Recommendations reserved.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



24.10.2016

000050

PDF Compressor Free Version

B-456

Lt. Col. Mehar Little Angels Sr. Sec. School, Paschim Vihar, Delhi


Present : Mrs. Manisha Sengar, Principal, Sh. Dilip Kumar Lal, Accountant & Sh. Naveen Bhardwaj , P.E.T. of the school.

The Committee had received complaint dated 23.08.2016 from one Sh. Sameer Chauhan. Copy of complaint was furnished to the school on 29.08.2016. Notice to complainant was issued by the Committee for appearance on 17,10.2016 by speed post. However, the same was returned undelivered on account of the address not been completed. The complainant had not given his address in the complaint but the envelope in which the complaint was received, the address mentioned was Sameer Chauhan, Madi pur village, Delhi. The notice was issued by this Committee on the same address. It appears that the complaint is pseudonomous. The principal of the school present here states that the same complaint was received from the office of the Dy. Director of Education, Vikas Puri, New Delhi, also. They have submitted its reply to that authority on 16,09.2016. A copy of the same has been filed today with this committee. In reply to the complaint the school has taken a position that no teacher or parent by the name of Sameer Chauhan exist. Some teachers employed on contract or part time basis are paid through bearer cheques. However, no amount is collected from any teacher. The committee observes that the school had earlier furnished a statement giving month wise salary paid to the staff for the years 2008-09 to 2009-10. In response to a notice issued by the Committee the statement required states as to how much amount was paid by means of account payee cheque and how much by means of cash or bearer cheques . In this statement the school had shown only one teacher/staff member who was paid through cash or bearer cheques. However, in the statement filed today as required by the Committee, the school has conceded that in 2008-09 as many as 17 teachers/staff members were paid by bearer cheques and in 2009-10 the number of teachers/staff members paid by the bearer cheques was around 10.

While examining the documents furnished by the school, the committee observes that the school was also running a pre primary school however, the information as asked by the committee vide notice dt.25.5.2015 has not been furnished in the context of pre primary school. The authorized representative of the school seeks 15 days time to furnish the said information . The same be done. Matter to come up for further hearing on 01.12.20016 at 11.00 A.M.

TRUE COPY

Secretary


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



24.10.2016

000051

PDF Compressor Free Version

B-474

Green Fields School, Safdarjung Enclave, Delhi

Present : Sh. Sabu Sebastin, Accountant and Sh. A. Ghosh , A.O. of the school.

The Committee has perused circulars dated 23.02.2009 and 07.03.2009. Vide these circulars parents of the student were informed of the hike in tuition fee w.e.f. 1.09.2008 and lump sum fee as provided in the order dated 11.2.2009 of the Director of Education. The tuition fee hiked was @ Rs.400 per month for classes 1st to 8th and Rs.500 p.m. for classes 9th to 12th. Accordingly arrears of Rs.2800/3500 were recovered for the seven months period i.e. 01.09.2009 31.3.2009 Whereas a subsequent circular which has no date vide which the parents were advised to deposit the arrears of increase in development fee for the aforesaid seven months, the increase in tuition fee viz a viz increase in development fee for different classes as follows :

Class	Arrears of Tuition Fee	Arrears of development Fee
1st to 5 th	2800	933
6 th to 10 th	2800	981
11 th & 12 th	3500	1035

As is discernible from the above table the hike in development fee as the percentage of hike in tuition fee is around 30 to 33%. The school has today furnished the information required by the Committee vide notice dated 25.5.2015. As per the information filed the school made payment of arrears of salary in 2009-10,2010-11 and 2012-13. Bank statement in support of the payments have been filed . The school has also furnished its accrued liabilities on account of gratuity and leave encashment as on 31.3.2010. The school has not furnished the statement of the account of the society in its books for the period 01.04.2006 to 31.3.2011 which was required vide Committee's notice dated 25th May 2015, although the school has transactions with the parent society as is apparent from the balance sheet of the school. The authorized representatives seek some time to furnish the same. The same may be **furnished within one week.**
Calculation sheet to be prepared thereafter. Matter to come up for further hearing on 1.12.2016 at 11.00 A.M.

TRUE COPY

J.S. KOCHAR
MEMBER

Secretary

Dr. R.K. SHARMA
MEMBER

J.S. KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



24.10.2016

000052

PDF Compressor Free Version

B-132

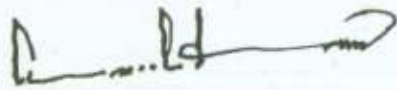
St. Machael's S.S. School, Pusa Road, Delhi

Present : Sh. Devender Kumar, Accountant & Sh. J.A. Martins, C.A. of the school.

The school had filed its written submissions dated 18.10.2016 in response to the queries raised by the Committee on 29.08.2016. It is submitted that the fee structure of the school for the period 2008-09 & 2009-10 was same. However, some concessions were allowed to the deserving students for the tuition fee but the development fee remained same. It is submitted that therefore it is not a question of development fee in access of 15% in case of any student. With regard to the arrears of development fee for the 7 months period of 01.09.2008 to 31.3.2009, it is submitted that the school was earlier charging development fee at the rate which was a little less than 10% of tuition fee. However, w.e.f. 01.09.2008 the development fee was increased 15% of tuition fee and accordingly the arrears were recovered. That was the reason for the apparent anomaly of the arrears of development fee in access of 15% arrear of tuition. It is further submitted that the school has depreciation reserve fund in its books against which the fixed deposits are held. However, the fixed deposits are not specifically earmarked for depreciation reserve fund. With regard to development fee treated as a revenue receipt it is submitted that it is only a counting issue as the net income of the school have been in access of the development fee every year, and therefore the amount of development fee was always available with the school for the purpose, It has been actually utilized. Calculation sheet to be prepared. Matter to come up for further hearing on 01.12.2016


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



24.10.2016

000353


PDF Compressor Free Version

B-347

Ever Green Public School, Vasundhara Enclave, Delhi

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

The school has furnished copies of its balance sheets as on 31/03/2010 to 31/03/2013 and also the information furnished in the format as per notice dated 14/05/2015 for the years 2011-12 and 2012-13 as the arrears were paid in these years. The authorized representative has also filed copies of ledger account of arrear payable for these two years showing the details of payment of arrears. It is submitted that the arrear fee received was not routed through income and expenditure account but was shown as arrear payable by the school as a liability in the balance sheet. The Committee observed that as on 31/03/2013, there was still a balance of Rs. 11,64,130 outstanding in the arrear payable account which reflects the excess of arrear fee recovered over the arrear salary paid. The same has been transferred to the Income & Expenditure Account of the school in 2013-14. On perusal of the statement of account of the parent society i.e. Jyotirmay Bal Shiksha Samit, the Committee observed that the school has received heavy amounts of aid from the Samiti mostly in cash. The authorized representative of the school is unable to categorical state as to what is source of cash of the society. The school will produce its fee structure for the years 2010-11 and 2011-12 in which the arrears were paid as also its books of accounts for those two years. List the matter for further hearing on 01/12/2016 at 11.00 a.m.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



24.10.2016

000054

PDF Compressor Free Version

B-180

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

Present : Sh. K.K. Khanna, CA, Sh. Jose P.T., Accountant, Sh. Roy T. Thomas, Accountant and Ms. Ashima Khanna, CA of the school.

