JUSTICE ANIL DEV SINGH COMMITTEE FOR REVIEW OF SCHOOL FEE

8th Interim report
Volume I

May 26, 2015

CA J.S. Kochar
Member

Justice Anil Dev Singh (Retd.)
Chairperson

Dr. R.K. Sharma
Member

JUSTICE ANIL DEV SINGH COMMITTEE FOR REVIEW OF FEE HIKE

8TH INTERIM REPORT

INDEX

Determinations

1. This Interim Report deals with 95 schools, out of which, 93 schools are in Category "B", 01 school is in Category "C" and 01 school was not categorised as its name was not in the original list of schools supplied by the Directorate of Education. The categories B & C are as per the classification given in the First Interim Report of the Committee.

2. The summary of recommendations of the Committee in respect of these schools is as follows:

No. of schools where the Committee has found the fee hike to be unjustified, either partially or fully, and hence recommended the refund of excess fee	55
No. of schools where, besides finding the fee hike to be unjustified either partially or fully, the Committee also found their records to be unreliable, and hence the Committee has recommended special inspection in addition to refund of fee. In some cases special inspection has been recommended to verify the actual implementation of the recommendations of the 6th Pay Commission, while refund has been recommended for unauthorised charge of development fee.	03
No. of schools where the Committee found the records of the school to be unreliable or the schools did not produce the records before the Committee and hence has recommended special inspection to be carried out by Director of Education	11
No. of schools where the Committee found no reason to interfere qua the fee hike on account of the fact that the hike effected by them was not found to be excessive	26
Total	**95**

3. **<u>Schools in respect of which the Committee has recommended refund of fee.</u>**

The Committee has recommended refund of fee unjustly hiked by 58 schools. Among them are 3 schools, where the Committee, besides recommending the refund, has also recommended special inspection to be carried out by the Director of Education.

In respect of **55** schools out of 58 schools, which in view of the Committee, had unjustly hiked the fee, the Committee has found that the hike effected by them in pursuance of the order dated 11/02/2009 issued by the Director of Education was either wholly or partially unjustified for one or more of the following reasons:

(a) the schools had hiked the fee taking undue advantage of the aforesaid order, as they had no requirement for additional funds since they were found not to have implemented the recommendations of the VI Pay Commission, for which purpose the schools were permitted to hike the fee, or

(b) the schools had sufficient funds at their disposal out of which the additional burden imposed by the implementation of VI Pay Commission could have been absorbed, or the additional revenue generated on account of fee hike effected by the schools was more than what was required to fully absorb the impact of implementation of VI Pay Commission report, or

(c) the development fee being charged by the schools was not in accordance with the criteria laid down by the Duggal Committee which was upheld by the Hon'ble Supreme Court in the case of Modern School vs. Union of India & ors. (2004) 5 SCC 583.

(d) The schools had misconstrued the order dated 11/02/2009 issued by the Director of Education in respect of the incremental development fee to be recovered for the period 01/09/2008 to 31/03/2009 and thereby recovered more fee on this account than was permitted by the aforesaid order.

The reasoning and calculations are given in the recommendations made in respect of each individual school which have been made a part of this report and are annexed herewith. The Committee has recommended that the unjustified or unauthorised fee charged by the schools be refunded by them alongwith interest @ 9% per annum, as mandated by the decision of the Hon'ble Delhi High Court in Delhi Abhibhavak Mahasangh vs. Directorate of Education & ors. in WP(C) 7777 of 2009.

The list of these **55** schools where the Committee has recommended refund is as follows: -

S.N.	Category No.	Name & Address of School	Page No.
1	B-15	Naveen Bharti Sr. Sec. School, Shahdara	10 to 15
2	B-16	Nalanda Modern Public School, Burari	16 to 21
3	B-25	Rising Star Academy, Pitampura	22 to 26

4	B-28	National Public School, Shahbad Road	27 to 34
5	B-29	White Leaf Public School, Bawana	35 to 41
6	B-50	Delhi Public School, Rohini	42 to 61
7	B-52	St. Vivekanand Sr. Sec. School, Ladpur	62 to 69
8	B-113	Mater Dei School, Tilak Lane	70 to 79
9	B-117	Springdales School, Pusa Road	80 to 101
10	B-124	North-Ex Public School, Rohini	102 to 109
11	B-142	Virendra Public School, Timarpur	110 to 114
12	B-204	K.R. Manglam World School, Greater Kailash-II	115 to 169
13	B-206	K.R. Manglam World School, Vikas Puri	170 to 205
14	B-305	Saai Memorial Girls School, Geeta Colony	206 to 219
15	B-321	Adarsh Gyan Sarovar Balika Vidyalaya, Ganwari Marginal Bandh	220 to 228
16	B-358	Sanskriti School, Chanakya Puri	229 to 259
17	B-365	Navyug Happy Public School, Karawal Nagar	260 to 267
18	B-398	Victor Public School, Maujpur	268 to 274
19	B-410	Delhi Public School, Vasant Kunj	275 to 298
20	B-422	Delhi Public School, Dwarka	299 to 316
21	B-460	St. Mathew's Public School, Paschim Vihar	317 to 324
22	B-471	New Holy Public School, Uttam Nagar	325 to 331
23	B-506	Indraprastha Convent Sr. Sec. School, Begum Pur	332 to 337
24	B-512	D.S. Memorial Sr. Sec. Public School, Nangloi	338 to 343
25	B-517	Lovely Public Sr. Sec. School, New Layalpur	344 to 351
26	B-520	Dilshad Public School, Dilshad Garden	352 to 359
27	B-529	Rukmani Devi Jaipuria Public School, Rajpur Road	360 to 378
28	B-530	Rani Public School, Sant Nagar, Burari	379 to 384
29	B-532	Nav Bharti Sr. Sec. School, Sri Nagar Colony	385 to 391
30	B-535	St. Rosier Public School, Shalimar Bagh	392 to 404
31	B-536	Sri Guru Nanak Public School, Adarsh Nagar	405 to 417

32	B-538	Navjeevan Model Sec. School, GTB Nagar	418 to 425
33	B-549	Shri Ram Shiksha Mandir Sr. Sec. School, Jindpur	426 to 433
34	B-550	Bhagatji Memorial Model School, Yamuna Road, Palla	434 to 440
35	B-554	Sant Gyaneshwar Public School, Khanpur	441 to 445
36	B-563	Vasundhara Public School, Hastsal Vihar, Uttam Nagar	446 to 451
37	B-565	Vidya Memorial Public School, Uttam Nagar	452 to 456
38	B-567	Krishna Model Sec. School, Najafgarh	457 to 463
39	B-570	Navyug Convent School, Sainik Enclave, Jharoda Kalan	464 to 469
40	B-571	Nav Uday Convent Sr. Sec. School, Najafgarh	470 to 476
41	B-573	Mt. St. Garjiya School, Najafgarh	477 to 482
42	B-575	Sona Model Public School, Devli Road, Kanpur Extn.	483 to 488
43	B-577	Amrita Public School, Sangam Vihar	489 to 495
44	B-578	K.S.K. Academy, Sangam Vihar	496 to 502
45	B-580	Sai Nath Public School, Tigri Extension	503 to 507
46	B-598	Rachna Montessory School, Karala	508 to 513
47	B-611	S.G.N. Public School, Nangloi	514 to 518
48	B-613	Green Valley International Public School, Najafgarh	519 to 524
49	B-641	Modern Gyan Deep Public School, Tigri Extn.	525 to 529
50	B-646	New Age Public School, Vikas Nagar	530 to 534
51	B-647	Seth Bhagwan Dass School, Maujpur	535 to 539
52	B-648	Savitri Public School, Sangam Vihar	540 to 545
53	B-666	Bal Vaishali Model Public School, Molarband Extn.	546 to 551
54	B-671	Raj Modern Sr. Sec. Public School, Hari Nagar Extn. Part-II	552 to 559
55	B-687	National Victor Public School, Shahdara	560 to 566

4. In respect of the remaining 3 schools, the Committee found that the schools had increased the fee in pursuance of the order dated 11/02/2009 of the Director of Education but had not implemented the VI Pay Commission Report or had charged development fee without fulfilling the preconditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). At the same time, the financials of the schools did not inspire any confidence for a variety of reasons, which have been discussed in the recommendations in respect of each school separately. In some cases, the schools did not produce the required records for examination by the Committee but the fee schedules and staff statements filed by the schools as part of their returns under Rule 180 of the Delhi School Education Rules, 1973 showed that they had hiked the fee in pursuance of order dt. 11.02.2009 of the Director of Education, without implementing the recommendations of the 6th Pay Commission report. As such the Committee has not only recommended the refund of the fee hiked along with interest @ 9% per annum but has also recommended special inspection of the schools to be carried out by the Director of Education. The recommendations of the individual schools have been made a part of this report and are annexed herewith. The list of the aforesaid 3 schools is given below: -

S.N.	Category No.	Name & Address of School	Page No.
1	B-344	Vanasthali Public School, Mayur Vihar Phase-III	567 to 578
2	B-595	Raja Ram Mohan Roy Public School, Rohini	579 to 586
3	B-627	Sanjay Bal Vidyalaya, R.K. Puram	587 to 594

5. **<u>Schools in respect of which the Committee has not been able to take a view:</u>**

In respect of **11** schools, the Committee has not been able to take a categorical view as, in the case of some schools, complete records were not produced by them for examination by the Committee and in the case of others, the records produced did not inspire confidence for reasons which are discussed in the case of each individual school. In some cases, the records produced appear to have been fabricated. Since, the Committee does not have any power to compel the schools to comply with its directions, <u>the Committee has recommended special inspection to be carried out by the Director of Education</u>. The recommendations of the Committee in respect of these schools have been made a part of this report and are annexed herewith. The list of these **11** schools is as given below:

S.N.	Category No.	Name & Address of School	Page No.
1	NIL	Sivanand Vidya Bhawan, Dakshinpuri	595 to 596
2	B-224	Jagannath International School, Pushpanjali Enclave, Pitampura	597 to 608
3	B-473	Shiv Modern School, Paschim Vihar	609 to 615
4	B-501	R. D. Public Sr. Sec. School, Krishan Vihar	616 to 621
5	B-504	St. Stephen's School, PU Block, Pitampura	622 to 631
6	B-516	Manvi Public School, Rohini	632 to 643
7	B-542	Jyoti Model School, Adarsh Nagar	644 to 648
8	B-569	Mata Nand Kaur Sr. Sec. Public School, Dhansa Village	649 to 652
9	B-605	Gyan Jyoti Vidyalaya, Anupam Garden, IGNOU Road	653 to 656
10	B-612	Mata Daan Kaur Public School, Mundela Kalan	657 to 660
11	B-626	St. Andrews Scots School, Jagatpuri	661 to 665

6. **Schools in respect of which the Committee found no reason to interfere.**

In respect of **26** schools, the Committee has not recommended any intervention as the schools were found to have, either not hiked the fee in pursuance of the order dated 11/02/2009 issued by the Director of Education, or the fee hiked was found to be within or near about the tolerance limit of 10% or the fee hike in absolute terms was not much. In some cases, the fee hike was found to be justified, considering the additional burden on account of implementation of Sixth Pay Commission report. Following is the list of the aforesaid **26** schools:

S.No.	Category No.	Name & Address of School	Page No.
1	B-1	St. Joseph's Academy, Savita Vihar	666 to 675
2	B-27	New Happy Public School, Narela	676 to 682
3	B-36	Sunrise Convent School, Ashok Vihar-III	683 to 688
4	B-92	Nav Jeewan Academy Sr. Sec. School, Dwarka	689 to 694
5	B-105	Arya Public School, Malviya Nagar	695 to 702
6	B-161	Ramjas Public School (Day Boarding), Anand Parbat	703 to 720
7	B-306	Akash Deep Model School, Nehru Vihar	721 to 725
8	B-354	Saraswati Bal Mandir, Rajouri Garden	726 to 734
9	B-359	Carmel Convent School, Chanakya Puri	735 to 742
10	B-367	Kala Niketan International School, Ghazipur	743 to 746
11	B-404	Vardhman Shiksha Mandir, Daryaganj	747 to 753
12	B-405	National Public School, Daryaganj	754 to 761
13	B-472	Rainbow English School, Janakpuri	762 to 770
14	B-497	Mahashay Chunilal Saraswati Bal	771 to 781

		Mandir, Hari Nagar	
15	B-526	Uttranchal Public School, Burari	782 to 786
16	B-548	Navjeevan Model School, Jahagirpuri	787 to 791
17	B-558	Kamal Model Sr. Sec. School, Mohan Garden	792 to 799
18	B-559	Rashtra Shakti Vidyalaya (Sr. Sec.), Hastsal	800 to 809
19	B-568	Kamal International School, Najafgarh	810 to 820
20	B-579	Anand Vidya Bharti Education Society School, Sangam Vihar	821 to 825
21	B-585	Victoria Public School, Brijpuri	826 to 830
22	B-603	G.R.M. Sr. Sec. Public School, Nangoi	831 to 835
23	B-629	Rao Mohar Singh Memorial Public School, Najafgarh	836 to 845
24	B-661	Stanford Convent School, Badarpur Border	846 to 850
25	B-670	Panchsheel Public School, Jaitpur, Badarpur	851 to 857
26	C-427	Delhi Convent School, Ganesh Nagar, Pandav Nagar	858 to 864

7. <u>Review cases</u>

The Committee has reviewed its original recommendations in the case of **Rukmani Devi Public School, Pitam Pura,** as permitted by the Hon'ble Delhi High Court. The review recommendations are placed at pages **865 to 874** of this report

Justice Anil Dev Singh (Retd)
Chairperson

CA J.S. Kochar
Member

Dr. R.K. Sharma
Member

Naveen Bharti Sr. Sec.School, Balbir Nagar, Shahdara.Delhi-32

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

4. With a view to verify the returns, the Office of the Committee vide its notice dated 10.01.2014 required the school to appear on 03.02.2014 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Naveen Bharti Sr. Sec.School, Balbir Nagar, Shahdara.Delhi-32

5. On 03.02.2014, Sh. L.M.Atrey, Principal of the school attended the office of the Committee and produced record. Reply to the questionnaire was also filed. As per the reply:-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.03.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009. w.e.f. 01. 04. 2009.

(iii) The school had not collected development fee.

6 The record, in the first instance, was examined by Mrs. Sunita Nautiyal, Audit Officer of the Committee. She observed to the effect that:

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission w.e.f. March 2009.

(ii) The salary to the staff has been paid in cash and through bearer and a/c payee cheques.

(iii) The school hiked tuition fee in 2009-10 in terms of the order of the Director of Education dated 11.02.2009. During 2010-11, hike in fee was by 10%.

The Audit Officer after examination of the original record produced by the school returned the same to the representatives of the school.

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Naveen Bharti Sr. Sec.School, Balbir Nagar, Shahdara.Delhi-32

7. By notice dated 06.04.2015, the school was asked to appear on 24.04.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8 On 24.04.2015, Sh. L.M. Atrey, Principal and Sh. S.V.S. Mavi, M.C. Member of the school appeared before the Committee and produced the record. The representatives of the school has submitted that the 6th Pay Commission report was implemented w.e.f. 01-04-2009 prospectively. Arrear salary was not paid as arrear fee was not received from the students. It was submitted that fee hike was necessary in view of increased salaries. The school had produced copies of TDS & PF returns to show full deduction and subsequent deposit with the Govt. but did not produce the salary record. The school was directed to produce its salary record on 01-05-2015 before the Audit Officer of the Committee for the verification of payment of salary.

On 01.05.2015, Sh. L.M.Atrey, Principal of the school produced

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COMMITTEE
For Review of School Fe...

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the salary record of the school. The Audit Officer of the Committee after examining the record reported that during 2008-09, a total of 73% of salary has been paid through bearer cheques and cash. Similarly, during 2009-10, 43% salary has been paid in the similar manner.

Discussions and findings

9. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
VI - VIII	710	910	200	1010	100
IX - X	780	980	200	1080	100
XI - XII	990	1190	200	1290	100

10. From the above, it is obvious that the school has increased the fee during the year 2009-10, in terms of the order of the Director of Education dated 11/02/2009. During 2010-11, the hike was by 10%.

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COMMITTEE
For Review of School Fee

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Naveen Bharti Sr. Sec.School, Balbir Nagar, Shahdara.Delhi-32

11. According to school it has implemented the recommendations of the 6th Pay Commission, but salary to the staff has been paid in cash and through bearer cheques. We find that many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by showing payment of salary and/or arrears of salary to the teachers in cash or through bearer cheques. The stand of the school that it had implemented the recommendations of the 6th Pay Commission does not carry conviction as there is no plausible and convincing reason, why the payments were not made by bank transfer or by account payee cheques. In the circumstances the stand of the school that it has implemented the recommendations of the 6th Pay Commission is merely a false claim without any substance. Therefore, it cannot be accepted.

12. As per record the school has not charged development fee from the students.

RECOMMENDATION

Re. Fee Hike

Since the school has hiked the fee in 2009-10, in terms of the order of the Director of Education, dated 11.02.2009 and in our

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Naveen Bharti Sr. Sec.School, Balbir Nagar, Shahdara.Delhi-32

view without implementing the recommendations of 6th Pay Commission, we are of the opinion that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated— 25.05.2015

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Nalanda Modern Public School, Sant Nagar,Burari.Delhi

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

4. With a view to verify the returns, the Office of the Committee vide its notice dated 10.01.2014, required the school to appear on 31.01.2014 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

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Nalanda Modern Public School, Sant Nagar,Burari.Delhi

5. On 31.01.2014, Sh.D.P.Vats, Manager of the school attended the office of the Committee and produced the record. Reply to the questionnaire was also filed. As per the reply:-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.04.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009. w.e.f. 01 04.2009.

6 The record, in the first instance, was examined by Mrs.Sunita Nautiyal, Audit Officer of the Committee. She observed to the effect that:.

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission w.e.f. 01.04.2009.

(ii) Salary to the staff was paid in cash.

(iii) The school hiked tuition fee in 2009-10 in terms of the order of the Director of Education dated 11.02.2009. During 2010-11, the hike was by 23% to 42%.

The Audit Officer after examination of the record brought by the school for scrutiny returned the same to him.

7. By notice dated 30.03.2015, the school was asked to appear on 08.04.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same. by the Committee and for affording an opportunity of hearing to the school.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Nalanda Modern Public School, Sant Nagar,Burari.Delhi

8 On 08.04.2015, Sh. D. P. Vats, Manager, of the school appeared before the Committee and submitted that the hearing may be closed. He stated that the decision may be taken in terms of the observations of the Audit Officer of the Committee, recorded on 31.01.2014.

9. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
I	360	460	100	570	110
II	370	470	100	580	110
III	380	480	100	590	110
IV	390	490	100	600	110
V	400	500	100	610	110
VI	440	540	100	660	120
VII	460	560	100	680	120
VIII	500	600	100	710	110
IX	-----	-----	-----	1100 (New Class)	-----

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Nalanda Modern Public School, Sant Nagar,Burari.Delhi

10. From the above, it is manifest that the school had increased the fee during the year 2009-10, in terms of the order of the Director of Education dated 11/02/2009. During 2010-11, the hike was far beyond 10%.

11. According to school it has implemented the recommendations of the 6th Pay Commission, but salary to the staff have been paid in cash. We find the many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by paying the salary and/or arrears of salary to the teachers in cash/bearer cheques. Such a plea gives a lie to the stand of the school that it had implemented the recommendations of the 6th Pay Commission as there is no plausible and convincing reason, why the payments were not made by bank transfer or by account payee cheques.

RECOMMENDATION

Re. Fee Hike

The school has utilised the order of the Director of Education dated 11.02.2009, for enhancing tuition fee in 2009-10 for all classes, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re. Development fee

The school has charged Development Fee in the following manner;-

Year	Development fee charged
2009-10	Rs. 6,22,780.00
2010-11	Rs. 7,60,255.00

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Nalanda Modern Public School, Sant Nagar,Burari.Delhi

The development fee had been treated as revenue receipt and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs.13,83,035.00 during the years 2009-10 and 2010-11 in the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-
J.S. Kochar
Member

Sd/-
Justice Anil Dev Singh (Retd.)
Chairperson

Sd/-
Dr. R.K. Sharma
Member

Dated— 15-04-2015

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Rising Star Academy, Pitampura, Delhi-110034

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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JUSTICE ... SINGH COMMITTEE For Review of School Fee

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Rising Star Academy, Pitampura, Delhi-110034

4. By notice dated 27.04.2015, the school was asked to appear on 08.05.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

5. On 08.05.2015, Sh. Ram Lagan, TGT and Ms. Susan, TGT, of the school appeared before the Committee and produced record.

It was submitted by the representatives that the school has implemented the recommendations of the Sixth Pay Commission w.e.f. 01.04.2009 and also paid some arrear salary. Full arrears were not paid as the students did not pay full arrear fee. It was stated that the regular fee was hiked by Rs. 200 to Rs. 400 per month as per the order of the Director of Education dated 11.02.2009. The representatives further submitted that the school did not charge any development fee.

We have examined the books of accounts and salary register. The entire arrear salary was shown to have been paid in cash. Regular salary for the entire period 2009-10 was purportedly paid by bearer cheques drawn on United Bank of India. Although the school was situated in Pitampura and the bank was situated in the President's Estate, all the salary cheques were being encashed from the bank on a single day. This practice was followed every month. The representatives have submitted that payment by bearer cheques was made as per the demands of the teacher.

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Rising Star Academy, Pitampura, Delhi-110034

Discussion and findings

6. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
Pre Primary to III	1000	1200	200	1320	120
IV to V	1050	1350	300	1480	130
VI to VIII	1190	1490	300	1630	140
IX to X	1380	1680	300	1840	160
XI to XII	1520	1920	400	2100	180

7. From the above, it is manifest that the school has increased the fee during the year 2009-10, in terms of the order of the Director of Education dated 11/02/2009. During 2010-11, the hike was by 10%.

8. According to school it has implemented the recommendations of the 6th Pay Commission, but salary/arrear to the staff have been paid in cash or through bearer cheques. We find that many schools have taken this plea that they had implemented the recommendations of the 6th Pay

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Commission by paying the salary and/or arrears of salary to the teachers in cash or by bearer cheques. Such a plea of the school that it had implemented the recommendations of the 6th Pay Commission is a artifice as there is no plausible and convincing reason, why the payments were not made by bank transfer or by account payee cheques.

9. As per record the school has not collected development fee.

RECOMMENDATION

Re. Fee Hike

Since the school has hiked fee in 2009-10, in terms of the order of the Director of Education, dated 11.02.2009, without implementing the recommendations of 6th Pay Commission fully, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Rising Star Academy, Pitampura, Delhi-110034

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar **Member**	**Justice Anil Dev Singh (Retd.)** **Chairperson**	**Dr. R.K. Sharma** **Member**

Dated— 13-05-2015

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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National Public School, Shahabad Road, Narela.Delhi

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

National Public School, Shahabad Road, Narela.Delhi

4. With a view to verify the returns, the Office of the Committee vide its notice dated 10.01.2014 required the school to appear on 29.01.2014 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

5. On 29.01.2014, Sh. Sant Lal, Manager of the school attended the office of the Committee and produced incomplete record. He was directed to produce complete record on 12.02.2014.

On 12.02.2014, Sh. Sant Lal, Manager of the school attended the office of the Committee and produced record. Reply to the questionnaire was also filed. As per the reply:-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.12.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009. w.e.f. 01. 04. 2009.

(iii) The school had collected development fee.

6 The record, in the first instance, was examined by Shri A.D. Bhateja, Audit Officer of the Committee. He observed to the effect that: -

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JUSTICE ... SINGH ... MITTEE ... of School Fee

National Public School, Shahabad Road, Narela.Delhi

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission w.e.f. 01.12.2009.

(ii) The school hiked tuition fee in 2009-10 in between Rs.70/- to Rs.200/- for different classes. During 2010-11, hike in fee was by Rs. 50/- to 100/-p.m. for different classes.

(iii) The school had collected development fee from the students.

(iv) TDS and PF had been deducted from the salary of the staff.

(v) The school had neither collected arrear fee from the students nor had paid arrear salary to the staff.

The Audit Officer after examination of the original record produced by the school returned the same to the representative of the school.

7. By notice dated 06.04.2015, the school was asked to appear on 24.04.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8 On 24.04.2015, Sh. Sant Lal, Manager and Sh. Baldev Aneja, Advocate of the school appeared and contended that

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the school had implemented the recommendations of the 6th Pay Commission w.e.f. 01-12-2009, but hiked the fee w.e.f. 01-04-2009. Initially, the school submitted that the salaries to the staff were paid mostly by A/c payee cheques. The Committee on examination of bank statement observed that on the contrary, most of the cheques were encashed from the bank together on a single date, every month. The representatives conceded that the majority of cheques were bearer cheques and the school would depute one of the office boys to the bank to encash all the cheques in one go.

Further, the school submitted that the development fee, though treated as a capital receipt was utilized for incurring revenue expenses.

Matter was relisted on 01-05-2015, for the school to file proper reply to the notice of the Committee and for hearing.

On 01.05.2015, Sh. Sant Lal, Manager and Sh. Baldev Aneja,

Advocate of the school appeared before the Committee and filed written submissions dated 01-05-2015, giving information sought by the Committee. They submitted that the hike in tuition fee in 2009-10 was less than the maximum hike in fee permissible as per the order of the

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National Public School, Shahabad Road, Narela.Delhi

Director of Education dated 11-02-2009 but, the school introduced Computer Fee @ Rs.120/- to 150/- p.m. w.e.f. 2009-10.

9. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee (including computer fee) during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee (including computer fee) during 2010-11	Tuition Fee increased in 2010-11
I	430	500	70	550	50
II	460	550	90	600	50
III	480	720	240	770	50
IV	500	770	270	820	50
V	540	840	300	910	50
VI	600	890	290	960	70
VII	620	940	320	1020	80
VIII	650	990	340	1070	80
IX	800	1200	400	1300	100
X	900	1300	400	1400	100

10. From the above, it is manifest that the school has increased the fee during the year 2009-10, by more than 10% for classes I and II, but

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National Public School, Shahabad Road, Narela.Delhi

for other classes, hike was more than the limit prescribed by the order of the Director of Education dated 11/02/2009. During 2010-11, the hike was within 10%.

11. According to school it has implemented the recommendations of the 6th Pay Commission, but salary to the staff have been paid through bearer cheques. We find the many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by paying the salary and or arrears of salary to the teachers in cash or through bearer cheques. Such a plea gives a lie to the stand of the school that it had implemented the recommendations of the 6th Pay Commission as there is no plausible and convincing reason, why the payment was not made by bank transfer or by account payee cheques.

RECOMMENDATION

Re. Fee Hike

Since the school has hiked fee in 2009-10, by more than 10% for classes I and II but for classes VIII to X the hike was more than

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National Public School, Shahabad Road, Narela.Delhi

the prescribed limit of the order of the Director of Education, dated 11.02.2009, for enhancing tuition fee, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re. Development Fee.

The school has charged development from the students in the following manner;

Year	Development Fee Charged
2009-10	Rs. 4,54,000.00
2010-11	Rs. 7,48,570.00

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National Public School, Shahabad Road, Narela.Delhi

The development fee though, treated as a capital receipt but had been utilized for incurring revenue expenses and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs. 1,202,570.00 during the years 2009-10 and 2010-11 in the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar **Member**	**Justice Anil Dev Singh (Retd.)** **Chairperson**	**Dr. R.K. Sharma** **Member**

Dated— 07-05-2015

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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White Leaf Public School, Bawana. Delhi

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

4. With a view to verify the returns, the Office of the Committee vide its notice dated 10.01.2014 required the school to appear on 29.01.2014 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

White Leaf Public School, Bawana. Delhi

5. On 29.01.2014, Ms. Anita Rani, Principal and Sh. Vikas Chander, UDC of the school attended the office of the Committee and produced record. Reply to the questionnaire was also filed. As per the reply:-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.04.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009. w.e.f. 01. 04. 2009.

(iii) The school had collected development fee.

6 The record, in the first instance, was examined by Shri A.D. Bhateja, Audit Officer of the Committee. He observed to the effect that: -

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission w.e.f. 01.12.2009, but DA has not been paid as per the prescribed norms.

(ii) In each month from April 2008 to March 2011, 4 to 6 teachers remained on leave without pay.

(iii) Salary to the staff had been paid by A/C Payee/Bearer cheques.

(iv) Arrears of the salary for the period 01.09.2008 to 31.03.2009 had been paid by cheques/cash.

(v) The school hiked tuition fee in 2009-10 in terms of the order dated 11.02.2009. During 2010-11, hike in fee was by 10%.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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White Leaf Public School, Bawana. Delhi

(vi) The school had collected development fee from the students.

(vii) TDS and PF had been deducted from the salary of the staff.

The Audit Officer after examination of the original record produced by the school returned the same to the representatives of the school.

7. By notice dated 06.04.2015, the school was asked to appear on 24.04.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8 On 24.04.2015, Sh. Vikas Chander, UDC and Sh. Jai Prakash, A.T. of the school appeared before the Committee without authority letter. The school was directed to reappear before the Committee on 01.05.2015.

On 01.05.2015, Mrs.Anita Rani, Principal, Sh. Vikas Chander, UDC and Sh. Jai Prakash Yadav, Asstt. Teacher of the school appeared before the Committee and produced record. The Committee had examined the books of accounts and bank statements of the school. It was observed that the arrear salary as well as the regular salary was paid either by cash or by bearer cheques. Only a few staff members were paid salary by A/c payee cheques. With regard to development fee, the representatives reiterated the contents of the reply to the questionnaire.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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White Leaf Public School, Bawana. Delhi

9. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
Pre-School & Pre-Primary	-----	700	------	770	70
I to V	580	780	200	855	75
VI to VIII	720	920	200	1010	90
IX to X	920	1120	200	1230	110

10. From the above, it is manifest that the school has increased the fee during the year 2009-10, in terms of the order dated 11.02.2009 of the Director of Education for classes I to X. During 2010-11, the hike was within 10% for all classes.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

White Leaf Public School, Bawana. Delhi

11. According to school it has implemented the recommendations of the 6th Pay Commission, but salary and arrears to the staff have been paid through bearer cheques. We find that many schools have taken the plea that they had implemented the recommendations of the 6th Pay Commission by paying the salary and or arrears of salary to the teachers in cash or through bearer cheques. Such a plea gives a lie to the stand of the school that it had implemented the recommendations of the 6th Pay Commission as there is no plausible and convincing reason, why the payment was not made by bank transfer or by account payee cheques.

It is significant to note that from April, 2008 to March, 2011, 4 to 6 teachers have been shown to be on leave without pay every month. This is being done as a matter of balancing act and is a gimmick to show the implementation of the recommendations of the 6th Pay Commission.

RECOMMENDATION

Re. Fee Hike

Since the school has hiked fee in 2009-10, for classes I to X, in terms of the order of the Director of Education, dated 11.02.2009, for enhancing tuition fee, without implementing the

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

White Leaf Public School, Bawana. Delhi

recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, for aforesaid classes ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re. Development Fee.

The school has charged development fee from the students as detailed below;

Year	**Development Fee Charged**
2009-10	Rs. 9,22,920.00
2010-11	Rs. 10,94,940.00

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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White Leaf Public School, Bawana. Delhi

The development fee has been treated as a revenue receipt and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs. 20,17,860.00 during the years 2009-10 and 2010-11 in the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar **Member**	**Justice Anil Dev Singh (Retd.)** **Chairperson**	**Dr. R.K. Sharma** **Member**

Dated— 07-05-2015

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Delhi Public School, Sector-24, Rohini, Delhi-110085

In reply to the questionnaire dated 27/02/2012 issued by the Committee, the school, vide its letter dated 01/03/2012 stated as follows:

(a) It had implemented the recommendations of the VI Pay Commission. The increased salary to the staff was paid from 01/03/2009. In support, the school enclosed by way of annexures of salary details of staff for the month of February 2009 and March 2009.

(b) It had paid the arrears of salary to staff which became due on account of the retrospective application of recommendations of the VI Pay Commission report. In support, the school furnished details of arrears paid to the staff for the period 01/01/2006 to 31/08/2008, which amounted to Rs. 2,13,34,073 in aggregate. Another statement was enclosed showing that a sum of Rs. 33,16,788 was payable to the employees who had resigned or retired.

(c) It paid arrears for the period September 2008 to April 2009 and the details thereof were also enclosed showing the total payment to the Rs. 98,50,845.

(d) It hiked the tuition fee from Rs. 1925 per month to Rs. 2325 per month w.e.f. September 2008 as per the order dated 11/02/2009 issued by the Director of Education (No mention was made of any hike in development fee as a consequence of hike in tuition fee).

(e) As for the recovery of lump sum arrears, it was stated that the same were charged as per the aforesaid order dated 11/02/2009.

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Delhi Public School, Sector-24, Rohini, Delhi-110085

The annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973 for the years 2006-07 to 2010-11 were requisitioned and received from the concerned Dy. Director of Education. However, on perusal of the same, the Committee noticed that the audited financials of the school were not part of such returns as received from the office of the Dy. Director. Therefore, the Committee requisitioned the same directly from the school vide email dated 22/07/2013. These were furnished by the school under cover of its letter dated 26/07/2013. While forwarding these documents to the Committee, the school stated that these had already been submitted to the Education Officer, of the Directorate of Education on 25/11/2011 and enclosed a copy of the acknowledgement of receipt of such documents. The Committee is at a loss to understand as to why these documents were not forwarded to the Committee by the concerned Dy. Director, while forwarding the annual returns filed by the school.

Preliminary calculations were made by the Chartered Accountants detailed with the Committee (CAs). As per the calculation sheet drawn by them, it appeared that the school had funds available with it amounting to Rs. 7,95,87,809 as on 31/03/2008 while the total additional liability that befell on the school on implementation of the VI Pay Commission report was Rs. 4,33,17,548. As per these calculations, the school did not need to hike any fee at all for implementation of the recommendations of the VI Pay Commission and the entire additional liability could have been met by the school out of its accumulated resources.

The preliminary calculation sheet as prepared by the CAs was perused by the Committee with reference to the audited financials of the

For Review of School Fee

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school and the information furnished by it in reply to the questionnaire issued by the Committee. The Committee noticed serious discrepancies in the calculations made by the CAs. The major discrepancies observed by the Committee in the preliminary calculations were that the CAs had also included investments held against earmarked funds as part of the available funds with the school. Another major discrepancy was the omission of cash and bank balances held by the school from the preliminary calculations. Further, the Committee felt that the entire funds available with the school ought not be considered as available for implementation of VI Pay Commission report and the school must maintain adequate reserves for future contingencies and for meeting its accrued liabilities of gratuity and leave encashment. The Committee felt that the information regarding hike in fee, collection of arrear fee, hike in salary and payment of arrear salary needed to be obtained from the school in a structured format to make the correct calculations of available funds vis a vis additional liabilities of school for implementing the VI Pay Commission report. Therefore, the Committee issued a notice dated 22/10/2014 requiring the school to appear before the Committee on 29/10/2014. Further, the school was required to furnish the details of arrear fee and salary for the period 01/01/2006 to 31/08/2008, 01/09/2008 to 31/03/2009 and regular fee and salary for the year 2009-10, duly reconciled with the audited Income & Expenditure Account of the school, statement of account of the Parent Society, details of accrued liabilities of gratuity and leave encashment. However, the date of hearing fixed was declared a holiday and accordingly the hearing was rescheduled for 30/10/2014. On this date, Sh. S. Srinivasan, Bursar of the school appeared and sought adjournment. As requested by him, the matter was

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directed to be relisted on 14/11/2014. On this date, Ms. Kiran Kumar, Vice Principal, Sh. S. Srinivasan, Bursar, Ms. Renuka Gandhi, UDC, Sh. Jitender S. Virdhi, Head Finance of DPS Society appeared along with Sh. Hiren Mehta, Chartered Accountant and authorized representative of the school. They furnished the details as required by the Committee's notice dated 22/10/2014.

The details furnished by the school were perused by the Committee and it was observed that:

(a) The school was charging fixed amount of development fee @ Rs. 2100 per annum in 2007-08 and 2008-09, which was not linked to the tuition fee. However, the school recovered arrears of development fee from 01/09/2008 to 31/03/2009 @ 15% of the increased tuition fee (The development fee arrears were recovered @ 60 per month on a tuition fee hike of Rs. 400 per month).

(b) The development fund charged in 2009-10 was @ 15% of tuition fee which aggregated to Rs. 94,33,548. Out of this, a total sum of Rs. 50,63,229 was utilised during the aforesaid year. The utilisation to the tune of **Rs. 44,98,625** was for the purpose of payment of arrears of VI Pay Commission while the utilisation of the remaining sum of Rs. 5,57,604 was for purchase of eligible assets out of development fee. Further a sum of Rs. 7,000 was refunded to some students who left the school in the mid session.

(c) The amount deposited in earmarked account was short of the unutilised development fund which remained with the school.

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Delhi Public School, Sector-24, Rohini, Delhi-110085

(d) No earmarked funds were maintained for depreciation reserve fund on assets acquired out of development fund.

(e) The details of accrued liability of gratuity, as furnished by the school also included the accrued liability of employees with less than five years of service, who were not entitled to any gratuity.

The school was required to file a statement of gratuity provided for employees with less than five years of service as on 31/03/2008 and 31/03/2010 by 17/11/2014. The hearing was concluded. However, the school was informed that if deemed necessary, a fresh hearing may be fixed.

The school furnished details of employees with less than five years of service as on 31/03/2008 and 31/03/2010 and the amount of liability of gratuity provided for them.