The Committee has examined the circular issued by the school regarding fee hike effected by it in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the parents of students of classes Nursery and Prep. were asked to deposit a total sum of Rs. 8,025 in two installments towards arrear fee. For classes I to IV the amount was Rs. 7815, for classes V to VIII, the amount was Rs. 7935 for classes IX & X, the amount was Rs. 8055, for classes XI & XII (Arts & commerce), the amount was Rs. 8055, XII (Science stream), the amount was Rs. 9510 and XII (Computer Science) stream, the amount was Rs. 9690. However, the circular did not give any details as to how these amounts were worked out. During the course of hearing today, the authorized representative of the school have furnished the detail as follows:

Class	Arrears of tuition fee for the period 01/09/2008 to 31/03/2009	Lump sum arrear fee for the period 01/01/2006 to 31/08/2008	Development fee	Total
Nursery & Prep.	2100	3000	2925	8025
I to IV	2100	3000	2715	7815
V to VIII	2100	3000	2835	7935
IX & X	2100	3000	2955	8055
XI & XII (Arts & Comm.)	2100	3000	2955	8055
IX & XII (Science)	2800	3500	3210	9510
IX & XII (Computer)	2800	3500	3390	9690

As would be apparent from the above table, the arrears of development fee recovered are more than even the arrears of tuition fee. The authorized representatives of the school were asked to explain the position. They submitted that originally in 2008-09, the school was not charging any development fee. However, after issuance of the order dated 11/02/2009, it recovered the development fee @ 15% of tuition fee for the whole year 2008-09. They are not in a position to categorically to state whether any prior approval of Director of Education was taken for introducing a new levy after the start of the academic year and that too with retrospective effect from 01/04/2008.


TRUE COPY



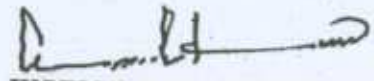
24.10.2016


PDF Compressor Free Version

The Committee has also examined copy of the fee book issued to the school for deposit of fee for the years 2009-10 and 2010-11. It is observed that in 2009-10 also, while the fee structure, a copy of which has been filed as part of the annual returns under Rule 180 of the Delhi School Education Rules, 1973. filed by the school with the Director of Education did not show any development fee. The fee actually recovered from the students included a component of development fee as evidence by copies of fee book filed for that year. However, in 2010-11, the school included development fee in the fee structure filed with the Director of Education. The authorized representatives seeks some time for ascertaining whether the specific prior approval of the Director of Education was taken for introducing development fee in the year 2008-09 after the start of the academic year. As requested, the matter is adjourned for 01/12/2016 at 11.00 a.m.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

— TRUE COPY

Secretary



24.10.2016

000056

PDF Compressor Free Version

B-443

Hope Hall Foundation School, R.K. Puram, Delhi

Present : Sh. Sukh Ram Rao, Sr. Accountant of the school.

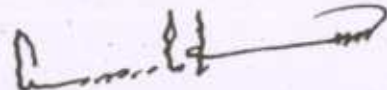
The matter had been concluded on 7.12.2015 when no body came from the school to appear. On the earlier hearing the school had undertaken to furnish the details of its accrued liabilities of gratuity and leave encashment as on 31.3.2010. The final order could not be passed in the matter on account of the resignation of the previous chairman of the Committee. The school has afforded an opportunity of being heard again vide notice dated 26.9.2016, in response to this Sh. Sukh Ram Rao, Sr. Accountant of the school appears and request that some more time may be given to the school to furnish the details of accrued liability of gratuity and leave encashment. The school may furnish these details within two weeks. Matter will come up for further hearing on 28.11.2016.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY



Secretary



25/10/2016

000057


PDF Compressor Free Version

B-185

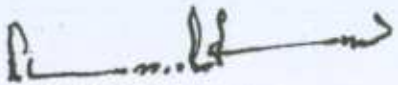
Chinmaya Vidyalaya, Vasant Kunj, New Delhi

Present: Dr. Abijit Bose, Principal, Ms. Sarojini Gaur, Accountant, Mr. Krishnan Rajiv Nair, School Administrator of the School.


The school had filed its response to the calculation sheet prepared by the Committee vide letter dated 21/01/2016 as per which it was claimed that development fee had been utilized for the purpose of repair and maintenance of building, Property tax and Ground Rent and accordingly the authorized representative submit today that the same ought to be taken into account while determining the amount to be refundable to the students. They submit that if these expenses are taken into account there would be no surplus of development fee which would be refundable to the students. They further submit that they need to consult their Chartered Accountant and after consultation, they will file a revised calculation. As requested the matter will come up for further hearing on 02/12/2016


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



25/10/2016

000058

PDF Compressor Free Version

B-188

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

Present: Sh. Anil Jain, Sh. Om Prakash, Sh. Keshav, all office staff of the school.

The school has filed written submissions dated 24/10/2016 contravening the calculation sheet prepared by the Committee on three aspects as follows:

- (a) The arrear of tuition fee collected @ 324 per month over and above that permitted by Grievances Committee constituted vide clause 10 of the order dated 11/02/2009 issued by the Director of Education have been included twice in the calculations i.e. firstly by determining the shortfall and secondly again at the end of the calculations. It has been included in the amount of determined to be refundable.
- (b) The additional liabilities of implementation of VI Pay Commission ought to have included in the incremental expenditure for professional teachers employed by the school on which the school spent sum of Rs. 4,97,283 in 2008-09 and Rs. 12,68,582 in 2009-10.
- (c) The expenditure incurred in development fee also ought to have been considered while determining the amount refundable.

The authorized representatives of the school have been heard.
Recommendations reserved.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER

TRUE COPY


Secretary



25/10/2016

000059

B-231

PDF Compressor Free Version

Vivekanand Public School, Anand Vihar, Delhi

Present: Sh. Manu RG Luthra, CA, Sh. Sunil Khanna, Manager of the school and Sh. S.K. Saxena on behalf of Ms. Upma Saxena, Complainant.

The husband of the complainant is present today and seeks some time for the consideration of his complaint as he does not have a copy of the complaint. A copy of the complaint has been given. The complaint shall be considered on 02/12/2016 at 11.00 a.m.


A calculation sheet to be prepared which will be sent to the school before the next date of hearing. The school may file its response to the calculation on next date of hearing. Matter will be taken up for hearing on 02/12/2016.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



25/10/2016

000060

B-106

PDF Compressor Free Version

Apeejay School, Saket, New Delhi

Present: Sh. H.L. Tiku, Sr. Advocate, Ms. Anita Paul, Principal, Sh. Bharat Bhushan, General Manager, Sh. S.K. Murgai, Financial Advisor, Sh. Rajiv Jain, Accounts Officer, Sh. Anuj Jain, Accountant of the school.

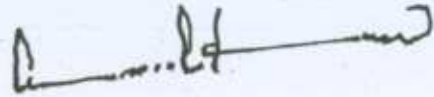
The school has filed written submissions dated 25/10/2016 disputing the calculation sheet prepared by the Committee. The Counsel appeared in this school have been heard. The school will file copy of the bills that was issued to the students of all the classes regarding recovery of arrear fee and incremental fee in pursuance of order dated 11/02/2009 issued by the Director of Education within two days. Recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY



Secretary



27/10/2016

000061

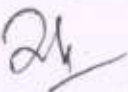
PDF Compressor Free Version

B-236

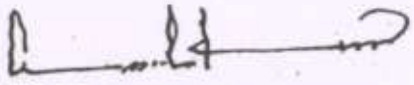
Maharaja Aggarsain Adarsh Public School, Pitampura, New Delhi.

Present: Ms. Harsh Arya, Principal, Mr. Lalit, Accountant, Ms. Aruna, Accountant, Ms. Neha, PGT Acctts.

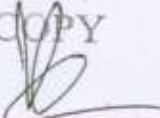
The authorized representatives of the school have shown a copy of the annual return for the year 2009-10 which were submitted to Directorate of Education containing the fee schedule for that year which shows the development fee recovered @ Rs. 150 per month for all the classes. The said return was filed on 31/07/2009. The school has not produced a copy of the fee statement which was required to be filed before the start of the academic session as required in the Section 17(3) of DSER Act. The Authorized representative seeks some time for submitting it. **They may submit the same tomorrow. Thereafter, a copy of the preliminary calculations prepared by the committee shall be sent to the school along with a notice for the further date of hearing. The school may file its objections to the preliminary calculations as prepared by the Committee before the next date of hearing.**


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary



27/10/2016

000062

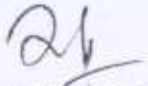
PDF Compressor Free Version

B-435

Ramjas School, Pusa Road, New Delhi.

Present: Ms. Mohini Bindra, Principal, Sh. Anil Julka, Head Clerk, Sh. Anil Saluja, UDC, Sh. Sonu Agg., A/C clerk.

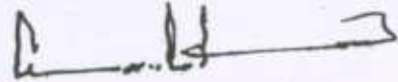
On the last date of hearing, the school sought some time to furnish a revised fee and salary statement showing the correct position of recovery of arrears of tuition fee and arrears of development fee as the statement filed by the school did not accord with circular issued to the parents. The school has still not filed the same. The school furnished its own calculations regarding its accrued liabilities of leave encashment as on 31/03/2010 which amounted to Rs. 53,46,335. **The authorized representatives seek some more time to submit the revised fee and salary statement.** They may do so by 10th Nov. 2016. Matter will come up for further hearing 02/12/2016 at 11.00 a.m.



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

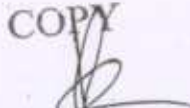


**J.S. KOCHAR
MEMBER**



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

TRUE COPY



Secretary



27/10/2016

003063

B-296

PDF Compressor Free Version

M.M. Public School, Pitampura, New Delhi.

Present: Sh. S.R. Pathak, Manager and Sh. Kavita Garg, LDC of the school.

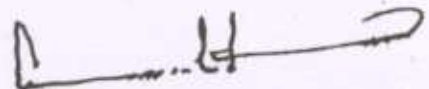
The authorized representatives of the school submit that the arrears of fee hike collected @ Rs. 300 per month and the lump sum arrears @ Rs. 3000 per student was justified even for classes I to V as it was a borderline case and the school was charging tuition fee exactly @ Rs. 1000 per month which was the upper limit of the lower slab as the tuition fee being Rs. 1001 instead of Rs. 1000 the school would have been entitled to recovered arrears @ Rs. 300 per month. They further submit that the total collection on account of arrear fee was significantly less than the total liability of arrear salary. The Committee has perused the statement filed by the school and observes that the total collection of arrear fee was Rs. 31,62,350 while the total payment of arrear salary was Rs. 29,73,513 upto 31/03/2011. They ²⁶ submit that even after 31/03/2011, the school paid arrears amounting to Rs. 4,26,742 in Jan 2013, Rs. 1,27,690 in Feb. 2013 and Rs. 24,821 in May 2013. The school has produced the copies of the payment instructions given to the bank along with copies of bank statement for these subsequent payments. Heard. Recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY


Secretary

27/10/2016B-317Vidya Public School, Connaught Place, New Delhi.

Present: Sh. Manu R.G. Luthra, CA/AR, Ms. Shehnaz, V. Principal of the school.

The Committee has perused the circular dated 19/03/2009 issued by the school to the parents regarding recovery of fee arrears pursuant to order dated 11/02/2009 issued by the Director of Education. As per the circular, the school recovered arrears of Rs. 5100 from each student comprising of Rs. 3000 lump sum arrear for the period 01/01/2006 to 31/08/2008 and Rs. 2100 towards arrears of enhanced tuition fee @ Rs. 300 per month from Sept. 2008 to March 2009.

In the statement of fee and salary filed by the school along with its written submissions dated nil filed in the office of the Committee on 25/05/2015, the school has shown recovery of arrear fee amounting to **Rs. 9,91,445** for the period 01/01/2006 to 31/08/2008 and **Rs. 9,96,000** for the period 01/09/2008 to 31/03/2009. The school has shown payment of arrear salary of Rs. 20,12,869 purportedly in pursuance of the recommendations of 6th Pay Commission, in the year 2009-10.

Implementation of recommendations of 6th Pay Commission

The Committee has perused the statement of salary filed by the school giving break up of mode of payment of salary by Cash and by Account payee cheques. It observes that out of total expenditure of Rs. 47,67,069 paid as salary in the year 2008-09, as much as a sum

of Rs. 29,03,235 was paid in cash. The school claims to have partially implemented the recommendations of VI Pay Commission w.e.f. June 2009. The Committee observes that in the month of June when the VI Pay commission is claimed to have been implemented, out of

TRUE COPY

Secretary



PDF Compressor Free Version27/10/2016

the total salary of Rs. 4,60,355, as much as Rs.4,38,923 was paid in cash. In July 2009, the same pattern continued. From August 2009 onwards, the school claims to have paid almost 50% of the salary by account payee cheques and the remaining in cash. The Committee also observes that while the student strength remained almost the same in 2009-10 (609 in 2009-10 and 616 in 2008-09) the number of staff employed by the school came down drastically from about 30 to 32 in Feb. and March 2009 to 17 in June 2009, when the recommendations of VI Pay Commission are claimed to have been implemented.

The Committee has also examined the books of accounts of the school and has observed that the entire amount of arrear salary was paid in cash and that too in 2010-11 while the school shows to having paid the same in 2009-10. The committee also observes that the school was holding huge cash balances of Rs. 9 to 10 Lacs which were disproportionately high in proportion of its requirements, having only 609 students and 17 teachers. The deposits of cash made in the bank were far and few between and that too for very meager amounts. As against the holding of cash around 10 lacs, the deposit of cash in bank was only around Rs. 27 thousand on one particular date.

In view of these facts, it is probable to infer that the school did not implement the recommendations of VI Pay Commission and showed its partial implementation only in its books. There was no rhyme or reason for making payment of arrear salary in cash to the staff in these facts and circumstances. Further, the salaries to the staff, particularly after implementation of VI Pay Commission, even partially, were very high, no cogent and satisfactory reasons have been disclosed by the school to pay the salary in cash. The pattern followed by the school i.e. showing lesser number of staff after

purported implementation of VI Pay Commission as compared to the

TRUE COPY

Secretary



27/10/2016

number prior to its purported implementation is rather a device employed by the school to show payment of higher salary to the staff retained on rolls while in actual fact, salary is distributed amongst a larger number of staff members at lower rates, including to those who are taken off the rolls. This way, the school has manipulated implementation or partial implementation of the recommendations of 6th Pay Commission whereas in the facts and circumstances, the school has failed to establish by cogent and reliable evidence that it had implemented the recommendations of the VI pay commission.