The Committee directed its audit officer to prepare a preliminary calculation sheet, taking into account the detailed information provided by the school, during the course of hearing. She prepared a calculation sheet which is as follows:

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ANIL DEV SINGH
COMMITTEE
For Review of School Fee

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Delhi Public School, Sector-24, Rohini, Delhi-110085

	Statement showing Fund availability as on 31-03-2008, the effect of fee hike and salary hike		
	Particulars	**Amount (Rs.)**	**Amount (Rs.)**
	Investments		
	Total FDRs as per Balance sheet		78,046,829
	Less:FDRs held against earmarked funds*		
	(a) CBSE fund	711,747	
	(b) Specific Memorial Fund	225,000	
	(C) Directorate of Education Fund	600,000	1,536,747
	Free Investments		**76,510,082**
	Less: 1. Reserve for future contingencies equivalent to 4 months salary	24,355,333	
	2. Reserve for accrued liability of gratuity as on 31.3.2010 **	16,212,855	
	3. Reserve for accrued liability of leave encashment as on 31.3.2010	8,307,601	
	4. Caution Money	4,043,000	52,918,789
	Investments available (A)		**23,591,293**
	Current Assets		
	Cash & Bank Balances	3,225,775	
	Prepaid Expenses	182,997	
	TDS	13,574	
	Interest recoverable	600	
	Security Deposits	365,400	
	Loans and Advances	584,285	
	Stationery & Stores	176,544	
	Total Current Assets	**4,549,175**	
Less:-	Current Liabilities		
	Expenses Payable	102,993	
	PTA	231,113	
	Salary Payable	380,274	
	Security Deposit Received	636,824	
	S. Creditors	2,943,648	
	Earnest Money	8,500	
	CBSE Exam	36,680	
	Statutory dues payable	672,800	
	Other Liability	477153	
	Student Account	2,334,696	
	Total Current Liabilities	**7,824,681**	
	Net Current Assets (B)		(3,275,506)
	Total Funds available for implementation of 6th Pay Commission report		**20,315,787**

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Less	Arrear of Salary+PF thereon as per 6th CPC w.e.f. 01.1.06 to 31.3.09	37,437,000	
	Incremental Salary as per 6th CPC from 01.04.09 to 31.03.2010	27,739,000	65,176,000
	Excess / (Short) Fund Before Fee Hike		**(44,860,213)**
Add:-	Tuition Fee Arrear for the period from 01.1.06 to 31.8.08	7,870,000	
	Tuition Fee Arrear for the period from 01.9.08 to 31.3.09	6,306,000	
	Development Fee arrear for the period from 1.9.08 to 31.3.09	946,000	
	Incremental Tuition fee in 2009-10	9,855,000	24,977,000
	Excess / (Short) Fund After Fee Hike		**(19,883,213)**

Working Notes

Incremental Salary in 2009-10	**Amount**
Normal salary+ PF for 2009-10	73,066,000
Less: Normal Salary +PF for 2008-09	45,327,000
Incremental salary of 2009-10	27,739,000
Incremental fee in 2009-10	
Normal fee for 2009-10	62,297,000
Less: Normal tuition fee for 2008-09	52,442,000
Incremental tuition fee in 2009-10	9,855,000
Development fee charged in 2009-10	9,433,548
Development fee charged in 2010-11	11,905,080
Total	**21,338,628**

The Committee had formed a prima facie view that the development fee charged by the school was not in accordance with the law laid down by the Hon'ble Supreme Court in the case of the Modern School vs. Union of India (2004) 5 SCC 583 as the school was not maintaining at all, earmarked depreciation reserve fund and at any rate since the same had been utilised partly for meeting the arrears of salary, the same charged in 2009-10 and 2010-11 in pursuance of order dated 11/02/2009 was required to be either refunded or set off against the deficit incurred by the school in implementing the recommendations of VI Pay Commission. Since the school had recovered

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development fee to the tune of Rs. 2,13,38,628 in these two years and the apparent deficit on account of implementation of VI Pay Commission report was Rs. 1,98,83,213, a refund of fee was likely to be recommended on the basis of the aforesaid calculation sheet, the Committee forwarded to the school a copy of the preliminary calculation sheet prepared by the audit officer to enable the school to respond to the same. The calculation sheet was sent to the school under the cover of Committee's notice dated 01/12/2014 and a fresh hearing was fixed for 19/12/2014. In response, the Committee received a letter dated 12/12/2014 from the school contending that as per the calculations of the Committee itself, there is short recovery to the extent of 1.98 crores by the school and therefore there cannot be any dispute or controversy. However, the school also contended that the inclusion of Rs. 1,41,25,000 in respect of FDRs pertaining to development fund as part of funds available was not warranted and to that extent, the figure of funds available as worked out by the Committee was disputed.

On 19/12/2014, which was the date of hearing, Sh. S. Srinivasan, Bursar of the school appeared with Sh. Hiren Mehta, Chartered Accountant and Ms. Renuka Gandhi, UDC. They reiterated the contention of the school as contained in its letter dated 12/12/2014. The Committee informed the representatives of the school that prima facie, the surplus worked out in the calculation sheet was on account of development fee charged in 2009-10 and 2010-11, which in view of the Committee the school would be required to refund, after setting off the deficit which arose on account of implementation of VI Pay Commission report. However, it is correct that in the notice issued by the Committee, the above position was not clarified. The issue was

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discussed with the representatives of the school and they were given a further opportunity to make written submissions in view of the ambiguity in the notice issued by the Committee.

During the course of hearing, the representatives of the school submitted that the school was fulfilling all the preconditions as laid down by the Duggal Committee for charging of development fee. They further submitted that the school was entitled to recover the arrears of development fee, to the extent of the difference between 15% of tuition fee and the development fee actually charged for the period 01/09/2008 to 31/03/2009.

The Committee perused the audited financials of the school with the assistance of the representatives of the school and made the following observations:

As per the audited balance sheet as on 31/03/2011, the unutilised development fund was Rs. 3,83,70,671 against which FDRs to the tune of Rs. 3,81,25,000 were held. <u>However, as against the depreciation reserve on assets acquired out of development fund amounting to Rs. 1,18,07,056, no earmarked investments were held.</u>

With regard to the linkage of development fee with the tuition fee, the Committee observed that till 2006-07 the school was charging development fee @ 10% of tuition fee. In 2007-08, there was no hike in either tuition fee or in development fee and hence the linkage continued. In 2008-09, as per the original fee schedule filed under section 17(3) of Delhi School Education Act, 1973, the tuition fee was hiked but there was no corresponding hike in development fee, as a result of which the percentage of development fee to

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tuition fee came down to 9.09%. However, the arrears of development fee, consequent to the hike in tuition fee as per order dated 11/02/2009 for the period 01/01/2008 to 31/03/2009 were recovered @ 15% of the tuition fee.

The school filed written submission dated 30/12/2014 vide which it relied on para 14 of the order dated 11/02/2009 issued by the Director of Education. It was contended that this order lays down the manner of utilisation of development fee and was passed in the context of fee hiked by the school pursuant to increased salary burden on account of VI Pay Commission recommendations. It was further contended that para 15 of this order permits additional development fee on increased tuition fee (pursuant to VI Pay Commission) to be utilised for the purpose of meeting for shortfall on account of salary/arrears only. Therefore the school has rightly charged development fee not exceeding 15% of the tuition fee to meet the shortfall on account of salary/arrear. It was further contended that as per the computation made by the Committee itself, there was a shortfall with regard to available funds after taking into account the fee hike and arrears of salary and increased salary pursuant to recommendations of VI Pay Commission. The school, in the light of these submissions, submitted that the development fee had been rightly charged by the school.

Discussion & Determinations:

(1) Tuition Fee:

In so far as the hike in tuition fee hiked by the school pursuant to order dated 11/02/2009 issued by the Director by Education is concerned, the Committee notes that as per the calculation sheet prepared by its audit

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officer, the school was in deficit to the tune of Rs. 1,98,83,213, after taking into account the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity and leave encashment and also after providing for reasonable reserve for future contingencies. This calculation sheet has been disputed by the school only to the extent that the FDRs held against development fund, amounting to Rs. 1,41,25,000 ought not to have been included as part of funds available for the purpose of implementation of VI Pay Commission report. This issue is intrinsically linked with whether the school was fulfilling the pre conditions laid down for charging development fee, by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (supra). In view of the opinion of the Committee on this issue, which will be articulated when we discuss the issue of development fee, the school was not fulfilling the essential pre conditions for charging development fee, as laid down. Therefore, the contention of the school that FDRs held against development fund ought to be excluded from the figure of funds available is rejected. Accordingly, the Committee determines that the school was in deficit to the tune of **Rs. 1,98,83,213** after implementation of VI Pay Commission report. The school has not made any claim for being allowed a further fee hike to meet this deficit. At any rate, in view of our recommendations on the issue of development fee, such a claim, even if made by the school, would be untenable.

(2) Incremental development Fee:

The moot question that arises is whether the order dated 11/02/2009 issued by the Director of Education permitting the schools to hike tuition fee

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and recover the arrear fee in order to meet the additional expenditure on salary on account of implementation of the VI Pay Commission report, permitted any hike in development fee also. If yes, to what extent. Paras 4,5,7, 14 & 15 of the aforesaid order which are relevant for the purpose, read as follows:

> 4. *All schools have been placed in five (5) categories based on their monthly tuition Fees at present. Increase in the Tuition fee, as mentioned below, is permitted with effect from 1 September 2008 for those schools who need to raise additional funding for additional requirement on account of the implementation of the 6th Central Pay Commission recommendations:-*

Category	*Existing Tuition fee (per month)*	*Proposed increase in tuition fee (Maximum limit) per month*
1.	*Upto Rs. 500 p.m.*	*Rs. 100 p.m.*
2.	*Rs. 501 to Rs. 1,000*	*Rs. 200 p.m.*
3.	*Rs. 1,001 to Rs. 1,500*	*Rs. 300 p.m.*
4.	*Rs. 1,501 to Rs. 2,000*	*Rs. 400 p.m.*
5.	*Above Rs. 2,000*	*Rs. 500 p.m.*

> 5. *There shall not be any further increase in the Tuition fee beyond the limit prescribed in para 4 hereinabove, till March 2010.*

> 7. *The arrears for meeting the requirement of salary etc. from 1st January 2006 to 31st August 2008 as per 6th Central Pay Commission recommendations will be paid by the parents subject to the limitation prescribed below:-*

Category	*Existing Tuition Fee (per month)*	*Arrear (Ist Installment) (i)*	*Arrear (2nd Installment) (ii)*	*Total (i + ii)*
1.	*Upto Rs.500/- P.M.*	*Rs.1,000/-*	*Rs.1,000/-*	*Rs.2,000/-*
2.	*Rs.501/- to Rs.1000/-*	*Rs.1,250/-*	*Rs.1,250/-*	*Rs.2,500/-*
3.	*Rs.1,001/- to Rs.1500/-*	*Rs.1,500/-*	*Rs.1,500/-*	*Rs.3,000/-*
4.	*Rs.1,501/- to Rs.2,000/-*	*Rs.1,750/-*	*Rs.1,750/-*	*Rs.3,500/-*
5.	*Above Rs. 2,000/-*	*Rs.2,250/-*	*Rs.2,250/-*	*Rs.4,500/-*

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The first installment may be deposited by 31st March 2009 and the second by 30th September 2009. Schools, however are at liberty to prescribe later dates.

14. *Development fee, not exceeding 15% of the total annual tuition fee, may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under the head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*

15. *However, <u>the additional increase in Development Fee on account of increase in Tuition Fee</u> shall be utilized for the purpose of meeting any shortfall on account of salary/ arrears only.*

On going through the entire order, the Committee finds that it primarily permits hike in tuition fee w.e.f. 01/09/2008 and recovery of lump sum arrears for payment of arrear salary from 1st January 2006 to 31st August 2008. It further ordains that no further hike in fee till March 2010 would be permitted. The reference to the development fee in the aforesaid order is only in paras 14 & 15, as reproduced above. Whether the schools can recover the incremental development fee on account of hike in tuition fee to the extent of the difference between 15% of tuition fee and the development fee actually charged for the year 2008-09 is the question that is to be determined by the Committee, in this case.

The reliance placed by the school on para 14 of the circular to contend that the development fee w.e.f. 01/09/2008 can be charged @ 15%, is misplaced. The charge of development fee in case of unaided private schools was permitted for the first time by order no.

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De.15/Act/Duggal.Com./ 203/99/23033-23980 dated 15/12/1999 which was issued in pursuance of the recommendations of Duggal Committee constituted by the Hon'ble Delhi High Court in the case of Delhi Abhibhavak Maha Sangh vs. Union of India **AIR 1999 Del 124**. Para 7 of this order read as under:

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

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

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

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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.

The contention of the school that it charged additional development fee in pursuance of para 14 of the order dated 11/02/2009 has to be examined in light of the above background. Para 14 as aforementioned, did not introduce the development fee as an additional resource and that too for the purpose of meeting the liabilities arising out of the implementation of VI Pay Commission report. It is a repeat of para 7 of the order dated 15/12/1999 issued by the Director of Education. The only change being that the maximum cap of charge of development fee was raised from 10% to 15% of the tuition fee to bring it in accord with the judgment of the Hon'ble Supreme Court. **Para 14 as aforesaid does not envisage any increase in development fee to 15% of tuition fee w.e.f. 01/04/2008 as contended by the school.** The said para has no retrospective operation. It is prospective in nature. It only means that in future, the school may charge development fee @ 15% of the annual tuition fee for specified purposes and subject to fulfillment of the specified conditions. **Since the order is dated 11/02/2009 and para 5 thereof restrains the schools to make any further increase in tuition fee, over and above that permitted vide para 4, till March 2010, para 14 of the circular has to be construed to mean that for the year 2009-10, the schools may charge development fee @ 15% of tuition fee, if the schools were charging at a lesser rate in the past.**

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However, para 15 of the said order can be construed to be permitting increase in development fee as a result of increase in tuition fee. But, where there is no definite linkage between the development fee and the tuition fee e.g. where development fee is charged at a fixed rate within the overall cap of 15%, irrespective of the amount of tuition fee, the school would not be justified in hiking the development fee as a result of tuition fee. Hence, it would be appropriate to examine as to what was the development fee being originally charged by the school and whether there was any linkage between the development fee and tuition fee.

As noticed supra, till 2007-08, the school was charging development fee @ 10% of tuition fee and hence there was a definite linkage between the two. However, in 2008-09 (pre revision), the school hiked tuition fee from Rs. 1750 per month (Rs. 21,000 per annum) to Rs. 1925 per month (23,100 per annum). However, it did not hike the development fee, which remained at Rs. 2100 per annum for both the years. This resulted in the development fee in 2008-09 to become 9.09% of tuition fee. The Committee is of the view that this was a onetime aberration and was meant to benefit the students by not hiking the development fee. It was not meant to distort the linkage between development fee and tuition fee. Therefore, the Committee is of the view that there was indeed a definite linkage between development fee and tuition fee in the pre revised fee schedule of 2008-09. However, while hiking the fee as per order dated 11/02/2009, the school hiked the percentage of development fee to tuition fee from 9.09% to 15% and accordingly recovered the arrears. This, in view of the Committee was not warranted and was not authorized by the order dated 11/02/2009 issued by the Director of

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Education. This amounted to a hike in fee in the midsession, without the specific approval of the Director, which is prohibited by section 17(3) of Delhi School Education Act, 1973. The school, at best, could recover the arrears of development fee for the period 01/09/2008 to 31/03/2009 @ 9.09% of the hike in tuition fee which was Rs. 400 per month. Hence the school would have been justified in recovering the arrears of development fee @ Rs. 36 per month, as against which, the school recovered the same @ Rs. 60 per month. Thus there was an excess recovery of Rs. 24 per month for seven months i.e. 01/09/2008 to 31/03/2009. The excess recovery works out 40% of the total recovery on this account. The total recovery on this account, as per the school's own submission was Rs. 9,46,000 @ 15% of the incremental tuition fee. Hence, in view of the Committee, a sum of **Rs. 3,78,400** was recovered unauthorisedly and such recovery was in contravention to the provisions of Section 17(3) of Delhi School Education Act, 1973. The Committee is of the view that the school ought to refund such excess recovery of Rs. 3,78,400 along with interest @ 9% per annum. The Committee also notes that while working out the deficit on account of implementation of VI Pay Commission report, the calculation sheet as prepared by the audit officer, has considered the recovery of full amount of Rs. 9,46,000. If the sum of Rs. 3,78,400 out of this is refunded, the deficit of the school would go up from Rs. 1,98,83,213 to **Rs. 2,02,61,613**. This will be duly factored in when we make the recommendations regarding regular development fee for the years 2009-10 and 2010-11.

3. Development Fee:

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The Committee notes that the development fee charged by the school in the year 2009-10 and 2010-11 was @ 15% of the tuition fee. So far as the rate of development fee @ 15% in 2009-10 and 2010-11 is concerned, the same suffers from no infirmity as it was authorized by para 14 of the aforesaid order. As per the information furnished by the school and also the audited financials of the school, the development fee charged by the school in these two years was as follows:

Development fee charged in 2009-10	Rs. 94,33,548
Development fee charged in 2010-11	Rs. 1,19,05,080
Total	Rs. 2,13,38,628

We have already cited the relevant extracts of the judgment of the Hon'ble Supreme Court in the case of Modern School vs. Union of India (supra). At the risk of being repetitive, we once again reproduce below the relevant portion of the judgment for immediate reference:

> *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,*

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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 law laid down by the Hon'ble Supreme Court, the development fee has to be collected only if the school maintains a depreciation reserve fund equivalent to the depreciation charged. The Committee finds that the school has not maintained any earmarked fund in respect of depreciation charged on the assets acquired out of development fee. The Committee is, therefore of the view, that since this essential pre condition for charging development fee was not fulfilled by the school, it was not authorized to charge any development fee at all. For this reason, the Committee has rejects the submission of the school that the FDRs held against development fund should not be considered as part of funds available for implementation of VI Pay Commission report. The Committee is further of the view that the development fee charged by the school in the years 2009-10 and 2010-11 amounting to **Rs. 2,13,38,628** was not in accordance with law and ought to be refunded. However, the Committee notes that the school was in deficit to the tune of **Rs. 2,02,61,613** and has neither claimed nor been allowed any further hike in tuition fee and also that the school utilised a sum of Rs. 44,98,625 out of the development fee of 2009-10 for payment of arrears of VI Pay Commission. Therefore, the deficit of Rs. 2,02,61,613

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ought to be set off against the aforesaid amount of Rs. 2,13,38,628 and only the balance of **Rs. 10,77,015** (out of the development fee of 2010-11) ought to be refunded, along with interest @ 9% per annum from the date of collection to date of refund.

Recommendations:

The Committee therefore recommends that:

1. **The school ought to refund a sum of Rs. 3,78,400 out of the arrears of development fee for the period 01/09/2008 to 31/03/2009 along with interest @ 9% per annum, from the date of collection to the date of refund.**
2. **No intervention is required in the matter of recovery of lump sum arrear fee or the recovery of increased tuition fee w.e.f. 01/09/2008.**
3. **The school ought to refund a sum of Rs. 10,77,015 out of the development fee for the year 2010-11 along with interest @ 9% per annum, from the date of collection to the date of refund.**

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 20/02/2015

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St. Vivekanand Sr. Sec. School, Ladpur.Delhi

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

4. With a view to verify the returns, the Office of the Committee vide its notice dated 10.01.2014 required the school to appear on 05.02.2014 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

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5. On 05.02.2014, Sh. Yuvraj, manager and Sh. Pankaj, Accountant of the school attended the office of the Committee and produced record. Reply to the questionnaire was also filed. As per the reply:-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.11.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009. w.e.f. 01. 04. 2009.

(iii) The school had collected development fee.

6 The record, in the first instance, was examined by Mrs. Sunita Nautiyal, Audit Officer of the Committee. She observed to the effect that:

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission w.e.f. 01.11.2009.

(ii) The school hiked tuition fee in 2009-10 in terms of the order of the Director of Education dated 11.02.2009. During 2010-11, hike in fee was by 10%.

(iii) The school had collected development fee from the students.

The Audit Officer after examination of the original record produced by the school returned the same to the representatives of the school.

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7. By notice dated 27.04.2015, the school was asked to appear on 06.05.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8 On 06.05.2015, Sh. Yuvraj Punj, Manager and Sh. Pankaj Bhardwaj, Accountant of the school appeared before the Committee and produced the record. They submitted that the development fee was introduced by the school in 2010-11. They stated that the school hiked the tuition fee by Rs.100/- p.m. as per the order of the Director of Education dated 11-02-2009. However, as regards implementation of the recommendations of the 6th Pay Commission, they submitted that the school could pay only the basic salary and grade pay. The HRA, TA and DA were not fully paid.

The Committee has examined the salary payment sheet and the bank statement and found that the consolidated cheques issued on 10-02-2011 were not encashed till 31-03-2011. The school submitted that the cheques were encashed as and when the funds were available.

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The Audit Officer of the Committee was directed to tabulate the total salary paid in 2010-11, giving the dates of issue of cheques and their encashment.

The Audit Officer of the Committee has prepared the statement, which has been perused by the Committee.

Discussions and findings

9. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
K.G.	300	400	100	500	100
I	370	470	100	510	40
II	410	500	90	550	50
III	410	505	95	555	50
IV & V	460	555	95	610	55

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VI to VIII	520	615	95	675	60
IX	605	700	95	770	70
X	660	750	90	825	75

10. From the above, it is obvious that the school has increased the fee during the year 2009-10, in terms of the order of the Director of Education dated 11/02/2009 for classes K.G. and I and for all other classes the hike was more than 10%. However, during 2010-11, the hike was by 10% for all classes, except class K.G., where the hike was more than 10%.

11. According to school it has implemented the recommendations of the 6th Pay Commission, but the school could pay only the basic salary and grade pay as per the aforesaid recommendations. Even the HRA, TA and DA were not fully paid. Further, in the instant case as in a number of cases, the salary cheques issued to the staff members were encashed after much delay. In some cases, the cheques were encashed even more than a year after the issue thereof, apparently after changing the date of issue.

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In the circumstances the stand of the school that it has implemented the recommendations of the 6th Pay Commission is a ruse and cannot be accepted.

RECOMMENDATION

Re. Fee Hike

Since the school has hiked the fee in 2009-10, though not in terms of the order of the Director of Education, dated 11.02.2009, for all classes, but the hike in fee was more than the permissible limit of 10%, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent

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years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re. Development Fee.

The school has charged development fee from the students in the following manner;

Year	Development Fee Charged
2010-11	Rs. 8,55,150.00

The development fee has been treated as a revenue receipt and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs. 8,55,150.00 during the year 2010-11 in the garb of the

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order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated— 25.05.2015

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Mater Dei School, Tilak Lane, New Delhi-110001

In response to the questionnaire dated 27/02/2012, issued by the Committee, the school, vide its letter dated 07/03/2012, stated as follows:

(a) It had implemented the recommendations of VIth Pay Commission w.e.f. September 2008. The monthly salary for the pre implementation period was Rs. 15,92,420, which rose to Rs. 27,31,803 after its implementation. Thus the monthly salary bill increased by Rs. 11,39,383.

(b) It had paid the arrears of salary for the period 01/01/2006 to 31/08/2008 in three installments in February 2010 (Rs. 51,75,491), May 2010 (Rs. 51,66,575) and September 2010 (Rs. 25,56,788).

(c) It hiked the fee in pursuance of order dated 11/02/2009 issued by the Director of Education, by Rs. 300 per month effective from September 2008 and also recovered one time arrear at the rate of Rs. 3000 per student for the period 01/01/2006 to 31/08/2008. No recovery of arrear of development fee was made, as the same continued to be charged @ Rs. 100 per month from September 2008 as was being charged earlier.

(d) The fees charged by the school for the years 2008-09 and 2009-10 were as follows:

Class	Monthly Tuition fee in 2008-09 (Rs.)	Monthly Tuition fee in 2009-10 (Rs.)	Increase in monthly Tuition fee in 2009-10 (Rs.)
I to III	1130	1430	300
IV to V	1180	1480	300
VI to XII	1270	1570	300

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Mater Dei School, Tilak Lane, New Delhi-110001 000071

Copies of the Annual returns filed by the school under rule 180 of Delhi School Education Rules 1973, were received from the office of the concerned Dy. Director of Education. On examination of these returns and the reply to the questionnaire, the school was placed in category 'B' for verification.

The Committee issued a notice dated 03/03/2015 requiring the school to furnish the aggregate figures of arrear fee for different periods, regular tuition fee for 2008-09, 2009-10 and 2010-11, arrear salary and regular salary for these years, duly reconciled with the Income & Expenditure Account. The school was also required to furnish bank statements highlighting payment of salaries, the statement of account of the trust/ society running the school as appearing in its books, details of accrued liabilities, gratuity and leave encashment and copy of the circular issued by the school to the parents regarding fee hike. The hearing was initially fixed for 26/03/2015 but was postponed to 27/03/2015. However, the Committee received a letter dated 26/03/2015 from the school, requesting to postpone the hearing to a date after 06/04/2015 as the school was pre occupied with new admissions for the session.

Acceding to the request of the school, the hearing was postponed to 09/04/2015. On this date, Sh. Martin Pintoo, Chartered Accountant, Sh. Stanley Michael, Accountant and Sh. Parmod Sinha, Assistant Accountant of the school appeared with authorisation from the Manager of the school. They furnished the requisite information and documents as per the Committee's Notice dated 03/03/2015. The representatives of the school were partly heard by the Committee. They reiterated the contents of the

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reply to the questionnaire issued by the Committee. They further clarified that the school did not recover any arrears of development fee for the period 01/09/2008 to 31/03/2009, which the school could have legitimately recovered on account of the increase in tuition fee.

With regard to implementation of the recommendations of VI Pay Commission, they submitted that the school had fully implemented the recommendations and also paid the full amount of arrears. The payment of arrears as well as regular salary was made through direct bank transfer after proper deductions of TDS. They produced copies of bank statements in support of their contention.

It was also submitted that the school did not have any transaction with its parent society and in support of this contention, the representatives of the school filed audited financials of the parent society.

The representatives also contended that the school needed to have sufficient funds in reserve for future contingencies and for meeting accrued liabilities in respect of gratuity and leave encashment. In support of the quantum of such liabilities, they filed actuarial valuation reports. As per these reports, the accrued liability of the school for gratuity was Rs. 73,53,631 as on 31/03/2008 and **Rs. 82,14,227** as on 31/03/2010. The respective figures for the accrued liability of leave encashment in these two dates was Rs. 33,91,081 and **Rs. 52,49,397.**

During the course of hearing, the position regarding the funds available with the school as on 31/03/2008 i.e. the latest date before the fee hike for which the audited balance sheet is available, was examined by the

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Mater Dei School, Tilak Lane, New Delhi-110001

Committee with the assistance of the authorized representatives of the school. The following computation was made by the Committee, as regard the funds available with the school, before the fee hike:

Current assets			
Cash in hand and at bank		1,304,263	
Less earmarked accounts:			
(a) SSAF	139,926		
(b) Golden Jubilee	510,392	650,318	653,945
Fixed deposits:		34,699,735	
Less earmarked FDRs			
(a) CBSE security	409,767		
(b) Directorate of Education	20,000		
(c) Prizes and Scholarship fund	924,616	1,354,383	33,345,352
Total			33,999,297
Less Current liabilities			
Caution money refundable			100,094
Net Current assets (Funds available)			**33,899,203**

The above computation of funds available with the school at the threshold was agreed to by the representatives of the school.

On examination of the details of fee and salary filed by them, the Committee noticed that there was an apparent mistake in the figures of salary for the years 2008-09 and 2009-10. It was shown that the expenditure on regular salary had actually reduced from Rs. 2.68 crores in

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2008-09 to Rs. 2.29 crores in 2009-10, despite implementation of the VI Pay Commission report in 2009-10. The representatives sought time to have a relook at the details filed and make the necessary amends. The school was given time to do so and the next date of hearing was fixed for 24/04/2015. On this date, the representatives of the school appeared and filed the following information with regard to fee and salaries for the years 2008-09, 2009-10 and 2010-11:

Fee	**2008-09**	**2009-10**	**2010-11**
Arrear fee for the period from 01.01.2006 to 31.08.2008	22,23,250	27,71,500	3,000
Arrear fee (Tuition fee) for the period from 01.09.2008 to 31.03.2009	30,14,700	3,70,500	0
Regular/ Normal Tuition Fee	2,53,32,570	3,14,91,280	3,47,04,927
Regular/ Normal Development Fee, if treated as revenue receipt	22,87,140	47,70,425	53,68,850
Salary			
Arrear Salary for 01.01.2006 to 31.08.2008	0	49,69,931	74,18,938
Arrear Salary for 01.09.2008 to 31.03.2009	0	64,06,643	0
Regular/ Normal Salary	2,20,53,284	2,79,29,257	3,36,49,068

The information, as furnished by the school, was verified by the Committee with reference to the books of accounts of the school and was found to be in order.

Discussion

Since the relevant figures which would go into the calculations which are to be made by the Committee have either been agreed to by the

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authorized representatives of the school or the same have been furnished by the school itself and verified by the Committee, there is no bone of contention as far as the correctness of figures is concerned. The Committee is required to determine whether the school could have implemented the recommendations of the VI Pay Commission out of the funds available with it or there was a need to hike the fee. Secondly, if the fee was to be hiked on account of insufficiency of funds, to what extent it ought to have been hiked.

As per the determinations of the Committee as mentioned supra, the school had available with it funds amounting to Rs. **3,38,99,203.** The Committee has taken a consistent view that the entire funds available with the school, ought not to be considered as available for implementing the recommendations of VI Pay Commission report. The school ought to maintain sufficient reserves for meeting its accrued liabilities of gratuity and leave encashment and also for meeting any future contingencies. The Committee has adopted a yardstick that for future contingencies, the school may retain reserves equivalent to four months salaries.

The school has filed actuarial valuation reports estimating the liability of the school to be **Rs. 82,14,227** for gratuity and **Rs. 52,49,397** for leave encashment as on 31/03/2010. The total expenditure of the school on regular salaries for the year 2009-10 was Rs. 2,79,29,257. Based on this, the requirement of the school to keep funds in reserve for future contingencies amounts to **Rs. 93,09,752**. Thus the total

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funds which the school ought to keep in reserve amounts to **Rs. 2,27,73,376.** After setting apart this amount, the school was still left with **Rs. 1,11,25,826**, which were available with it for implementation of VI Pay Commission report.

The total impact of implementing the recommendations of the VI Pay Commission was as follows:

Arrear salary for the period 01/01/2006 to 31/08/2008		1,23,88,869
Arrear salary for the period 01/09/2008 to 31/03/2009		64,06,643
Incremental regular salary for the Financial Year 2009-10: Total regular salary for F.Y. 2009-10 Less total regular salary for F.Y. 2008-09	 2,79,29,257 2,20,53,284	 58,75,973
Total		**2,46,71,485**

It is evident from above that the school did need to hike the fee as the funds available with it (Rs. 1,11,25,826) were not sufficient for fully implementing the recommendations of the VI Pay Commission, which required an outgo of Rs. 2,46,71,485. The school was short of funds to the extent of **Rs. 1,35,45,659**, which needed to be bridged by hiking the fee/recovering the arrear fee, as recommended by the order dated 11/02/2009 issued by the Director of Education.

Now let us see how much funds the school generated by recovering the arrear fee. As mentioned supra, the school recovered a total amount of Rs. 49,97,750 (22,23,250 + 27,71,500 + 3,000) as arrear fee for the period 01/01/2006 to 31/08/2008. The school also recovered arrear fee

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amounting to Rs. 33,85,200 (30,14,700 + 3,70,500) for the period 01/09/2008 to 31/03/2009. Thus the school recovered a total of Rs. 83,82,950 as arrear fee. The school still had a shortfall of Rs. 51,62,709 which required to be bridged by hiking the regular fee for the year 2009-10. The school recovered a sum of Rs. 61,58,710 (3,14,91,280 – 2,53,32,570) as incremental fee for the year 2009-10. Thus the school recovered a sum of Rs. 9,96,001, in excess of its requirements. The Committee is of the view that the fee hiked by the school to the extent of **Rs. 9,96,001** was more than what was justified and the school ought to refund the same to the students along with interest @ 9% per annum from the date of collection to the date of refund.

Development Fee

In response to the questionnaire regarding development fee, issued by the committee, the school stated as follows:

(a) It charged development fee in all the five years for which the information was sought by the Committee i.e. 2006-07 to 2010-11

(b) Development fee is treated as a revenue receipt in the accounts.

(c) No earmarked accounts are maintained for development fund or depreciation reserve fund.

The Committee has examined the reply given by the school to the questionnaire regarding development fee issued to it as also the audited financials of the school. The Committee finds that the school is quite truthful in its reply. The Committee is of the view that the school was not fulfilling

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Mater Dei School, Tilak Lane, New Delhi-110001

any of the essential pre-conditions prescribed by the Duggal Committee, which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India (2004) 5 SCC 583, for charging Development fee. As per the recommendations of the Duggal Committee, the schools can charge development fee if it is treated as a capital receipt and is utilised for purchase or upgradation of furniture and fixtures or equipments. Further, apart from the treatment in accounts, the schools can charge development fee only if earmarked fund accounts are maintained for parking unutilised development fund and the depreciation reserve fund in respect of depreciation on assets acquired out of development fund. On its own showing, the school was not fulfilling any of the pre conditions laid down for charging of development fee.

The Committee is therefore of the view that the school was not justified in charging development fee in any of the years. However, in view of its mandate which is to examine the issue of fee charged by the schools pursuant to order dated 11/02/2009 issued by the Director of Education, the Committee is recommending refund of development fee charged by the school only for the years 2009-10 and 2010-11. As per the figures furnished by the school in its reply to the questionnaire regarding development fee and also in the statement of fee and salary charged by the school, the Committee finds that the school recovered a sum of **Rs. 47,70,425** as development fee in the year 2009-10 and **Rs. 53,68,850** in the year 2010-11. The school ought to refund the development fee charged in these two years along with interest @ 9% per annum from the date of collection to the date of refund.

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With regard to the remaining years, the Director of Education may take an appropriate view in accordance with law.

Recommendations:

In view of the foregoing discussion, the Committee recommends that the school ought to refund the following amounts, along with interest @ 9% per annum from the date of collection to the date of refund:

(1) Out of the fee charged for the year 2009-10, a sum of Rs. 9,96,001.

(2) The development fee of Rs. 47,70,425 charged by the school in 2009-10.

(3) The development fee of Rs. 53,68,850 charged by the school in 2010-11.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 14/05/2015

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Springdales School, Pusa Road, New Delhi-110005

In reply to the questionnaire dated 27/02/2012 issued by the Committee, the school, vide its letter dated March 02, 2012 stated as follows:

(a) That it had implemented the recommendations of the VI Pay Commission w.e.f. 01/01/2006.

(b) That the total salary paid to the staff in the year 2008-09 i.e. before implementation of VI Pay Commission report was Rs. 3,59,90,754 which rose to Rs. 6,91,66,541 in the year 2009-10 and Rs. 5,78,44,969 in the year 2010-11, after its implementation. It was stated that the total salary for the years 2009-10 and 2010-11, as stated above, included arrears of salary on account of implementation of VI Pay Commission report.

(c) The fee was increased w.e.f. 01/09/2008 as per the order dated 11/02/2009 issued by the Director of Education. Schedules of pre revision and post revision fee were enclosed as per which, a sum of Rs. 400 per month was increased as tuition fee w.e.f. 01/09/2008. However, the development fee which was hitherto charged at a fixed rate of Rs. 1550 per annum for all the classes, irrespective of the tuition fee, was hiked to Rs. 3340 for classes pre school to I, Rs. 3550 for classes IInd to V, Rs. 3580 for classes VI to VIII, Rs. 3700 for classes IX & X, Rs. 3700 for classes XI & XII (Arts/Commerce) and Rs. 3860 for classes XI & XII (Science).

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(d) As for the recovery of lump sum arrears, it was stated that the same were charged @ Rs. 3500 per student as per the aforesaid order dated 11/02/2009.

The annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973 for the years 2006-07 to 2010-11 as also the break up of regular salary and arrear salary paid in the relevant years, and a copy of the circular issued to the parents regarding hike in fee, were requisitioned from the concerned Dy. Director of Education. These were, in turn, requisitioned by the Education Officer of the Directorate of Education from the school. These were provided by the school to the Education Officer under cover of its letter dated 01/02/2012 and 29/11/2012. The Education Officer, forwarded these documents to the Committee under cover of its letter dated 01/12/2012.

On perusal of the circular of the school dated 4th March 2009, the Committee finds that it demanded increased fee from the parents, who were informed that the Education Department had issued an order, as per which the monthly tuition fee of the students was required to be raised by Rs. 400 per month w.e.f. 01/09/2008 "plus consequent 15% increase in development fee, during academic session 2008-09.......". The portion underlined by us is of significance as would be noticed in our recommendations.

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ANIL DEV SINGH
COMMITTEE
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Springdales School, Pusa Road, New Delhi-110005 000082

The Committee issued a notice dated 28/10/2014 requiring the school to appear before the Committee on 28/11/2014. Further, the school was required to furnish the details of arrear fee and salary for the period 01/01/2006 to 31/08/2008, 01/09/2008 to 31/03/2009 and regular fee and salary for the year 2009-10, duly reconciled with the audited Income & Expenditure Account of the school, statement of account of the Parent Society, details of accrued liabilities of gratuity and leave encashment.

On the date of hearing, the school appeared through Sh. Anil Sharma, Accountant of the school. He filed a letter dated 28/11/2014, giving the information required vide Committee's Notice dated 28/10/2014. With regard to the statement of account of the Parent Society, the school stated that no such account existed. It furnished actuarial valuation report in respect of the accrued liability of gratuity, as per which the quantum of this liability as on 31/03/2009, 31/03/2010 and 31/03/2011 was as follows:

(a) As on 31/03/2009	Rs. 1,46,25,669
(b) As on 31/03/2010	Rs. 1,66,91,536
(c) As on 31/03/2011	Rs. 1,91,21,577

No details were given for accrued liability on account of leave encashment, presumably for the reason that no such liability existed.