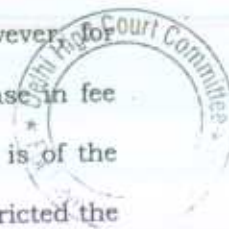
Arrear fee and incremental fee in pursuance of order dated 11/02/2009 of the Directorate of Education

The fee hike allowed to the school by the Directorate of Education was for the specific purpose of payment of arrear salary and increased salary consequent to implementation of VI Pay Commission report. Since in the opinion of this Committee, the school did not implement the recommendations of 6th Pay Commission nor paid any arrear salary, **the school ought to refund, along with interest @ 9% per annum, the entire amount of arrear of fee i.e. Rs. 19,87,455 recovered by it.**

So far as the increased fee in pursuance of order dated 11/02/2009 w.e.f. 01/04/2009 is concerned, the Committee observes that the school hiked the tuition fee by Rs. 200 per month for classes pre school, pre primary, I, II & IV and for the remaining classes by Rs. 300 per month. The fee for classes for which the hike was Rs. 200 per month, appears to be a little more than 10%. As such no recommendation of refund is made for those classes. However, for classes where the hike is for Rs. 300 per month, the increase in fee was around 50% over the fee for 2008-09. The Committee is of the view that for these classes also, the school ought to have restricted the

TRUE COPY

Secretary



PDF Compressor Free Version27/10/2016

classes. The excess hike of Rs.100 per month ought to be refunded alongwith interest @ 9% per annum from the date of collection to the date of refund.

Development Fee

So far as development fee is concerned, the school in its reply dated 22/05/2013, to the questionnaire issued by the Committee stated that development fee was treated as capital receipt and was utilized for purchase of furniture, fixture and equipments. However, it conceded that no separate depreciation reserve fund or earmarked bank accounts or FDRs or investments were kept for parking the unutilized development fund and depreciation reserve fund.

The Committee observes that the school collected a sum of **Rs.10,58,305** as development fee from the student in the year 2009-10 and in the details of utilization submitted, the school claimed to have purchased a Swaraj Majda mini bus for Rs. 10,19,066. In 2010-11, the school collected a total of **Rs. 11,83,020** as development fund out of which a sum of Rs. 8,67,460 was utilized for furniture, fixture and Equipments. However, since the school of its own admission stated that it was not maintaining any earmarked fund account for depreciation reserve fund, it was not entitled to charge any development fee 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* which upheld the recommendations of Duggal Committee which was constituted to examine the issue of fee hike for the purpose of implementation of 5th Pay Commission.

The Honble Supreme court observed 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,

TRUE COPY

Secretary




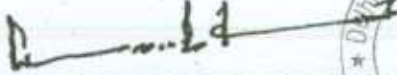
27/10/2016

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.

In view of the above reasons, the school was not justified in charging any development fee as it was admittedly not maintaining a Depreciation Reserve Fund. **As a consequence, the school ought to refund the development fee charged by it in 2009-10 and 2010-11 along with interest @ 9% per annum from the date of collection to the date of refund.** The Committee is restricting its recommendations to the development fee charged by the school in these two years only as it is examining the issue of fee charged by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. For other years, the Director of Education may deal with the matter as it deems fit, in accordance with law. Pronounced in the open meeting of the Committee after the conclusion of hearing.

TRUE COPY

Secretary


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

27/10/2016B-342Rishab Public School, Mayur Vihar, Delhi.

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 installments.

However, Sh. N.S. Bhati, Chairperson of the school, who is present today submits that there was lot of agitation from the parents with regard to payment of arrear fee and consequently the fee did not recover any arrear fee. 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 each of 2008-09 and 2009-10, as submitted 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 school 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 its own Indian Bank from which the salary was paid by bearer cheques and account payee cheques. The Committee observes 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. In fact one of the month, which came to the notice of the Committee, it is clearly shown that the payment of bearer cheques was taken by one Sh. Amit, who is not even an employee of the school. The cash deposit are also made in the bank by the aforesaid Sh. Amit. The payment of salary is shown to have been made on single date mostly 7th of each month. However, cash against the payment of bearer cheque is withdrawn from two three branches every month and on the same date, cash is deposited by Sh. Amit. In some cases, the cash is shown to have been deposited by self which is a very vague term in the context of the school.

TRUE COPY

Secretary



27/10/2016

The Chairman of the school submits that the school is located and caters to lower strata of the society and as such they don't have recovered the arrears from the students.

Arguments heard. Recommendations reserved.

*Received Copy
Manu Lakshmi
08/11/2016*

21
Dr. R.K. SHARMA
MEMBER

1/16
J.S.KOCHAR
MEMBER

[Signature]
JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

[Signature]
Secretary



27/10/2016

000071


B-290

PDF Compressor Free Version

Kasturi Ram International School, Narela, Delhi.

Present: Sh. Sunny Bansal, Manager of the school.

The recommendations of the Committee were reserved on 07/12/2015. However on account of the resignation of the previous Chairperson of the Committee, the final order could not be pronounced. The school was given an opportunity of reheard in the matter. Sh.Sunny Bansal, Manager of the school is present and has been heard. Recommendations reserved.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary



27/10/2016

000072

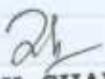
B-566

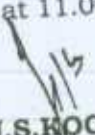
PDF Compressor Free Version

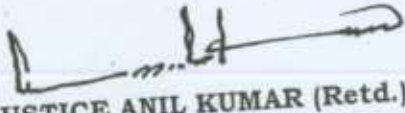
Bal Bharti Public School, Dwarka, New Delhi.

Present: Sh. Sudip Kar, Comp. Programmer, Sh. Pankaj Ahuja,
Accountant of the school.

An application has been filed by the school seeking adjournment
on account of involvement of school staff for school's annual day
scheduled on 05/11/2016. As requested, 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

TRUE COPY


Secretary



DHCC/2018/443
21/10/16

000073

PDF Compressor Free Version

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

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

In the matter of:

KULACHI HANS RAJ MODEL SCHOOL (B-0040),

Ashok Vihar,

New Delhi 110052

And in the matter of

Application/representation dated

24th October, 2014 to review the order

Dated 10th October, 2013 passed by the

Committee in respect of the School.

Present: Shri Ramesh Bhalla, OSD, Accounts, for the School.

ORDER

The Committee passed the order/recommendation dated 10th October, 2013 in respect of Kulachi Hansraj Model School, (B-0040) Ashok Vihar, Phase III, Delhi 110052 referred to hereinafter as 'The School' and directed the school to refund a net amount of Rs.1,25,32,562/- on account of development fee collected by the School in the years 2009-10 and 2010-11 along with interest @ 9% per annum.

Before passing the order/recommendation dated 10th October, 2013 the Committee had issued a questionnaire dated 27th February, 2012 to the school seeking relevant information, facts and details. A reply was submitted by the school contending that it had paid the increased salary as per the recommendations of the sixth pay commission with effect from 1st September



PDF Compressor Free Version

2008 and the arrears with effect from 1st January, 2006 to 31st August, 2008. Regarding fee hike the school contended that it had increased the tuition fee @ Rs.300.00 per month for the classes pre-school to X and Rs.400.00 per month for classes XI & XII with effect from 1st September, 2008. The development fee which was charged @ 10% was enhanced to 15% of tuition fee with effect from 1st September, 2008. The school also disclosed that it had recovered arrears for the period 1st January, 2006 and 31 August 2008. On the preliminary examination of the financials of the school it transpired that after taking into account the increased fee, arrear fee, increased salary and arrear salary, the school was found to have this surplus funds. The school was issued notice dated 20th February, 2013 for giving an opportunity of being heard by the committee. During the hearing the representative of the school had informed that the school does not have any liability for payment of gratuity and leave encashment as these liabilities taken care of by the Society running the school. It also transpired that the school makes contribution to the Society for the purpose of creating a fund from which the liabilities of gratuity and leave encashment are met. Regarding the development fee it transpired that the school had used the development fund for meeting the expenditure on salary and other overheads. Some part of the development fund had also been used for purchase of computers, library books et cetera. The preliminary report was provided to the representative of the school and certain queries were raised and communicated to the school. After considering the answer given to the queries raised by the committee and considering the documents filed by the school it was inferred that the school was in deficit to the tune of Rs.3,47,18,236/-after accounting for the fee hike and the increased salaries on account of implementation of sixth pay commission. The replies given by the school with regard to the utilization of development fund were found to be vague. The school was not mentioning any earmarked accounts for unutilized development fund or depreciation reserved fund. It also transpired that the school was trying to take to double benefit by showing the same expenditure against the tuition fee as well as against the development fee. Therefore, it was inferred



PDF Compressor Free Version

that the development fee was not utilized for the purpose for which it was meant. As the school had the shortfall after implementation of sixth pay commission, the amount was set off against the amount refunded on account of development fee by the order dated 10th October, 2013.

The school has sought review of the order dated 10th October, 2013 by filing an application/representation dated 25th August, 2014 contending that the shortfall of the school was Rs.8,36,28,410/- as on 31.3.2010 and collection of development fee during the years 2009 - 2010 and 2010 - 2011 of Rs.4,72,50,798/- was not sufficient to meet the shortfall and therefore, the school should not be directed to refund any amount to the parents. The school has given detailed figures justified the shortfall as has been alleged by the school. The school filed another the application/representation dated 24th October, 2014 contending that the shortfall of the school was Rs.5,33,03,094/- as on 31.3.2010 and collection of development fee during the years 2009 - 2010 and 2010 - 2011 of Rs.4,72,50,798/- was not sufficient to meet the shortfall and therefore, the school should not be directed to refund any amount to the parents. The school has given detailed figures to justify the shortfall as has been alleged by the school.

Apparently the school has sought review of the order/recommendation of the committee dated 10th October, 2013 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 10th October, 2013. It is apparent that the Committee has become functus officio after it passed the order dated 10th October, 2013. The school has not produced any law or precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its order on merits.

TRUE COPY

Secretary



PDF Compressor Free Version

It is no more res integra that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P RamanathaAiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

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

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

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

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

Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review



orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also noticed error apparent on the face of record in the Committee's recommendation and therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

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

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 permitted the committee to review **only** the order of Rukmani Devi Public School, Pitam Pura. The Hon'ble Court passed the following order:

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

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

The writ petition shall be re-notified on 09.05.2014"

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

TRUE COPY

Secretary



PDF Compressor Free Version

From the perusal of the application/representation dated 24th October, 2014 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more res integra that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors. v. Pradyuman singhji Arjunsingji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In Patel Narshi Thakershi & ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debita justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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



PDF Compressor Free Version

for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that it vitiates the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced the record which was perused and considered and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 10th October, 2013.

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

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 10th October, 2013 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been



PDF Compressor Free Version

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

The application/representation dated 24th October, 2014 seeking recalling/revoking of the order dated 10th October, 2013 and passing the order/recommendation again is not maintainable as this Committee does not have such powers as has been prayed by the School. The applications/representations dated 24th October, 2014 by the school seeking review of the order/recommendation dated 10th October, 2013 is, therefore, not maintainable and it is disposed of as not maintainable

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

**J.S. KOCHAR
MEMBER**

**R.K. SHARMA
MEMBER**

Date: 21.10.2016

TRUE COPY

Secretary

21/10/16

PDF Compressor Free Version**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE
AT NEW DELHI**

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

In the matter of:**CAMBRIDGE SCHOOL (B-0355),****SRINIVASPURI, RING ROAD****New Delhi 110065****And in the matter of****Application/representation dated****20TH JULY, 2016 to review the order****Dated 25TH APRIL, 2016 passed by the****Committee in respect of the School.**

Present: Mrs. A.B.Ray, Member Managing Committee, Mrs. A.Seebaluck, Principal; Mr. T.S.L. Narayana, Vice Principal, Mr. M.P.S Ragav, Admn. Officer; Mr. Vinod Kumar, Office Assistant of the school.

ORDER

The Committee passed the order/recommendation dated 25th April, 2016 in respect of Cambridge School, Srinivaspuri, Ring Road, New Delhi 110065 (B-0355) hereinafter referred to as 'The School' and directed the school to refund incremental development fee charged for the period 01.09.2008 to 31.03.2009 amounting to Rs.7,59,600/- with interest @ 9% per annum from the date of collection to the date of refund despite the fact that the school was deficit after implementation of the recommendations of sixth pay commission. The Committee found the recovery of incremental development fee as patently illegal. Before passing the order/recommendation in respect of the school, return filed by the school under rule 180 of Delhi School Education Rules,



PDF Compressor Free Version

1973 and the statement of fee filed by the school under section 17 (3) of the Delhi School Education Act, 1973 along with details of salary and the arrears of salary before and after implementation of sixth pay commission and the fee hike by the school consequent to the issuance of order dated 11 February 2009 issued by the Director of Education were perused. In the first instance preliminary calculations were made which reflected that the school was not required to hike any fee for implementation of recommendation of sixth pay commission and the total impact of implementation of order could be observed by the school from the funds already available with it. Apparently the calculations made by the accountants of the committee were found to have certain errors. The school was directed to furnish the details regarding arrear fee, regular tuition fee, arrear salary and regular salary for the years 2008 - 2009 to 2010 - 11 duly reconciled with the audited Income and Expenditure Accounts. The committee had also directed the school to furnish Bank statements showing the payments of arrears of salary, a statement of the society running the school, details of accrued liabilities of gratuity and leave encashment. Specific information regarding various aspects of the school were also sought and perused. It had transpired that the school had been charging the development fee in all the years, 2006 - 07 to 2010 - 11 for which information was sought. The school had also admitted before the Committee that it did not maintain an earmarked account for the development fund and depreciation reserved fund in respect of the assets acquired out of development fund. The school was afforded an opportunity of being heard and a notice dated 28th October, 2015 was issued. During hearing it had also transpired that the school had actually revised the salaries with effect from 1st September, 2008 and arrears were paid for the period 1st January, 2006 to 31st March, 2009. It also transpired that the regular development fee was treated as a capital receipt in the books of the school, however, no earmarked bank accounts or FDRs what maintain nor depreciation reserved fund was maintained. From the record it had also become apparent that arrears of incremental development fee for the period 1st September, 2008 to 31st March 2009 was recovered @ Rs.1001



PDF Compressor Free Version

per month on an incremental tuition fee of Rs.400 which was 15% of tuition fee. The total impact after implementation of sixth pay commission for the period 1st September, 2008 to 31st March, 2009 was found to be Rs.69,08,890/-. The Committee also found that in respect of a number of employees they school taken the liability in excess of the Rs.3,50,000/-which was the maximum amount which could be paid under the concerned Act. A calculation sheet was got prepared by the committee, a copy of which was also given to the school. The school was not fulfilling the conditions for the regular development fee as had been approved by the Hon'ble Supreme Court but the school was in deficit after implementation of sixth pay commission and the school had to keep funds in reserve. The Committee found that the incremental development fee recovered by the school unjustified and illegal as the same was not permitted by order dated 11 February, 2009 of the Director of Education. Hike in development fee to 15% of the tuition fee from 1st September, 2008 though the school was charging development fee at a rate less than 15% was found to be prohibited under section 17 (3) of the Act. In these circumstances the Committee recommended refund of the incremental development fee with interest.