With regard to the fee recovered and salary paid consequent to implementation of VI Pay Commission report, the school furnished the following information:

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Springdales School, Pusa Road, New Delhi-110005

Fee	2008-09	2009-10	2010-11
Arrear fee for the period from 01.01.2006 to 31.08.2008	37,39,165	39,58,423	
Arrear fee (Tuition fee) for the period from 01.09.2008 to 31.03.2009	22,17,797	45,38,234	
Arrear fee (Development fee) for the period from 01.09.2008 to 31.03.2009	13,48,650	32,87,956	
Regular/ Normal Tuition Fee (net of concessions)	5,28,28,261	6,82,82,405	7,33,20,806
Regular/Normal Development fee (net of concessions)	40,13,520	1,06,43,529	1,15,48,105
Salary			
Arrear Salary for 01.01.2006 to 31.08.2008		1,92,34,591	9,02,718
Arrear salary for 01/09/2008 to 31/03/2009	72,27,664		
Regular/ Normal Salary	3,77,53,710	5,96,31,389	7,00,02,884

The representatives of the school sought adjournment of hearing on account of non availability of the Chartered Accountant of the school. At his request, the matter was directed to be relisted on 08/12/2014. A questionnaire regarding development fee was also given to the representative for filing reply on the said date. However, on account of certain exigencies, the meeting of the Committee could not be held on 08/12/2014, of which due intimation was given to the school in advance. A fresh notice of hearing was issued on 24/12/2014 for hearing on 31/12/2014. On this date, Sh. S.S. Kalra, Chartered Accountant of the school and its authorized representative, Sh. Rajeev Sharma and Sh. Rakesh Sharma, accountants of the school appeared and filed reply to the questionnaire regarding development fee. We will advert to this reply when we discuss the issue of development fee.

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Springdales School, Pusa Road, New Delhi-110005

The authorized representatives appeared for the school were heard and with their assistance, the financials of the school and the information furnished by it were perused. They contended that the hike in tuition fee was justified as the liability of the school arising on account of VI Pay Commission was much larger than the additional resources generated by the school by hiking the tuition fee. It was also contended that the school had to partly utilise development fee also for meeting its liabilities on account of implementation of VI Pay Commission report.

The Committee observed that the incremental development fee for the period 01/09/2008 to 31/03/2009, charged by the school as a consequence of the increase in tuition fee for the said period was Rs. 46,36,606, while the incremental tuition fee for the same period was Rs. 67,56,031. Thus the incremental development fee was recovered @ 68.63% of the incremental tuition fee, while the school had itself informed the parents vide its circular dated 4th March 2009 that the Directorate of Education had permitted to increase development @ 15% of incremental tuition fee.

The authorized representatives of the school sought and was given liberty to file supplementary written submissions within 10 days. The school filed its written submissions dated 05/01/2015, vide which it contended as follows:

(a) The incremental development fee was charged by the school in terms of para 14 of the order dated 11/02/2009 issued by the Director of Education. The increase was not 68% but 15% only.

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Springdales School, Pusa Road, New Delhi-110005 000085

(b) Prior to implementing circular dated 11/02/2009, the school had been charging development at the flat rate of Rs. 1550 per student. After adding the arrear in tuition fee, the school worked out the development fee @ 15% of the "Total annual tuition fee". Thereafter, the school charged the balance amount from the students after deducting the amount already charged in fee.

(c) The school charged the incremental development fee as follows:

Class	Annual Tuition fee (pre hike)	Incremental tuition fee	Annual tuition fee (post hike)	Development Fee @ 15% of post hike tuition fee	Development fee already recovered	Balance amount recovered (Incremental development fee)
Pre school to I	19,440	2,800	22,240	3,340	1,550	1,790
II to V	20,880	2,800	23,680	3,550	1,550	2,000
VI to VIII	21,060	2,800	23,860	3,580	1,550	2,030
IX to X	21,840	2,800	24,640	3,700	1,550	2,150
XI & XII (Arts & Commerce	21,840	2,800	24,640	3,700	1,550	2,150
XI & XII (Science)	22,920	2,800	25,720	3,860	1,550	2,310

(d) The incremental development fee has been fully utilised for meeting the shortfall on account of salary/arrears due on account of implementation of VI Pay Commission report.

Discussion & Determinations:

(1) Incremental development Fee:

The moot question that arises is whether the order dated 11/02/2009 issued by the Director of Education permitting the schools to hike tuition fee and recover the arrear fee in order to meet the additional expenditure on salary on account of implementation of the VI Pay Commission report, permitted any hike in development fee also. If yes, to what extent. Paras

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4,5,7, 14 & 15 of the aforesaid order which are relevant for the purpose, read as follows:

4. All schools have been placed in five (5) categories based on their monthly tuition Fees at present. Increase in the Tuition fee, as mentioned below, is permitted with effect from 1 September 2008 for those schools who need to raise additional funding for additional requirement on account of the implementation of the 6th Central Pay Commission recommendations:-

Category	Existing Tuition fee (per month)	Proposed increase in tuition fee (Maximum limit) per month
1.	Upto Rs. 500 p.m.	Rs. 100 p.m.
2.	Rs. 501 to Rs. 1,000	Rs. 200 p.m.
3.	Rs. 1,001 to Rs. 1,500	Rs. 300 p.m.
4.	Rs. 1,501 to Rs. 2,000	Rs. 400 p.m.
5.	Above Rs. 2,000	Rs. 500 p.m.

5. There shall not be any further increase in the Tuition fee beyond the limit prescribed in para 4 hereinabove, till March 2010.

7. The arrears for meeting the requirement of salary etc. from 1st January 2006 to 31st August 2008 as per 6th Central Pay Commission recommendations will be paid by the parents subject to the limitation prescribed below:-

Category	Existing Tuition Fee (per month)	Arrear		Total (i + ii)
		(Ist Installment) (i)	(2nd Installment) (ii)	
1.	Upto Rs.500/- P.M.	Rs.1,000/-	Rs.1,000/-	Rs.2,000/-
2.	Rs.501/- to Rs.1000/-	Rs.1,250/-	Rs.1,250/-	Rs.2,500/-
3.	Rs.1,001/- to Rs.1500/-	Rs.1,500/-	Rs.1,500/-	Rs.3,000/-

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4.	*Rs.1,501/- to Rs.2,000/-*	*Rs.1,750/-*	*Rs.1,750/-*	*Rs.3,500/-*
5.	*Above Rs. 2,000/-*	*Rs.2,250/-*	*Rs.2,250/-*	*Rs.4,500/-*

The first installment may be deposited by 31st March 2009 and the second by 30th September 2009. Schools, however are at liberty to prescribe later dates.

14. *Development fee, not exceeding 15% of the total annual tuition fee, may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under the head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*

15. *However, the additional increase in Development Fee on account of increase in Tuition Fee shall be utilized for the purpose of meeting any shortfall on account of salary/arrears only.*

On going through the entire order, the Committee finds that it primarily permits hike in tuition fee w.e.f. 01/09/2008 and recovery of lump sum arrears for payment of arrear salary from 1st January 2006 to 31st August 2008. It further ordains that no further hike in fee till March 2010 would be permitted. The reference to the development fee in the aforesaid order is only in paras 14 & 15, as reproduced above. Whether these paras can be construed to allow the schools to retrospectively revise or charge development fee w.e.f. 01/04/2008 is the question that is to be determined by the Committee. One thing is clear that although there is no specific reference to any increase in development fee in terms of the aforesaid order, para 15 of the said order can be construed to be permitting increase in

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development fee as a result of increase in tuition fee. As the tuition fee was allowed to be increased only w.e.f. 01/09/2008, the additional development fee could also be raised with effect from the same date and not from any anterior date. However, where there is no definite linkage between the development fee and the tuition fee e.g. where development fee is charged at a fixed rate within the overall cap of 15%, irrespective of the amount of tuition fee, the school would not be justified in hiking the development fee as a result of tuition fee.

The charge of development fee in case of unaided private schools was permitted for the first time by order no. De.15/Act/Duggal.Com./ 203/99/23033-23980 dated 15/12/1999 which was issued in pursuance of the recommendations of Duggal Committee constituted by the Hon'ble Delhi High Court in the case of Delhi Abhibhavak Maha Sangh vs. Union of India AIR 1999 Del 124. Para 7 of this order read as under:

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

The aforementioned order of the Director of Education was considered by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 and it was held as follows:

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

The contention of the school that it charged additional development fee in pursuance of para 14 of the order dated 11/02/2009 has to be examined in light of the above background. Para 14 as aforementioned, did not introduce the development fee as an additional resource and that too for the purpose of meeting the liabilities arising out of the implementation of VI Pay Commission report. It is a repeat of para 7 of the order dated 15/12/1999 issued by the Director of Education. The only change being that the maximum cap of charge of development fee was raised from 10% to 15% of the tuition fee to bring it in accord with the judgment of the Hon'ble Supreme Court. Para 14 as aforesaid does not envisage any increase in development fee w.e.f. 01/04/2008 as contended

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by the school. It only means that in future, the school may charge development fee @ 15% of the annual tuition fee for specified purposes and that too subject to fulfillment of the specified conditions. It is prospective in nature. Since the order is dated 11/02/2009 and para 5 thereof forbids the schools to make any further increase in tuition fee, over and above that permitted vide para 4, till March 2010, para 14 of the circular has to be construed to mean that for the year 2009-10, the schools may charge development fee @ 15% of tuition fee, if the schools were charging the same at a lesser rate in the past. There is neither any specific provision nor any such implication can be drawn that the schools may retrospectively hike the development fee w.e.f. 01/04/2008. It would be worthwhile to reproduce section 17 (3) of the Delhi School Education Act, 1973. The same reads as follows:

Section 17(3):

> *The Manager of every recognised school shall, before the commencement of each academic session, file with the Director a full statement of the fees to be levied by such school during the ensuing academic session, and except with the prior approval of the Director, no such school shall charge, during that academic session, any fee in excess of the fee specified by its Manager in the said statement.*

It is apparent from the above provision of law that, let alone any hike with retrospective effect, the schools cannot hike even prospectively any fee over and above the fee mentioned in the statement filed with the Director before the commencement of the academic session, without prior approval of the Director. The order dated 11/02/2009 issued by the

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Director permits the schools to hike the tuition fee (and consequently development fee) w.e.f. 01/09/2008. This order nowhere provides for any hike in any fee, much less development fee, w.e.f. any anterior date.

Thus, in view of the Committee, the school misread or misinterpreted the order dated 11/02/2009 to justify the hike in development fee for the period 01/04/2008 to 31/08/2008. In fact, the increase in development fee by the school for the aforesaid period is neither permitted by law nor by the aforesaid order.

The next question that arises is whether the school was justified in hiking the development fee for the period 01/09/2008 to 31/03/2009. We have already discussed, supra, that the order dated 11/02/2009 of the Director of Education did not permit any hike in development fee in specific terms. However, para 15 of the order, can be construed to be permitting such a hike w.e.f. 01/09/2008 provided the development fee charged by the school is linked to the tuition fee. The charge of development fee is not compulsory for the schools. However, the schools have been permitted to charge the same at a rate not exceeding 15% of the tuition fee. Schools are at liberty to charge development fee at a lesser percentage or not to charge the same at all.

Therefore it is necessary to examine as to whether the development fee charged by the school was linked to the tuition fee before it was hiked. It would be apposite to reproduce here the fee schedule for the academic

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session 2008-09, filed by the school under Section 17(3) of the Delhi School Education Act, 1973:

Springdales School, Pusa Road, New Delhi		
Fee Schedule for 2008-09		
1.	**At the time of Admission**	**2008-09**
	Registration Fee	25
	Admission Fee	200
	Security(Refundable)	500
2.	**Monthly Tuition fee**	
	Nursery to 1	1620
	II to V	1740
	VI to VIII	1755
	IX & X	1820
	XI & XII (Arts)	1820
	XI & XII (Science)	1910
	With Lab Facilities	
	Physics/Chem/Bio/Comp.	
3	**Annual Charges**	1000
	For Sports, Medical Insurance	
	Annual Day, Supp. Readers	
	Co-curriculars Activities, School	
	Publications & Work Experience	
4.	**Development Charges (Annual)**	
	Nursery to XII	1550
5.	**Refreshment (Monthly)**	200
	Ear Marked Charges	
	Nursery/Prep (Optional)	

It is apparent from the fee schedule for the year 2008-09 that the school recovered development charges at a fixed rate of Rs. 1550 per annum from the students of all the classes although the tuition fee for all the classes was charged at varying rates between Rs. 1620 per month (19,440 per annum) and Rs. 1910 per month (22,920 per annum). Thus

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the development fee charged by the school was not related or linked to the tuition fee, although it was within the cap of 15%. It ranged between 6.76% for classes XI & XII (Science) and 7.97% for Nursery and I. As the development fee was not linked to the tuition fee, any hike in tuition fee w.e.f. 01/09/2008, could not have resulted in a hike in development fee.

The Committee is, therefore of the view, that the school was not permitted either by law or by the order dated 11/02/2009 of the Director of Education to recover any arrears of additional development fee in terms of para 15 of the said order, even for the period 01/09/2008 to 31/03/2009.

In view of the aforesaid discussion, the school ought to refund the entire amount of additional development fee charged by it for the period 01/04/2008 to 31/03/2009, along with interest @ 9% per annum. The fact that the school utilised this arrear for meeting the shortfall on account of implementation of VI Pay Commission report is of no consequence since the recovery of arrears is, per se, illegal.

As per the information furnished by the school under cover of its letter dated 28/11/2014, the school recovered arrear of development fee amounting to Rs. 46,36,606, although it states that it relates to the period 01/09/2008 to 31/03/2009, which is factually incorrect. The Committee is of the view that the school ought to refund the aforesaid amount of Rs. 46,36,606 along with

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

2. Tuition Fee:

The Committee directed its audit officer to prepare a preliminary calculation sheet on the basis of the audited financials of the school as well as the information furnished by the school vide its reply to the questionnaire and that furnished during the course of hearing. The audit officer prepared the preliminary calculation sheet as follows:

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Springdales School, Pusa Road, New Delhi-110005

	Statement showing Fund available as on 31-03-2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report		
	Particulars	**Amount (Rs.)**	**Amount (Rs.)**
	Current Assets		
	Cash in hand	10,285	
	Bank Balance	6,001,076	
	Fixed Deposits	12,137,190	
	Advances recoverable (Other than security deposits)	408,206	**18,556,757**
Less	Current Liabilities		
	Scholarship Fund	1,564,336	
	Staff Benefit Fund	74,519	
	SDS Relief Fund	296,513	
	Class IV employees Children Fund	2,575	
	Security Retention	38,960	
	SDS Interact Club Fund	22,137	
	Weaker section Scholarship Fund	700,000	
	SDS Literacy Fund	6,254	
	Student Security	4,597,977	
	Fee received in advance	1,175,227	
	TDS Payable	3,075	**8,481,573**
	Net Current Assets + Investments		**10,075,184**
Less	Arrear of Salary as per 6th CPC w.e.f. 01.01.06 to 31.03.2009 (Information provided by school)	27,364,973	
	Incremental Salary as per 6th CPC in 2009-10	21,877,679	**49,242,652**
	Excess / (Short) Fund Before Fee Hike		**(39,167,468)**
Add	Arrear of Tuition fee for the period from 01.01.06 to 31.03.09 (information provided by school)	14,453,619	
	Development fee arrear for 1.09.08 to 31.03.09	4,636,606	
	Incremental Tuition fee in 2009-10	15,454,144	**34,544,369**
	Excess / (Short) Fund After Fee Hike		**(4,623,099)**

Working Notes

	2008-09	**2009-10**
Salary	37,753,710	59,631,389
Increase in Salary in 2009-10	**21,877,679**	

	2008-09	**2009-10**
Tuition Fee	52,828,261	68,282,405
Increase in Tuition Fee in 2009-10	**15,454,144**	

The calculation sheet has been checked by the Committee and the same has been found to be in order. It is noteworthy that the school, after

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taking into account the funds available with it at the threshold, the additional funds generated by it by way of a fee hike and recovery of arrear fee as per order dated 11/02/2009 and even after taking into account the arrears of development fee, which the Committee has found to have been illegally recovered, was in deficit after implementation of the recommendations of VI Pay Commission, to the tune of Rs. 46,23,099. After making the refund of illegally recovered development fee arrears of Rs. 46,36,606, the deficit would balloon to **Rs. 92,59,705**. This is without taking into account the amount of reserves required by the school for meeting its accrued liabilities of gratuity and a reserve for future contingencies. Since the school does not have adequate funds, there is no question of allowing it to keep funds in reserve for such purposes. However, in case after considering the issue of regular development fee, the Committee arrives at a conclusion that the same ought to be refunded on account of non fulfillment of the mandatory conditions for charging development fee, the Committee will give due regard to the requirement of the school for keeping funds in reserve for such purposes.

3. Regular Development Fee:

In reply to the questionnaire regarding development fee issued by the Committee, the school stated that it had charged development fee in all the five years for which the information was sought by the Committee. The school furnished the following information with regard to the collection and utilisation of development fee from 2006-07 to 2010-11:

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S.No.	Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
1.	**Collection of Development fee**	**36,54,250**	**38,22,275**	**54,52,070**	**1,41,92,045**	**1,18,28,550**
2.	**Uitlisation of development fee:**					
	(a) For capital expenditure	27,12,664	28,58,270	30,80,841	43,70,464	28,86,766
	(b) For revenue expenses	59,39,535	57,13,853	56,31,961	43,75,044	55,36,370
	Total utilisation	**86,52,199**	**85,72,123**	**87,12,802**	**87,45,509**	**84,23,137**

With regard to the question regarding the manner of treatment of development fee i.e. whether it is treated as a revenue receipt or as a capital receipt, the school gave a vague answer *"whole of the amount has been utilised during the respective year"*.

With regard to maintenance of depreciation reserve fund for depreciation of assets acquired out of development fee, the school stated that it was maintaining such a fund.

With regard to the maintenance of a fund account for unutilised development fee, the school stated that since the entire development fee is utilised during the year itself, there was no need to keep it in an earmarked account.

The Committee has examined the reply of the school to the questionnaire regarding development fee with reference to the audited financials of the school. At the very outset, it needs to be stated that the school was treating development fee as a revenue receipt in its accounts. It appears that for this very reason, the school gave vague reply to the question regarding the manner of treatment of development fee by the school. Further, as per the reply of the school itself, development fee was being only partially utilised for capital expenditure and such capital

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expenditure was not restricted to only furniture and fixture or equipments. The Committee is primarily concerned with the issue of fee charged by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. Hence, the Committee is restricting its review to the fee charged by the school in the years 2009-10 and 2010-11.

In the year 2009-10, the school collected development fee amounting to Rs. 1,41,92,045. As per the information furnished by the school under cover of its submission dated 28/11/2014, out of the aforesaid sum, an amount of Rs. 32,87,956 was recovered as arrear fee purportedly for the period 01/09/2008 to 31/03/2009, for which the Committee has made a separate recommendation for refund. Out of the balance of Rs. 1,09,04,089, the school claimed to have given concessions to the tune of Rs. 2,60,560. The balance of **Rs. 1,06,43,529** was recovered as regular development fee which was treated as revenue receipt. As against this, the school, of its own admitted that it incurred a total expenditure of Rs. 43,70,465 on capital account. On perusal of the details furnished by the school, the Committee finds that a sum of Rs. 13,05,815 was utilised for playground development and not for furniture and fixture or equipments. Further the school itself admits that a sum of Rs. 43,75,044 was utilised for meeting various revenue expenses.

Similarly for the year 2010-11, the school recovered a total amount of Rs. **1,18,28,550** on account of development fee. The whole amount was relatable to this year. The school utilised only a sum of Rs. 28,86,766 on

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capital account and this included a sum of Rs. 2,76,454 on play ground development and not for purchase/upgradation of furniture and fixture or equipments. Further the school itself admits that a sum of Rs. 55,36,371 was utilised by it on various revenue expenses.

The Committee does not agree with the contention of the school that the entire amount of development fee was utilised during the year itself and hence there was no need for maintenance any earmarked fund account to park the unutilised development fee. Firstly the entire amount was not utilised in 2009-10 and 2010-11 and secondly a major portion of it was utilised for unauthorized purposes.

The Committee also does not find any earmarked depreciation reserve fund in the audited balance sheets of the school. What it calls as depreciation fund is actually the amount of accumulated depreciation on fixed assets. There is no corresponding earmarked investment or bank account for such a fund, although the school does maintain earmarked fund investments/bank acounts for other funds like pension and gratuity fund, staff benefit fund, SDS relief fund, Rotary Club (West) fund, Class IV employees children welfare fund, SDS scholarship fund etc.

In view of the foregoing discussion, the Committee is of the view that the school was not following any of the pre conditions laid down by the Duggal Committee or the various fee circulars issued by the Department of Education which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (supra). Ordinarily, the Committee would

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have recommended refund of development fee charged by the school in the years 2009-10 and 2010-11, as follows:

Development fee charged in 2009-10	Rs. 1,06,43,529
Development fee charged in 2010-11	Rs. 1,18,28,550
Total	Rs. 2,24,72,079

However, the Committee notes that the school was in deficit to the tune of **Rs. 92,59,705** and while working out such deficit, the Committee had not considered any funds to be kept in reserve for accrued liabilities of gratuity and the requirement of the school to keep funds for future contingencies. The accrued liability on account of gratuity as on 31/03/2010 was **Rs. 1,66,91,536** as per the actuarial report submitted by the school. the requirement of the school for funds to be kept in reserve for future contingencies works out to **Rs.1,98,77,130**, equivalent to four months salary, based on the total expenditure on salary for the year 2009-10 which amounts to Rs.5,96,31,389.

Since the funds that are required by the school to be kept in reserve are much more than the amount of regular development fee which the school ought to refund as per the above discussion, in the opinion of the Committee , no intervention is required in the matter of the recovery of lump sum arrears of fee and recovery of increased tuition fee w.e.f. 01/09/2008. The Committee has allowed a set off of the regular development fee charged by the school against the deficit in tuition fee and requirement of school to

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keep funds in reserve for the reason that the charge of regular development fee, per se, is not unauthorized but the school was not following the pre conditions laid down for its charge. On the other hand the Committee has not allowed the set off of the recovery of additional development fee of Rs. 46,36,606 for the period 01/04/2008 to 31/03/2009 as the charge of such fee is, per se, illegal.

Recommendations:

The Committee therefore recommends that:

1. **The school ought to refund the additional development fee of Rs. 46,36,606 for the period 01/04/2008 to 31/03/2009 along with interest @ 9% per annum from the date of collection to the date of refund.**
2. **No intervention is required in the matter of recovery of lump sum arrear fee or the recovery increased fee w.e.f. 01/09/2008 or the recovery of regular development fee for the years 2009-10 and 2010-11.**

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 25/02/2015

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1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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4. With a view to verify the returns, the Office of the Committee vide its notice dated 24.07.2013, required the school to appear on 29.08.2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

5. On 29.08.2013 Sh. S.K. Gupta, Chairman/C.A. of the school attended the Office of the Committee and produced the record for the scrutiny by the Audit Officer of the Committee. Reply to the questionnaire was also filed. As per the reply;-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.04.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009 w.e.f. 01.04.2009.

(iii) The school had collected development fee from the students.

6. The record, in the first instance, was examined by Mrs. Sunita Nautial, Audit Officer of the Committee. She observed to the effect that: -

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(i) The school has implemented the recommendations of the 6th Pay Commission.

(ii) The school hiked tuition fee in 2009-10, in terms of the order of the Director of Education dated 11.2009. During 2010-11, the hike was by 10%.

The Audit Officer after examination of the record produced by the school for scrutiny returned the same to the representatives.

7. By notice dated 03.03.2015, the school was asked to appear on 25.03.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8. On 25.03.2015, Sh. S.K. Gupta, Chairman, Sh. Nitin Arora, Accountant, and Sh. Baldev Raj, Accountant of the school appeared before the Committee and produced the records.. It was contended that the school implemented the recommendations of the 6th Pay Commission w.e.f. 01-04-2009 and also paid arrears for the period 01-09-2008 to 31-03-2009 amounting to Rs.11,39,008/-. The school hiked the fee w.e.f. 01-04-2009 as per the order dated 11-02-2009 of the Director of Education and also

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recovered arrears for the period 01-09-2008 to 31-03-2009 amounting to Rs.7,63,000/-. It was further contended that the school starting charging development fee from the new students w.e.f. 2009-10 and the same was fully utilized within the year itself. The development fee was treated as revenue receipt and no earmarked development and depreciation fund were maintained. The Committee examined the books of accounts and salary records of the school and observed that the salary and arrears of the entire staff were paid in cash till 2010-11. Further, the Committee observed that till 2009-10, no TDS was deducted from the salaries but had shown as collected in cash and deposited with the Income Tax Department. Furthermore, every month 1 to 3 members of the total staff were shown on leave without pay.

9. We have gone through the record, observations of the Audit officer of the Committee and the submissions made by the representatives of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

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Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
I to VIII	900	1100	200	1200	100

10. From the above, it is manifest that the school hiked the fee during the year 2009-10, in terms of the order of the Director of Education dated 11.2.2009. During 2010-11, there was hike by 10% for all classes.

11. According to school it has implemented the recommendations of the 6th Pay Commission. The salary and arrears of salary have been paid in cash. We find that many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by paying the salary/arrears of salary to the teachers in cash/bearer cheques. Such a plea gives a lie to the stand of the school that it had implemented the recommendations of the 6th Pay Commission as there is no plausible and convincing reason, why the payment was not made by bank transfer or by account payee cheques.

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RECOMMENDATION

Re. Fee Hike

Since the school has hiked the tuition fee in 2009-10 in terms of the order of the Director of Education dated 11.02.2009, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re. Arrears of Fee.

The school has also recovered arrear of fee for the period 01-

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09-2008 to 31-03-2009 amounting to Rs.7,63,000/-. The same ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re. Development Fee;

The school has charged development fee in the following manner:-

Year	Development Fee Charged
2009-10	Rs. 68,400.00
2010-11	Rs. 61,200.00

The development fee though, had been treated as capital receipt but no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs.12,96,00.00 during the years 2009-10 and 2010-11 in

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the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar	**Justice Anil Dev Singh (Retd.)**	**Dr. R.K. Sharma**
Member	**Chairperson**	**Member**

Dated—10.04.2015

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Virendra Public School, Timarpur, Delhi-110054

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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4. By notice dated 06.04.2015, the school was asked to appear on 15.04.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

5. On 15.04.2015, Sh. Satya Narayan Prasad Singh, LDC of the school appeared before the Committee and requested for some more time to produce record. As requested the school was directed to appear before the Committee and produce record on 07.05.2015.

On 07.05.2015, Sh. Satyanaayan Prasad Singh, LDC and Sh.Brijesh Nigam, Consultant of the school appeared before the Committee and produced record. They submitted that the school neither recovered any arrear fee nor paid any arrear salary. The school has hiked tuition fee by Rs.200/- to Rs.300/- p.m. w.e.f. 01-04-2009, but recommendations of the 6th Pay Commission were **only partially implemented** w.e.f. August, 2009. Salary to the staff was paid by direct bank transfer.

The Committee noticed that the school has changed its stand. Earlier, vide letter dated 12-03-2012, in reply to the questionnaire issued

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by the Committee, the school has stated that arrear salary from January, 2006 to July, 2009 had been paid in two instalments i.e. first instalment @40% and the second instalment @60%. The school had even filed the detail of arrears paid to the teachers. The aggregate amount of arrear paid was Rs.84,02,186/-.

Further, on examination of salary sheets of the school, the Committee observed that only the basic pay, DA @ 16% only and TA were paid w.e.f. August, 2009. No TDS was deducted from the salaries of the staff till date. The school does not have a TAN.

Discussions and findings

6. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
Pre Primary to V	860	1060	200	1160	100
VI to VIII	900	1100	200	1210	110
IX	1100	1400	300	1540	140

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X	1250	1550	300	1700	150
XI	1350	1650	300	1810	160
XII	1450	1750	300	1925	175

7. From the above, it is manifest that the school has increased the fee during the year 2009-10, in terms of the order of the Director of Education dated 11/02/2009. During 2010-11, the hike was by 10%.

8. Admittedly, the school has partially implemented the recommendations of the 6th Pay Commission, as DA, TA and has not been paid as per the prescribed norms.

9. As per record the school has not collected development fee.

RECOMMENDATION

Re. Fee Hike

Since the school has hiked fee in 2009-10, in terms of the order of the Director of Education, dated 11.02.2009, without fully implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in

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excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated— 13-05-2015

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In reply to the questionnaire dated 27/02/2012 issued by the Committee, the school submitted that it had implemented the recommendations of the VI Pay Commission w.e.f. 01/01/2006. However, the actual implementation was effected w.e.f. 01/04/2009 and arrears of the differential salary for the period 01/01/2006 to 31/03/2009 were paid in the financial years 2009-10 and 2010-11 and such arrears amounted to Rs. 1,54,77,460. It further stated that the monthly salary for pre implementation period was Rs. 22,88,071, which rose to Rs. 36,73,165 after the implementation.

With regard to hike in fee in pursuance of order dated 11/02/2009 issued by the Director of Education, the school submitted that it had hiked the fee w.e.f. September 2008. It further stated that the total monthly collection of tuition fee was Rs. 68,47,750 before such hike and Rs. 80,82,418 after such hike. However, the monthly hike in collection ought to be taken as Rs. 76,91,227 as the remaining amount of increased fee was attributable to the increase in student strength. Thus, the school, in effect contended that the increase in monthly collection of fee was only Rs. 8,43,477. It is noteworthy that no such break up was given in respect of the hike in salary on account of increase in the staff strength. The school was placed in category 'B' for the purpose of verification.

A preliminary calculation sheet was drawn up by the Chartered Accountants (CAs) detailed with the Committee. As per the

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calculation sheet, they worked out that the school was in deficit after implementation of the VI Pay Commission report, to the tune of Rs. 2,53,40,584 after considering the funds available with the school as on 31/03/2008. On perusal of the calculation sheet prepared by the CAs, the Committee noticed serious discrepancies therein, some of which are as under:

(a) They had worked out that the funds available with the school as on 31/03/2008 were in the negative zone and instead of taking the funds available as zero, they had taken the negative figure of Rs. 1,68,98,171 into consideration for the purpose of making calculations to examine the justification of fee hike. Further, they did not go into the possible reasons for the funds available being in the negative zone. For working out the funds available, they considered net current assets (current assets – current liabilities) of the school as on 31/03/2008. In view of the Committee, the net current assets can turn into negative only if there is diversion of the short term funds into fixed assets or the funds are withdrawn or diverted from the school or the school is incurring cash losses.

(b) They did not take into account the arrears of differential development fee recovered by the school in pursuance of order dated 11/02/2009 issued by the Director of Education.

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The Committee was therefore, of the view that the calculation sheet prepared by the CAs could not be relied upon and therefore, the same was rejected. The Committee observed that the school had not filed its Receipt and Payment Accounts for any of the five years, for which the annual returns filed by the school were requisitioned from the Director of Education, although filing of the same is mandatory as per Appendix II, referred to in Rule 180 (1) of the Delhi School Education Rules, 1973. The Committee was of the view that the possible diversion of funds by the school could be ascertained only on examining the Receipt and Payment Accounts of the school. Accordingly, vide letter dated 21/01/2014, the Committee requisitioned the Receipt and Payment Accounts of the school for the years 2006-07 to 2009-10. Besides, the usual details like employee wise detail of arrears paid to the staff, detail of arrear fee received separately for the periods 01/01/2006 to 31/08/2008 and 01/09/2008 to 31/03/2009, complete break up of fee and other receipts as appearing in the Income & Expenditure Accounts, details of addition to fixed assets and sources of funds utilised for that purpose, detail lease rent paid by the school , detail of loans raised and repaid by the school, detail of accrued liability of gratuity and leave encashment and statement of account of the Parent Society of the school as appearing in the books of account of the school, were also requisitioned from the school. The details were required to be

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submitted by 31/01/2014. On this date, the Committee received a letter from the school requesting for some more time on account of a marriage in the family, presumably of some controlling authority. The school was allowed time upto 12/02/2014.

The school submitted the information/details under cover of its letter dated 12/02/2014. In the letter it was stated that the ceiling on fee hike prescribed by the Director of Education vide order dated 11/02/2009, did not permit the school to fully neutralize the effect of increase in salary and emoluments as a result of implementation of VI CPC. It was also requested that the Committee may make suitable recommendations to balance the outflows. In short, the school was seeking a further fee hike over and above that permitted by the Director of Education vide order dated 11/02/2009.

On receipt of the information from the school and on its perusal, the Committee was of the view that some clarifications were required and accordingly issued a notice dated 20/02/2014 to the school for hearing on 24/03/2014. On this date, Sh. J. Bajaj, Supervisor of the school appeared and filed a letter seeking adjournment on account of a sudden bereavement in the family of the Chartered Accountant of the school. Accordingly, the matter was directed to be relisted on 22/04/2014. On this date, Sh. Rahul Jain and Sh. Manoj Jain, Chartered Accountants and authorized

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representatives of the school appeared along with one Sh. Shyam Bansal, Advisor. On queries raised by the Committee on certain aspects, they submitted as follows:

(a) The school runs from a rented premises owned by Kuria Mal Real Estate Pvt. Ltd.

(b) The school does not generate any surplus from the transport fee and new buses are purchased by utilizing the depreciation reserve fund and by raising loans from banks and non banking financial companies.

(c) Development fee is utilised for purchase of furniture, fixtures and equipments. In the schedule of fixed assets for the year 2009-10 and 2010-11, it was erroneously shown that vehicles were acquired out of development fee.

(d) No separate bank accounts have been maintained for development fee and depreciation reserve fund. Hence one to one correlation of acquisition of fixed assets with the funds utilised therefor is not possible.

(e) Repayment of loans for vehicles is made out of depreciation reserve fund.

(f) Arrears of development fee for the period 01/09/2008 to 31/03/2009 were recovered @ 15% of tuition fee, though the same originally charged for 2008-09 was @ 8.33% of the tuition fee.

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In view of the submissions/stand of the school, it was required to furnish the following documents/details on the next date of hearing which was fixed on 05/05/2014:

(a) Copy of lease deed of the school covering the periods 2006-07 to 2010-11.

(b) Names of Promoters and Directors of Kuriamal Real Estate Pvt. Ltd.

(c) Names of office bearers and members of Gee Dee Educational Society, which runs the school

(d) Split Income & Expenditure Accounts for the years 2006-07 to 2010-11, showing separately transport related receipts and expenses.

(e) Ledger accounts of unsecured loans upto 31/03/2011.

(f) Detail of 'Other Receipts' from 2006-07 to 2010-11.

On 05/05/2014, Sh. Manoj Jain and Sh. Rahul Jain, CAs again appeared and filed the required details/information/documents under cover of the letter dated 05/05/2014.

As per the information furnished by the aforesaid representatives of the school, the following are the Directors/Shareholders of M/s. Kuriamal Real Estate Pvt. Ltd.:-

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Name	Capacity	No. of shares held
Brahm Dev Gupta	Director	-
Sah Dev Gupta	Director	-
Kapil Dev Gupta	Director & Shareholder	6,66,667
Yash Dev Gupta	Director & Shareholder	6,66,666
Jai Dev Gupta	Director	-
Inder Dev Gupta	Director & Shareholder	6,66,667
Puneet Gupta	Shareholder	3,33,333
Kunal Gupta	Shareholder	3,33,333
Akash Gupta	Shareholder	3,33,333
Prashant Gupta	Shareholder	3,33,334
Siddharth Gupta	Shareholder	6,66,667
Total		**40,00,000**

The Committee also noticed that the Governing Body/Executive Members of Gee Dee Educational Society, which runs the school comprised of the following:

Name & Address	Designation
Yash Dev Gupta, 6/844, Mehrauli, New Delhi	President
Jai Dev Gupta, 6/845, Mehrauli, New Delhi	Vice President
Sahdev Gupta, 6/842, Mehrauli, New Delhi	Secretary
Sangeeta, 6/846, Mehrauli, New Delhi	Treasurer
Rashmi, 6/845, Mehrauli, New Delhi	Executive Member
Greesh Mohan, 122/1, Flat No.7, Ganpati Apartments, Malviya Nagar, New Delhi	Executive Member
Promila Gupta, 4/334, Mehrauli, New Delhi	Executive Member
L. Mathew, A-1/254, Janak Puri, New Delhi	Executive Member
K.L. Sobti, CA-18, Tagore Garden, New Delhi	Executive Member

On being questioned about the close nexus between the lessor company in whose premises the school is run and the Society which

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owns the school, the representatives of the school conceded that several office bearers of the Society and Directors of the Company were the same or belonged to the same family. However, they contended that there was no legal infirmity in the school taking the building on lease from the company as the law does not require the school or society to own the building.

The Committee observed that in the reply to the questionnaire regarding development fee which was issued to the school, the school had contended that it treated the development fee as a capital receipt but perusal of its audited financials showed otherwise. When the matter was put to the representatives of the school, they contended that prior to 2009-10, it was treated as a revenue receipt but the accounting treatment was corrected in 2009-10 to show the same as a capital receipt.

The Committee also observed that the school was charging very substantial fees, apart from the tuition fee, which was being shown under the head 'Other Receipts' in the Income & Expenditure Accounts and from the details submitted by the school, it was observed that the same were charged for orientation programmes, educational trips etc. The school was asked to justify such fees vis a vis expenditure incurred against them. The school was given a week's time to furnish the same. The school furnished the required

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information under cover of its letter dated 20/05/2014. Further, it submitted the split Income & Expenditure Accounts, under cover of its letter dated 10/06/2014, to show separately the transport fee and recoveries under 'Other Charges' vis a vis the expenses incurred thereagainst.

In order to seek clarification with regard to the information furnished by the school on 20/05/2014, a fresh notice dated 19/06/2014 was issued to the school for hearing on 10/07/2014. Sh. Rahul Jain, CA put in his appearance. The split Income & Expenditure Accounts filed by the school were examined by the Committee and it was observed that even the depreciation on buses was not allocated by the school against the transport fee and yet there was either a shortfall in the transport account or there was a nominal surplus. Hence, it became apparent that the repayment of bus loans or margin money contributions therefor, did not come out of the depreciation charged on buses. The authorized representatives of the school fairly conceded that the buses were acquired and the loans therefor were repaid out of depreciation charged on all the assets of the school and such charge was against tuition fee. In effect, he conceded that the buses were acquired by the school out of the surplus generated from the tuition fee. He requested the Committee that before it takes a final view in the matter, the calculation sheet

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prepared or to be prepared by the Committee ought to be supplied to the school for its comments.

In this case, the Committee has sought extensive information from the school before preparing the preliminary calculation sheet primarily for two reasons:

(i) As per the calculation sheet prepared by the CAs, the net current assets i.e. the funds available with the school were in the negative zone, suggesting possible diversion of funds which aspect was not investigated by the CAs. In fact the diversion of funds was apparent from the balance sheet as the school had shown a liability of Rs. 1,53,65,520 on account of fee received in advance against which its cash and bank balances were just Rs. 28,61,420. The school ought to have maintained atleast the amount of the advance fee received by it in its bank balance;

(ii) The audited financials of the school suggested that the school was in fact diverting its surplus generated from tuition fee by way of withdrawals under the garb of rent paid for the school building;

(iii) The school was apparently financing its fixed assets and infrastructure also from the tuition fee charged from the

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students, although as per the decision of Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583, capital expenditure cannot form part of the fee structure of the school, and

(iv) The school was not content with the amount of fee hike allowed to it vide order dated 11/02/2009 and was seeking a further fee hike.

Before making the preliminary calculations, the Committee felt that certain issues which were unique to this school, ought to be addressed first because they will have a bearing on the final calculations to be made by the Committee. Accordingly, the Committee considered the following issues before making the preliminary calculations :-

(a) Whether the school was justified in paying rent and property tax of school building to M/s. Kuria Mal Real Estate Pvt. Ltd., which is a company owned and controlled by the same people who control the school through its parent society Gee Dee Educational Society.

(b) Whether the school can purchase vehicles or repay loans taken for their purchase out of the tuition fee:

(c) Whether the school can repay other unsecured loans out of the tuition fee.

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After due deliberations, the Committee formed a prima-facie view on these issues as follows:-

(a) that the payment of rent and property tax by the school to its Parent Society for onward payment to M/s. Kuria Mal Real Estate Pvt. Ltd. would amount to transfer of funds to the Society which is forbidden by the judgments of the Hon'ble Supreme Court in the cases of Modern School and Action Committee Unaided Private Schools.

(b) As regards the issue of purchase of buses and repayment of loans taken for their purchase, the Committee was of the prima-facie view that the issue is settled by the judgment of the Hon'ble Supreme Court in the case of Modern School vs. Union of India (supra) wherein it has been laid down that the capital expenditure cannot form part of the fee structure of the school. The necessary corollary of this is that the school cannot acquire vehicles or repay loans taken therefor out of the funds available out of tuition fee.

(c) As for repayment of unsecured loans out of tuition fee, this would depend upon the purpose for which such unsecured loans were taken in the first place. If the loans were taken for incurring capital expenditure, they obviously cannot be repaid out of tuition fee. On the other hand if the unsecured

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loans are taken to meet temporary shortages in working capital, they can be repaid out of tuition fee.

Preliminary Calculation Sheet

The Committee directed its audit officer to prepare the preliminary calculation sheet under supervision of the Committee, keeping in view the principles as discussed above. The audit officer prepared the following calculation sheet, as per which it appeared that the school had ample funds either available with it or unauthorisedly diverted by it and prima facie it also appeared that the school could have implemented the recommendations of the VI Pay Commission without resorting to any fee hike:

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Statement showing Fund availability of as on 31-03-2008 and the effect of implementation of VI Pay Commission report and fee hike as per order dated 11/02/2009

	Particulars	Amount (Rs.)	Amount (Rs.)
	Funds Diverted as per Annexure 1		**172,976,110**
	Current Assets		
	Cash in hand	202,960	
	Balances with Scheduled Bank	2,658,460	
	Advance to Contractor	1,756,451	
	Security Deposits	744,000	
	Fixed Deposits with Bank	220,927	
	Advance to Suppliers	5,201	
	Income Tax Receivable (FDR)	1,208	**5,589,207**
	Total		**178,565,317**
Less	Current Liabilities		
	Fee Received in Advance	15,365,520	
	Caution Money	921,500	
	TDS Contractor	29,793	
	TDS Prof.	14,244	
	TDS Rent	11,588	
	TDS Salary	52,349	
	Sundry Creditors	2,143,093	
	Sundry Payable	3,490,477	
	Employee PF	(1,776)	
	PTA A/C	460,590	22,487,378
	Net Current Assets (Funds available) + Funds Diverted		**156,077,939**
Less	Arrear of Salary as per 6th CPC w.e.f. 01.01.06 to 31.03.2009	15,477,460	
	Increased Salary as per 6th CPC from 01.04.09 to 31.03.2010	16,621,128	32,098,588
	Excess / (Short) Fund Before Fee Hike		**123,979,351**
Add	Arrear of Tuition Fee (As per information given by school)	5,617,500	
	Arrear of Tuition Fee for the period 1-9-08 to 31-3-09	4,532,381	
	Arrear of Development fee for the period 1.9.08 to 31.3.09 @525 p.s. (@15% of tuition fee)	679,857	
	Incremental Fee in 2009-10	15,969,764	26,799,502
	Excess / (Short) Fund After Fee Hike		**150,778,853**

Working Notes

Increased Salary in 2009-10	**Amount**
Post Implementation Salary for April 2009	3,673,165
Pre- Implementation Salary for March 2009	2,288,071
Monthly increase in Salary	1,385,094
Increase in salary in 2009-10	**16,621,128**

	2008-09	**2009-10**
Fees received as per Income & Expenditure Account	84,315,103	100,284,867
Increase in Fees in 2009-10 as per I & E A/c	**15,969,764**	

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Annexure 1

Funds which appear to be diverted (as per Receipts & Payments Accounts)

Lease Rent of School		
2006-07		
2007-08	9,000,000	
2008-09	9,000,000	
2009-10	11,250,000	
2010-11	11,250,000	
	12,656,256	**53,156,256**
Property Tax of Leased Premises		
2006-07		
2007-08	1,009,672	
2008-09	1,009,672	
2009-10	2,330,501	
2010-11	1,215,904	
	1,823,856	**7,389,605**
Purchase of Vehicles		
2006-07		
2007-08	9,011,943	
2008-09	6,406,592	
2009-10	6,386,055	
2010-11	9,701,717	
	-	**31,506,307**
Repayment of Loans to Banks taken for purchase of Vehicles		
2006-07		
2007-08	-	
2008-09	-	
2009-10	12,168,051	
2010-11	6,465,146	
	2,183,773	**20,816,970**
Repayment of Loans to NBFCs		
2007-08 (GE Capital)		
2010-11 (Tata Capital)	2,420,905	
	1,537,519	**3,958,424**
Repayment of Unsecured Loans		
2006-07		
2007-08	12,043,600	
2008-09	34,349,400	
2009-10	6,716,940	
2010-11	3,038,608	
	-	**56,148,548**
Apparent diversion of funds from 2006-07 to 2010-11		**172,976,110**

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Response of the school

A copy of the calculation sheet was sent to the school vide notice dated 22/08/2014 and an opportunity was given to the school to have its say in rebuttal. The hearing was fixed for 12/09/2014.

The school submitted its rebuttal vide written submissions dated 03/09/2014, vide which it was contended as follows:

(a) The current liability of Rs. 1,04,01,300 which was shown in the balance sheet as security deposit of buses has not been taken into account in the calculation sheet.

(b) Since the order dated 11/02/2009 of the Director of Education did not permit any further increase in fee during 2009-10, the additional expenditure on salary and other heads on account of increment/additional DA and inflation during 2009-10 ought to be taken into account.

(c) The school ought to be allowed to retain funds equivalent to four months' salary in reserve.

(d) The school was not able to make out the basis of treating a sum of Rs. 17,29,76,110 as funds which appear to have been diverted.

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The authorized representative of the school was informed of the basis on which the Committee considers this sum as diverted , during the course of hearing on 12/09/2014. He sought liberty to make written submissions on this limited aspect. The liberty was granted by the Committee and the school made detailed written submissions vide letter dated 25/09/2014.

The school vide its written submissions dated 25/09/2014, did not confine itself to the issue of funds diverted by the school but also sought to agitate the basis on which the Committee was conducting its exercise. It also relied upon an order of the Hon'ble Supreme Court dated 16/04/2014 in the matter of **DAV College Managing Committee vs. Lakshmi Naryan Mishra & ors. (Civil appeal No. 4556 of 2014)** to contend that while deciding a similar issue of revision of fee on account of implementation of VI Pay Commission recommendation, the Hon'ble Supreme Court held that the schools were entitled to a return of 10% profit above the actual expenses, as a reasonable return to the institution. It also contended that in view of this judgment, the linking of school fee with available surplus is no longer a valid law. It cited excerpts from the aforesaid judgment as follows:

7. .... It has calculated and recommend average fee per child per month for the concerned DAV schools in the State of Odisha. From the Report as well as proceedings of the sub-committee headed by a chartered accountant and annexed as Annexure 1 to the Report it was

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shown that the Committee took note of the principles governing fee structure of private unaided educational institutions as emerging from different judgments of this Court including 11-Judge Bench judgement in the case of T.M.A Pai Foundation & Ors. V. State of Karnataka & Ors. (2002) 8 SCC 481, to allow only 10% profit above the actual expenses over per child as a reasonable return to the institution and the parents' representatives were also associated with such exercise of the fee fixation.

8....., Mr. Pallav Shishodia, Sr. Advocate raised various objections to the Report and recommendations of the Fee structure Committee. He also urged that the objections raised on behalf of parents before the Committee were not given due discussion and significance and the recommended fees are much higher than what was suggested or claimed by the schools themselves in the year 2009 for the purpose of implementing recommendations of the 6th Central Pay Commission.............. The only objection which required some thought was that in 2009 the proposed fee hike was of 50-57% based upon requirement for payment of salaries as per recommendations of 6th Central Pay Commission whereas on the basis of income and expenditure figures and relevant information for the year 2012-2013, the Committee has recommended revised fee which for some schools are alleged to be in the vicinity of increase of about 200%.

10. In the aforesaid context, it was successfully explained on behalf of the appellant that in 2009 the fee increase was calculated on the basis of 22% D.A. prevalent at that time but the average D.A. in 2012-13 had increased to 72.25%. Further, due to lapse of three years, the annual increments of 3% would add to a total of 9%. The combined effect would be an increase of more than 200% of the original 2009 fees. It was also pointed out that increase in fees, as recommended by the Committee, ranges only from 46% to 119% for different schools over and above the present unrevised fee structure.

11. On carefully going through the facts and figures available on record and those considered by the Committee, we find no good reason to take exception to the fee structure recommended by the Fee Structure Committee, Odisha through its Report dated 02.05.2013.

12. Since the larger issue of law has been given up by the appellant and the same has been left open, we are not required to go into the

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same. In the facts of the case, we are re-assured by the Committee's Report that the appellant and institutions represented by it have been allowed only reasonable profit to which they are entitled under law.

13. Before parting with the matter, we would like to caution the concerned authorities that if a private educational institution has met all the requirements of obtaining No Objection Certificate and affiliation etc. then its claim for revision of fees should be considered expeditiously on permissible parameters. Objections, if any, should be entertained only from the parents' representatives and not from individual parents. An individual may at times be reckless and may harm the educational prospects of all the students of the school. If a claim for revision of fees is stalled for long due to meritless objections, it can affect academic standards on account of disgruntled staff and teachers who may even quit the institution for want of appropriate salary and perks. Such state of affairs with regard to the concerned schools has been highlighted on behalf of the appellant. The selected parents' representatives, on the other hand, are expected to be more responsible as a body. In the present case, only some individual parents have prevented the schools from realizing revised fees since 2009. It is not possible to assess the injury caused to the schools nor is it possible to award any compensation by allowing revised fees to be realized from any earlier date such as 1.6.2012 as prayed on behalf of the appellant. However, it is satisfying to note that the State of Odisha has not raised any objection to the recommendations of the Fee Structure Committee, Odisha and, therefore, there is no legal impediment of any substance in allowing this appeal.

Further, the school cited the following excerpts from the judgment of the Hon'ble Delhi High Court in WP(C) 7777 of 2009, vide which this Committee was constituted, to contend that the preliminary calculation sheet prepared by the Committee went beyond the scope of the judgment:

"82..... This Committee will be for the period covered by the impugned order dated 11.02.2009 and specifically looking into the aspect as to how much fee increase was required by each individual schools on the

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implementation of the recommendation of VI Pay Commission, i.e. it would examine the records and accounts, etc. of these schools ***and taking into consideration the funds available, etc. at the disposal of schools at that time and the principles laid down by the Supreme Court in Modern School and Action Committee Unaided Pvt. Schools as explained in this judgment.***

83. We reiterate that the fee hike contained in orders dated 11.02.2009 was by way of interim measure. There is a need to inspect and audit accounts of the schools to find out the funds to meet the increased obligation cast by the implementation of VI Pay Commission and on this basis, to determine in respect of these schools as to ***how much hike in fee, if at all, is required.*** *On the basis of this exercise, if it is found that the increase in fee proposed, order dated 11.02.2009 is more the same shall be slided down and excess amount paid by the students shall be refunded along with interest @ 9%. On the other hand, if a particular school is able to make out a case for higher increase, then it would be permissible for such school to recover from the students over and above what is charged in terms of Notification dated 11.02.2009."*

(emphasis supplied by us)

With regard to the issue of diversion of funds, the school contended that

(i) The observation of the Hon'ble Supreme Court in the matter of Modern School prohibiting acquisition of fixed/capital assets from 'fees' seems to be based on out of context quote from the judgment. The restriction of capital expenditure not constituting a component of financial fee structure is relevant to only activities falling under Rule 177 (1) (b) of the Delhi School Education Rules 1973 and not to activities under Rule 177 (2) thereof. The school can and is rather under obligation to provide_from the fees for the staff retirement benefits, expansion of the school building and any other developmental activities in the school and thereafter the 'savings' can be used for capital expenditure of the nature prescribed under the proviso to Rule 177 (1) (b).

(ii) The Hon'ble Supreme Court in the case of Modern School has not put any restriction on the operation of Rule 177 in relation to mandatory provision for activities envisaged under Rule 177 (2) inter alia including capital expenditure on expansion of the same school or any other developmental activity in the same school.

(iii) In our case, the expenses relating to school infrastructure are covered by the activities contemplated under Rule 177 (2) and hence there was no diversion of funds as shown in the calculation sheet.

(iv) The imputation of diversion of funds as lease rent and property tax of the leased premises seems to be the result of a doubt entertained by the Committee as to the permissibility of the school running from a rented building and consequent payment of rent from school fund particularly when some of the office bearers of the society and the Directors of land owning company were common. The transaction is in conformity with law. There is no stipulation for the Society to own the school building and there is no prohibition under the law that the school cannot function from rented premises. Rules 60 to 92 relate to grant in aid for the component of the rent paid by the school functioning in the rented building. Had there been a restriction on a school from functioning in rented building, there would have been no occasion for grant in aid on account of rent of school building. The form of application for recognition poses a question whether the school is housed in a rented or owned building or is in tents. The school while applying for grant of recognition duly mentioned that the school was operating from a rented premises and in pursuance of the school's application, recognition was granted. The rent paid by the school was reasonable considering the total area available to it. The owner company and the society are two different legal entities and the lease of school building was a genuine transaction.

(v) The Committee has considered the purchase of vehicles as diversion of funds and also the repayment of loans taken for acquiring of vehicles as diversion. This has resulted in duplication and ought to be corrected.

The School also submitted that the arrear fee amounting to Rs. 56,17,500 has been added separately and the same is also included in the incremental fee for the year 2009-10 as per the calculation sheet.

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Discussion

Since the school has raised multifarious contentions, it would be apposite to first summarise the issues that need to be determined by this Committee. These are as follows:

(a) Whether the preliminary calculation sheet drawn by the Committee and the steps being taken by the Committee to examine the justifiability of the fee hiked by the private unaided schools in pursuance of order dated 11/02/2009 issued by the Director of Education, are as per the mandate of this Committee, as postulated by the judgment of the Hon'ble High Court in **WP(C) 7777 of 2009**?

(b) Whether the judgment of the Hon'ble Supreme Court in **Civil appeal No. 4556 of 2014** concerning the private schools in the state of Odhisa, governed by a local enactment of that state, has any application to private unaided schools in Delhi which are governed by the provisions of Delhi State Education Act, 1973 and the rules framed thereunder and whether such judgment overrides the judgments of the Supreme Court in the cases of **Modern School (supra) and Action Committee Unaided Private Schools (supra)** which were rendered in the context of

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fixation of fees by private unaided schools in Delhi under the relevant provisions of the Delhi law?

(c) Whether the rent and property tax of the school building being paid by the school to its Parent Society which has taken the building on lease from M/s Kuria Mal Real Estates (P) Ltd., amounts to transfer of funds by the school to the Society, in contravention of the law laid down by the Hon'ble Supreme Court in the cases of Modern School (supra) and Action Committee (supra).

(d) Whether the school could pass on the burden of capital expenditure incurred by the school particularly for purchase of buses and repayment of loans taken for their purchase, on the students by recovering it as part of the fee?

(e) Whether the school could pass on the burden of repayment of Unsecured loans taken by it for creation of school infrastructure on the students by recovering it as part of the fee?

(f) Whether there were factual errors in the preliminary calculation sheet, drawn up by the Committee? If yes, what was their effect?

The various issues raised by the school are discussed as follows:

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1. **Whether the preliminary calculation sheet drawn by the Committee and the steps being taken by the Committee to examine the justifiability of the fee hiked by the private unaided schools in pursuance of order dated 11/02/2009 issued by the Director of Education, are as per the mandate of this Committee, as postulated by the judgment of the Hon'ble High Court in WP(C) 7777 of 2009?**

How the calculation sheet prepared by the Committee goes beyond the scope of judgment has not been explained by the school. The Committee has reviewed the preliminary calculation sheet prepared by its audit officer under its supervision and finds that it conforms to the mandate given to the Committee by the Hon'ble Delhi High Court in WP (C) 7777 of 2009, particularly the directions that the funds available at the disposal of schools at the time the decision to hike the fee was taken, have to be computed in accordance with the principles laid down by the Supreme Court in the cases of Modern School and Action Committee Unaided Pvt. Schools.

The Committee is required to first compute the funds already available with the school before it decided to hike the fee in terms of order dated 11/02/2009 of the Director of Education. Since the school admittedly hiked the fee w.e.f. 01/09/2008, the funds already available with the school have necessarily to be computed with reference to the latest audited balance sheet i.e. as on 31/03/2008. The preliminary calculation sheet does precisely that. The funds available as on 31/03/2008 have been taken to be the Net Current Assets + Investments as on that date. The Net Current Assets

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represent Current Assets – Current Liabilities. However, since the Net Current Assets of the school were in the negative zone, which is a very unnatural scenario, the Committee, instead of mechanically taking the negative figure, investigated as to how they had turned into a negative figure. It observed that the school was resorting to diversion of funds which was writ large on the face of the Balance Sheet as the school had just a sum of Rs. 28.61 lacs as its cash and bank balances as on 31/03/2008 as against the fee received in advance which was Rs. 153.65 lacs and was shown as a Current liability. The fee received in advance is normally the fee received for the first quarter of the next financial year, which is received in the month of March itself. If nothing else, such advance fee should remain deposited in the bank account of the school till at least the beginning of the next financial year. However, as is apparent, even such advance fee was not retained by the school in its bank account, indicating that funds had been diverted for other purposes.

The Committee, as per its mandate, as submitted by the school itself is required to compute the funds available with the school and while making such computation, the principles laid down by the Hon'ble Supreme Court in the cases of Modern School (supra) and Action Committee Un-aided Private Schools (supra) have to be followed.

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The principles laid down by the Hon'ble Supreme Court in the case of Modern School, in so far as, they pertain to fixation of fee by the schools are that the capital expenditure incurred by the school cannot form part of the fee structure of the school. In other words, the schools cannot incur any capital expenditure out of the fee charged by the schools (other than development fee) and such capital expenditure ought not be recovered from the students as part of their fee. Such capital expenditure may however, be incurred out of the savings that remain from the fee as computed under Rule 177 of Delhi School Education Rules, 1973, after the school has met its expenditure on salaries of staff and other routine revenue expenses. Further, the schools are forbidden from transferring any funds out of its fee revenues to their Parent Societies and other institutions under the same management.

In the judgment of Action Committee Un-aided Private Schools, which was a review of the judgment of the Modern School case, the Hon'ble Supreme Court modified the judgment in the case of Modern School only to the extent that, subject to the fees being reasonable, the schools could transfer funds to other schools under the same management, out of its savings. However, the bar on transfer of funds to the Parent Societies, was retained.

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The Committee, in view of the principles laid down by the Hon'ble Supreme Court in the aforesaid two judgments, which by its mandate, the Committee is required to consider, has included the funds transferred by the school out of its fee revenues to its Parent Society as also the funds utilized by the school out of its fee revenues, for incurring capital expenditure, in the figure of funds available with the school for the purpose of implementation of the recommendations of the 6th Pay Commission.

Hence, the Committee rejects the contention of the school that the preliminary calculation sheet drawn by it goes beyond the mandate of this Committee. The school can only dispute the correctness of the figures computed by the Committee. The school has, in fact, disputed the correctness of certain figures and the Committee will duly examine such contentions of the school.

2. **Whether the judgment of the Hon'ble Supreme Court in Civil appeal No. 4556 of 2014 concerning the private schools in the state of Odhisa, governed by a local enactment of that state, has any application to private unaided schools in Delhi which are governed by the provisions of Delhi State Education Act, 1973 and the rules framed thereunder and whether such judgment overrides the judgments of the Supreme Court in the cases of Modern School (supra) and Action Committee Unaided Private Schools (supra) which were rendered in the context of fixation of fees by private unaided schools in Delhi under the relevant provisions of the Delhi law?**

The Committee notes that the school has misinterpreted the judgment of the Hon'ble Supreme Court. It has selectively quoted from

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the judgment and omitted portions which did not suit it. Even excerpts of two different paragraphs of the judgment have been juxtaposed after omitting certain portions thereof to make it read like a continuous text. Paragraphs 7, 8 and 10 as quoted by the school above, are not the declaration of law by the Hon'ble Supreme Court but are the submissions of the counsel of the contending parties. Only paragraphs 11, 12 (a portion of which has been cited) and 13 as excerpted by the school can be said to be the ratio decidendi of the judgment of the Hon'ble Supreme Court and we find that nowhere has the Hon'ble Court laid down that the schools are entitled to a profit of 10% over its expenditure, as contended by the school.

Further, the Committee is of the view that the judgment of Hon'ble Supreme Court in Civil appeal No. 4556 of 2014 pertains to schools in the state of Odisha which are governed by the local laws of that state only. The schools in Delhi are governed by the local law of Delhi state i.e. Delhi School Education Act, 1973 and the rules framed thereunder. The judgments of the Hon'ble Supreme Court in the cases of Modern School and Action Committee Un-aided Private Schools were rendered in the context of the provisions of the local laws of Delhi, particularly Rules 175 and 177 of Delhi School Education Rules 1973.

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Therefore, the Committee is of the view that the judgments in the cases of Modern School and Action Committee Un-aided Private Schools, still hold the field.

3. **Whether the Rent and Property tax paid by the school to Gee Dee Educational Society amounts to transfer of funds by the school to the Society in contravention of the law laid down by the Hon'ble Supreme Court in the cases of Modern School and Action Committee ?**

It is no doubt true that it is not necessary for a school or the educational society running the school to own the school building. They can legitimately rent a building for running the school as there would be no legal infirmity in doing so. In the instant case, Gee Dee Educational Society entered into a lease agreement dated 16/11/2004 with Kuria Mal Real Estates Pvt. Ltd., whereby latter leased the school building to Gee Dee Educational Society for running the School at rental of Rs. 7,50,000 p.m. plus the annual property tax.

As pointed out earlier, it is the school that pays rent (directly or indirectly) to Kuria Mal Real Estates Pvt. Ltd., which is alter ego of Gee Dee Educational Society. This is an ingenious method by which school is transferring funds to the society. Several members of Gee Dee Educational Society and shareholders of Kuria Mal Real Estates Pvt. Ltd. are the same. According to the decisions of the Supreme Court of India, in **Modern School vs. Union of India (2004) 5 SCC**

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583 and Action Committee Unaided Pvt. Schools and Ors. v. Director of Education and Ors. 2009 (11) SCALE, the schools are interdicted from transferring funds to its parent society. In view of the embargo the school could not have legitimately transferred any funds to the Society but by the aforesaid stratagem the school has been able to transfer the funds ostensibly in the shape of the rent to the Society/ Kuria Mal Real Estates Pvt. Ltd. It is a well-settled principle, haloed by time, that a company has a separate and an independent identity from its shareholders (Saloman vs. Saloman and Company Ltd., 1897 AC 22, HL), but it is subject to the doctrine of lifting the corporate veil in an appropriate case. The corporate veil can be lifted to examine the real faces behind the facade. In Tata Engineering and Loco Motive Company Ltd. vs. State of Bihar, AIR 1965 SC 40, it was held that the doctrine of lifting the veil marks a change in the attitude that law had originally adopted towards the concept of the separate entity or personality of the corporation. This change was a result of the impact of complexity of economic factors. In view of such impact judicial decisions have recognized exceptions to the rule about the juristic personality of the corporation. The Supreme Court did not circumscribe the exceptions in a straight jacket. Rather it indicated that exceptions are expandable. In this regard the Supreme Court ruled as under:-

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"It may be that in course of time these exceptions may grow in number and to meet the requirements of different economic problems, the theory about the personality of the corporation may be confined more and more. The doctrine of lifting of the veil postulates the existence of dualism between the corporation or company on the one hand and its members or shareholders on the other. The doctrine of the lifting of the veil has been applied in the words of Palmer in five categories of cases; where companies are in the relationship of holding and subsidiary (or sub-subsidiary) companies; where a shareholder has lost the privilege of limited liability and has become directly liable to certain creditors of the company on the ground that, with his knowledge, the company continued to carry on business six months after the number of its members was reduced below the legal minimum; in certain matters pertaining to the law of taxes, death duties and stamps, particularly where the question of the "controlling interest" is in issue; in the law relating to exchange control; and in the law relating to trading with the enemy where the test of control is adopted. (Palmer's Company Law, 20th Edn.). At present, the judicial approach in cracking open the corporate shell is somewhat cautious and circumspect. It is only where the legislative provision justifies the adoption of such a course that the veil has been lifted. In exceptional cases where courts have felt "themselves able to ignore the corporate entity and to treat the individual shareholder as liable for its acts"

In Juggi Lal vs. ITO, AIR 1969 SC 932, it was held by the Supreme Court that while it is true that from juristic point of view that the company has a legal personality, distinct from that of its members and is capable of enjoying rights and being subjected to the duties which are not the same as those enjoyed or borne by its members, in certain exceptional cases the court is entitled to lift the corporate veil of an entity and to pay regard to the economic realities behind the legal facade e.g. the court has the power to disregard the corporate entity if it is used for tax evasion or to circumvent tax obligation or to perpetrate fraud.

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The mere fact that the court in the aforesaid decision referred as an example, to three situations, where the court is entitled to lift the corporate veil, does not mean that it restricted the lifting of veil of a corporate entity only in these situations. In the case of State of U.P. vs. Renu Sagar Power Company, (1988) 4SCC 59, the Supreme Court lifted the veil of a holding company and held that the holding company would be liable to the payment of electricity duty on the aforesaid basis. In holding so it observed as follows:-

> *"It is high time to reiterate that in the expanding horizon of modern jurisprudence, lifting of corporate veil is permissible. Its frontiers are unlimited. It must, however, depend primarily on the realities of the situation... The horizon of the doctrine of lifting of corporate veil is expanding........"*

It is clear from the aforesaid decision that lifting the corporate veil is a concept which is expanding and its boundaries are not hedged in or circumscribed by limitations. The Supreme Court in the aforesaid matter also held that the veil on corporate personality even though not lifted sometimes is becoming more and more transparent in modern company jurisprudence. Thus in other words, one can look through the corporate veil to see who actually is behind it. One can peep through it. To put it more aggressively, in an appropriate case, the veil could even be busted.

In New Horizons Ltd. vs. Union of India, (1995) 1 SCC 478, the Supreme Court taking stock of several earlier decisions applied the exception and penetrated the veil covering the face of the company and found that as a result of reorganization of the company, it was functioning as a joint venture wherein the Indian Group of companies and individuals held 60% shares and a Singapore based company held 40% shares.

In Calcutta Chromotype Ltd. Vs. CCE, (1998) 3 SCC 681, the Supreme Court reiterated that there is no bar on the authorities to lift the veil of a company. In that case, the veil was lifted to see if it was wearing the mask to hide the fact that both the manufacturer and the buyer, are in reality the same persons. It was emphasised by the Supreme Court that it was difficult to lay down any broad principle to hold as to when the corporate veil should be lifted.

In Collector of Customs Kandla vs. East African Traders, (2000) 9 SCC 483, it was held that it is permissible for the authorities and the tribunal to pierce the veil of the company in given set of facts and circumstances to ascertain whether the buyer and seller are indeed related persons within the meaning of sub Rule 2 of Rule 2 of Customs Valuation (Determination of Price of Imported Goods) Rules, 1988.

The doctrine of lifting the veil has not only been applied to corporate entities but also to a non corporate entity as well by the Supreme Court. In the case of Secretary Haryana State Electricity Board vs. Suresh, (1999) 3 SCC 601, the aforesaid doctrine was

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applied to a non corporate entity. Haryana State Electricity Board, which is a Statutory Board, was established with one of its primary functions to supply power to urban and rural areas in the State of Haryana through its plants and stations. The board floated tenders for selection of contractors to undertake the work of keeping the aforesaid plants and stations clean and hygienic. Pursuant thereto one such work was awarded to a contractor who performed the said work through safai karamcharies. Subsequently a dispute was raised by the safai karmacharies in respect of their entitlement to be absorbed permanently on completion of 240 days in a year with the board. In view of the admitted facts, the doctrine of lifting the veil was invoked to find out the real relationship of workman with the board. In doing so the Supreme Court held as follows:

> *"The High Court did in fact note with care and caution the doctrine of "lifting of veil" in industrial jurisprudence and recorded that in the contextual facts and upon lifting of the veil, question of having any contra opinion as regards the exact relationship between the contesting parties would not arise and as such directed reinstatement though, however, without any back wages. While it is true that the doctrine enunciated in Saloman V. Saloman & Co. Ltd. Came to be recognised in the corporate jurisprudence but its applicability in the present context cannot be doubted, since the law court invariably has to rise up to the occasion to do justice between the parties in a manner as it deems fit. Roscoe Pound stated that the greatest virtue of the law court is flexibility and as and when the situation so demands, the law court ought to administer justice in accordance therewith and as per the need of the situation."*

Applying the said doctrine to the instant case, it is apparent that the Kuria Mal Real Estate Pvt. Ltd. to whom rent is paid by the school

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has members who are also the members of the Gee Dee Educational Society. Since the society was not legally entitled to charge rent for the school building, it created a facade of a company to facilitate the transfer of funds from the school to itself. What the educational society in question could not do directly, it engineered a method to do it indirectly, which cannot be countenanced in law. In the circumstances, therefore, the veil is required to be lifted to see the real face behind the company. On doing that, we find that Yash Dev Gupta, President, Jai Dev Gupta and Seh Dev Gupta, Vice President and Secretary respectively of the Gee Dee Educational Society are also the shareholders of Kuria Mal Real Estates Pvt. Ltd. It also appears from the list of Directors and shareholders of Kuria Mal Pvt. Ltd. and members of the Gee Dee Educational Society belong to one family except for one or two persons.

In view of the foregoing facts, the Committee is of the view that the rent and property tax paid by the school for the school building to or through its Parent Society, amounts to transfer of funds by the school to the Society and in view of the judgments of the Hon'ble Supreme Court in the cases of Modern School and Action Committee Un-aided Private Schools (supra) the same was not permissible. For the purpose of calculation of available funds with the school, the Committee will consider the rent and property tax paid by the school as available to it.

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4. Whether the school could pass on the burden of capital expenditure incurred by the school particularly for purchase of buses and repayment of loans taken for their purchase, on the students by recovering it as part of the fee?

The contention of the school that in the case of Modern School, the Hon'ble Supreme Court had not put any restriction on the operation of rule 177 of Delhi School Education Rules, 1973 in relation to **mandatory** provision for activities envisaged under rule 177 (2), inter alia, including capital expenditure on expansion of the same school or any other development activity in the same school is stated to be rejected. It would be apposite to reproduce here Rule 177 of Delhi School Education Rules, 1973:

RULE 177

Fees realised by unaided recognised schools how to be utilized

(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school:

Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:—

(a) award of scholarships to students;

(b) establishment of any other recognised school, or

(c) assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.

(2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely :—

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(a) *pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;*

(b) *the needed expansion of the school or any expenditure of a developmental nature;*

(c) *the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;*

(d) *co-curricular activities of the students;*

(e) *reasonable reserve fund, not being less than ten per cent, of such savings.*

(3) Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).

(4) The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.

A bare reading of Rule 177 shows that the fee of the school has to be first utilized for payment of *pay, allowances and other benefits admissible to the employees of the school.* Capital expenditure can be incurred only out of savings from fee after meeting the pay, allowances etc. of the employees. It is not mandatory for schools to incur capital expenditure merely because it is one of the permitted modes of utilisation of fee. The Rule provides a rider that the school can incur capital expenditure only out of savings that remain after payment of pay and allowances etc. to employees. The Supreme Court has clarified in the aforesaid judgment of Modern School case that Rule

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177 does not apply to fixation of fee. It only provides for the manner of utilization of fee. It further goes on to hold that capital expenditure cannot form part of financial fee structure of the school. That is to say that the fee of the school cannot be fixed keeping in view the capital expenditure to be incurred by the school. To the similar effect was the judgment of the Hon'ble Delhi High Court in the case of **Delhi Abibhavak Mahasangh v. Union of India and others AIR 1999 Delhi 124,** which examined the issue of fee hike effected by the schools consequent to the implementation of the recommendations of the 5th Pay Commission. The Hon'ble High Court observed ***"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society".***

The aforesaid judgment of the Delhi High Court was challenged in the Supreme Court and the Hon'ble Supreme Court disposed off the appeal in a batch of similar appeals preferred by various schools and the decision was reported as Modern School & Ors. vs. Union of India (2004) 5 SCC 583. The Supreme Court upheld the judgment of the Delhi High Court and especially on the issue of fixation of fee to include capital expenditure, it held, after examining in detail the provisions of Rule 177 of Delhi School Education Rules, 1973 and other related rules, as follows:

> *"19. It was argued on behalf of the management that rule 177 allows the schools to incur capital expenditure in respect of the*

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same school or to assist any other school or to set up any other school under the same management and consequently, the Director had no authority under clause (8) to restrain the school from transferring the funds from the Recognized Unaided School Fund to the society or the trust or any other institution and, therefore, clause (8) was in conflict with rule 177.

20. We do not find merit in the above arguments. Before analyzing the rules herein, it may be pointed out, that as of today, we have Generally Accepted Accounting Principles (GAAP). As stated above, commercialization of education has been a problem area for the last several years. One of the methods of eradicating commercialization of education in schools is to insist on every school following principles of accounting applicable to not-for-profit organizations/ non-business organizations. Under the Generally Accepted Accounting Principles, expense is different from expenditure. All operational expenses for the current accounting year like salary and allowances payable to employees, rent for the premises, payment of property taxes are current revenue expenses. These expenses entail benefits during the current accounting period. Expenditure, on the other hand, is for acquisition of an asset of an enduring nature which gives benefits spread over many accounting periods, like purchase of plant and machinery, building etc. Therefore, there is a difference between revenue expenses and capital expenditure. Lastly, we must keep in mind that accounting has a linkage with law. Accounting operates within legal framework. Therefore, banking, insurance and electricity companies have their own form of balance-sheets unlike balance-sheets prescribed for companies under the Companies Act 1956. Therefore, we have to look at the accounts of non-business organizations like schools, hospitals etc. in the light of the statute in question.

21. In the light of the above observations, we are required to analyse rules 172, 175, 176 and 177 of 1973 rules. The above rules indicate the manner in which accounts are required to be maintained by the schools. Under section 18(3) of the said Act every Recognized school shall have a fund titled "Recognized Unaided School Fund". It is important to bear in mind that in every non-business organization, accounts are to be maintained on the basis of what is known as 'Fund Based System of Accounting'. Such system brings about transparency. Section 18(3) of the Act shows that schools have to maintain Fund Based System of Accounting. The said Fund. contemplated by Section 18(3), shall consist of income by way of fees, fine, rent, interest

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etc. Section 18(3) is to be read with rule 175. Reading the two together, it is clear that each item of income shall be accounted for separately under the common head, namely, Recognized Unaided School Fund. Further, rule 175 indicates accrual of income unlike rule 177 which deals with utilization of income. Rule 177 does not cover all the items of income mentioned in rule 175. Rule 177 only deals with one item of income for the school, namely, fees. Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance. That after such deduction, surplus if any, shall be appropriated towards, pension, gratuity, reserves and other items of appropriations enumerated in rule 177(2) and after such appropriation the balance (savings) shall be utilized to meet capital expenditure of the same school or to set up another school under the same management. Therefore, rule 177 deals with application of income and not with accrual of income. Therefore, rule 177 shows that salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings. ***Therefore, capital expenditure cannot constitute a component of the financial fees structure as is submitted on behalf of the schools.*** *It also shows that salaries and allowances are revenue expenses incurred during the current year and, therefore, they have to come out of the fees for the current year whereas capital expenditure/capital investments have to come from the savings, if any, calculated in the manner indicated above."*

In view of the foregoing discussion, the contention of the school that the school could recover fee for incurring capital expenditure for purchase of vehicles or development of school infrastructure is rejected. While laying down the broad proposition that capital expenditure cannot form part of fee structure of the school, the Hon'ble Supreme Court has made no distinction between capital expenditure of the nature prescribed under proviso to sub rule 1 of Rule 177 or that envisaged under sub rule 2 thereof.