The school has sought review of the order dated 25th April, 2016 by filing an application/representation dated 20th July, 2016 contending inter-alia that merely because the school was not charging the development fee as a percentage of the tuition fee, the school could not be deprived of its right which was given by the Director of Education. They school has contended that all schools in Delhi are charging the development fee within the maximum limit prescribed by the Directorate of Education. Some of the schools are charging the development fee as a percentage of tuition fee whereas others are charging on fixed basis. According to the school disallowing increase in development fee to the school who have been charging on the fixed basis and not on the proportionate basis shall be discriminatory. They school has also sought review of the order on the ground that the incremental development fee was utilized



PDF Compressor Free Version

only for the purpose of meeting the shortfall on account of salary/arrears as they school had deficit in its accounts. According to the school the liability of the gratuity is in accordance with the provisions of CCS (Pension) Rules, 1972. The review is also sought on the ground that the order does not recommend the manner in which the school should be allowed to recover the deficit which occurred solely on account of payment of salary in compliance with the recommendations of sixth pay commission. According to school the order of recommendation of hike contemplates hike in tuition fee as stipulated in the order dated 11th February, 2009 or reducing the fee than what was permitted in the said order. The plea of the school is that the Committee has not considered both the aspects and has only considered one aspect. In the circumstances it is contended that the order of the Committee is prejudicial to the interest of the school and is not in accordance with the directions of the Hon'ble High Court in order dated 12th August, 2011.

Apparently the school has sought review of the order/recommendation of the committee dated 25th April, 2016 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 25th April, 2016. It is apparent that the Committee has become functus officio after it passed the order dated 25th April, 2016. The school has not produced any law or precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its order on merits.

It is no more res integra that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority



PDF Compressor Free Version

exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

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

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

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

Consequently after the Committee had made its recommendations and passed the order in the case of Applicant school, the Committee became functus officio as it had decided the question brought before it.

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

" Kindly place this letter before the Hon'ble Division Bench dealing with the matter, as the Committee seeks urgent directions for



PDF Compressor Free Version

grant of permission to rectify our recommendations, which may suffer from errors apparent on the face of the record."

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 permitted the committee to review **only** the order of Rukmani Devi Public School, Pitam Pura. The Hon'ble Court passed the following order:

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

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

The writ petition shall be re-notified on 09.05.2014"

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

From the perusal of the application/representation dated 20th July, 2016 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more res integra that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya MahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors. v. Pradyuman singhji Arjunsingji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had



PDF Compressor Free Version

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

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



PDF Compressor Free Version

the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced the record which was perused and considered and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 25th April, 2016.

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

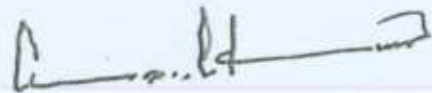
The Applicant in the present case seeks recall/review of the order passed by the Committee dated 25th April, 2016 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing the Committee to review its orders/recommendations either expressly or by necessary implication.

The application/representation dated 20th July, 2016 seeking recalling/revoking of the order dated 25th April, 2016 and passing the order/recommendation again is not maintainable as this Committee does not



PDF Compressor Free Version

have such powers as has been prayed by the School. The applications/representations dated 20th July, 2016 by the school seeking review of the order/recommendation dated 20th July, 2016 is, therefore, not maintainable and it is disposed of as not maintainable

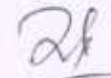


**JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON**



**J.S. KOCHAR
MEMBER**

Date: 21.10.2016



**R.K. SHARMA
MEMBER**

TRUE COPY



Secretary



PDF Compressor Free Version**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE
AT NEW DELHI**

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

In the matter of:

DAV PUBLIC SCHOOL(B-0002),

SRESHTHA VIHAR

DELHI 110092

And in the matter of

Applications/representations dated

16th December, 2013 and 22nd October,

2014 to review the order

Dated 9th May, 2013 passed by the

Committee in respect of the School.

Present: Ms. Prem Lata Garg, Principal; Sh. Sanjeev Agarwal, C.A & Sh. Manoj Gupta, Senior Superintended of the school.

ORDER

The Committee passed the order/recommendation dated 9th May, 2013 in respect of DAV Public School, Shreshtha Vihar, Delhi 110092(B-0002) hereinafter referred to as 'The School' and directed the school to refund a sum of Rs.70,86,686/- with interest @ 9% per annum after deducting the shortfall in recovery of tuition fee. Before passing the order the committee issued a questionnaire dated 27th February, 2012. This school replied to the questionnaire by communication dated 1st March, 2012 intimating that the school had implemented the recommendations of sixth pay commission. The



PDF Compressor Free Version

school also intimated that it had paid the salary according to the recommendation of sixth pay commission retrospectively. It was intimated that the school had increased the fee @ Rs.300/- as per the order dated 11 February, 2009 of the Director of Education. Preliminary examination of the financials of the school was carried out and it transpired that the funds available with the school as on 31st March, 2008 were Rs.2,09,85,695/-. The school was given an opportunity of being heard by a notice dated 24th December, 2012 as prima facie it had appeared that the school had hiked the fee more than what was required then was required to offset the additional burden on account of implementation of sixth pay commission. The school was provided a copy of preliminary calculations prepared on behalf of the Committee. Regarding the development fee they school had conceded that the development fee was treated as a revenue receipt in the accounts and no separate development fund or depreciation reserved fund accounts were available maintained. Considering the funds available for the school for maintaining a sixth pay reserve and for payment of arrears of sixth pay commission, they school was to recover a sum of Rs.2,83,38,931/- and against this school recovered a sum of Rs.2,03,20,083/-. Thus the school had a deficit of Rs.80,18,848/-. The school had another deficit of Rs.63,40,311/- on account of incremental salary for the period 1st September, 2008 to 31 March 2010. There was a shortness of its requirement of Rs.1,43,59,159/-. Perusals of the financials of the school revealed that it had recovered a sum of Rs.1,01,78,290/- as development fee in the year 2009 - 10 and Rs.1,12,67,555/- 2010 - 11. These amounts were authorized and were liable to be refunded to the students. After deducting the shortfall in recovery of tuition fee, the school was ordered/recommended to refund the amount as stated hereinbefore with interest.

The school has sought review of the order dated 9th May, 2013 by filing applications/representations dated 16th December, 2013 & 22nd October, 2014 contending inter-alia that the calculation to refund the amount of Rs.70,86,686/- was not justified. Reliance has also been placed on the report

TRUE COPY

Secretary



PDF Compressor Free Version

dated 19th May, 2008 prepared by A.D.E of Director of Education. It is contended that the Committee could not consider all aspects and could not examine the financial book deeply. By application dated 16th December, 2013 it is prayed that the fresh order be passed in case of the school. By application dated 22nd October, 2014 it is contended that the school had incurred expenditure for purchase of various fixed assets against the amounts of development fee which has not been considered in the order/recommendation of the Committee. The school has also relied on its own calculation sheet prepared by it. In the light of the observations made in these two applications, the school has prayed to consider their pleas and contentions and amend the recommendation/order of the Committee dated 9th May, 2013. The school also produced and relied on balance Sheets for the financial years 2009 - 10 and 2010 - 11.

~~Review of the~~ Apparently the school has sought review of the order/recommendation of ~~the committee~~ dated 9th May, 2013 on merits of the order passed by the ~~Committee~~. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 9th May, 2013. It is apparent that the Committee has become functus officio after it passed the order dated 9th May, 2013. The school has not produced any law or precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its order on merits.

It is no more res integra that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its



PDF Compressor Free Version

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

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

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

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

Consequently after the Committee had made its recommendations and Applicant passed the order in the case of Applicant school, the Committee became functus officio as it had decided the question brought before it.

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

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



PDF Compressor Free Version

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 permitted the committee to review **only** the order of Rukmani Devi Public School, Pitam Pura. The Hon'ble Court passed the following order:

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

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

The writ petition shall be re-notified on 09.05.2014"

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

From the perusal of the applications/representations dated 16th December, 2013 & 22nd October, 2014 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more res integra that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya MahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors.v. Pradyuman singh ji Arjun singh ji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is



PDF Compressor Free Version

a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In Patel Narshi Thakershi & ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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



PDF Compressor Free Version

not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced the record which was perused and considered and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 9th May, 2013.

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

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 9th May, 2013 on merits on various grounds. It is not ~~alleged that in passing the order, the committee has committed any procedural which will illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled.~~ Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing the Committee to review its orders/recommendations either expressly or by necessary implication.

The applications/representations dated 16th December, 2013 & 22nd October, 2014 seeking recalling/revoking of the order dated 9th May, 2013 and passing the order/recommendation again are not maintainable as this Committee does not have such powers as has been prayed by the School. The applications/representations dated 16th December, 2013 & 22nd October, 2014 by the school seeking review of the order/recommendation dated 9th May,



PDF Compressor Free Version

2013 are, therefore, not maintainable and they are disposed of as not maintainable

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

**J.S. KOCHAR
MEMBER**

Date: 24.10.2016
MEMBER

**R.K. SHARMA
MEMBER**

TRUE COPY

Secretary

PDF Compressor Free Version**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE
AT NEW DELHI**

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

In the matter of:

DAISY DALES SR.SEC.SCHOOL (B-0685),

EAST OF KAILASH

NEW DELHI

And in the matter of

Application/representation dated

19TH May, 2016 to review the order

Dated 21ST October, 2015 passed by the

Committee in respect of the School.

Present: Sh. O.P.Sisodia Advocate; Sh. Yogesh Chaudhary, Chartered Accountant of the school

ORDER

This order shall dispose of the application of the school dated 19th May, 2016 filed under section 114 read with Order XVII and section 151 of Code of Civil Procedure for review and recall of order/recommendation dated 30.12.2015 passed against the school. The arguments were heard on the application of the school 21st September, 2016 and the order was reserved.

The Committee had passed the order/recommendation dated 21st October, 2015 in respect of Daisy Dales Sr. Secondary School, East of Kailash, New Delhi(B-0685) hereinafter referred to as 'The School' and had directed the school to refund the arrears of fees for the period 1.1.2006 to 31.8.2008 amounting to Rs.3,80,047/-; arrears of tuition fee for the period 1.9.2008 to



PDF Compressor Free Version

31.3.2009 amounting to Rs.5,32,814/- and arrears of development fee for the period 1.9.2008 to 31.3.2009 amount to Rs.3,89,665/-. The school was directed to refund a total sum of Rs.13,02,526/- along with interest @ 9% per annum from the date of collection to the date of refund. With regard to the regular fee with effect from 1st April, 2009, the Director of Education was advised to conduct a special inspection to verify the claim of the school that the hike was restricted to 10% only. It was also observed that in case the hike will be found to be more than 10%, the school would be liable to refund the hike in fees of more than 10%. From the record the school it had also transpired that the school was treating the development fee as a revenue receipt and no earmarked accounts were maintained for the development fund and depreciation reserved fund. The school had charged the development fee for the years 2009-10 amounting to Rs.26,07,197/- and Rs.31,44,338/- for the year 2010-11 and therefore the school was to directed to refund the same with interest @9% per annum from the date of collection to the date of refund. The refund of this development fee was in addition to arrears of development fee for the period 1.9.2008 o 31.3.2009. The order/recommendation dated 21st October, 2015 was passed after due opportunity to the school and the order/recommendations were sent to the Hon'ble High Court by report dated 30th December, 2015 (9th report) of the Committee.

The school has sought review of the order dated 21st October, 2015 (report dated 30th December, 2015) by filing an application/representation dated 19th May, 2016 contending inter-alia that the inferences of the committee are based on report of the audit officer who had stated that the school had failed to furnish requisite records/accounts/receipts; the information furnished by the school in response to the notice dated 26th May, 2015 was incomplete, the arrears of fee collected from parents on account of implementation of sixth Central pay commission was higher than 10% as claimed and that the school treated the development fee as a revenue receipt and did not maintain separate account for development fee or depreciation reserved fund. The school has also



PDF Compressor Free Version

sought review so that another opportunity be provided to the school to explain the documents submitted by the school management. According to the school/applicant the notification dated 11th February, 2009 of the Director of Education allowed the applicant to charge. 15% of development fee of tuition fee. According to applicant the school is run by the Society which has different ventures/activities including the present school the accounting process was consolidated as single Assesse. In the circumstances it is contended that the observation of the audit officer that the school was creating the documents and the receipts is incorrect. The school has admitted that the documents could not be explained properly which has resulted in wrong appreciation and therefore the order is liable for review. According to the school the recommendation/order of the Committee is liable to be review on account of wrong explanations given by the representative of the school as the Committee cannot be prejudicial to the interest of the school in the facts and circumstances. The applicant has also contended relying of section 21 of The General Clauses Act, 1897 the committee has the power to review its orders even on merits. The applicant has also relied on the decision of Hon'ble Kerala High Court, K.V. Biju Vs Union of India in support of its contention that the Committee has the power to review under the said provisions of General Clauses Act. The learned counsel appearing for the applicant very emphatically contended that the Committee cannot hold that it does not have power in the above stated facts and circumstances.

Apparently the school has sought review of the order/recommendation of the committee dated 21st October, 2015 (report dated 30th December, 2015) on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 21st October, 2015 (report dated 30th December, 2015). It is



PDF Compressor Free Version

apparent that the Committee has become functus officio after it passed the order dated 21st October, 2015 (report dated 30th December, 2015). The precedent relied on by the school rather negates the plea of the School that the Committee has the power to review its order under the provisions of General Clauses Act and the precedent is distinguishable. In K.V.Biju (supra) it was rather held by the Hon'ble High Court in para 13 that once a decision is taken by the primary authority, any decision thereof either in appeal or revision is a quasi judicial function. It has been further observed that any administrative authority exercising review of its earlier decision has to act in bona fide manner based on fresh or additional materials. It has also been held that the authorities cannot review their own decision unless the power of review is specifically conferred under the statute. A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. The Supreme Court in Bharat Petroleum Corporation Ltd and Anr. v. N.R.Vairamani and Anr., AIR 2004 SC 778 had observed:-

" Court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are



PDF Compressor Free Version

neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.

In *Bhavnagar University v. Palitana Sugar Mills Pvt Ltd* (2003) 2 SC 111

(vide para 59), the Supreme observed:-

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

Consequently the precedent relied and cited by the applicant does not help him nor it can be held on the basis of same that the Committee has the power of review.

It is no more *res integra* that a quasi-judicial authority will become *functus officio* when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become *functus officio*. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's *Advanced law Lexicon* (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "*functus officio*".

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



PDF Compressor Free Version

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

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

Consequently after the Committee had made its recommendations and passed the order in the case of Applicant school, the Committee became functus officio as it had decided the question brought before it.

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

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

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 permitted the committee to review **only** the order of Rukmani Devi Public School, Pitam Pura. The Hon'ble Court passed the following order:

PDF Compressor Free Version

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

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

The writ petition shall be re-notified on 09.05.2014"

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

From the perusal of the application/representation dated 19th May, 2016 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more res integra that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors. V. Pradyuman Singh ji Arjunsingh ji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In Patel Narshi Thakershi & ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute



PDF Compressor Free Version

specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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

Secretary



FREE COPY

PDF Compressor Free Version

considered and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 21st October, 2015 (report dated 30th December, 2015).

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

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 21st October, 2015 (report dated 30th December, 2015) on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiates the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing the Committee to review its orders/recommendations either expressly or by necessary implication.