5. **Whether the school could pass on the burden of repayment of Unsecured loans taken by it for creation of school**

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infrastructure on the students by recovering it as part of the fee?

The discussion on this issue is covered by the discussion on the previous issue. If the loans have been taken for incurring capital expenditure like creation of school infrastructure, the school cannot fix fee in such a manner as to recover the repayment of principal amount and interest on such loans. It does not really matter whether the capital expenditure is incurred out of the school's own funds which have arisen out of the fee revenues of the school or out of the proceeds of loans taken by the school which are repaid alongwith interest out of fee revenues of the school. In either case, the source of capital expenditure is the fee recovered from the students which as per the aforesaid judgment of the Hon'ble Supreme Court, the schools cannot recover from the students.

6. **Whether there were factual errors in the preliminary calculation sheet, drawn up by the Committee? If yes, what was their effect?**

As noted above, the school has pointed out in its various submissions, the following errors in the preliminary calculation sheet prepared as per the directions of the Committee:

(a) The current liability of Rs. 1,04,01,300 which was shown in the balance sheet as security deposit of buses has not been taken into account in the calculation sheet.

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(b) Since the order dated 11/02/2009 of the Director of Education did not permit any further increase in fee during 2009-10, the additional expenditure on salary and other heads on account of increment/additional DA and inflation during 2009-10 ought to be taken into account.

(c) The school ought to be allowed to retain funds equivalent to four months' salary in reserve.

(d) the arrear fee amounting to Rs. 56,17,500 has been added separately and the same is also included in the incremental fee for the year 2009-10 as per the calculation sheet.

(e) The Committee has considered the purchase of vehicles as diversion of funds and also the repayment of loans taken for acquiring of vehicles as diversion. This has resulted in duplication and ought to be corrected.

The findings of the Committee on the aforesaid contentions of the school are as follows:

(i) The contention of the school that a sum of **Rs. 1,04,01,300** representing the security deposits of buses has been omitted from the calculations is correct as the same was duly reflected in the audited balance sheet of the school. The omission appears to be an unintended error and will be duly

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taken into consideration while making final recommendations.

(ii) The second contention of the school that the increased expenditure of the school on salary during the entire year 2009-10 ought to be considered as no further fee hike was allowed to the school for the year 2009-10 also merits acceptance. The Committee notes that while working out the incremental salary on account of implementation of VI Pay Commission report, the audit officer has extrapolated the monthly difference of pre implementation salary and post implementation salary for the whole year. The Committee also notes that the total expenditure on salary incurred by the school in 2008-09 and 2009-10 were as follows:

Head of Expenditure	Amount (Rs.) 2008-09	Amount (Rs.) 2009-10
Salary and wages	2,60,96,165	5,24,40,865
Provident Fund	8,63,276	9,38,469
Bonus	1,02,997	2,46,673
PF Administrative charges	1,15,785	1,25,919
Total	**2,71,78,223**	**5,37,51,926**

In view of the aforesaid figures, the Committee is of the view that the incremental expenditure of the school on salary in 2009-10 was Rs. 2,65,73,703. As against this, the amount of incremental salary for 2009-10 taken by the audit officer in the preliminary calculation is Rs. 1,66,21,128. The

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Committee will duly consider the difference of **Rs. 99,52,575** while making the final calculations.

(iii) So far as maintenance of reserve equivalent to four month's salary is concerned, the Committee is of the view that the claim of the school is justified as the Committee has taken a consistent view in all the cases that the schools ought to maintain a reserve equivalent to four months' salary for future contingencies. The total expenditure on salary incurred by the school in 2009-10 was Rs. 5,37,51,926. Based on this, the requirement of the school to keep funds in reserve was to the tune of **Rs. 1,79,17,308**. The Committee will duly factor in this figure while making the final determinations.

(iv) The contention of the school that the sum of **Rs. 56,17,500** added separately in the calculation sheet representing arrears for the period 01/01/2006 to 31/08/2008 has also been included in the incremental fee for the year 2009-10, is correct. The school had furnished the break-up vide its submissions dated 12/02/2014, which escaped the attention of the Committee at the time of preparation of preliminary calculation sheet. This fact will be duly considered while making the final determinations.

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(v) The contention of the school that there is duplication in the matter of consideration of funds considered as diverted for purchase of vehicles and for repayment of loans taken for purchase of vehicles, merits some consideration. The issue has to be looked at holistically. While the amounts taken for purchase of vehicles and those for repayment of vehicle loans have been aggregated in the preliminary calculation sheet along with the funds considered as diverted to the parent society, it is correct that there is some amount of duplication, in as much as the loans raised during these years for sourcing resources for such amounts have not been deducted from the funds considered as diverted or utilized for incurring capital expenditure. The Committee is of the view that in all fairness, only the amount after netting of the loans raised during these years for purchase of vehicles etc., ought to be considered as funds utilized for incurring capital expenditure or otherwise diverted by the school. The following table reflects the correct position of funds utilized for incurring capital expenditure or otherwise diverted by the school:

	Lease Rent of School	Property Tax of Leased Premises	Purchase of Vehicles	Repayment of Loans to Banks taken for purchase of Vehicles	Repayment of Loans to NBFCs	Repayment of Unsecured Loans	Total	Loans raised during the year	Net diversion of funds

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2006-07	9,000,000	1,009,672	9,011,943	-		12,043,600	31,065,215	6,033,944	25,031,271
2007-08	9,000,000	1,009,672	6,406,592	-	2,420,905	34,349,400	53,186,569	16,022,189	37,164,380
2008-09	11,250,000	2,330,501	6,386,055	12,168,051	1,537,519	6,716,940	40,389,066	2,804,170	37,584,896
2009-10	11,250,000	1,215,904	9,701,717	6,465,146		3,038,608	31,671,375	-	31,671,375
2010-11	12,656,256	1,823,856	-	2,183,773		-	16,663,885	-	16,663,885
Total	53,156,256	7,389,605	31,506,307	20,816,970	3,958,424	56,148,548	172,976,110	24,860,303	148,115,807

Note The loans raised during 2010-11 have not been considered as the utilisations for payment to K R Manglam Global Institute of Management and K R Manglam Institute of Management have also not been considered.

As would be evident from the above table, the net figure of funds utilised for incurring capital expenditure and those diverted to the Parent Society was Rs. 14,81,15,807 instead of Rs. 17,29,76,110 taken in the preliminary calculation sheet. The Committee will duly consider the difference of **Rs. 2,48,60,303** while making the final determinations.

(vi) Though the school did not make any claim for allowing any reserve to be kept for its accrued liability of gratuity and leave encashment, the Committee observes that while submitting the details under cover of its letter dated 12/02/2014, the school had furnished an employee wise detail of its accrued liability for gratuity and leave encashment. As per the detail submitted, the school maintains that there was no accrued liability as on 31/03/2008 but as on 31/03/2010, the accrued liability on these two accounts was **Rs. 51,23,967.** The Committee finds no reason not to allow the school to maintain funds in

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reserve to meet this liability. The Committee has allowed such liability to be taken into consideration in case of all the schools. The mere fact that the school did not make such a claim cannot be a reason for deviating from the principles formulated by the Committee itself. Hence the Committee will duly factor in this liability while making the final recommendations.

Determinations

In view of the foregoing discussion on the following determinations are made by the Committee:

Particulars		Amount (Rs.)
Net Current Assets (Funds available) + Funds diverted before effecting the fee hike, as per the preliminary Calculation Sheet		15,60,77,939
Less: Adjustments as per the aforesaid discussion:		
(i) Liability on account of Security Deposits	1,04,01,300	
(ii) Difference between the figure of funds considered as diverted (as per above discussion	2,48,60,303	
(iii) Reserve for future contingencies	1,79,17,308	
(iv) Reserve for accrued liability of Gratuity	51,23,967	5,83,02,878
Adjusted figure of funds available/ deemed to be available before fee hike		**9,77,75,061**

The aggregate of arrear salary and incremental salary for the year 2009-10, consequent to implementation of 6th Pay Commission Report was as follows:

Particulars		Amount (Rs.)
Arrear salary for the period 01/01/06 to		

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31/03/09, as per preliminary calculation sheet, which is not disputed		1,54,77,460
Incremental salary for 2009-10 as per preliminary calculation sheet Add: Adjustment as per the above discussion	1,66,21,128 99,52,575	2,65,73,703
Total financial impact of implementation of 6th Pay Commission Report upto 31/03/2010		**4,20,51,163**

It is evident from the above figures that the school could have implemented the recommendations of 6th Pay Commission out of its own resources by taking back the amount from its Parent Society which it had illegally transferred. There was no need to effect any hike in fee. However, the school effected the hike in fee, not only as per the order dated 11/02/2009 issued by the Director of Education but also recovered arrears of development fee @ 15% of tuition fee ostensibly to meet the shortfall in its requirement of funds. The components of total fee hike effected by the school purportedly in pursuance of order dated 11/02/2009 was as follows:

Particulars		**Amount (Rs.)**
Arrear of tuition fee for the period 01/01/2006 to 31/08/2008, as per preliminary calculation sheet, not disputed by the school		56,17,500
Arrear of tuition fee for the period 01/09/2008 to 31/03/2009, as per preliminary calculation sheet, not disputed by the school		45,32,381
Arrear of development fee for the period		

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01/09/2008 to 31/03/2009, as per preliminary calculation sheet, not disputed by the school		6,79,857
Incremental fee of 2009-10 as per preliminary calculation sheet Less: Arrears for the period 01/01/2006 to 31/08/2008, included as incremental fee in the preliminary calculation sheet	1,59,69,764 56,17,500	1,03,52,264
Total fee hike as per order dated 11/02/2009		**2,11,82,002**

The Committee is of the view that the school ought to refund the entire amount of **Rs.2,11,82,002**, recovered as arrear fee and incremental fee in terms of order dated 11/02/2009, alongwith interest @ 9% per annum from the date of collection to the date of refund.

Development Fee

To a questionnaire issued by Committee specifically regarding the receipt and utilisation of development fee, its treatment in the accounts and maintenance of earmarked development fund and depreciation reserve fund account, the school submitted its reply vide its letter dated 12/02/2014. As per the reply given by the school, the school charged development fee in all the five years for which information was sought. The particulars of utilisation of development fee were also furnished. It was stated that development fee was treated as a capital receipt in the accounts. The school also stated that it was maintaining separate Depreciation Reserve Fund for depreciation on assets acquired out of development fee. However, no

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earmarked development fund account was maintained as the school utilised the development fee within the year itself.

The particulars of the receipt and utilisation of development fee as given by the school are as follows:

Particulars	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
Development fee collected	**39,47,200**	**49,22,250**	**69,43,250**	**1,03,27,697**	**1,10,35,205**
Development fee utilized					
(i) For Furniture & Fixture	12,79,296	10,25,710	17,63,874	11,66,821	52,69,591
(ii) For vehicles				85,378	
(iii) For Equipments etc.	26,67,904	38,96,540	51,79,376	90,75,498	57,65,614
Total Utilisation	**39,47,200**	**49,22,250**	**69,43,250**	**1,03,27,697**	**1,10,35,205**

The reply filed by the school was verified by the Committee with reference to its audited Balance sheets. The Committee noticed that no earmarked bank accounts were maintained to park the unutilised development fund or depreciation reserve fund. This was conceded by the representatives of the school who attended the hearing on 22/04/2014. The reason given by the school in its reply to the questionnaire regarding non-maintenance of earmarked development fund account i.e. the development fee was utilised in the year itself is not tenable as the development fee is not utilised at the very moment at which it is collected. There will always be a time lag between the collection and utilisation of development fee. The Hon'ble Supreme

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Court in the judgment of Modern School & Ors. Vs. Union of India (supra) has mandated that the schools are required to maintain fund based accounting. This was particularly with regard to maintenance of development fund and depreciation reserve fund accounts. Further, maintenance of an earmarked depreciation reserve fund is an essential pre-condition for collection of development fee. The matter of recovery of development fee by un-aided private schools was considered for the first time by Duggal Committee which was constituted by the Hon'ble Delhi High Court to examine the issue of fee hike effected by the schools consequent to implementation of recommendations of the 5th Pay Commission. It made the following recommendation:

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

Pursuant to the recommendations of Duggal Committee, the Director of Education issued order No.De.15/Act/Duggal. Com/203/99/23033-23980 dated 15/12/1999 and vide direction no. 7, the schools were permitted to charge development fee, which shall

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be treated as a capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts.

The aforesaid order of the Director of Education was the subject matter of the Appeal in the case of Modern School Vs. Union of India (supra) and the Hon'ble Supreme Court while upholding the recommendations of Duggal Committee and direction no. 7 of the aforesaid order held as follows:

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

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In view of the law laid down by the Hon'ble Supreme Court, the schools, in order to charge development fee, are required to fulfill the following pre-conditions:

1. Development fee is treated as a capital receipt in the accounts.
2. Earmarked development fund account is maintained wherein development fee charged by the school is to be deposited.
3. Earmarked depreciation reserve fund account is to be maintained wherein amount equivalent to the depreciation charged in the revenue accounts is deposited.

Further, the development fee can be utilised only for purchase or upgradation of furniture and fixture and equipments.

Since the school is not fulfilling the essential pre-conditions regarding maintenance of earmarked development fund and depreciation reserve fund accounts, the school was not justified in charging any development fee. However, since the mandate of the Committee is to examine the issue of fee in pursuance of order dated 11/02/2009 issued by the Director of Education, the Committee is restricting its recommendations for the years 2009-10 and 2010-11 only. For the other years, it will be for the Director of Education to take an appropriate view in the matter.

In view of the foregoing discussion, the Committee is of the view that the development fee recovered by the school amounting to Rs. 1,03,27,697 in 2009-10 and Rs. 1,10,35,205 in 2010-11, ought to be

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refunded alongwith interest @ 9% per annum from the date of collection to the date of refund.

Recommendations

In view of the foregoing discussions and determinations, the Committee makes the following recommendations:

1. **The school ought to refund the arrears of tuition fee, development fee and the incremental fee charged by the school in 2009-10, amounting to Rs. 2,11,82,002 alongwith interest @ 9% per annum from the date of collection to the date of refund.**
2. **The school ought to refund the development fee amounting to Rs. 1,03,27,697 charged in 2009-10 and Rs. 1,10,35,205 charged in 2010-11, alongwith interest @ 9% per annum from the date of collection to the date of refund.**

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 08/04/2015

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In reply to the questionnaire dated 27/02/2012 issued by the Committee, the school submitted that it had implemented the recommendations of the VI Pay Commission w.e.f. 01/01/2006. However, the actual implementation was effected w.e.f. 01/04/2009 and arrears of the differential salary for the period 01/01/2006 to 31/03/2009 were paid in the financial years 2009-10 and 2010-11 and such arrears amounted to Rs. 1,37,43,102. It further stated that the monthly salary for pre implementation period was Rs. 17,63,330, which rose to Rs. 28,62,949 after the implementation.

With regard to hike in fee in pursuance of order dated 11/02/2009 issued by the Director of Education, the school submitted that it had hiked the fee w.e.f. September 2008. It further stated that the total monthly collection of tuition fee was Rs. 53,33,538 before such hike and Rs. 69,68,592 after such hike. However, the monthly hike in collection ought to be taken as Rs. 60,35,755 as the remaining amount of increased fee was attributable to the increase in student strength. Thus, the school, in effect contended that the increase in monthly collection of fee was only Rs. 7,02,217. It is noteworthy that no such break up was given in respect of the hike in salary on account of increase in the staff strength. The school was placed in category 'B' for the purpose of verification.

A preliminary calculation sheet was drawn up by the Chartered Accountants (CAs) detailed with the Committee. As per the calculation sheet, they worked out that the school was in deficit after implementation of the VI Pay Commission report, to the tune of Rs. 16,50,004 after considering

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the funds available with the school as on 31/03/2008. On perusal of the calculation sheet prepared by the CAs, the Committee noticed that the CAs had not taken into consideration the possibility of diversion of funds by the school which led to depletion of funds available with the school. The Committee was therefore, of the view that the calculation sheet prepared by the CAs could not be relied upon.

With a view to arriving at just calculations, the Committee, vide its letter dated 21/01/2014 required the school to furnish certain details with regard to payment of arrears salary, the breakup of tuition fee, arrear fee, annual charges and other receipts as appearing in the Income & Expenditure Accounts, detail of addition to fixed assets along with the source of funds from which they were acquired, detail of loans raised/repaid, details of accrued liability of gratuity and leave encashment and the statement of account of the Parent Society, as appearing in the books of the school. The school was also issued a questionnaire for eliciting information regarding the collection and utilisation of development fee and maintenance of earmarked development fund and depreciation reserve fund. The details were required to be submitted by 31/01/2014. On this date, the Committee received a letter from the school requesting for some more time on account of a marriage in the family, presumably of some controlling authority. The school was allowed time upto 12/02/2014.

The school submitted the information/details under cover of its letter dated 12/02/2014. In the letter it was stated that the ceiling on fee hike prescribed by the Director of Education vide order dated 11/02/2009, did

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not permit the school to fully neutralize the effect of increase in salary and emoluments as a result of implementation of VI CPC. It was also requested that the Committee may make suitable recommendations to balance the outflows. In short, the school was seeking a further fee hike over and above that permitted by the Director of Education vide order dated 11/02/2009.

The school also submitted reply to the questionnaire regarding development fee. The school submitted that it collected development fee for all the five years for which the information was sought by the Committee and the same was utilised for purchase of furniture and fixture and equipments etc. As per the information furnished by the school, the development fee collected and utilised from 2006-07 to 2010-11 was as follows:

Particulars	**2006-07**	**2007-08**	**2008-09**	**2009-10**	**2010-11**
Development fee collected	**21,60,200**	**30,84,650**	**57,27,500**	**91,30,805**	**96,92,072**
Development fee utilised:					
For furniture & fixture	13,95,820	22,40,745	6,39,460	35,93,953	44,61,408
For equipments etc.	7,64,380	8,43,905	50,88,040	55,36,852	52,30,664
Total utilisation	**21,60,200**	**30,84,650**	**57,27,500**	**91,30,805**	**96,92,072**

It was further submitted that development fee is treated as a capital receipt and separate depreciation reserve fund is maintained for depreciation on assets acquired out of development fee. However, with regard to maintenance of earmarked bank accounts, or FDRs or investments

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to park unutilised development fund and depreciation reserve fund, the school gave a vague answer stating *"Utilised during the year"*.

After receipt of the information from the school, the Committee issued a notice dated 20/02/2014 to the school for hearing on 24/03/2014. On this date, Sh. J. Bajaj, Supervisor of the school appeared and filed a letter seeking adjournment on account of a sudden bereavement in the family of the Chartered Accountant of the school. Accordingly, the matter was directed to be relisted on 22/04/2014. On this date, Sh. Rahul Jain and Sh. Manoj Jain, Chartered Accountants and authorized representatives of the school appeared.

In view of the submissions/stand of the aforesaid representatives of the school, it was required to furnish the following documents/details on the next date of hearing which was fixed on 05/05/2014:

(a) Split Income & Expenditure Accounts for the years 2006-07 to 2010-11, showing separately transport related receipts and expenses.

(b) Ledger accounts of unsecured loans upto 31/03/2011.

(c) Detail of 'Other Receipts' from 2006-07 to 2010-11.

On 05/05/2014, Sh. Manoj Jain and Sh. Rahul Jain, CAs again appeared and filed the required details/information/documents under cover of the letter dated 05/05/2014.

During the course of hearing, the representatives of the school contended that:

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(a) The school purchases buses by utilizing depreciation reserve fund and by raising loans from the banks.

(b) Development fee is utilised for purchase of furniture and fixtures & equipments. It is erroneously shown in the schedule of fixed assets that vehicles were purchased out of development fee.

(c) No separate banks accounts are maintained for development fund and depreciation reserve fund and hence one to one co-relation of acquisition of fixed assets with the source of funds is not possible.

(d) Repayment of loans for vehicle is made out of depreciation reserve fund.

(e) Arrears of development fee for the period 01/09/2008 to 31/03/2009 were recovered @ 15% of tuition fee, although the same were originally charged @ 8.77% in the year 2008-09.

(f) Under the head "Other Receipts" in the Income & Expenditure Accounts were included orientation fee, educational tour fee etc. The same were not reflected in the fee schedules filed with the Director of Education.

The Committee observed that instead of filing the split Income & Expenditure Accounts to show fee and expenditure for general purposes and specific purposes separately, the school had furnished separate accounts. The school was required to furnish the Split Income & Expenditure Accounts and also the ledger accounts of all unsecured loans raised by the school upto 31/03/2011.

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The school furnished certain details under cover of its letter dated 20/05/2014 but the same did not meet with the requirements of the Committee. The authorized representative of the school was telephonically advised by the office of the Committee to furnish the Split Income & Expenditure Accounts, as per the requirements of the Committee. The same were finally furnished by the school on 10/06/2014.

In order to seek clarification with regard to the information furnished by the school on 10/06/2014, a fresh notice dated 19/06/2014 was issued to the school for hearing on 10/07/2014. Sh. Rahul Jain, CA put in his appearance. The Split Income & Expenditure Accounts filed by the school were examined by the Committee and it was observed that even the depreciation on buses was not allocated by the school against the transport fee and yet there was either a shortfall in the transport account or there was a nominal surplus. Hence, it became apparent that the repayment of bus loans or margin money contributions therefor, did not come out of the depreciation charged on buses. The authorized representative of the school fairly conceded that the buses were acquired and the loans therefor were repaid out of depreciation charged on all the assets of the school and such charge was against tuition fee and hence the funds for their acquisition had been sourced from the tuition fee. He requested the Committee that before it takes a final view in the matter, the calculation sheet prepared or to be prepared by the Committee ought to be supplied to the school for its comments.

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In this case, the Committee has sought extensive information from the school before preparing the preliminary calculation sheet primarily for two reasons:

(i) As per the calculation sheet prepared by the CAs, the net current assets i.e. the funds available with the school were nominal keeping in view the size of the school and the total fees charged by it, raising the possibility of diversion of funds, which aspect had not been considered by the CAs while making the preliminary calculations.

(ii) The school was apparently financing its fixed assets and infrastructure also from the tuition fee charged from the students, although as per the decision of Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583, capital expenditure cannot form part of the fee structure of the school, and

(iii) The school was not content with the amount of fee hike allowed to it vide order dated 11/02/2009 and was seeking a further fee hike.

The Committee, at the outset, posed the following issues before itself to be addressed before making the preliminary calculations:

(a) Whether the school can purchase vehicles or repay loans taken for their purchase out of the tuition fee;

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(b) Whether the school can repay other unsecured loans raised for construction of school building or for creating the school infrastructure, out of the tuition fee.

After due deliberations, the Committee formed a prima-facie view that the issue is settled by the judgment of the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583, wherein it has been laid down that the capital expenditure cannot form part of the fee structure of the school. The necessary corollary of this is that the school cannot acquire vehicles or repay loans taken therefor out of the funds available out of tuition fee. The same would hold true for repayment of unsecured loans raised for construction of school building or creating the school infrastructure.

Preliminary Calculation Sheet

The Committee directed its audit officer to prepare the preliminary calculation sheet, keeping in view the principles as discussed above. The audit officer prepared the following calculation sheet, as per which it appeared that the school had ample funds either available with it and prima facie it appeared that the school could have implemented the recommendations of the VI Pay Commission without resorting to any fee hike:

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Statement showing Fund availability of as on 31-03-2008 and effect of implementation of VI Pay Commission report aqnd fee hike as per order dated 11/02/2009 of the Director of Education.

	Particulars	Amount (Rs.)	Amount (Rs.)
	Funds Diverted (As per Annexure 1)		**183,999,932**
	Current Assets + Investments		
	Cash in hand	380,748	
	Bank Balance	7,424,011	
	Fixed Deposits with PNB	330,000	
	Accrued Interest on FDR	12,366	8,147,125
	Total		192,147,057
Less	Current Liabilities:-		
	Student Caution Money	766,115	
	Sundry Creditors	2,231,466	
	Sundry Payables	2,749,540	
	Other Liabilities	69,973	
	Security Deposits - Bus	2,037,500	7,854,594
	Net Current Assets + Funds Diverted		**184,292,463**
Less	**Total Liabilities after VIth Pay Commission**		
	Arrear of Salary w.e.f. 01.01.06 to 31.03.09 (As per information given by school)	13,558,920	
	Annual increase in salary (FY 09-10) (as per calculation given below)	13,177,068	26,735,988
	Excess / (Short) Fund Before Fee Hike		**157,556,475**
Add	**Total Recovery after VI th Pay**		
	Fee Hiked and Recovered due to 6th CPC from 01.01.06 to 31.08.08	5,494,500	
	Arrear of Tuition Fee for the period 1.9.08 to 31.3.09	3,720,908	
	Arrear of Development fee for the period 1.9.08 to 31.3.09 @525 p.s. (@15% of tuition fee)	558,136	
	Annual increase in Tuition fee (FY 09-10) (as per calculation given below)	17,417,033	27,190,577
	Excess / (Short) Fund After Fee Hike		**184,747,052**

Increased Salary in 2009-10	**Amount**	
Post Implementation Salary for April 2009	2,927,659	
Pre- Implementation Salary for March 2009	1,829,570	
Monthly increase in Salary	1,098,089	
Increase in salary in 2009-10	**13,177,068**	
	2008-09	**2009-10**
Fees received as per Income & Expenditure Account	65,245,330	82,662,363
Increase in Fees in 2009-10 as per I & E A/c	**17,417,033**	

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Annexure 1

Funds which appear to be diverted (as per Receipts & Payments Accounts)

Purchase of Vehicles		
2006-07	9,089,471	
2007-08	15,319,053	
2008-09	4,640,707	
2009-10	4,580,921	
2010-11	8,293,351	**41,923,503**
Repayment of Loans to Banks taken for purchase of Vehicles/ Other Assets		
2006-07	3,272,577	
2007-08	6,087,654	
2008-09	16,053,063	
2009-10	16,731,372	
2010-11	13,883,943	**56,028,609**
Repayment of Loans to NBFCs		
2008-09 (Reliance Capital + Tata Capital)	4,224,230	
2009-10 (Reliance Capital + Tata Capital)	1,764,950	
2010-11 (Reliance Capital + Tata Capital)	6,353,390	**12,342,570**
Repayment of Unsecured Loans		
2006-07 (JCB Ltd.)	2,250,000	
2007-08 (Brahmdev Gupta, Kapil Dev Gupta and ADG Estates)	4,880,000	
2008-09	-	
2009-10	-	
2010-11	-	**7,130,000**
Expenditure on Building Construction		
2006-07	-	
2007-08	65,849,435	
2008-09	725,815	
2009-10	-	
2010-11	-	**66,575,250**
Apparent diversion of funds from 2006-07 to 2010-11		**183,999,932**

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Response of the school

A copy of the calculation sheet was sent to the school vide notice dated 22/08/2014 and an opportunity was given to the school to have its say in rebuttal. The hearing was fixed for 12/09/2014.

The school submitted its rebuttal vide written submissions dated 03/09/2014, vide which it was contended as follows:

(a) In the preliminary calculation sheet, a current liability on account of advance fee received from the students amounting to Rs. 1,64,60,395 had been omitted although it was reflected in the audited balance sheet as on 31/03/2008.

(b) As the order dated 11/02/2009 issued by the Director of Education, did not permit any fee hike in the year 2009-10 beyond the hike permitted for implementation of VI Pay Commission report, the additional expenditure on salary on account of increment/additional DA also ought to be taken into account.

(c) The school ought to be allowed to retain funds equivalent to four months' salary as reserve for future contingencies.

(d) The basis of calculation of funds which appeared to have been diverted amounting to Rs. 18,39,99,932 was not clear to the school.

During the course of hearing on 12/09/2014, the authorized representative of the school was informed of the basis on which the Committee considers the aforesaid sum of Rs. 18,39,99,932 to have been diverted. He sought liberty to file written submissions on this limited aspect. The liberty sought was granted by the Committee. Pursuant thereto, the school filed detailed written submission vide letter dated 25/09/2014.

The aforesaid written submission so filed, were not confined to the issue of funds diverted by the school but also called in question, the basis on which the Committee was conducting the exercise. It also relied upon an order of the Hon'ble Supreme Court dated 16/04/2014 in the matter of **DAV College Managing Committee vs. Lakshmi Naryan Mishra & ors. (Civil appeal No. 4556 of 2014)** to contend that while deciding a similar issue of revision of fee on account of implementation of VI Pay Commission recommendation, the Hon'ble Supreme Court held that the schools were entitled to a return of 10% profit above the actual expenses, as a reasonable return to the institution. It also contended that in view of this judgment, the linking of school fee with available surplus is no longer a valid law. It cited excerpts from the aforesaid judgment as follows:

7. .... It has calculated and recommend average fee per child per month for the concerned DAV schools in the State of Odisha. From the Report as well as proceedings of the sub-committee headed by a chartered accountant and annexed as Annexure 1 to the Report it was shown that the Committee took note of the principles governing fee structure of private unaided educational institutions as emerging from different judgments of this Court including 11-Judge Bench judgement in the case of T.M.A Pai Foundation & Ors. V. State of Karnataka & Ors. (2002) 8 SCC 481, to allow only 10% profit above the actual expenses over per child as a reasonable return to the institution and the parents' representatives were also associated with such exercise of the fee fixation.

8....., Mr. Pallav Shishodia, Sr. Advocate raised various objections to the Report and recommendations of the Fee structure Committee. He also urged that the objections raised on behalf of parents before the Committee were not given due discussion and significance and the recommended fees are much higher than what was suggested or claimed by the schools themselves in the

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year 2009 for the purpose of implementing recommendations of the 6th Central Pay Commission.............. The only objection which required some thought was that in 2009 the proposed fee hike was of 50-57% based upon requirement for payment of salaries as per recommendations of 6th Central Pay Commission whereas on the basis of income and expenditure figures and relevant information for the year 2012-2013, the Committee has recommended revised fee which for some schools are alleged to be in the vicinity of increase of about 200%.

10. In the aforesaid context, it was successfully explained on behalf of the appellant that in 2009 the fee increase was calculated on the basis of 22% D.A. prevalent at that time but the average D.A. in 2012-13 had increased to 72.25%. Further, due to lapse of three years, the annual increments of 3% would add to a total of 9%. The combined effect would be an increase of more than 200% of the original 2009 fees. It was also pointed out that increase in fees, as recommended by the Committee, ranges only from 46% to 119% for different schools over and above the present unrevised fee structure.

11. On carefully going through the facts and figures available on record and those considered by the Committee, we find no good reason to take exception to the fee structure recommended by the Fee Structure Committee, Odisha through its Report dated 02.05.2013.

12. Since the larger issue of law has been given up by the appellant and the same has been left open, we are not required to go into the same. In the facts of the case, we are re-assured by the Committee's Report that the appellant and institutions represented by it have been allowed only reasonable profit to which they are entitled under law.

13. Before parting with the matter, we would like to caution the concerned authorities that if a private educational institution has met all the requirements of obtaining No Objection Certificate and affiliation etc. then its claim for revision of fees should be considered expeditiously on permissible parameters. Objections, if any, should be entertained only from the parents' representatives and not from individual parents. An individual may at times be reckless and may harm the educational prospects of all the students of the school. If a claim for revision of fees is stalled for long due to meritless objections, it can affect academic standards on account of disgruntled staff and teachers who may even quit the institution for want of appropriate salary and perks. Such state of affairs with regard to the concerned schools has been highlighted on behalf of the appellant. The selected parents' representatives, on the other hand, are expected to be more responsible as a body. In the present case, only some individual parents have prevented the schools from realizing revised fees since 2009. It is not possible to assess the injury caused to the schools nor is it possible to award any compensation by

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allowing revised fees to be realized from any earlier date such as 1.6.2012 as prayed on behalf of the appellant. However, it is satisfying to note that the State of Odisha has not raised any objection to the recommendations of the Fee Structure Committee, Odisha and, therefore, there is no legal impediment of any substance in allowing this appeal.

Further, the school cited the following excerpts from the judgment of the Hon'ble Delhi High Court in WP(C) 7777 of 2009, vide which this Committee was constituted, to contend that the preliminary calculation sheet prepared by the Committee went beyond the scope of the judgment:

82..... This Committee will be for the period covered by the impugned order dated 11.02.2009 and specifically looking into the aspect as to how much fee increase was required by each individual schools on the implementation of the recommendation of VI Pay Commission, i.e. it would examine the records and accounts, etc. of these schools ***and taking into consideration the funds available, etc. at the disposal of schools at that time and the principles laid down by the Supreme Court in Modern School and Action Committee Unaided Pvt. Schools as explained in this judgment.***
83. We reiterate that the fee hike contained in orders dated 11.02.2009 was by way of interim measure. There is a need to inspect and audit accounts of the schools to find out the funds to meet the increased obligation cast by the implementation of VI Pay Commission and on this basis, to determine in respect of these schools as to ***how much hike in fee, if at all, is required.*** *On the basis of this exercise, if it is found that the increase in fee proposed, order dated 11.02.2009 is more the same shall be slided down and excess amount paid by the students shall be refunded along with interest @ 9%. On the other hand, if a particular school is able to make out a case for higher increase, then it would be permissible for such school to recover from the students over and above what is charged in terms of Notification dated 11.02.2009.*
(emphasis supplied by us)

With regard to the issue of diversion of funds, the school contended that

(i) The observation of the Hon'ble Supreme Court in the matter of Modern School prohibiting acquisition of fixed/capital assets from 'fees' seems to be based on an out of context quote from the

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judgment. The restriction of capital expenditure not constituting a component of financial fee structure is relevant to only activities falling under Rule 177 (1) (b) and not to activities under Rule 177 (2). The school can and is rather under obligation to provide_from the fees for the staff retirement benefits, expansion of the school building and any other developmental activities in the school and thereafter the 'savings' can be used for capital expenditure of the nature prescribed under the proviso to Rule 177 (1) (b).

(ii) The Hon'ble Supreme Court in the case of Modern School has not put any restriction on the operation of Rule 177 in relation to mandatory provision for activities envisaged under Rule 177 (2), inter alia, including capital expenditure on expansion of the same school or any other developmental activity in the same school.

(iii) In the instant case, the expenses relating to school infrastructure are covered by the activities contemplated under Rule 177 (2) and hence there was no diversion of funds as shown in the calculation sheet.

(iv) Till the year 2005-06, there has been revenue loss before depreciation, amounting to Rs. 66,77,684 which was met from unsecured loans. The Unsecured loans to that extent become a current liability, without prejudice to the contention that the whole of unsecured loans so qualify as a current liability while computing the surplus.

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(v) The Committee has considered purchase of vehicles and construction of building as diversion of funds and at the same time also considered the repayment of loans taken for acquiring of vehicles and construction of building as diversion of funds. This has resulted in duplication and the same needs to be corrected. The school suggested the following adjustments out of the sum of Rs. 18,39,99,932 which the Committee has considered as funds diverted:

Double impact of vehicle purchased/repayment of loan for such purchase	4,19,23,503
Double impact of building construction/repayment of loan taken for building construction	6,65,75,250
Adjustment for loan taken for bridging the cash losses in the earlier years	66,77,684
Total	**11,51,76,437**

(vi) The school submitted its own calculation sheet, showing that there was a deficit to the tune of Rs. 3,04,05,554 after taking the effect of implementation of the 6th Pay Commission report and recovery of arrear fee and enhanced fee as per order dated 11/02/2009, issued by the Director of Education.

Discussion

Since the school has raised multifarious contentions, it would be apposite to first summarise the issues that need to be determined by this Committee. These are as follows:

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(a) Whether the preliminary calculation sheet drawn by the Committee and the steps being taken by the Committee to examine the justifiability of the fee hiked by the instant school in pursuance of order dated 11/02/2009 issued by the Director of Education, are as per the mandate of this Committee, as postulated by the judgment of the Hon'ble High Court in **WP(C) 7777 of 2009**?

(b) Whether the judgment of the Hon'ble Supreme Court in **Civil appeal No. 4556 of 2014** concerning the private schools in the state of Odhisa, governed by a local enactment of that state, has any application to private unaided schools in Delhi which are governed by the provisions of Delhi State Education Act, 1973 and the rules framed thereunder and whether such judgment overrides the judgments of the Supreme Court in the cases of **Modern School (supra) and Action Committee Unaided Private Schools (supra)** which were rendered in the context of fixation of fees by private unaided schools in Delhi under the relevant provisions of the Delhi law?

(c) Whether the school could pass on the burden of capital expenditure incurred by the school particularly for purchase of buses and repayment of loans taken for their purchase, on the students by recovering it as part of the fee?

(d) Whether the school could pass on the burden of repayment of Unsecured loans taken by it for creation of school infrastructure on the students by recovering it as part of the fee?

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(e) Whether there were factual errors in the preliminary calculation sheet, drawn up by the Committee? If yes, what was their effect?

The various issues raised by the school are discussed as follows:

1. **Whether the preliminary calculation sheet drawn by the Committee and the steps being taken by the Committee to examine the justifiability of the fee hiked by the private unaided schools in pursuance of order dated 11/02/2009 issued by the Director of Education, are as per the mandate of this Committee, as postulated by the judgment of the Hon'ble High Court in WP(C) 7777 of 2009?**

How the calculation sheet prepared by the Committee goes beyond the scope of judgment has not been explained by the school. The Committee has reviewed the preliminary calculation sheet prepared by its audit officer under its directions and supervision and finds that it conforms to the mandate given to the Committee by the Hon'ble Delhi High Court in WP (C) 7777 of 2009, particularly the directions that the funds available at the disposal of schools at the time the decision to hike the fee was taken, have to be computed in accordance with the principles laid down by the Supreme Court in the cases of Modern School and Action Committee Unaided Pvt. Schools.

The Committee is required to first compute the funds already available with the school before it decided to hike the fee in terms of order dated 11/02/2009 of the Director of Education. Since the school admittedly hiked the fee w.e.f. 01/09/2008, the funds already available with the school have necessarily to be computed with reference to the latest audited balance sheet i.e. as on 31/03/2008. The preliminary calculation sheet does precisely that. The funds available as on 31/03/2008 have been taken to be

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the Net Current Assets + Investments as on that date. The Net Current Assets represent Current Assets – Current Liabilities.

The Committee, as per its mandate, as submitted by the school itself is required to compute the funds available with the school and while making such computation, the principles laid down by the Hon'ble Supreme Court in the cases of Modern School (supra) and Action Committee Un-aided Private Schools (supra) have to be followed.

The principles laid down by the Hon'ble Supreme Court in the case of Modern School, in so far as, they pertain to fixation of fee by the schools are that the capital expenditure incurred by the school cannot form part of the fee structure of the school. In other words, the schools cannot incur any capital expenditure out of the fee charged by the schools (other than development fee) and such capital expenditure ought not be recovered from the students as part of their fee. Such capital expenditure may however, be incurred out of the savings that remain from the fee as computed under Rule 177 of Delhi School Education Rules, 1973, after the school has met its expenditure on salaries of staff and other routine revenue expenses.

The Committee, in view of the principles laid down by the Hon'ble Supreme Court in the aforesaid judgment, which by its mandate, the Committee is bound to consider, has included the funds utilized by the school out of its fee revenues, for incurring capital expenditure, in the figure of funds available with the school for the purpose of implementation of the recommendations of the 6th Pay Commission.

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Hence, the Committee rejects the contention of the school that the preliminary calculation sheet drawn by it goes beyond the mandate of this Committee. The school can only dispute the correctness of the figures computed by the Committee. The school has, in fact, disputed the correctness of certain figures and the Committee will duly examine such contentions of the school.

2. **Whether the judgment of the Hon'ble Supreme Court in Civil appeal No. 4556 of 2014 concerning the private schools in the state of Odhisa, governed by a local enactment of that state, has any application to private unaided schools in Delhi which are governed by the provisions of Delhi State Education Act, 1973 and the rules framed thereunder and whether such judgment overrides the judgments of the Supreme Court in the cases of Modern School (supra) and Action Committee Unaided Private Schools (supra) which were rendered in the context of fixation of fees by private unaided schools in Delhi under the relevant provisions of the Delhi law?**

The Committee notes that the school has misinterpreted the judgment of the Hon'ble Supreme Court. It has selectively quoted from the judgment and omitted portions which did not suit it. Even excerpts of two different paragraphs of the judgment have been juxtaposed after omitting certain portions thereof to make it read like a continuous text. Paragraphs 7, 8 and 10 as quoted by the school above, are not the declaration of law by the Hon'ble Supreme Court but are the submissions of the counsel of the contending parties. Only paragraphs 11, 12 (a portion of which has been cited) and 13 as excerpted by the school can be said to be the ratio decidendi of the judgment of the Hon'ble Supreme Court.

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The Committee is of the view that the judgment of Hon'ble Supreme Court in Civil appeal No. 4556 of 2014 pertains to schools in the state of Odisha which are governed by the local laws of that state only. The schools in Delhi are governed by the local law of Delhi state i.e. Delhi School Education Act, 1973 and the rules framed thereunder. The judgments of the Hon'ble Supreme Court in the cases of Modern School and Action Committee Un-aided Private Schools were rendered in the context of the provisions of the local laws of Delhi, particularly Rules 175 and 177 of Delhi School Education Rules 1973. Therefore, the Committee is of the view that the judgments in the cases of Modern School and Action Committee Un-aided Private Schools, still hold the field.

3. **Whether the school could pass on the burden of capital expenditure incurred by the school particularly for purchase of buses and repayment of loans taken for their purchase, on the students by recovering it as part of the fee?**

The contention of the school that in the case of Modern School, the Hon'ble Supreme Court has not put any restriction on the operation of rule 177 of Delhi School Education Rules, 1973 in relation to **mandatory** provision for activities envisaged under rule 177 (2), inter alia, including capital expenditure on expansion of the same school or any other development activity in the same school is stated to be rejected. It would be apposite to reproduce here Rule 177 of Delhi School Education Rules, 1973:

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RULE 177

Fees realised by unaided recognised schools how to be utilized

(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school:

Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:—

(a) award of scholarships to students;

(b) establishment of any other recognised school, or

(c) assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.

(2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely :—

(a) pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;

(b) the needed expansion of the school or any expenditure of a developmental nature;

(c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;

(d) co-curricular activities of the students;

(e) reasonable reserve fund, not being less than ten per cent, of such savings.

(3) Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).

(4) The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.

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A bare reading of Rule 177 shows that the fee of the school has to be first utilized for payment of *pay, allowances and other benefits admissible to the employees of the school.* Capital expenditure can be incurred only out of savings from fee after meeting the pay, allowances etc. of the employees. It is not mandatory for schools to incur capital expenditure merely because it is one of the permitted modes of utilisation of fee. The Rule provides a rider that the school can incur capital expenditure only out of savings that remain after payment of pay and allowances etc. to employees. The Supreme Court has clarified in the aforesaid judgment of Modern School case that Rule 177 does not apply to fixation of fee. It only provides for the manner of utilization of fee. It further goes on to hold that capital expenditure cannot form part of financial fee structure of the school. That is to say that the fee of the school cannot be fixed keeping in view the capital expenditure to be incurred by the school. To the similar effect was the judgment of the Hon'ble Delhi High Court in the case of **Delhi Abibhavak Mahasangh v. Union of India and others AIR 1999 Delhi 124,** which examined the issue of fee hike effected by the schools consequent to the implementation of the recommendations of the 5th Pay Commission. The Hon'ble High Court observed ***"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society".***

The aforesaid judgment of the Delhi High Court was challenged in the Supreme Court and the Hon'ble Supreme Court disposed off the appeal in a batch of similar appeals preferred by various schools and the decision was reported as Modern School & Ors. vs. Union of India (2004) 5 SCC 583. The

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Supreme Court upheld the judgment of the Delhi High Court and especially on the issue of fixation of fee to include capital expenditure, it held, after examining in detail the provisions of Rule 177 of Delhi School Education Rules, 1973 and other related rules, as follows:

> *19. It was argued on behalf of the management that rule 177 allows the schools to incur capital expenditure in respect of the same school or to assist any other school or to set up any other school under the same management and consequently, the Director had no authority under clause (8) to restrain the school from transferring the funds from the Recognized Unaided School Fund to the society or the trust or any other institution and, therefore, clause (8) was in conflict with rule 177.*
>
> *20. We do not find merit in the above arguments. Before analyzing the rules herein, it may be pointed out, that as of today, we have Generally Accepted Accounting Principles (GAAP). As stated above, commercialization of education has been a problem area for the last several years. One of the methods of eradicating commercialization of education in schools is to insist on every school following principles of accounting applicable to not-for-profit organizations/ non- business organizations. Under the Generally Accepted Accounting Principles, expense is different from expenditure. All operational expenses for the current accounting year like salary and allowances payable to employees, rent for the premises, payment of property taxes are current revenue expenses. These expenses entail benefits during the current accounting period. Expenditure, on the other hand, is for acquisition of an asset of an enduring nature which gives benefits spread over many accounting periods, like purchase of plant and machinery, building etc. Therefore, there is a difference between revenue expenses and capital expenditure. Lastly, we must keep in mind that accounting has a linkage with law. Accounting operates within legal framework. Therefore, banking, insurance and electricity companies have their own form of balance-sheets unlike balance-sheets prescribed for companies under the Companies Act 1956. Therefore, we have to look at the accounts of non-business organizations like schools, hospitals etc. in the light of the statute in question.*
>
> *21. In the light of the above observations, we are required to analyse rules 172, 175, 176 and 177 of 1973 rules. The above rules indicate the manner in which accounts are required to be maintained by the schools. Under section 18(3) of the said Act every Recognized school shall have a fund titled "Recognized Unaided School Fund". It is important to bear in mind that in every non-business organization, accounts are to be maintained on the basis of what is known as 'Fund Based System of*

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Accounting'. Such system brings about transparency. Section 18(3) of the Act shows that schools have to maintain Fund Based System of Accounting. The said Fund. contemplated by Section 18(3), shall consist of income by way of fees, fine, rent, interest etc. Section 18(3) is to be read with rule 175. Reading the two together, it is clear that each item of income shall be accounted for separately under the common head, namely, Recognized Unaided School Fund. Further, rule 175 indicates accrual of income unlike rule 177 which deals with utilization of income. Rule 177 does not cover all the items of income mentioned in rule 175. Rule 177 only deals with one item of income for the school, namely, fees. Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance. That after such deduction, surplus if any, shall be appropriated towards, pension, gratuity, reserves and other items of appropriations enumerated in rule 177(2) and after such appropriation the balance (savings) shall be utilized to meet capital expenditure of the same school or to set up another school under the same management. Therefore, rule 177 deals with application of income and not with accrual of income. Therefore, rule 177 shows that salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings. ***Therefore, capital expenditure cannot constitute a component of the financial fees structure as is submitted on behalf of the schools.*** *It also shows that salaries and allowances are revenue expenses incurred during the current year and, therefore, they have to come out of the fees for the current year whereas capital expenditure/capital investments have to come from the savings, if any, calculated in the manner indicated above.*

In view of the foregoing discussion, the contention of the school that the school could recover fee for incurring capital expenditure for purchase of vehicles or development of school infrastructure is rejected. While laying down the broad proposition that capital expenditure cannot form part of fee structure of the school, the Hon'ble Supreme Court has made no distinction between capital expenditure of the nature prescribed under proviso to sub rule 1 of Rule 177 or that envisaged under sub rule 2 thereof.

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4.Whether the school could pass on the burden of repayment of Unsecured loans taken by it for creation of school infrastructure on the students by recovering it as part of the fee?

The discussion on this issue is covered by the discussion on the previous issue. If the loans have been taken for incurring capital expenditure like creation of school infrastructure, the school cannot fix fee in such a manner as to recover the repayment of principal amount and interest on such loans. It does not really matter whether the capital expenditure is incurred out of the school's own funds which have arisen out of the fee revenues of the school or out of the proceeds of loans taken by the school which are repaid alongwith interest out of fee revenues of the school. In either case, the source of capital expenditure is the fee recovered from the students which as per the aforesaid judgment of the Hon'ble Supreme Court, the schools cannot recover from the students.

5.Whether there were factual errors in the preliminary calculation sheet, drawn up by the Committee? If yes, what was their effect?

As noted above, the school has pointed out in its various submissions, factual errors in the preliminary calculation sheet prepared as per the directions of the Committee. After taking into account the effect of such factual errors, the school has prepared its own calculation sheet to show that there was a deficit of Rs. 3,04,05,554 after taking into account the increased salaries and the hiked fees. The Committee is therefore of the view that it would appropriate if the figures taken by the Committee in its preliminary calculation sheet and the figures taken by the school in its

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calculation sheet, in so far as they are at variance with each other, need to be examined and discussed. The variations in the calculation sheet of the Committee and that of the school are as follows:

Particulars	As per the calculation sheet of the Committee	As per the calculation sheet of the school	Effect on final determination as prepared by the Committee
Advance fee (current liability)	0	1,64,60,395	(-) 1,64,60,395
Reserve for future contingencies	0	70,53,320	(-) 70,53,320
Incremental salary for the year 2009-10	1,31,77,068	2,08,16,026	(-) 76,38,958
Funds diverted for acquisition of buses/repayment of loans	18,39,99,932	0	0

In so far as the omission of advance fee of Rs. 1,64,60,395 from the current liabilities is concerned, the contention of the school is correct as the same was duly reflected in the audited balance sheet as on 31/03/2008. The Committee will duly factor in this figure while making the final determinations.

Regarding reserve for future contingencies, the Committee finds that the contention of the school is in line with the view taken by the Committee in case of other schools and there is no reason why the same should not be allowed to this school. The Committee notes that the school has based its claim of keeping an amount of Rs. 70,53,320 in reserve equivalent to four months salary on the basis of the total expenditure on salary for the year 2008-09. However, the Committee in case of other schools has allowed the funds to be kept in reserve equivalent to expenditure on four months salary

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based on the salary for the year 2009-10. In all fairness, the Committee feels that the school is entitled to keep funds in reserve amounting to **Rs. 1,39,44,616,** which is based on the total expenditure on salary for the year 2009-10.

The Committee accepts the contention of the school that the incremental salary for the year 2009-10 ought to be taken as a whole after accounting for the incremental DA and annual increments in that year, as the schools were forbidden from raising any fee in 2009-10 over and above the fee hike allowed for implementation of VI Pay Commission report. The Committee finds that in the preliminary calculation sheet, the incremental salary of one month on account of increase as a consequence of implementation of VI Pay Commission report has been extrapolated for the whole year. The contention of the school has merit and therefore, the Committee will consider the incremental salary for the year 2009-10 to be **Rs. 2,08,16,026** instead of Rs. 1,31,77,068 taken in the preliminary calculation sheet.

Before we take up the issue of diversion of funds, the Committee notes that the school under cover of its letter dated 12/02/2014, which was in response to the Committee's letter dated 21/01/2014, had furnished an employeewise detail of its accrued liability on account of gratuity and leave encashment as on 31/03/2008 and 31/03/2010. The liability as on 31/03/2010 was **Rs. 44,26,507**. The Committee finds that in its objections to the preliminary calculation sheet, the school has not raised any issue with regard to this liability although it was not taken into account. However, the Committee is of the view that the mere omission on part of the

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school to raise this issue, should not detract the Committee from arriving at just conclusions. The Committee has allowed other schools to keep funds in reserve for meeting such accrued liabilities. Accordingly, the Committee will duly consider this liability also while making the final determinations.

Now coming to the last issue of diversion of funds out of tuition fee for purchase of buses, repayment of loans taken for purchase of buses/other fixed assets and for creation of school infrastructure.

The Committee has already discussed in the foregoing paragraphs that as per the judgment of the Hon'ble Delhi High Court in the case of Delhi Abhibhavak Mahasangh (supra), the recommendations of the Duggal Committee which was constituted by the Delhi High Court to examine the issue of fee hike consequent to implementation of the V Pay Commission report and the judgment of the Hon'ble Supreme Court in the case of Modern School (supra), capital expenditure cannot form part of the fee structure of the school. That is to say that the fee of the school cannot be fixed keeping in view its planned capital expenditure. What the school has been doing is that it has been fixing its fee, keeping in view the cost to be incurred for purchase of buses/other fixed assets or for repayment of loans taken for such purposes. By adopting this stratagem, the school has been deliberately creating savings so that it can show that the capital expenditure has been incurred out of savings as permitted by Rule 177 of Delhi School Education Act, 1973. This is clearly impermissible. Rule 177 permits incurring of capital expenditure out of savings, only if such savings are incidental and are not deliberately created. This is the essence of the

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judgment of the Hon'ble Delhi High Court in the case of Delhi Abhibhavak Mahasangh and the Judgment of the Hon'ble Supreme Court in the case of Modern School. Hence the Committee is of the view that the school was not justified in utilising the funds out of its fee revenues for incurring capital expenditure, either in one go or in a staggered manner by first taking a loan and then repaying in instalments. In the circumstances, the Committee is of the view that the funds so utilised by the school, ought to be considered as available to it, for implementation of the VI Pay Commission report. However, the contentions of the school regarding duplication in arriving at the funds so utilised, need to be addressed.

Before considering the purported errors in the calculation of funds considered as diverted by the Committee, it would be apt to examine the relevant calculations after factoring in the other contentions of the school, which the Committee has found to be acceptable.

The Committee, as discussed above, accepts the following adjustments to be made to the preliminary calculations:

Deduction of advance fee as current liability	1,64,60,395
Reserve for future contingencies	1,39,44,616
Difference in incremental salary for 2009-10 (2,08,16,026 – 1,31,77,068)	76,38,958
Accrued liability of gratuity	44,26,507
Total	**4,24,70,476**

Now, even if the contention of the school that there is an error of **Rs. 11,51,76,437** on account of duplication, in the figure of funds diverted as considered by the Committee, is accepted at its face value, the end result would be that a total sum of Rs. 15,76,46,913 (4,24,70,476+ 11,51,76,437)

JUSTICE ... SINGH ... For Review of School Fee will be required to be reduced from the surplus, as worked out by the Committee in its preliminary calculations. That would still leave a surplus of **Rs. 2,71,00,139** (18,47,47,052 - 15,76,46,913) which the school would be left with out of the fee hike effected as per order dated 11/02/2009, after meeting all its expenses on arrear salary and incremental salary for the year 2009-10. **The additional revenue generated by the school by way of recovery of arrear fee and incremental fee for the year 2009-10 was Rs. 2,71,90,577. The school has accepted this figure in its own calculation sheet.**

The Committee is, therefore of the view, that examining the contention of the school regarding duplication in the figure of funds diverted as considered by the Committee would only be an academic exercise. In arriving at this conclusion, the Committee has in fact not only accepted all the contentions of the school but has provided relief even when the school did not ask for it. Despite all this, the surplus generated by the school was almost equal to the entire revenue generated by the school by way of recovery of arrear fee and incremental fee for the year 2009-10, as per the order dated 11/02/2009 issued by the Director of Education.

The Committee is , therefore of the view, that the school was not justified at all in recovering the arrear fee from the students and also hiking the regular monthly fee. It ought to refund the entire amount of **Rs. 2,71,90,577**, recovered as arrear fee and incremental fee in terms of order

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dated 11/02/2009, alongwith interest @ 9% per annum from the date of collection to the date of refund.

Development Fee

The Committee has already discussed the various facets of the issue of justifiability of charging development fee by the school. Although the school claimed in its reply to the questionnaire regarding development fee, issued by the Committee that the school was maintaining earmarked account for depreciation reserve fund and development fund, the Committee did not find the same to be true on examining the audited financials of the school. When confronted with this fact, the authorized representatives of the school, during the course of hearing on 05/05/2014, conceded that no earmarked bank accounts were maintained for such purposes.

The reason given by the school in its reply to the questionnaire regarding non-maintenance of earmarked development fund account i.e. the development fee was utilised in the year itself is not tenable as the development fee is not utilised at the very moment at which it is collected. There will always be a time lag between the collection and utilisation of development fee. The Hon'ble Supreme Court in the judgment of Modern School & Ors. Vs. Union of India (supra) has mandated that the schools are required to maintain fund based accounting. This was particularly with regard to maintenance of development fund and depreciation reserve fund accounts. Further, maintenance of an earmarked depreciation reserve fund is an essential pre-condition for collection of development fee. The matter of recovery of development fee by un-aided private schools was considered for

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the first time by Duggal Committee which was constituted by the Hon'ble Delhi High Court to examine the issue of fee hike effected by the schools consequent to implementation of recommendations of the 5th Pay Commission. It made the following recommendation:

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

Pursuant to the recommendations of Duggal Committee, the Director of Education issued order No.De.15/Act/Duggal. Com/203/99/23033-23980 dated 15/12/1999 and vide direction no. 7, the schools were permitted to charge development fee, which shall be treated as a capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts.

The aforesaid order of the Director of Education was the subject matter of the Appeal in the case of Modern School Vs. Union of India (supra) and the Hon'ble Supreme Court while upholding the recommendations of Duggal Committee and direction no. 7 of the aforesaid order held as follows:

> *25. In our view, on account of increased cost due to inflation, the management is entitled to create Development Fund Account. For creating such development fund, the management is required to collect development fees. In the present case, pursuant to the recommendation of Duggal Committee, development fees could be*

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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 law laid down by the Hon'ble Supreme Court, the schools, in order to charge development fee, are required to fulfill the following pre-conditions:

1. Development fee is treated as a capital receipt in the accounts.
2. Earmarked development fund account is maintained wherein development fee charged by the school is to be deposited.
3. Earmarked depreciation reserve fund account is to be maintained wherein amount equivalent to the depreciation charged in the revenue accounts is deposited.

Further, the development fee can be utilised only for purchase or upgradation of furniture and fixture and equipments. The Committee on examining the audited financials of the school observed that the school was

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not truthful in its reply to the questionnaire as regards the utilisation of development fee. Particularly in the year 2009-10, the school submitted that it had utilised a sum of Rs. 55,36,852 for purchase of equipments etc. However, the audited financials revealed that out of this amount the equipments represented only Rs. 9,55,931. The remaining amount of Rs. 45,80,921 was for purchase of vehicle. Similarly, in the year 2010-11 also, the school represented that the sum of Rs. 52,30,664 was utilised for purchase of equipments etc. However, this sum included a sum of Rs. 20,59,287 for purchase of vehicle. Purchase of vehicles is not one of the permitted purposes for which development fee can be utilised.

Since the school is not fulfilling the essential pre-conditions regarding maintenance of earmarked development fund and depreciation reserve fund accounts, the school was not justified in charging any development fee. However, since the mandate of the Committee is to examine the issue of fee in pursuance of order dated 11/02/2009 issued by the Director of Education, the Committee is restricting its recommendations for the years 2009-10 and 2010-11 only. For the other years, it will be for the Director of Education to take an appropriate view in the matter.

In view of the foregoing discussion, the Committee is of the view that the development fee recovered by the school amounting to Rs. 91,30,805 in 2009-10 and Rs. 96,92,072 in 2010-11, ought to be refunded alongwith interest @ 9% per annum from the date of collection to the date of refund.

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Recommendations

In view of the foregoing discussions and determinations, the Committee makes the following recommendations:

1. **The school ought to refund the arrears of tuition fee, development fee and the incremental fee charged by the school in 2009-10, amounting to Rs. 2,71,90,577 alongwith interest @ 9% per annum from the date of collection to the date of refund.**
2. **The school ought to refund the development fee amounting to Rs. 91,30,805 charged in 2009-10 and Rs. 96,92,072 charged in 2010-11, alongwith interest @ 9% per annum from the date of collection to the date of refund.**

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 09/04/2015

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In reply to the questionnaire dated 27/02/2012 issued by the Committee, the school, vide email dated 03/03/2012 stated as follows:

(a) It had implemented the recommendations of the VI Pay Commission w.e.f. May 2009. The details regarding pre implementation salary and post implementation salary as also the arrears paid to the staff had been submitted on 27/01/2012.

(b) The details regarding the fee hiked in pursuance of order dated 11/02/2009, and the arrears of fee recovered from the students, had also been submitted on 27/01/2012. The fee was hiked w.e.f. April 2009.

It appeared that the school had submitted the requisite information on 27/01/2012, not to the Committee but to the concerned Dy. Director of Education. Accordingly, the Committee requisitioned the information and documents submitted by the school from the concerned Dy. Director of Education along with the annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973 for the years 2006-07 to 2010-11.

The documents as well as information submitted by the school to the Dy. Director of Education were received from that office. On prima facie examination of these documents, it appeared that the school had hiked the fee in accordance with order dated 11/02/2009 issued by the Director of Education and also implemented the

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recommendations of the VI Pay Commission. This was also stated by the school in its email reply to the questionnaire issued by the Committee. Accordingly, the school was placed in category 'B' for the purpose of verification.

In the first instance, the relevant calculations were made by the Chartered Accountants detailed with the Committee. As per their calculations, the school had recovered more fee than was required by it, after taking into account the funds available with the school before the fee hike and the additional financial burden on account of the implementation of the recommendations of VI Pay Commission. These calculations were premised on the basis that the school had actually implemented the recommendations of the VI Pay Commission, as was stated by it.

The Committee issued a notice dated 06/05/2015 to the school for hearing on 14/05/2015. The notice, inter alia, required the school to furnish details of accrued liabilities of gratuity/leave encashment, if applicable to the school and the information relating to the aggregate amount of arrear fee and regular fee received, arrear salary and regular salary paid by the school during the year 2008-09, 2009-10 and 2010-11, in a structured format. A questionnaire was also issued to the school, specifically seeking information regarding the collection and utilisation of development fee and maintenance of earmarked development and depreciation reserve funds.

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On the date of hearing, Dr. Meenakshi, Principal of the school appeared with Sh. Manu R.G. Luthra, Chartered Acountant. They furnished the information required by the Committee vide its notice dated 06/05/2015, vide written submissions dated 14/05/2015. They also filed reply to the questionnaire regarding development fee. Details of the accrued liability of the school for gratuity and leave encashment were filed, as also the statement of account of the Parent Society in the books of the school. Copies of circular issued to the parents regarding fee hike for implementation of VI Pay Commission report were also furnished.

The representatives of the school were also heard by the Committee. They contended as follows:

(a) The school hiked the regular monthly fee as per order dated 11/02/2009. However, the lump sum arrears for the period 01/01/2006 to 31/08/2008, could not be recovered from the students on account of the resistance by the parents of the students.

(b) The school implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009 and paid the arrears in installments.

(c) The school charged development fee in all the five years for which the information was sought. The same had been utilised for purchase of furniture and fixture & equipments.

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The school stopped charging depreciation in its revenue account after 31/03/2008. Therefore, there was no requirement to maintain any earmarked depreciation reserve fund. Further, the school is not left with any unspent development fund, which could be deposited in the earmarked development fund account. Although the school maintains an earmarked account in the bank, it carries a nominal balance.

During the course of hearing, the account books and salary registers of the school were examined by the Committee. It was observed that the entire payment of arrear salary was shown to have been made in cash. Even the regular monthly salary was also paid in cash, at least to the extent of about 50%.

Discussion:

(1) Tuition Fee:

Before proceeding further, it would be apposite to examine as to how much was the fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. The following table shows the fee charged by the school, prior to the hike effected by it and the post hike fee (as per the fee schedules filed by the school as part of its annual returns under Rule 180 of Delhi School Education Rules, 1973).

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Class	Monthly Tuition fee in 2008-09 (Rs.)	Monthly tuition fee in 2009-10 (Rs.)	Increase in monthly tuition fee in 2009-10
I	1200	1500	300
II	1100	1400	300
III to VI	1010	1310	300
VII	1025	1325	300
VIII	1055	1355	300
IX & X	1085	1385	300
XI Arts & Commerce	1500	1800	300
XI Science	1600	1900	300
XII Arts & Commerce	1500	1800	300
XII Science	1600	1900	300

As per the copy of two circulars dated 26/03/2009 issued to the parents, the school recovered lump sum arrear fee of Rs. 3,000 for the period 01/01/2006 to 31/08/2008, and the incremental fee for seven months i.e. 01/09/2008 to 31/03/2009 @ Rs. 2,100 per student (i.e. Rs. 300 per month for seven months).

The school claims that though the lump sum arrear fee of Rs. 3,000 per student for the period 01/01/2006 to 31/08/2008, was demanded, the same was resisted by the parents and ultimately was not recovered from them. However, the school accepts that it recovered arrears of incremental fee for seven months and the total amount recovered on this account is **Rs. 49,41,194**. As a result of regular fee hiked w.e.f. 01/04/2009, the school recovered an additional amount of **Rs. 72,75,705**. This is worked out on the basis of the difference in total regular tuition fee received in the year 2009-

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10, which was Rs. 3,56,62,727 and that in 2008-09, which was Rs. 2,83,87,022. These figures are accepted by the school.

The next issue to be considered by the Committee is whether the school, in fact, implemented the recommendations of VI Pay Commission and paid the arrears for the period 01/01/2006 to 31/08/2008 and 01/09/2008 to 31/03/2009. The school states that it made a total payment of **Rs. 12,40,916** as arrears for the period 01/01/2006 to 31/08/2008 and such payment was made in the year 2010-11. Further, the school states that it made payment of arrears for the period 01/09/2008 to 31/03/2009 amounting to **Rs. 33,47,128** and such payment was spread over in two years i.e. 2008-09 and 2009-10. Thus the school claims total arrear payment of **Rs. 45,88,044**.

During the course of hearing, the Committee verified the mode of payment of arrears and found that the entire payment was shown to have been made in cash. The representatives of the school also conceded to this position. A detail of arrear payment furnished by the school shows that the payments to individual staff members were huge amounts. The minimum amount of payment was Rs. 51,992 to Ms. Dimple while the maximum amount shown to have been paid was Rs. 2,05,918 to Ms. Manju Dhingra.

There was no earthly reason to make payment of such huge amount of arrears in cash, when the school operates regular bank

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accounts. It is not located in a slum area or an unauthorized colony, which reasons the schools usually proffer in justification of making cash payments. The Committee, therefore is of the view that the school did not in actual fact make any payment on account of arrears to staff and has merely shown them as paid in its books of accounts.

As noted supra, even the regular normal salary is not fully paid through banking channels. On verification from the ledger account of salary payable for the year 2009-10, the Committee finds that as much as 62.89% of the total salary for the year 2009-10, was paid in cash. One can understand if the school, which operates regular bank accounts, pays salary in cash to lowly paid staff like peons or sweepers or ayas but payment of salary to teachers in cash cannot be justified on any ground. The Committee has come across such cases in cases of others schools also where partly salary is paid through banking channels and partly in cash. This is a stratagem being adopted by the schools to show payment of salary as per the recommendations of the VI Pay Commission when actually full salaries are not paid to the staff.

For the aforesaid reasons, the Committee is of the view that the school did not in fact implement the recommendations of the VI Pay Commission, although the school took advantage of the order dated 11/02/2009 issued by the Director of Education to hike its monthly fee by Rs. 300 per month, which in percentage terms works out to a

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hike ranging between 18% and 30% for different classes. The Committee has taken a consistent view that where the schools did not implement the recommendations of VI Pay Commission, it could have hiked the fee to a maximum extent of 10%, which the Committee considers as reasonable.

In this view of the matter, the Committee is of the opinion that the school ought to refund the entire amount of arrear fee recovered by the school, which as per the school's own submissions was Rs. 49,41,194. The school ought also to refund the incremental tuition fee charged in 2009-10, which was in excess of 10% over that charged in 2008-09 for different classes. Further, since the regular tuition fee which the Committee has determined to be refundable out of the fee for 2009-10, would also be part of the fee for the subsequent years, this would have a ripple effect. The school ought to refund the fee for subsequent years also, to the extent it is relatable to the fee determined to be refundable for the year 2009-10. All these amounts ought to be refunded alongwith interest @ 9% per annum from the date of collection to the date of refund.

(2) Development Fee:

In reply to the questionnaire issued by the Committee, the school furnished the following information with regard to receipt and

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utilisation of development fee charged by the school for the years 2006-07 to 2010-11:

Year	Development Fee collected	Development fee utilised	Purpose for which utilised
2006-07	8,43,705	28,63,341	Capital expenditure
2007-08	15,18,982	17,83,271	Capital expenditure
2008-09	17,31,410	20,69,775	Capital expenditure
2009-10	49,46,312	48,44,049	Capital expenditure
2010-11	51,95,445	59,93,644	Capital expenditure

It was further stated that the development fee was treated as a capital receipt in the books. With regard to maintenance of depreciation reserve fund, the school stated that it was maintaining the depreciation reserve fund till 31/03/2008. *"Thereafter, the school stopped the practice of charging of depreciation to revenue and hence dispensing with the condition to create depreciation reserve fund."*

The Committee has examined the information given by the school and the submissions made by it. The concept of development fee to be charged by the unaided recognised private schools was first introduced after the Duggal Committee, which was constituted by judgment of the Hon'ble Delhi High Court to examine the fee hike effected by the schools for implementation of V Pay Commission, submitted its report. With regard to the development fee, it made the following recommendations:

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

It would be apparent that the maintenance of depreciation reserve fund, was a pre condition for charging the development fee. Without maintaining such a fund, the schools were not allowed to charge development fee in the first place. How much amount is to be put into the earmarked account? The answer to this was provided by the Duggal Committee itself that it ought to be equivalent to depreciation charged in the revenue account. It did not mean that if the schools did not charge any depreciation to the revenue account, they were not required to maintain any earmarked depreciation reserve fund. On the contrary, it meant that if the depreciation reserve account is not maintained, the schools would not be able to

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charge any development fee. The interpretation put by the school is totally misplaced.

The report of the Duggal Committee, was considered by the Hon'ble Supreme Court in the case of Modern School vs. Union of India & ors. (2004) 5 SCC 583. The Apex Court, affirmed the recommendations of the Duggal Committee. It held that:

> *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*

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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 foregoing, the law laid down by the Hon'ble Supreme Court is that schools can charge development fee only if they maintain depreciation reserve fund. The quantum by which such account ought to be funded is the amount equivalent to the amount charged as depreciation in the revenue account. The maintenance of an earmarked depreciation reserve fund is a sine qua non for charging the development fee. If such a reserve fund is not maintained, the schools cannot charge development fee.

In view of the foregoing, the Committee is of the view that since the school did not fulfill the mandatory pre condition of maintenance of depreciation reserve fund for charging development fee, it was not

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justified in charging the same. As the Committee is required to examine the issue of fee charged in pursuance of order dated 11/02/2009, it has examined the issue of development fee for the years 2009-10 and 2010-11 only and in these years, the school of its own, submits that no depreciation reserve fund was maintained for the reason that no depreciation was charged to its revenue.

In view of the above position, the Committee is of the view that the school was not justified in charging any development fee in the years 2009-10 and 2010-11 and the same ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund. As per the table given above, the development fee charged by the school in 2009-10 was Rs. 49,46,312 and in 2010-11, it was Rs. 51,95,445. These amounts ought to be refunded along interest as above.

Recommendations:

To sum up, the school ought to refund the following amounts along with interest @ 9% per annum from the date of their collection to the date of refund:

1. **The arrear fee charged by the school, amounting to Rs. 49,41,194.**
2. **The regular fee hiked in 2009-10, in excess of 10%.**

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3. **The regular fee for the years subsequent to 2009-10, to the extent they relate to the regular fee for 2009-10, of which the Committee has recommended the refund.**

4. **The development fee of Rs. 49,46,312 charged by the school in 2009-10 and Rs. 51,95,445 charged in 2010-11 .**

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 25/05/2015

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The school had not replied to the questionnaire dated 27/02/2012 issued by the Committee, which was followed by a reminder dated 27/03/2012. The annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973, were requisitioned from the concerned Dy. Director of Education. On the basis of the information available in the aforesaid returns, the school was placed in category 'B' for the purpose of verification.

In order to verify the veracity of the returns, the Committee issued a notice dated 10/01/2014, requiring the school to produce in its office its fee records, salary records, books of accounts, bank statements, copies of provident fund and TDS returns for the year 2008-09 to 2010-11, on 07/02/2014. A revised questionnaire, which incorporated the relevant queries regarding development fee, was also issued to the school.

On the scheduled date, Ms. Uma Chaturvedi, Vice Principal of the school appeared along with Ms. Bimla Aswal, UDC. They produced the required records for verification. They also filed reply to the questionnaire issued by the Committee. As per the reply filed, the school implemented the recommendations of VI Pay Commission, prospectively w.e.f. 01/04/2009. It was stated that no arrears were paid. With regard to hike in fee, the school stated that it had hiked the tuition fee by an amount varying between Rs. 75 per month and

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Rs. 150 per month for different classes. In evidence, it filed the fee schedules for the years 2008-09 and 2009-10. It was also stated that the school did not charge any arrear fee, as envisaged in the order dated 11/02/2009 issued by the Director of Education. The school also stated that it was not charging any development fee.

The records produced by the school were verified by Sh. A.D. Bhateja, audit officer of the Committee. He observed that the school had partially implemented the recommendations of the Sixth Pay Commission w.e.f. 01/04/2009. However, the school was not paying dearness allowance at the full rates. He also observed that the salary was paid to the staff for the actual number of days on which the teachers were on duty. Deductions were made for leave without pay. The salary was being paid by cheques/cash. He did not elaborate as to what percentage of salary was paid by cheques and what percentage by cash. However, he mentioned that the school had deducted TDS and Provident Fund from the salaries.

With regard to fee for the year 2009-10 he endorsed the contention of the school that the fee was hiked by Rs. 75 to Rs. 150 per month for different classes. However, the school did not hike any fee in 2010-11.

With regard to the books of accounts, he observed that the balances in respect of the following accounts as per the books, did not

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match with the figures reflected in the audited Income & Expenditure Accounts:

(a) Salary to staff

(b) Miscellaneous expenses

(c) Repair and Maintenance

(d) Student expenses

(e) Receipt from the department of Environment

He also observed that the school was receiving aid from the society every year. In the year 2008-09, the aid was to the tune of Rs. 53,705, in 2009-10, it rose to Rs. 5,15,000 and in 2010-11, it was Rs. 5,18,000.

The Committee issued a notice dated 06/04/2015 to the school for hearing on 21/04/2015. The notice required the school to furnish the information regarding fee and salaries in a structured format, duly reconciled with the Income & Expenditure accounts. The notice also required the school to furnish details of accrued liabilities of gratuity/leave encashment, if applicable to the school and the statement of account of the parent society in the books of the school.