The application/representation dated 19th May, 2016 seeking recalling/revoking of the order dated 21st October, 2015 (report dated 30th December, 2015) and passing the order/recommendation again is not maintainable as this Committee does not have such powers as has been prayed by the School. The applications/representations dated 19th May, 2016 by the



PDF Compressor Free Version

school seeking review of the order/recommendation dated 21st October, 2015 (report dated 30th December, 2015) is, therefore, not maintainable and it is disposed of as not maintainable

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

**J.S. KOCHAR
MEMBER**

Date: 24.10.16

~~MEMBER~~

**R.K. SHARMA
MEMBER**

TRUE COPY

Secretary



PDF Compressor Free Version**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE,
NEW DELHI**

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

In the matter of:

Vidya Public School, Connaught Place, New Delhi.

(B-317)

Recommendations of the Committee

Present: Sh. Manu R.G. Luthra, CA/AR with Ms. Shehnaz, V. Principal of the school.

The Committee has perused the circular dated 19/03/2009 issued by the school to the parents regarding recovery of fee arrears pursuant to order dated 11/02/2009 issued by the Director of Education. As per the circular, the school recovered arrears of Rs. 5100 from each student comprising of Rs. 3000 lump sum arrear for the period 01/01/2006 to 31/08/2008 and Rs. 2100 towards arrears of enhanced tuition fee @ Rs. 300 per month from Sept. 2008 to March 2009.

In the statement of fee and salary filed by the school along with its written submissions dated nil filed in the office of the Committee on 25/05/2015, the school has shown recovery of arrear fee amounting to **Rs. 9,91,445** for the period 01/01/2006 to 31/08/2008 and **Rs. 9,96,000** for the period 01/09/2008 to 31/03/2009. The school has shown payment of arrear salary of Rs. 20,12,869 purportedly in pursuance of the recommendations of 6th Pay Commission, in the year 2009-10.

Implementation of recommendations of 6th Pay Commission

Vidya Public School, Connaught Place, New Delhi. (B-317)/ Recommendations

Page 1 of 6

TRUE COPY

Secretary



PDF Compressor Free Version

The Committee has perused the statement of salary filed by the school giving break up of mode of payment of salary by Cash and by Account payee cheques. It observes that out of total expenditure of Rs. 47,67,069 paid as salary in the year 2008-09, as much as a sum of Rs. 29,03,235 was paid in cash. The school claims to have partially implemented the recommendations of VI Pay Commission w.e.f. 1st June 2009. The Committee observes that in the month of June when the VI Pay commission is claimed to have been implemented, out of the total salary of Rs. 4,60,355, as much as Rs.4,38,923 was paid in cash. In July 2009, the same pattern continued. From August 2009 onwards, the school claims to have paid almost 50% of the salary by account payee cheques and the remaining in cash. The Committee also observes that while the student strength remained almost the same in 2009-10 (609 in 2009-10 and 616 in 2008-09) the number of staff employed by the school came down drastically from about 30 to 32 in Feb. and March 2009 to 17 in June 2009, when the recommendations of VI Pay Commission are claimed to have been implemented.

The Committee has also examined the books of accounts of the school and has observed that the entire amount of arrear salary was paid in cash and that too in 2010-11 while the school shows to having paid the same in 2009-10. The committee also observes that the school was holding huge cash balances of Rs. 9 to 10 Lacs which were disproportionately high in proportion of its requirements, having only 609 students and 17 teachers. The deposits of cash made in the bank were far and few between and that too for very meager amounts. As against the holding of cash around 10 lacs, the deposit of cash in bank was only around Rs. 27 thousand on one particular date.

TRUE COPY

Secretary



PDF Compressor Free Version

In view of these facts, it is probable to infer that the school did not implement the recommendations of VI Pay Commission and showed its partial implementation only in its books. There was no rhyme or reason for making payment of arrear salary in cash to the staff in these facts and circumstances. Further, the salaries to the staff, particularly after implementation of VI Pay Commission, even partially, were very high, no cogent and satisfactory reasons have been disclosed by the school to pay the salary in cash. The pattern followed by the school i.e. showing lesser number of staff after purported implementation of VI Pay Commission as compared to the number prior to its purported implementation is rather a device employed by the school to show payment of higher salary to the staff retained on rolls while in actual fact, salary is distributed amongst a larger number of staff members at lower rates, including to those who are taken off the rolls. This way, the school has manipulated implementation or partial implementation of the recommendations of 6th Pay Commission whereas in the facts and circumstances, the school has failed to establish by cogent and reliable evidence that it had implemented the recommendations of the VI pay commission.

Arrear fee and incremental fee in pursuance of order dated 11/02/2009 of the Directorate of Education

The fee hike allowed to the school by the Directorate of Education was for the specific purpose of payment of arrear salary and increased salary consequent to implementation of VI Pay Commission report. Since in the opinion of this Committee, the school did not implement the recommendations of 6th Pay

TRUE COPY

Secretary



PDF Compressor Free Version

Commission nor paid any arrear salary, the school ought to refund, along with interest @ 9% per annum, the entire amount of arrear of fee i.e. Rs. 19,87,455 recovered by it.

So far as the increased fee in pursuance of order dated 11/02/2009 w.e.f. 01/04/2009 is concerned, the Committee observes that the school hiked the tuition fee by Rs. 200 per month for classes pre school, pre primary, I, II & IV and for the remaining classes by Rs. 300 per month. The fee for classes for which the hike was Rs. 200 per month, appears to be a little more than 10%. As such no recommendation of refund is made for those classes. However, for classes where the hike is for Rs. 300 per month, the increase in fee was around 50% over the fee for 2008-09. The Committee is of the view that for these classes also, the school ought to have restricted the hike for the year 2009-10 to Rs.200 per month as was for other classes. **The excess hike of Rs.100 per month ought to be refunded alongwith interest @ 9% per annum from the date of collection to the date of refund.**

Development Fee

So far as development fee is concerned, the school in its reply dated 22/05/2013, to the questionnaire issued by the Committee stated that development fee was treated as capital receipt and was utilized for purchase of furniture, fixture and equipments. However, it conceded that no separate depreciation reserve fund or earmarked bank accounts or FDRs or investments were kept for parking the unutilized development fund and depreciation reserve fund.

TRUE COPY

Secretary



PDF Compressor Free Version

The Committee observes that the school collected a sum of **Rs.10,58,305** as development fee from the student in the year 2009-10 and in the details of utilization submitted, the school claimed to have purchased a Swaraj Majda mini bus for Rs. 10,19,066. In 2010-11, the school collected a total of **Rs. 11,83,020** as development fund out of which a sum of Rs. 8,67,460 was utilized for furniture, fixture and Equipments. However, since the school of its own admission stated that it was not maintaining any earmarked fund account for depreciation reserve fund, it was not entitled to charge any development fee 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** which upheld the recommendations of Duggal Committee which was constituted to examine the issue of fee hike for the purpose of implementation of 5th Pay Commission.

The Honble Supreme court observed 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***

TRUE COPY

Secretary



PDF Compressor Free Version

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.

In view of the above reasons, the school was not justified in charging any development fee as it was admittedly not maintaining a Depreciation Reserve Fund. **As a consequence, the school ought to refund the development fee charged by it in 2009-10 and 2010-11 along with interest @ 9% per annum from the date of collection to the date of refund.** The Committee is restricting its recommendations to the development fee charged by the school in these two years only as it is examining the issue of fee charged by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. For other years, the Director of Education may deal with the matter as it deems fit, in accordance with law. Pronounced in the open meeting of the Committee after the conclusion of hearing.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Date: 27/10/2016

TRUE COPY

Secretary