In response to the notice, Ms. Uma Chaturvedi, Vice Principal, Sh. Sureshanand, Accountant, Ms. Bimla Aswal, UDC and Sh. Naresh Kumar Tyagi, TGT of the school, appeared and were heard by the Committee. They filed a letter dated 21/04/2015, giving the

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information of fee and salary, as required by the Committee. The information so furnished, is as follows:-

Fee	2008-09	2009-10	2010-11
Arrear fee for the period from 01.01.2006 to 31.08.2008	0	0	0
Arrear fee (Tuition fee) for the period from 01.09.2008 to 31.03.2009	0	0	0
Arrear fee (Development fee) for the period from 01.09.2008 to 31.03.2009	0	0	0
Regular/ Normal Tuition Fee	20,89,899	24,41,620	27,71,355
Salary			
Arrear Salary for 01.01.2006 to 31.08.2008	0	0	0
Arrear Salary for 01.09.2008 to 31.03.2009	0	0	0
Regular/ Normal Salary	20,16,547	29,34,512	32,81,331

The school did not furnish any statement of its accrued liabilities of gratuity and leave encashment, saying that no employee has retired since the school started.

During the course of hearing the representatives of the school reiterated that it had implemented the recommendations of the Sixth Pay Commission w.e.f. 01/04/2009. It also hiked the tuition fee as per order dated 11/02/2009 issued by the Director of Education. However, the school did not hike any fee in 2010-11. It was also contended that the school did not charge any development fee.

As the observations of the audit officer, particularly with regard to the payment of salary were vague, the Committee examined the

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books of accounts and salary records of the school during the course of hearing. The Committee observed that almost 50% of the salary paid by the school was in cash. However, deduction in respect of EPF and TDS, were apparently made. The school did not produce the copies of the TDS returns filed by it but only produced the challans of deposit of TDS. The representatives of the school sought time for doing so. The school was directed to file its quarterly TDS returns (Form 24 Q) for the years 2008-09 and 2009-10, within one week.

The Committee also observed that the school was running pre primary classes also but its financials were not incorporated in the financials of the school. The representatives of the school submitted that the financials of the pre primary classes are incorporated in the financials of the Parent Society. The school filed the balance sheet of the Parent Society in support.

On 12/05/2015, the school filed a letter dated 11/05/2015, contending that it could not file the TDS returns as the employees did not provide their PAN numbers.

The Committee issued a fresh notice of hearing dated 13/05/2015 for hearing the school on 25/05/2015, in light of its fresh submissions. The school was also directed to file its fee and salary statement for 2008-09, 2009-10 and 2010-11, in respect of its pre primary classes.

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On the date of hearing, Ms. Uma Chaturvedi, Ms. Bimla Aswal and Mr. Suresh Anand, appeared and were finally heard by the Committee.

Discussion & Determination:

The Committee has perused the annual returns filed by the school, its reply to the questionnaire issued by it, the observations of the audit officer of the Committee, the salary records and books of accounts produced by the school during the course of hearing as also the other documents filed by it.

The Committee observes that the audit officer conducted a perfunctory examination of the records produced by the school. He has not even tabulated the fee charged by the school before hike and after hike, although he mentions the amount of hike effected by the school and that the fee charged is in accordance with the fee schedules of the school. The Committee is of the view that before undertaking any further exercise, it would be in order to tabulate the comparative fee charged by the school in 2008-09 in 2009-10. The tuition fee charged by the school in 2008-09 and 2009-10 was as follows:-

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Class	Monthly tuition fee 2008-09 (Rs.)	Monthly tuition fee 2009-10 (Rs.)	Increase in 2009-10 (Rs.)	%age increase in 2009-10
I	460	535	75	16.30%
II	460	535	75	16.30%
III	460	535	75	16.30%
IV	510	660	150	29.41%
V	510	660	150	29.41%
VI	550	700	150	27.27%
VII	600	750	150	25.00%
VIII	610	760	150	24.59%
IX	730	880	150	20.54%
X	730	880	150	20.54%

Although, the school did not hike the fee to the maximum extent which was permitted by the aforesaid order dated 11/02/2009, the hike was in excess of tolerance limit of 10%. It, therefore, boils down to the determination of the question whether the school did in fact implement the recommendations of the VI Pay Commission.

As observed supra, almost 50% of the salary paid by the school, was paid in cash. The school did make some deposit of TDS but did not file its quarterly returns. The Committee also finds that the school mentioned wrong assessment years in the challans of TDS through which the payments were made. This has also to be viewed in light of the observation made by the audit officer that the balances of certain accounts as per the books of the accounts of the school did not tally with the figures which were carried to the Income & Expenditure Accounts. One of the accounts whose figures did not tally was 'Salary to staff'. Further, the aid taken by the school from its

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Parent Society, rose dramatically from Rs. 53,705 in 2008-09 to Rs. 5,15,000 in 2009-10. Significantly, the school showed an increase of Rs. 9,17,965 in its expenditure on salary in 2009-10.

Considering all these facts, the Committee is of the view that the school did not actually implement the recommendations of the VI Pay Commission. It merely showed its implementation in its books.

In view of the aforesaid determination, the Committee is of the view that in the absence of actual implementation of the recommendations of VI Pay Commission, the school could at best have increased its fee by 10% in 2009-10. However, as reflected in the above table, the fee hiked by the school in that year was between 16.30% and 29.41%. The Committee is of the view that the fee hiked by the school in 2009-10, in excess of 10%, ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund. However, since the school did not hike any fee in 2010-11, the school may not refund any part of the fee of this year that was hiked in the year 2009-10.

Recommendations:

In view of the foregoing discussion, the Committee is of the view that the school ought to refund the fee hiked by it in 2009-10 to the extent, the hike exceeds 10% of the fee charged by the school in 2008-09. The aforesaid refund ought to be made along

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

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 25/05/2015

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The Committee requisitioned the annual returns of the school filed under Rule 180 of Delhi School Education Rules, 1973, the fee schedules of the school for the years 2006-07 to 2010-11, the details of salary paid (including arrears) to the staff prior to as well as subsequent to implementation of the recommendations of the VI Pay Commission, the extent of fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education as well as recovery of arrear fee, from the concerned Dy. Director of Education. It appears that after requisition by the Committee, the Education Officer, Zone-26 wrote to the school to furnish the details as required by the Committee. In response, the school under cover of its letter dated 31/01/2012, submitted the required details to the Education Officer which were forwarded to the office of the Committee. On perusal of the aforesaid documents/details, the school was placed in Category 'B'. However, the Committee observed that the details/documents furnished by the school were not adequate for the purpose of examining the justifiability of the fee hiked by the school and therefore, the school, vide letter dated 07/05/2013, was issued a questionnaire, seeking specific information regarding salary, tuition fee, development fee, maintenance of development fund and depreciation reserve fund.

In reply, the school, vide its letter dated nil (received in the office of the Committee on 23/05/2013, stated as follows:

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(a) It had implemented the recommendations of the VI Pay Commission. The increased salary to the staff was paid from 01/04/2009. In support, the school enclosed by way of annexures, salary details of staff for the month of March 2009 and April 2009.

(b) It had paid the arrears of salary to staff which became due on account of the retrospective application of recommendations of the VI Pay Commission report, in two installments- one in September 2009 releasing 40% of the arrears and the second in March 2010, releasing the balance 60% of the arrears for the period January 2006 to March 2009. In support, the school furnished employee wise details of such arrears paid to the staff.

(c) With regard to hike in tuition fee, the school stated that initially the fee was hiked in accordance with order dated 11/02/2009 issued by the Director of Education. The recovery of arrear fee was also made as per the aforesaid order. However, a representation was made to the Director of Education on 6th May 2009 seeking approval of a further hike in fee on account of inadequacy of funds for implementation of VI Pay Commission report. The approval was received from the Director of Education vide letter dated 27/08/2009. Accordingly a demand for further hike in fee was raised from the students in September 2009.

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(d) With regard to development fee, the school stated that it was charging development fee from the students in all the five years for which information was sought i.e. 2006-07 to 2010-11. It gave utilisation of development fund for purchase of furniture, fixture and equipments in the respective years. Further, it was stated that unutilised development fund was carried over for the subsequent year.

(e) The development fee is treated as a capital receipt and reflected separately under the head 'Development fund' in the balance sheet.

(f) With regard to maintenance of development fund and depreciation reserve fund in earmarked accounts, the school stated that it was maintaining separate bank accounts for such purposes.

Preliminary calculations were made by the Chartered Accountants detailed with the Committee (CAs). The calculation sheet as prepared by the CAs was perused by the Committee with reference to the audited financials of the school and the information furnished by it in reply to the questionnaire issued by the Committee. The Committee felt that the entire funds available with the school ought not be considered as available for implementation of VI Pay Commission report and the school must maintain adequate reserves for future contingencies and for meeting its accrued liabilities of

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gratuity and leave encashment. Moreover, the calculation sheet had been prepared without considering that the school had diverted funds to its parent society and such information was discernible from the audited financials of the school. Further, the Committee felt that since the school had hiked the fee twice- once originally as per order dated 11/02/2009 and again after receiving approval from the Director of Education for a further hike, the exact quantum of fee hike ought to be examined from the books of the accounts of the school and not merely from the audited financials where the figures under different heads were clubbed. Therefore, the Committee issued a notice dated 26/06/2014, requiring the school to appear before the Committee on 23/07/2014 and also produce its books of accounts, fee records and salary records, the statement of account of the society running the school, details of accrued liabilities of gratuity and leave encashment and a copy of the circular issued to the parents regarding fee hike for implementing the recommendations of VI Pay Commission.

On the scheduled date, Ms. Abha Sehgal, Principal, Sh. P.D. Joseph, Incharge-Accounts, Sh. Sanjay Nautiyal, Accountant and Ms. Renu Budhimania, Accountant of the school appeared. They produced the books of accounts of the school maintained in the software.

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The books of accounts of the school were perused by the Committee and the following figures, which are relevant for the calculations to be made by the Committee, were extracted therefrom:

Particulars	F.Y. 2008-09	F.Y. 2009-10
Arrear of Tuition fee for the period January 2006 to August 2008	25,36,796	
Arrear of Tuition fee for the period September 2008 to March 2009	38,76,633	
Additional fee as permitted by the Director of Education vide its order dated 27/08/09	75,52,684	1,32,73,104
Arrear of Development fee (@ 15% of tuition fee. Originally development fee charged @ 10% of tuition fee)	5,81,595	
Regular Tuition fee	5,83,26,615	9,52,90,268
Arrear salary from January 2006 to March 2009	4,55,34,191	
Provident fund on arrear salary	43,64,210	
Regular salary	6,26,84,148	9,01,20,916
Provident fund on regular salary	60,54,457	75,69,489

The above figures were agreed to by the Principal and Accounts Incharge of the school. they made the following endorsement at the bottom of the aforesaid chart prepared by the Committee:

"We agree with these figures which have been taken from our books of accounts and audited balance sheets."

On 23/07/2014, the school did not furnish the details of its accrued liabilities of gratuity and leave encashment. Further, instead of filing the statement of account of the parent society, as appearing in the books of the school, the school filed audited balance sheets of The Civil Services Society, which is the parent society of the school.

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The representatives of the school were heard. During the course of hearing, the representatives of the school conceded that the development fee was originally charged @ 10% of the tuition fee for the year 2008-09, as per the statement of fee filed by the school with the Director of Education, under section 17(3) of the Delhi School Education Act, 1973. However, the arrears of incremental development fee for the period 01/09/2008 to 31/03/2009, which arose on account of increase in tuition fee for that period, were recovered @ 15% of the tuition fee.

Further with regard to maintenance of earmarked development fund account, the school stated that it started maintaining such an account only in 2010-11. However, they conceded that no earmarked depreciation reserve fund account was maintained.

The school was required to provide an employee wise detail of its accrued liabilities of leave encashment and gratuity as on 31/03/2008 and 31/03/2010. Further, the school was directed to file the statement of bank account of development fund, since its inception and upto 31/03/2010. The hearing was closed and the representatives of the school were informed that in case it was felt necessary by the Committee after preparation of the calculation sheet, a fresh hearing may be fixed. However, after conclusion of the hearing, the Committee, vide its letter dated 25/07/2014, required to school to furnish the statement of account of its parent society, as appearing in

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the books of the school, since the inception of the school and upto 31/03/2011. Further, as examination of the audited balance sheets of the parent society revealed that it was receiving grants/donations directly into the account of the society, the school was directed to furnish copies of the letters sanctioning such grants by the respective departments.

The school furnished the aforesaid details/documents under cover of its letter dated 04/08/2014. It was also mentioned in this letter that "no grants are received in the school".

The Committee directed its audit officer to prepare a preliminary calculation sheet, taking into account the figures of the arrear fee and salary, the regular fee and salary, which had been culled out by the Committee from the books of the accounts of the school and also agreed to by the representatives of the school. The position of funds already available with the school was to be reckoned with reference to the audited balance sheet of the school as on 31/03/2008. The audit officer was also directed to prepare a statement of grants received by the school but transferred to its parent society as also the grants received by the parent society directly. She prepared the following two statements:

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Statement-1

Statement of funds diverted by the school to the Parent society

Financial Year	Total funds transferred	Capital grants	Other transfers
1999-00	32,000		32,000
2000-01	47,656		47,656
2001-02	12,763,723		12,763,723
2002-03	2,092,183		2,092,183
2003-04	3,575,367		3,575,367
2004-05	61,421,441	55,000,000*	6,421,441
2005-06	2,537,118		2,537,118
2006-07	5,029,132	5,000,000*	29,132
2007-08	5,017,930	5,000,000*	17,930
2008-09	23,530,832	22,943,500*	587,332
2009-10	23,047		23,047
2010-11	925,737		925,737
Total	116,996,166	87,943,500*	29,052,666

*These funds were initially received by the school from the Ministry of Personnel, Public Grievances & Pension but were transferred by the school to its Parent Society. However, the remaining funds of Rs. 2,90,52,666 were transferred by the school to its Parent Society out of the revenues of the school.

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Statement-2

Grants received by The Civil Services Society upto 31.03.2011

Received from	Amount	Purpose as per the sanction letter
Ministry of Defence, Govt. of India	50,000,000	Financing the cost of the school
Ministry of HRD	50,000,000	Construction cost of school building
Ministry of Finance, Govt. of India (Customs & Central Excise)	30,000,000	Setting up of school
Ministry of Railways, Govt. of India	2,000,000	Purpose not mentioned
Ministry of Personnel, Public Grievances and Pension	87,943,500*	Construction cost of school Building
Government of Kerala	500,000	For construction of school building
Government of Andhra Pradesh	2,500,000	For capital cost of school building
Government of Tripura	100,000	As grant-in-aid
Government of Karnataka	2,500,000	Not specifically for Sanskriti School
Government of Uttranchal	500,000	Sanction not available in file
Government of Madhya Pradesh	200,000	As grant-in-aid
Reserve Bank of India	10,000,000	Building & Infrastructure
ITC Limited	10,000,000	For additional facilities at Sanskriti
Delhi Kalyan Samiti, Govt. of NCT of Delhi	3,500,000	Completing Auditoriums & Hostels
External Affairs Spouses Association	150,000	For educational services
External Affairs Spouses Association	400,000	Support to school
External Affairs Wives Association	200,000	Sanction not available in file
ICS/ IAS Wives Association	100,000	Sanction not available in file
Foreign Services Wives Association	200,000	Sanction not available in file
Delhi Kalyan Samiti, Govt. of NCT of Delhi	1,000,000	Construction of Annexe block of school
Total Grants	251,793,500	

*Initially received by the school but subsequently transferred to the Society

The Committee checked the aforesaid two statements with reference to the sanction letters provided by the school and found the same to be in order. For the reasons stated in the subsequent paragraphs, the Committee directed its audit officer to include the funds transferred by the school to the Society out of its own revenues,

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as part of funds available with the school, which could have been utilised for implementation of the recommendations of the VI Pay Commission. The Committee also directed its audit officer to include the grants which had been received by the society directly in its account, to the extent the same were not specifically directed to be utilised for incurring of capital expenditure, as part of funds available with the school which could have been utilised for implementing the recommendations of VI Pay Commission.

As per the directions of the Committee, the audit officer prepared the following calculation sheet for the purpose of examining the justifiability of fee hike effected by the school for the purpose of implementation of VI Pay Commission report:

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	Statement showing Fund availability of as on 31-03-2008 and effect implementation of 6th Pay Commission report and fee hike as order dt. 11/02/2009 and subsequent order of further fee hike		
	Particulars	**Amount (Rs.)**	**Amount (Rs.)**
	Current Assets		
	Cash in hand	47,828	
	Bank Balance	1,486,249	
	Fixed Deposits	31,699,608	
	Interest accrued on Fixed Deposits	1,787,397	
	Advance for Expenditure	22,590	
	Pre-paid Expenses	853,023	
	Amounts recoverable	24,516	
	Tax Deducted at Source	346,633	36,267,844
Less: -	Current Liabilities		
	Liability for Expenses	1,360,708	
	Security Deposits	147,817	
	Caution Money	2,444,500	
	Advance Fee received	2,657,578	
	Earnest Money	30,000	
	TDS Payable	19,289	6,659,892
	Net Current Assets + Investments		**29,607,952**
Add: -	**Funds diverted by the school to the parent society as per detail attached (other than capital grants)**	29,052,666	
	Funds received by the society for the purpose of school as per detail attached (Other than capital grants)	3,850,000	**32,902,666**
			62,510,618
Less: -	Arrear of Salary as per 6th CPC w.e.f. 01.01.06 to 31.03.2009 (Information provided by school)	49,898,401	
	Incremental Salary as per 6th CPC in 2009-10	28,951,800	**78,850,201**
	Excess / (Short) Fund Before Fee Hike		**(16,339,583)**
Add: -	Arrear of Tuition fee for the period from 01.01.06 to 31.08.08 (information provided by school)	2,536,796	
	Arrear of Tuition fee for the period from 1.9.08 to 31.3.09	3,876,633	
	Additional fee as per order dated 27.08.2009 of DOE	20,825,788	
	Development fee arrear for 1.09.08 to 31.03.09 @ 15%	581,595	
	Incremental Tuition fee in 2009-10	36,963,653	**64,784,465**
	Excess / (Short) Fund After Fee Hike		**48,444,882**
Less: -	**Reserve for accrued liability for Gratuity and leave encashment**		
	For Gratuity as on 31.03.2010	18,699,268	
	For Leave Encashment as on 31.03.2010	4,129,329	22,828,597
	Excess / (Short) Fund		**25,616,285**

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Excess fee recovered as above		**25,616,285**
Development fee refundable for non maintenance of earmarked depreciation reserve fund acount		
Charged in 2009-10	14,442,304	
Charged in 2010-11	16,426,203	30,868,507
		56,484,792
Less Reserve for future contingencies (4 months salary)		32,563,468
Amount refundable		**23,921,324**

Working Notes

	2008-09	2009-10
Salary & Provident Fund	68,738,605	97,690,405
Increase in Salary in 2009-10	**28,951,800**	

	2008-09	2009-10
Tuition Fee	58,326,615	95,290,268
Increase in Tuition Fee in 2009-10	**36,963,653**	

Funds transferred by the school to the Parent Society

Financial Year	Total	Capital grants	Other grants
1999-00	32,000		32,000
2000-01	47,656		47,656
2001-02	12,763,723		12,763,723
2002-03	2,092,183		2,092,183
2003-04	3,575,367		3,575,367
2004-05	61,421,441	55,000,000	6,421,441
2005-06	2,537,118		2,537,118
2006-07	5,029,132	5,000,000	29,132
2007-08	5,017,930	5,000,000	17,930
2008-09	23,530,832	22,943,500	587,332
2009-10	23,047		23,047
2010-11	925,737		925,737
Total	116,996,166	87,943,500	29,052,666

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Grants/ donations received by the Society for support to the school upto 31.03.2011

Received from	Amount	Purpose as per sanctioned letter
Ministry of Railways, Govt. of India	2,000,000	Purpose not mentioned
Govt. of Tripura	100,000	As grant-in-aid
Govt. of Madhya Pradesh	200,000	As grant-in-aid
Government of Uttranchal	500,000	Sanction not available in file
External Affairs Spouses Association	150,000	For educational services
External Affairs Spouses Association	400,000	Support to school
External Affairs Wives Association	200,000	Donations
ICS/ IAS Wives Association	100,000	Sanction not available in file
Foreign Services Wives Association	200,000	Sanction not available in file
Total Grants	**3,850,000**	

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Grants/ donations received by the Society for support to the school upto 31.03.2011

Received from	Amount	Purpose as per sanctioned letter
Ministry of Railways, Govt. of India	2,000,000	Purpose not mentioned
Govt. of Tripura	100,000	As grant-in-aid
Govt. of Madhya Pradesh	200,000	As grant-in-aid
Government of Uttranchal	500,000	Sanction not available in file
External Affairs Spouses Association	150,000	For educational services
External Affairs Spouses Association	400,000	Support to school
External Affairs Wives Association	200,000	Donations
ICS/ IAS Wives Association	100,000	Sanction not available in file
Foreign Services Wives Association	200,000	Sanction not available in file
Total Grants	**3,850,000**	

As per the above calculation sheet prepared by the audit officer, the school had available with it funds to the tune of **Rs. 2,96,07,952** as on 31/03/2008. Further, a sum of **Rs. 2,90,52,666** was transferred by it to its parent society out of the surplus generated by the school from its revenues and a sum of **Rs. 38,50,000** was received by the society which was meant for the use by the school but had not been made over to the school. The aggregate of all these amounts which were available or deemed to be available with the school was **Rs. 6,25,10,618**, which could have been utilised by the school for implementation of VI Pay Commission report. However, the school had accrued liabilities of gratuity and leave encashment amounting to **Rs. 2,28,28,597** as on 31/03/2010, which the school needed to keep in reserve, leaving a balance of **Rs. 3,96,82,021** available with it. The total additional liability of the school on account of implementation of VI Pay Commission was **Rs. 7,88,50,201**. The school, thus, needed to raise so much of fee as to bridge the deficiency

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of **Rs. 3,91,68,180**. However, the total revenue generated by the school by way of initial fee hike and recovery of arrear fee itself was **Rs. 4,39,58,677**, which resulted in a surplus to the tune of **Rs.47,90,497**. The school further recovered a sum of **Rs. 2,08,25,788** by way of additional fee hike after receiving permission from the Director of Education. Thus the school raised more fee than was required and the excess amount available as a result of unjustified fee hike amounted to **Rs. 2,56,16,285.** Further, it appeared that the school was not fulfilling the pre-conditions prescribed by Duggal Committee regarding charging of development fee and on this account, the Committee was, of the prima-facie view that the development fee charged by the school in 2009-10 and 2010-11, in pursuance of order dated 11/02/2009 of the Director of Education ought to be refunded. The amount charged on this account in these two years amounted to **Rs. 3,08,68,507**. Thus, the total fee that was prima-facie found to be recovered in excess was **Rs. 5,64,84,792**. Keeping in view, the requirement of the school to keep funds in reserve for future contingencies, the Committee considered that a sum of **Rs. 3,25,63,468**, which is equivalent to expenditure on four months' salary, ought to be kept in reserve and the school ought to refund the remainder of the excess/ unjustified fee amounting to **Rs. 2,39,21,324**.

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The preliminary calculation sheet, as above was furnished to the school under cover of Committee's letter dated 16/03/2015. The school was given an opportunity to give its comments on the preliminary calculations and also on the issue of refund of development fee. The hearing was fixed for 24/03/2015.

On the aforesaid date, Sh. P.D. Joseph, Accounts In-charge, Ms. Renu Budhimania and Sh. Sanjay Nautiyal, Accountants of the school appeared alongwith Ms. Prabhjot Kaur, Chartered Accountant. They filed written submissions, dated 24/03/2015 and were also heard. During the course of hearing, they disputed only the figure of Rs. 3,29,02,666 which were taken as funds transferred by the school to the parent society or the funds retained by the parent society which were meant for the school. It was contended that some of the payments made by the school to the Society were for fixed assets for which the payments were initially made by the society. In this connection, they brought to the notice of the Committee that the Society had provided the following fixed assets and the amounts were credited to the account of the Society with a corresponding debit to the fixed asset account of the school:

Year	**Particulars**	**Amount (Rs.)**
1999-2000	Furniture and Printing Machine	33,80,741
2000-2001	Computers and Furniture Fittings	1,26,92,045
2001-2002	Electrical Equipments	14,92,710
2002-2003	Tata Sumo Vehicle	2,01,832
2002-2003	EPABX System	26,336
2002-2003	Electrical Equipments	37,00,036

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2003-2004	Various Fixed Assets	6,19,408
2004-2005	Electrical Equipments	18,276
2004-2005	Fittings & Installations	19,603
2007-2008	Tube Well	8,979
	Total	**2,21,59,966**

Discussion & Determination:

1. **Tuition Fee:**

It would be in order to first set out the schedule of fee charged by the school in 2008-09 and 2009-10 so as to see the extent of hike effected by the school:

Tuition Fee:

Class	2008-09		2009-10		Increase	
	For children of civil servants	For children of general category	For children of civil servants	For children of general category	For children of civil servants	For children of general category
Nursery to V	1524	2741	2444	4251	920	1510
VI to X	1588	2832	2508	4342	920	1510
XI to XII	1651	2923	2571	4433	920	1510

As is apparent from the chart, the school follows dual fee structure for students, one for children of civil servants and the other for children of general category (other than civil servants). This has to be viewed in the context of the funding structure of the school. As observed supra, the Civil Services Society which has established the school received total grants and donations amounting to Rs. 25.71 crores from the various ministries, departments and undertaking of Govt. of India and various State Govts like the Govt. of Kerala, Andhra

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Pradesh, Tripura, Karnataka, Uttranchal and Madhya Pradesh. The Committee wonders as to what prompted these State Governments to give grants to a school which is situated outside their boundaries and by no stretch of imagination, can they be subserving the purpose of such States. The Society also received major grants from the Ministry of Personnel, Public Grievances and Pension, Defence, HRD and Finance. The aggregate amount received from these Ministries is Rs. 21.79 crores.

During the hearing, the persons representing the school were asked to explain the rationale for having different set of fee for the children of civil servants on the one hand and the children of non civil servants on the other. But they were reticent. However, it does not require any brain storming to appreciate their predicament. The reason for the aforesaid differentiation is not far to seek. Securing funds/donations from various quarters mentioned above appear to serve as quid pro quo for the advantage bestowed on the children of civil servants. It stems from the ability to secure funds/ donations from the aforesaid sources. The funds are actually tax payers' money, but unfortunately they have no say in the matter. The classification seems to be based upon incident of birth of a child in a particular family. It does not seem to be founded on any intelligible differentia having a nexus to the object of imparting education to the children. Preference to wards of civil servants in the matter of fee

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concession over the wards of non civil servants is arbitrary. Children joining the same stream could not be treated differently in the matter of fee fixation. Different set of fee for children of civil servants & other children is not conducive to the principles of justice, fair play and reasonableness. It creates inequality among the Children between those who come from the homes of civil servants and those who come from not so privileged homes. The classification does not appear to rest on any rational basis. In **State of West Bengal vs. Anwar Ali Sarkar, AIR 1952 SC 75**, it was held as follows:-

> *"54.....The Classification must not be arbitrary but must be rationale, that is to say, it must not only be based on some qualities or characteristics which are to be found in all the persons grouped together and not in others who left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. In order to pass the test, two conditions must be fulfilled, namely, (I) that the classification must be founded on an intelligible differentia which distinguishes those that are grouped together from others, and (2) that that differentia must have a rational relation to the object sought to be achieved by the Act. The differentia which is the basis of classification and the object of the Act are distinct things and what is necessary is that there must be a nexus between them."*

In **Maneka Gandhi vs. Union of India, (1978) 1 SCC 248**, it was held that the guarantee against the arbitrariness is a great equalising principle, a founding faith of the Constitution, and a pillar on which rests securely the foundation of our democratic republic.

In **E.P.Royappa vs. State of Tamil Nadu, (1974) 4 SCC 3**, it was held that the basic principle which informs Article 14 is equality

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and inhibition against discrimination. It was also observed that equality is antithetic to arbitrariness. It will be apposite to quote the following observation of the Supreme Court:-

Equality is a dynamic concept with many aspects and dimensions and it cannot be cribbed, cabined and confined within traditional and doctrinaire limits.........In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14...........Where the operative reason for state action, as distinguished from motive inducing from the antechamber of the mind, is not legitimate and relevant but is extraneous and outside the area of permissible considerations............"

The classification can have lethal emanations as it creates two groups of students based on status of their parents which makes children class conscious.

We should not be understood as stating that there cannot be different set of fees for students coming from poor families and those who hail from affluent backgrounds. It is legitimate to give fee concession to a gifted student belonging to a poor family. There could be another category of students belonging to backward classes and schedule castes, who can legitimately be charged a lower fee or no fee

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at all. But, making an invidious classification, as in instant case, is forbidden. According to the school there was need to hike the fee to implement the recommendations of the sixth pay commission over and above the hike permitted to the school, on the ground that the hike in accordance with the notification of the Directorate of Education dated February 11, 2009, was not enough to cover the shortfall for implementing the recommendations of the Sixth Pay Commission.

We have considered the stand of the school. While the actual requirement of the school for the fee hike will be determined in the succeeding paragraphs, suffice to say at this stage that if the concession in fee was not given to a class of students, who do not fall in the category of weaker sections of the society, perhaps, there would have been no need to ask for a hike in fee, the second time by the school.

Having carefully examined the background of the case, the question relating to the quantum of fee hike has to be holistically viewed. The Committee notes that the school initially hiked its tuition fee by Rs. 400 per month for the children of civil servants and Rs. 500 per month for the children of general category. However, the school made a representation to the Grievance Redressal Committee which was constituted vide para 10 of the aforesaid order dated 11/02/2009, vide which it represented that the fee hike allowed by the aforesaid

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order, was not sufficient for the school to be able to fully implement the recommendations of the VI Pay Commission. The school initially represented that as against a hike of Rs. 400 per month and Rs. 500 per month as allowed by the aforesaid order, the school be allowed to hike the fee by Rs. 1000 per month and Rs. 1250 per month for children of civil servants and general category respectively. After providing a hearing to the school, the Public Grievances Committee recommended a hike of Rs. 920 per month for the children of civil servants and Rs. 1510 per month for the children of general category w.e.f. 01/09/2008. This is rather surprising. While the school claimed a differential of Rs.250 per month in the fee hike between the children of Civil Servants and those of general category, the Grievance Committee increased the differential to Rs.590 per month. The decision of the Grievance Committee appears to be unconscionable, to say the least.

As regards the actual calculations, the school expressed reservations only on the issue of funds diverted by the school to the Society or those which were meant for the school but went into the coffers of the Society, to be included in the funds available with the school for the purpose of implementation of 6th Pay Commission Report. Rest of the calculations were not disputed. It is necessary at this stage to examine the contention of the school that the funds which were transferred to the Society, were partly on account of the

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payment of fixed assets of the school, which were initially paid for by the Society. The amount on this account works out to Rs. 2,21,59,966.

The contention of the school, although technically correct, does not entitle the school for any relief for the following reasons:

(a) The Society had not contributed anything for the development of infrastructure or creation of fixed assets. From the Balance sheets of the Society, which were furnished by the school itself, it is apparent that it was created with a corpus fund of just Rs. 1,57,200. Rest of the money came in by way of donations and grants mainly from various departments of Central Government and various State governments. Wherever, such grants were specified to be meant for incurring capital expenditure, the Committee has already excluded them from the funds available for implementation of 6th Pay Commission Report.

(b) Acquisition of fixed assets is a capital expenditure which cannot be recovered from the students as it cannot form part of the fee structure (see Modern School Vs. Union of India & Ors. (2004) 5 SCC 583)

(c) The transfer of funds by the school to the Society is forbidden under the law laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India, supra

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and Action Committee Unaided Pvt. Schools and Ors. v. Director of Education and Ors. 2009 (11) SCALE 77.

(d) As per section 18(3) of the Delhi School Education Act, 1973, every recognised unaided school shall create a fund to be called "Recognised Unaided School Fund" and there shall be credited thereto income accruing to the school by way of (a) fees, (b) any charges and payments which may be realised by the school for other specific purposes, and (c) any other contributions, endowments, gifts and the like.

Further Rule 175 of the Delhi School Education Rules, 1973 require that the accounts with regard to Recognised Unaided School Fund shall be so maintained as to exhibit clearly, inter alia, endowments, gifts and donations.

(e) Although, in view of the funding pattern of the school, there is no need for maintenance of any reserve for future contingencies, the Committee has made the calculations, setting apart a sum of **Rs. 3,25,63,468**, which is equivalent to four months' salary.

In view of the foregoing discussion, the Committee is of the view that no adjustment is required to be made to the preliminary calculations made by the Committee. The school had already recovered a sum of **Rs. 47,90,497**, in excess of its requirements in the first instance itself i.e. by hiking the fee and recovering the arrears as

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per order dated 11/02/2009. The Committee is further of the view that there was no need for the school to approach the Grievances Committee seeking a further hike and also there was no justification, whatsoever, for the Grievances Committee to grant a further fee hike which was more than that sought by the school, particularly to the disadvantage of the students belonging to the General Category. The additional amount recovered by the school pursuant to the recommendations of the Grievances Committee was **Rs. 2,08,25,788**.

2. Incremental development Fee:

The representatives of the school fairly conceded during the course of hearing that the school was originally charging development fee @ 10% of tuition fee. However, while recovering the arrears of the differential development fee which arose on account of increase in tuition fee w.e.f. 01/09/2008, the school recovered the same @ 15% of the tuition fee. The representatives of the school offered no explanation as to why it was done. The Committee is of the view that para 14 of the order dated 11/02/2009 which permits development fee to be charged at a rate not exceeding 15% of tuition fee, is prospective in nature and cannot be invoked to recover the arrear of differential development fee @ 15% if the schools were charging the same at a rate lesser than 15%. The Committee finds no fault with the school charging development fee @ 15% of tuition fee w.e.f. 01/04/2009, subject to fulfillment of the specified conditions. For

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recovering the arrears of differential development fee for the period 01/09/2008 to 31/03/2009, para 15 of the aforesaid order is relevant which mandates that the hike in development fee on account of increase in tuition fee is to be utilised for meeting shortfall in salary/arrears only. Since the school was charging development fee only @ 10% of tuition fee, it could recover the arrears of differential development fee also @ 10% of the differential tuition fee. Any recovery in excess of 10% w.e.f. 01/09/2008 would amount to hiking the fee in the mid session which is proscribed by section 17(3) of the Delhi School Education Act, 1973. As per the figures agreed to by the school and also emanating from its books of accounts, the differential development fee for the period 01/09/2008 to 31/03/2009 was Rs. 5,81,595 and differential tuition fee for the corresponding period was Rs. 38,76,633. The Committee is of the view that the school was justified in recovering only Rs. 3,87,663 as differential development fee for this period. The excess amount of Rs. 1,93,932 was recovered in contravention of law. However, since this amount has already been taken into account while determining the refund of tuition fee, no separate recommendation is required to be made in this regard.

3. Regular Development Fee:

As per the information furnished by the school, the development fee charged and utilised by the school for the specified purposes of purchase of furniture, fixtures and equipments, was as follows:

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Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
*Opening balance of development fund	2,17,51,474	2,59,50,504	3,00,94,340	3,66,14,620	4,80,34,872
Development Fee Charged	49,27,322	51,70,812	69,51,030	1,44,42,304	1,64,26,203
Development Fee utilised	7,28,292	10,26,976	4,30,750	30,22,052	72,38,345
*Closing balance of development fund	2,59,50,504	3,00,94,340	3,66,14,620	4,80,34,872	5,72,22,730
Balance held in earmarked development fund account	0	0	0	0	3,59,36,253
Balance held in earmarked depreciation reserve fund account	No such account maintained.				

*The opening and closing balance of development fund have been worked out based on the information furnished by the school and are not in agreement with the balances appearing in the balance sheets as in some years the school has not deducted the utilisation of development fund from the development reserve account.

As is apparent from the above table, the school was not keeping the unutilised development fund in an earmarked account till 2009-10. It opened the development fund account only in the year 2010-11. Further, the school was admittedly not maintaining any earmarked depreciation reserve fund. In its written submissions dated 24/03/2015, the school stated that with regard to Depreciation Reserve Fund, the school has been following the instructions contained in Clause No.14 of the DOE letter dated 11/02/2009. Consequently, the school has been maintaining Depreciation Reserve Fund by transferring an amount from Income & Expenditure account equivalent to annual depreciation charged during the year.

It is apparent from the submissions of the school that it is maintaining a Depreciation Reserve only in its books of accounts. No funds have been earmarked against such reserve. The same position is also apparent from the audited Balance sheets of the school.

Maintenance of earmarked fund accounts for parking unutilised development fee and the accumulated depreciation on assets acquired

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out of development fee are the essential pre conditions for the schools to charge development fee. The concept of development fee in recognized unaided schools was introduced for the first time when the Director of Education issued an order no. De.15/Act/Duggal.Com./ 203/99/23033-23980 dated 15/12/1999, which was issued in pursuance of the recommendations of Duggal Committee constituted by the Hon'ble Delhi High Court in the case of Delhi Abhibhavak Maha Sangh vs. Union of India AIR 1999 Del 124. Para 7 of this order read as under:

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

The aforementioned order of the Director of Education was considered by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 and it was held as follows:

> *25. In our view, on account of increased cost due to inflation, the management is entitled to create Development Fund Account. For creating such development fund, the management is required to collect development fees. In the present case, pursuant to the recommendation of Duggal Committee, development fees could be levied at the rate not exceeding 10% to 15% of total annual tuition fee. Direction no.7 further states*

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> *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.*

Para 14 of the order dated 11/02/2009 issued by the Director of Education is essentially a repeat of direction no. 7 of order dated 15/12/1999 which was the subject matter of consideration of the Hon'ble Supreme Court, except that the outer limit of charge of development fee has been raised from 10% to 15% in accordance with the judgment of the Hon'ble Supreme Court.

In view of the law laid down by the Hon'ble Supreme Court, the development fee has to be collected only if the school maintains a depreciation reserve fund equivalent to the depreciation charged. Admittedly, the school has not maintained any earmarked fund in respect of depreciation charged on the assets acquired out of development fee. The Committee is, therefore of the view, that since

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this essential pre condition for charging development fee was not fulfilled by the school, it was not authorized to charge any development fee at all. The Committee is of the view that the development fee charged by the school in the year 2009-10 amounting to **Rs. 1,44,42,304** and **Rs. 1,64,26,203** in the year 2010-11 was not in accordance with law and ought to be refunded.

Final Determinations:

The Committee is of the view that the school ought to refund the following amount to the students out of the fee hike and the additional fee hike effected by it in pursuance of orders dated 11/02/2009 and 27/08/2009 of the Director of Education:

S.N.	**Particulars**		**Amount (Rs.)**
1	**Out of the fee hike and arrear recovery as per order dt. 11/02/2009**	**47,90,497**	
2	**Fee hiked as per order dated 27/08/2009**	**2,08,25,788**	
3	**Regular Development fee for 2009-10 and 2010-11**	**3,08,68,507**	**5,64,84,792**
	Less: Reserve for future Contingencies (equivalent to four months' salary)		**3,25,63,468**
	Net amount refundable		**2,39,21,324**

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Sanskriti School, Chanakyapuri, New Delhi-110021 000259

Recommendations:

The Committee therefore recommends that:

1. **The school ought to refund a sum of Rs. 2,39,21,324 as per the above details, along with interest @ 9% per annum, from the date of collection to the date of refund.**
2. **The Director of Education ought to consider whether the dual fee structure of the school for the children of civil servants and children of general category is in accordance with law and principles of equity in view of the observations made by the Committee.**

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 01/05/2015

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1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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4. With a view to verify the returns, the Office of the Committee vide its notice dated 11.06.2012, required the school to appear on 10.07.2012 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

5. On 10.07.2012 Sh. Jitender Bansal, TGT of the school attended the Office of the Committee and produced the record for the scrutiny by the Audit Officer of the Committee. Reply to the questionnaire was also filed. As per the reply;-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.04.2011.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009, w.e.f. 01.04.2011.

(iii) The school had not collected development fee from the students.

6. The record, in the first instance, was examined by Mrs. Sunita Nautiyal, AAO of the Committee. She observed to the effect that the school hiked fee by 10% in 2009-10 and 2010-11. The school has claimed to have implemented the recommendations of the 6th Pay Commission w.e.f April 2011, therefore its records for 2011-12 needed

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verification. The school was directed to produce fee and salary records for 2011-12 on 06.06.2013.

On 06.06.2013, Sh. Sandeep Jain, Accountant of the school attended the office of the Committee but did not produce complete records. The school was again directed to produce its complete record on 10.06.2013.

On 10.06.2013, Sh. Sandeep jain, Accountant of the school produced the required record. The Audit Officer of the Committee examined the record and observed that;-

(i) The school has hiked fee w.e.f. April 2011 by 36.98% to 46.79% for different classes.

(ii) The school claimed to have implemented the recommendations of the 6th. Pay Commission w.e.f. April 2011.

The Audit Officer after examination of the original record produced by the school for scrutiny returned the same to the representative of the school.

7. By notice dated 09.03.2015, the school was asked to appear on 27.03.2015 along with entire accounting, fee and salary records for the

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years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8. On 27.03.2015, Sh. Jitender Bansal, Vice Principal and Sh. Sandeep Jain, Accountant of the school appeared before the Committee but did not produce any record for the examination by the Committee.

Since, the Audit Officer had not indicated whether the salary was paid in cash, by account payee cheques and bearer cheques, the school was again directed to produce books of accounts, salary records, TDS returns and bank statements for the year 2011-12 before the Audit Officer of the Committee on 06.04.2015 for verification.

9. On 06.04.2015, Sh. Jitender Bansal, Vice Principal and Sh. Sandeep Jain, Accountant of the school produced the requisite record before the Audit Officer of the Committee. The Audit Officer examined the record and observed to the effect that;-

(i) The salary to the staff after the purported implementation of the recommendations of the 6th. Pay Commission had been paid through bearer cheques.

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(ii) The amount of salary paid to the staff in May 2011, after purported implementation of the recommendations of the aforesaid Commission was Rs. 6,29,919/-, but the same for the month of March 2012 was Rs. 4,39,027/-. Explaining the region for the reduced figures of salary in March, 2012, it was stated by the representatives that this happened because some of the teachers were on leave without pay during that period.

(iii) The school produced a one page copy of the TDS return for the year 2011-12. The details of the employees in respect of whom, tax had been deposited was not available with the school.

10. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2011-12: -

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Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11	Tuition Fee during 2011-12	Tuition Fee increased in 2011-12
I to V	450	495	45	545	50	800	255
VI to VIII	500	550	50	605	55	865	260
IX	550	605	55	670	65	935	265
X	600	660	60	730	70	1000	270

11. From the above, it is manifest that the school has increased the fee during the years 2009-10 and 2010-11 by 10% for all classes. During 2011-12, the hike in the tuition fee was in excess of the prescribed limit of the order dated 11-02-2009 of the Director of Education.

12. According to school it has implemented the recommendations of the 6th Pay Commission w.e.f. 2011-12, but salary to the staff has been paid through bearer cheques. Similar modus operandi has been adopted by several schools to show implementation of the recommendations of the 6th pay Commission on paper but in actual practice it is not implemented.

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The assertion of such schools that salary is paid by cash or by bearer cheques gives a lie to the stand of the school that it had implemented the recommendations of the 6th Pay Commission as there is no plausible and convincing reason, why the payments were not made by bank transfer or by account payee cheques.

Furthermore, the total salary for the month of March, 2012 had been reduced substantially for the ostensible reason that some staff members were on leave. The reason behind the reduction of salary, stated by the school is not acceptable to us as it appears that some or the other staff member is shown on leave to justify the salary cut. It is a balancing act and a clever gimmick but can not be permitted to work.

13. As per record the school has not charged development fee.

RECOMMENDATION

Re. Fee Hike

Since the school has hiked the tuition fee in 2011-12, in excess of the prescribed limit of the order dated 11-02-2009 of the Director of Education, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore,

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the Committee recommends that the fee hike effected by the school in the year 2011-12 in excess of 10%, ought to be refunded alongwith interest @9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar **Member**	**Justice Anil Dev Singh (Retd.)** **Chairperson**	**Dr. R.K. Sharma** **Member**

Dated— 01-05-2015

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Victor Public School, Maujpur, Delhi-110053

The school had not replied to the questionnaire dated 27/02/2012 issued by the Committee, which was followed by a reminder dated 27/03/2012. On a requisition made by the Committee through the concerned Dy. Director of Education, copies of annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973 for the years 2006-07 to 2010-11, were received in the office of the Committee through the concerned Dy. Director of Education. On the basis of the information furnished by the school, it was placed in category 'B' for the purpose of verification.

In order to verify the documents submitted by the school, the Committee issued a letter dated 10/07/2013 requiring the school to produce in its office the fee records, salary records, books of accounts, bank statements, copies of provident fund returns and TDS returns for the years 2008-09 to 2010-11. A revised questionnaire was also issued to the school in order to elicit information regarding receipt and utilisation of development fee and maintenance of earmarked development and depreciation reserve funds.

On the scheduled date i.e. 29/07/2013, Sh. Deepak Kumar, Accountant of the school and Sh. Rahul Jain, Chartered Accountant appeared and furnished reply to the questionnaire issued by the Committee. They also produced the required records which were verified by Sh. A.D. Bhateja, audit officer of the Committee.

As per the reply to the questionnaire, the school stated that it had implemented the recommendations of the VI Pay Commission w.e.f. 01/07/2009. The salary for the pre implementation period was Rs. 7,99,980

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for the month of June 2009 which rose to Rs. 14,51,367 for the month of July 2009, after the implementation. However, it was also stated that the school had paid the arrears for the period April 2009 to June 2009. It was thus contended that effectively the school had implemented the VI Pay Commission report w.e.f. 01/04/2009. Detail of arrears paid for this period, amounting to Rs. 17,89,512 was also furnished. With regard to the payment of arrears for the period 01/01/2006 to 31/03/2009, the school remained silent.

With regard to fee, the school stated that it had it had hiked the same w.e.f. 01/04/2009. The school furnished a comparative chart showing tuition fee for the years 2008-09 and 2009-10 to show the extent of fee hiked. As per the chart submitted, the tuition fee charged by the school for these two years for different classes was as follows:

Class	**Monthly tuition fee in 2008-09 (Rs.)**	**Monthly tuition fee in 2009-10 (Rs.)**	**Increase in monthly tuition fee in 2009-10 (Rs.)**
I to V	870	1070	200
VI to VIII	920	1120	200
IX & X	1150	1450	300

The school further stated that it had not recovered any arrear fee for the period 01/01/2006 to 31/03/2009.

With regard to development fee, the school stated that it started charging development fee only in 2010-11 and a sum of Rs. 22,19,272 was recovered on this account in that year. It was also stated that a sum of Rs. 14,21,776 was utilised on "Equipments & others". With regard to the manner of treatment of development fee in the accounts, the school

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remained silent. With regard to maintenance of depreciation reserve fund on assets acquired out of development fee and earmarked development fund account to park the unspent development fee, it gave a vague reply "No separate entry passed in the books, however amount equivalent to depreciation is kept in bank account".

On examination of the records produced by the school, Sh. A.D. Bhateja, audit officer of the Committee who did not report any adverse feature. He more or less endorsed the contentions of the school as per the reply to the questionnaire. However, he made a vagur reference to the fact that the salary was being paid by individual cheques which were both account payee in some cases and bearer in some others and the salary was paid in cash to class IV employees.

The Committee issued a notice dated 12/08/2014 to the school for hearing on 08/09/2014. The notice, inter alia, required the school to furnish details of accrued liabilities of gratuity/leave encashment, if applicable to the school. In response to the notice, Sh. Deepak Kumar, a clerk of the school appeared and filed a letter dated 06/09/2014 with a request to postpone the hearing for another date in the month of October as the Chartered Accountant of the school was not available. Accordingly, the Committee rescheduled the hearing to 13/10/2014 when Sh. Rahul Jain, Chartered Accountant appeared with Sh. Deepak Kumar, Accountant. They filed written submissions dated 10/10/2014. However, on this date, the representatives of the school did not produce its financial records for verification by the Committee. They sought further time and as per their request, the matter was directed to be relisted on 28/10/2014.

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On 28/10/2014, the aforesaid representatives of the school again appeared and produced the relevant records, which were examined by the Committee.

On examination of the books of accounts and bank statements of the school, the Committee found that by and large the payment of salary was made by means of bearer cheques. Even the payment of arrears for the period 01/04/2009 to 30/06/2009 amounting to Rs. 17,89,512 was made by bearer cheques towards the fag end of the financial year in March 2010. The representatives of the school fairly conceded to this position. They however contended that TDS was deducted by the school from the salary, wherever it became applicable and filed details of such deductions. The Committee observed that as per the TDS details filed by the school, a total amount of Rs. 1,06,51,247 was paid as salary to the staff in the year 2009-10 and a sum of Rs. 1,42,82,431 in 2010-11. The details included salary paid to the entire staff, including that paid to the employees where no TDS became applicable on account of their income being below the threshold taxable limit. However, in the Income & Expenditure Accounts, the school showed a total salary payment of Rs. 1,68,30,845 in 2009-10 and Rs. 1,80,00,853 in 2010-11.

With regard to development fee, the representatives conceded that it was treated as a revenue receipt in the accounts and no separate depreciation reserve fund or development fund was maintained by the school.

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Victor Public School, Maujpur, Delhi-110053

Discussion:

1. **Tuition Fee:**

The Committee has perused the annual returns filed by the school, its reply to the questionnaire issued by it, the observations of the audit officer of the Committee, the salary records and books of accounts produced by the school during the course of hearing as also the other documents filed by it. The Committee is of the considered view that the school has not implemented the recommendations of the VI Pay Commission, even with effect from 01/04/2009, despite its claim to the contrary. The Committee is persuaded to hold this view on account of the fact that the school paid the salary to its staff by bearer cheques. When the school has balance in its bank account, what prevented the school from making payment by account payee cheques. Even large payments exceeding Rs. 40,000 purportedly paid as arrears for the period 01/0-4/2009 to 30/06/2009 were paid by bearer cheques. The lone fact that the school deposited TDS cannot be conclusive of the full amount of salary going to the hands of the staff as is reflected in the records of the school. The Committee is not oblivious to the reality on the ground that wherever payments to staff are made in cash or by bearer cheques, some amounts are held back by the managements although full amounts are shown to have been paid in the records of the school. This is reinforced by fact that the total salary payment shown in the books of accounts is substantially higher than that shown in the TDS returns.

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Victor Public School, Maujpur, Delhi-110053 000273

In view of the aforesaid finding, the Committee is of the view that the school was not justified in hiking the tuition fee w.e.f. 01/04/2009 and the amount of fee hiked in 2009-10 for all the classes, to the extent it exceeds the tolerance limit of 10%, ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund. As the fee hiked in 2009-10 also forms part of the fee of the subsequent years, the portion of fee of the subsequent years, to the extent it is relatable to the fee hike found unjustified by the Committee for the year 2009-10, ought also be refunded along with interest @ 9% per annum from the date of collection to the date of refund.

2. **Development Fee:**

The Committee finds that although the school started charging development fee in 2010-11, it was treated as a revenue receipt by the school and the school also was not maintaining any earmarked funds for unutilised development fee and depreciation reserve. This position was also fairly conceded by the representatives of the school during the course of hearing. Therefore the school was not following any of the pre conditions for charging development fee as laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583.

The Committee, is therefore of the view that the school was not justified in charging development fee, amounting to Rs. 22,19,272 in 2010-11 and the same ought to be refunded along with interest @ 9% per annum.

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Recommendations:

In view of the foregoing discussion, the Committee rcommends that :

(1) the school ought to refund the tuition fee hiked w.e.f. 01/04/2009 for all the classes, to the extent it exceeds the tolerance limit of 10%, along with interest @ 9% per annum from the date of collection to the date of refund. The school ought also to refund the portion of tuition fee of the subsequent years, to the extent it is relatable to the fee hike found unjustified by the Committee for the year 2009-10, along with interest @ 9% per annum from the date of collection to the date of refund.

(2) The school ought to refund development fee amounting to Rs. 22,19,272 charged in 2010-11 along with interest @ 9% per annum.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 06/01/2015

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Delhi Public School, Vasant Kunj, New Delhi-110070

The school had not replied to the questionnaire dated 27/02/2012 issued by the Committee, which was followed by a reminder dated 27/03/2012. The Committee requisitioned the annual returns filed under rule 180 of Delhi School Education Rules 1973 from the concerned Dy. Director of Education. These were received by the Committee. However, on perusal of the returns, the Committee observed that the audited financials for the years 2008-09 and 2009-10 were not submitted to the Committee. These were called for from the office of the Dy. Director of Education and were submitted to the Committee by the Education Officer, Zone-20 under the cover of her letter dated 13/05/2013. In the meantime, the Committee also issued letter dated 07/05/2013 to the school, requiring it to submit its reply to the questionnaire issued by the Committee latest by 22/05/2013. In reply, the school vide its letter dated 21/05/2013, sought at least 2 months time for submitting the reply to the questionnaire on the ground that it required extensive compilation work. However, the school did not furnish its reply even six months thereafter. The Committee reminded the school vide letter dated 20/11/2013 and required the school to furnish its reply latest by 29/11/2013. This time the school complied with the directions of the Committee and submitted its reply, which was received in the office of the Committee on 21/11/2013. As per the reply, the school stated as follows:

(a) It had implemented the recommendations of the VI Pay Commission. The increased salary to the staff was paid w.e.f. January 2006.

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(b) The monthly expenditure on salary was Rs.40,55,669 prior to implementation of 6th Pay Commission Report which rose to Rs.60,92,597 after its implementation. In support, the school enclosed by way of annexures of salary details of staff for the months of February 2009 and March 2009.

(c) It had paid the arrears of salary to staff which became due on account of the retrospective application of recommendations of the 6th Pay Commission report. In support, the school furnished details of arrears paid to the staff for the period 01/01/2006 to 28/02/2009, which amounted to Rs.5,25,72,260 in aggregate.

(d) It hiked the tuition fee by Rs.500 per month. The development fee was increased from 10% to 15%, as per the order dated 11/02/2009 issued by the Director of Education. *(emphasis supplied by us)*

(e) The school recovered a sum of Rs.1,40,27,687 as arrear fee.

(f) The school charged development fee in all the five years for which information was sought. The collection and utilization of development fee was as follows:

Particulars	F.Y. 2006-07	F.Y. 2007-08	F.Y. 2008-09	F.Y. 2009-10	F.Y. 2010-11
Development fee received	84,76,802	90,52,185	94,60,770	1,73,28,635	1,68,74,730
Development fee utilized	33,85,992	38,06,643	29,81,165	26,22,255	NIL
**Balance Unutilized*	*50,90,810*	*52,45,542*	*64,79,605*	*1,47,06,380*	*1,68,74,730*

**Derived by the Committee*

(g) The development fee is treated as capital receipt.

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(h) Separate Depreciation Reserve Fund is maintained as per the books of accounts for the year 2012-13 *(emphasis supplied by us).*

(i) Depreciation Reserve Fund and un-utilised development fund earmarked for specific purpose, have been kept in the form of FDRs.

As the school had implemented the recommendations of 6th Pay Commission and also hiked the fee as per order dated 11/02/2009 issued by the Director of Education, the school was placed in category 'B' for verification.

The Committee issued a notice dated 23/07/2014 requiring the school to appear before the Committee on 22/08/2014. Further, the school was required to furnish the details of arrear fee and salary for the period 01/01/2006 to 31/08/2008, 01/09/2008 to 31/03/2009 and regular fee and salary for the year 2009-10, duly reconciled with the audited Income & Expenditure Account of the school, statement of account of the Parent Society, details of accrued liabilities of gratuity and leave encashment. On the date fixed, none appeared from the school. However, the Committee received a letter dated 21/08/2014 from the school, seeking four weeks time for preparing the information required by the Committee. Acceding to the request of the school, the hearing was re-fixed for 07/10/2014. On this date, Ms. Bindu Sehgal, Principal of the school appeared with Sh. Hiren Mehta, Chartered Accountant, Sh. Mayank Sharma, Accountant and Sh.

Sandip Tyagi, UDC of the school. However, they did not furnish the information sought by the Committee and sought some more time. The Committee once again accommodated the request of the school and the matter was directed to be re-listed on 17/10/2014. However, the school was directed to furnish the information sought by the Committee latest by 10/10/2014. The school furnished the required information on 10/10/2014. However, no appearance was made on behalf of school on 17/10/2014. Instead the Committee again received a request letter dated 16/10/2014 seeking adjournment for 30 days more. In normal course, the Committee would not have given any further indulgence to the school. However, keeping in view that the school sought repeated adjournments the Committee felt that it might have been designed to keep certain information away from the Committee. The Committee issued a fresh notice of hearing on 22/10/2014 for 14/11/2014. Further, based on the information furnished till then by the school, a preliminary calculation sheet was drawn up by the Audit Officer of the Committee and as per the said calculation sheet, it appeared that the school had hiked more fee than was required for implementation of 6th Pay Commission Report. Therefore, in order to give an opportunity to the school to give its comments on the preliminary calculation sheet, a copy of the same was also forwarded to the school. As per the calculation sheet, it appeared that the school generated a surplus of Rs.4,03,39,739 after taking into consideration the funds already available with it at the threshold, the requirement of the school to keep funds in reserve for accrued liability of gratuity and leave encashment and provision for future contingencies.

On 14/11/2014, Sh. Hiren Mehta, Chartered accountant, Sh. Jatinder S. Virdi, Head Finance of DPS Society, Ms. Gurinder Kaur, Sr. accountant, Sh. Rajesh Kumar Sharma, Accountant and Sh. Jitender Tyagi, UDC of the school appeared and filed written submissions dated 14/11/2014, rebutting the preliminary calculation sheet. They were partly heard by the Committee. However, during the course of hearing, it emerged that the school also runs a hostel whose Balance Sheet is separately prepared. The school was directed to file the Balance Sheets of the hostel as well as the consolidated Balance sheets of the school and hostel for the years 2007-08 to 2010-11. Further, the school was directed to furnish the same information in respect of the hostel, as was sought by the Committee vide notice dated 23/07/2014 in respect of the school. The school furnished these documents on 24/11/2014.

The Committee, after perusal of the information furnished by the school on 14/11/2014 and 24/11/2014, directed its Audit Officer to prepare a fresh calculation sheet by taking the consolidated figures of the school as well as the hostel. As directed by the Committee, the Audit Officer prepared the following calculation sheet:

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Statement showing Fund availability of as on 31-03-2008 and effect of fee hike and implementation of 6th Pay Commission Report

	Particulars	School	Hostel	Total
	Current Assets			
	Cash at Bank	(8,051,182)	1,605,280	(6,445,902)
	Investments	138,895,927	19,711,709	158,607,636
	Prepaid Expenses	460,331	29924	490,255
	Students Debit Balance	43,752	-	43,752
	Security Deposits	781,438	22,500	803,938
	Hostel Vasant Kunj Current Account	25,847,926	(25,847,926)	-
	Shiksha Kendra- DPS Vasant Kunj	1,878,065		1,878,065
	Amount Receivable	282,086	-	282,086
	Loans and Advances	711,533	-	711,533
	Stationery & Stores	294,580	55,488	350,068
	Total Current Assets + Investments (A)	**161,144,456**	**(4,423,025)**	**156,721,431**
Less	Current Liabilities			
	Extra Coaching (NTSE/JSTS) (Expenses Payable)	19,400		19,400
	Shri Sai Garment (Expenses Payable)	162,769		162,769
	Advance License Fee	655,000		655,000
	Bills Payable (Expenses Payable)	1,354,439	134,692	1,489,131
	Security Deposit Received	198,852	37,000	235,852
	Audit Fee payable	78,652	37,822	116,474
	Stale Cheque	385,362	161,257	546,619
	TDS Contractor	3,261		3,261
	Student Credit Balances	689,851	33,281	723,132
	Caution Money	12,967,940	2,200,000	15,167,940
	Advance Fees	2,565,408	-	2,565,408
	Pocket Money		3,000	3,000
	Inter school Balances	17,639,392		17,639,392
	Provision for Gratuity (eligible employees)	23,141,997	54,519	23,196,516
	Provision for Leave Encashment	8,927,398	60,845	8,988,243
	Total Current Liabilities (B)	**68,789,721**	**2,722,416**	**71,512,137**
	Net Current Assets + Investments (A-B)			**85,209,294**
Less	Reserve for future Contingencies (four months salary)			39,342,279
	Funds available for implementation of 6th Pay Commission Report			**45,867,015**
Less	Arrear of Salary as per 6th CPC w.e.f. 01.01.06 to 28.02.2009	52,572,260	-	52,572,260
	Increased Salary as per 6th CPC for March 2009	-	-	-
	Increased Salary as per 6th CPC from 01.04.09 to 31.03.2010	31,290,648	477,575	31,768,223
	Excess / (Short) Fund Before Fee Hike			**(38,473,468)**
Add	Fee Arrear for the period from 01.01.06 to 31.08.08	14,027,687	-	14,027,687
	Fee arrear for the period from 1-9-08 to 31-3-09	12,435,250	-	12,435,250
	Arrear of Development Fee for the period from 1-9-08 to 31-3-09	4,622,780	-	4,622,780
	Increased Tuition fee in 2009-10	20,193,425	1,886,666	22,080,091
	Excess / (Short) Fund After Fee Hike			**14,692,340**

A fresh hearing was fixed for 19/12/2014 and a copy of the revised calculation sheet was furnished to the school. The school filed its rebuttal

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on 19/12/2014. The representatives of the school viz. Sh. Hiren Mehta, CA, Ms. Gurinder Kaur and Mr. Thomas Sebestian were heard by the Committee. They submitted that the school agrees with the preliminary calculation sheet subject to its reservations stated in the written submissions dated 19/12/2014 and 14/11/2014.

Submissions

In the written submissions dated 14/11/2014 and 19/12/2014, the school submitted as follows:

(a) It had an outstanding liability to DDA amounting to Rs.3,92,39,029, which ought to have been reduced from the funds available, as worked out by the Committee for payment of salaries and arrears as per the recommendations of the 6th Pay Commission. The land for the school was allotted by DDA in 1989 to DPS Society. The amount was payable as per the lease deed to DDA. The actual amount was Rs.3,08,96,873 and interest thereon amounted to Rs.83,42,156. Even if it is capital in nature, it would result in reduction of available funds. It is a real and actual liability which has been discharged in subsequent years. Proof of such payment beginning from 01/04/2009 to 31/03/2013 is enclosed.

(b) An amount of Rs.2,94,580 on account of stationery and stores, reckoned as "Current asset" ought not to have been taken as part

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of funds available as it is in the nature of consumable and gets consumed during the subsequent year.

(c) The school has total earmarked funds of Rs.2.40 crores as per the Balance sheet as on 31/03/2008. The major amount of Rs.1.41 crores is towards development fund which cannot be utilized for payment of increased salaries due on account of implementation of 6th Pay Commission Report. The school was fulfilling all the pre-conditions prescribed by the Duggal Committee and the Directorate of Education for collection of development fund. Reliance was placed on para 15 of order dated 11/02/2009 issued by the Director of Education to buttress its contention. Maintenance of Depreciation Reserve Fund is nothing but a procedural aspect of matter and is a matter which only concerns the presentation of Fixed assets and Depreciation in the Balance sheet.

(d) The amounts lying under Old Students Welfare Fund, PTA and Building Fund are to be spent on earmarked and specified purposes and the same cannot be used for discharging their additional liability on account of 6th Pay Commission recommendations.

(e) In the previous computation sheet, an amount of Rs.20,36,928 was reduced on account of increased salary as per 6th Pay Commission for March 2009. However, in the revised computation sheet, this amount has not been reduced.

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Discussion

The Committee has considered the annual returns of the school, its audited financials, the reply submitted by it to the questionnaire issued by the Committee, the preliminary calculation sheet prepared by the Audit Officer and the written and oral submissions made by the school during the course of hearing. The various contentions raised by the school are discussed as follows:

Reg: Outstanding liability to DDA amounting to Rs.3,92,39,029

The Committee notes that as against the liability of Rs.3,92,39,029, sought to be excluded by the school, the total amount paid by the school from 01/04/2009 to 31/03/2013, as given by the school itself in its written submissions dated 19/12/2014 is Rs.3,76,54,796. The break-up of this amount as given by the school, is as follows:

S.No.	Payments made to DDA	Amount(Rs.)
1	Payment of revised premium of land after modification in the layout plan of the area component in respect of school	24,796,616
2	Difference of Ground rent and License fee from the year 1990 to 2009 and Ground rent and license fees from 2010	8,038,705
3	Document Charges	45
4	Payment of stamp duty for executing lease deed	1,352,484
5	Interest on late payment of ground rent and license fees	1,991,716
6	Payment to DDP, DC office, District New Delhi	50,100
7	Payment to Establishment and accounts office R.K. Puram	10,000
8	Compounding fees for extra ground coverage	1,415,130
	Total	**37,654,796**

A perusal of the above table shows that primarily, the liability to DDA is on account of revision of lease premium of land allotted to school, stamp duty, differential ground rent on account of revised lease premium and

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compounding fee for extra ground coverage. The argument of the school, if accepted, would mean that the students have to be burdened with a certain portion of the cost of land allotted to the school and for payment of interest and penalties in respect of land premium and extra ground coverage. This argument cannot be countenanced in law. The capital expenditure incurred on land and building of the school cannot be recovered as part of fee. The Hon'ble Delhi High Court, in the case of **Delhi Abibhavak Mahasangh v. Union of India and others AIR 1999 Delhi 124**, inter alia, observed as follows:

> *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society".*

The issue was again dealt with by the Duggal Committee, which was constituted by the judgment of Hon'ble Delhi High Court in the above mentioned case, to examine the issue of hike in fee consequent to implementation of 5th Pay Commission Report. The Committee made the following observations:

> *"The schools, should be prohibited from discharging any of the functions, which rightly fall in the domain of the parent society, out of the fee and other charges, collected from the students, or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at concessional rates for carrying out a "philanthropic"*

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activity. One only wonders what then is the contribution of the society that professes to run The School".

The aforesaid judgment of the Delhi High Court was challenged before the Supreme Court. The Hon'ble Supreme Court vide its judgment in the above case, titled as **Modern School vs. Union of India & Ors. (2004) 5 SCC 583** held as follows:

"Section 18(3) is to be read with Rule 175. Reading the two together, it is clear that each item of income shall be accounted for separately under the common head, namely, Recognised Unaided School Fund. Further, Rule 175 indicates accrual of income unlike Rule 177 which deals with utilisation of income. Rule 177 does not cover all the items of income mentioned in Rule 175. Rule 177 only deals with one item of income for the school, namely, fees. Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance.

That after such deduction, surplus if any, shall be appropriated towards pension, gratuity, reserves and other items of appropriations enumerated in Rule 177(2) and after such appropriation the balance (savings) shall be utilised to meet capital expenditure of the same school or to set up another school under the same management. Therefore, Rule 177 deals with application of income and not with accrual of income. Therefore, Rule 177 shows that salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings. ***<u>Therefore, capital expenditure cannot constitute a</u>***

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component of the financial fee structure as is submitted on behalf of the schools. *It also shows that salaries and allowances are revenue expenses incurred during the current year and, therefore, they have to come out of the fees for the current year whereas capital expenditure/capital investments have to come from the savings, if any, calculated in the manner indicated above.*

In view of the foregoing, the law has been settled by the Hon'ble Supreme Court that the capital expenditure cannot be part of the fee structure of the school and further that the payment of salaries and allowances have to be given precedence over the incurring of capital expenditure, which can be incurred only if there are savings from fee after payment of salaries. The contention of the school that it has to keep funds in reserve for meeting its capital liability towards cost of land etc. before payment of the increased salaries and arrears as a result of implementation of 6th Pay Commission Report is clearly contrary to the law laid down by the Hon'ble Supreme Court. Therefore, the Committee rejects this contention of the school.

Reg: Exclusion of Rs. 2,94,580 from current assets

The Committee has considered the submission of the school regarding exclusion of sum of Rs. 2,94,580, being stationary and stores, reflected as a "current asset" in the balance sheet of the school as on 31/03/2008. This is only stated to be rejected as, no doubt the assets are consumable in nature but so are the cash and bank balances also. They get depleted on

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being spent. By the logic put forth by the school, even they should not be considered as part of funds available. The Committee has taken a consistent view that the net current assets i.e. current assets minus current liabilities are part of funds available with the school, which could have been utilised for payment of additional salaries on account of implementation of VI Pay Commission report. Current assets, by their very nature, are convertible into various forms and represent the value of short term assets which can be used as working capital. There is no rhyme or reason for exclusion of the stock of stationary and stores from the value of current assets.

Reg.: Exclusion of Rs. 1.41 crores held against development fund

The contention of the school that since the school is fulfilling all the pre conditions laid down for charging of development fee, the FDRs held against development fund, ought to be excluded from the figure of funds available, as arrived at by the Committee, is technically correct, if the school is indeed fulfilling all the pre conditions prescribed for charging development fee. The Committee notes that the school itself submitted that it started maintaining separate depreciation reserve fund account in its books only in the year 2012-13. This position is conceded by the school in its reply dated 18/11/2013, to the questionnaire issued by the Committee. Perusal of the audited balance sheets of the school shows that while a fund styled as "Depreciation Reserve Fund" has been shown in the schedule of other funds, the opening and closing balance of such fund is shown as NIL. Furthermore, the schedule of fixed assets of the school shows the fixed assets to have

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been accounted for on WDV i.e. written down value method. So, effectively the school was not maintaining any depreciation reserve in its books, atleast upto 31/03/2011, for which the financials are available with the Committee. However, when we look at the assets side of the balance sheet, the Committee finds that the school had FDRs totaling Rs. 13,88,95,927, out of which FDRs worth Rs. 5,40,00,000 were shown earmarked against development fund. In the detail of FDRs annexed to the balance sheet, the aforesaid FDRs of Rs. 5,40,00,000 were shown as held against Depreciation Reserve Fund. Further, in the detail of bank balances annexed to balance sheet, the Committee finds that a separate depreciation fund account is shown with a balance of Rs. 9,933. Thus the total of FDRs/bank balances shown earmarked against development fund/depreciation reserve fund is Rs. 5,40,09,933.

It appears that the school has not fully understood the concept of maintenance of development fund account and depreciation reserve fund accounts. The unutilised development fund, as reflected in the balance sheet was Rs. 1,41,42,460 (of which the school is seeking exclusion from the funds available for implementation of VI Pay Commission report). This sum, along with the depreciation reserve on assets acquired out of development fund, has to be kept in earmarked bank account/FDRs. However, admittedly the school did not maintain any depreciation reserve in its books before 2012-13. This presents a very peculiar situation. While, in the books of accounts, no depreciation reserve is maintained as the fixed assets are accounted for on WDV (written down value) method, funds have been

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earmarked for depreciation reserve. The school has not placed before the Committee its audited balance sheet for the year 2012-13. Therefore, it is not in a position to examine whether the school started maintaining depreciation reserve in its books in 2012-13 or not. However, the Committee is of the view that, in so far as the unutilised development fund of **Rs. 1,41,42,460** is concerned, since the same is kept in earmarked FDRs, the same ought not be included in the figure of funds available with the school for the purpose of implementation of VI Pay Commission report. The Committee will duly factor in this aspect while making the final determinations.

Reg.: Exclusion of amounts lying under old student's welfare fund, PTA and building fund.

On perusal of the balance sheet of the school as on 31/03/2008, the Committee finds that in the schedule of "Other funds", a sum of Rs. 71,04,877 is shown as building fund and a sum of Rs. 28,20,887 as student/staff welfare fund. The figure of Rs. 64,913 shown against PTA fund is in the negative. However, on examining the schedule of bank accounts and investments, the Committee finds that such funds are not kept in earmarked accounts. So far as the PTA fund is concerned, the contention of the school is self destructive as the amount has been overspent and the balance is in negative.

As for excluding of building fund amounting to Rs. 71,04,877, the contention of the school has to be rejected at the outset. As per the fee

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schedule of the school, it was collecting a sum of Rs. 10,000 from the students at the time of admission towards building fund. The details given in the balance sheet show that during the year 2007-08, the school collected the sum of Rs. 46,80,000 towards building fund. It is therefore, apparent that the accretion to the building fund is on account of the one time recovery made from the students at the time of admission. The schools are not supposed to charge anything towards building fund. At the time of admission, the schools can charge only admission fee of Rs. 200. The Duggal Committee which was constituted by the Hon'ble Delhi High Court to examine the issue of fee, made, inter alia, the following recommendation in its report

> *"The schools, should be prohibited from discharging any of the functions, which rightly fall in the domain of the parent society, out of the fee and other charges, collected from the students, or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at concessional rates for carrying out a "philanthropic" activity. One only wonders what then is the contribution of the society that professes to run The School".*

Pursuant to this report, the Directorate of Education issued order no. De.15/Act/Duggal.Com/203/99/23033-23980 dated 15/12/1999. Clause 2 of the this order stated that no admission fee of more than Rs. 200 shall be charged and the admission fee charged from the students in excess of Rs.

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200 has to be refunded. Further, clause 9 of this order stated that no fee, fund or any other charge by whatever name called, shall be levied or realised unless it is determined by the Managing Committee in accordance with the directions contained in this order. A perusal of this order shows that it did not contain any direction for charging any building fund at the time of new admissions. On the contrary, there was a prohibition of charging any fee in excess of Rs. 200 at the time of admission. This order was to remain in operation for the year 1999-2000, 2000-2001 and thereafter. The aforesaid clauses remained in force all through and were reiterated in the order dated 11/02/2009, which is being considered by this Committee.

It is clear from the foregoing discussion that the school has illegally recovered fees towards building fund. To top it all, the school is claiming that the same ought to be treated as an earmarked fund which should not be considered as part of funds available for implementation of VI Pay Commission report. The contention of the school is without merit and is, therefore, rejected.

As for the student/staff welfare fund also, the contention of the school cannot be accepted as sub rules (3) & (4) of Rule 177 of the Delhi School Education Rules, 1973, require such funds to be kept in a separate fund account. The Committee does not find any such fund account being maintained by the school.

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Reg.: Accounting for increased salary of March 2009.

The Committee finds that the contention of the school on this score has to be accepted as on account of an inadvertent error in the consolidated calculation sheet, the amount of **Rs. 20,36,928**, being the differential salary for the month of March 2009, was left out from the calculations. The same was considered while making the original calculation sheet but got omitted from the final calculation sheet inadvertently. The Committee will duly factor in this aspect while making its final recommendations.

Determinations:

1. **Tuition Fee:**

In view of the foregoing discussion, the Committee makes the following determinations:

Funds available with the school as on 31/03/2008 after considering the requirement for keeping funds in reserve for accrued liabilities of gratuity, leave encashment and reserve for future contingencies, as per preliminary calculation sheet.	4,58,67,015	
Less FDRs held against development fund	1,41,42,460	3,17,24,555
(a) Additional expenditure on account of arrears of VI Pay Commission	5,25,72,260	
(b) Incremental salary for the year 2009-10	3,17,68,223	
(c) Incremental salary for March 2009	20,36,928	8,63,77,411
Shortfall		**5,46,52,856**

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Thus, the school needed to recover the aforesaid shortfall of Rs. 5,46,52,856 by way of recovery of arrears and hiking the monthly fee for the year 2009-10.

The recovery of arrears and incremental fee for 2009-10, as made by the school was as follows:

Fee Arrear for the period from 01.01.06 to 31.08.08	1,40,27,687
Fee arrear for the period from 1-9-08 to 31-3-09	1,24,35,250
Increased Tuition fee in 2009-10	2,20,80,091
Total	**4,85,43,028**

The school also recovered arrears of development fee for the period 01/09/2008 to 31/03/2009 amounting to **Rs. 46,22,780** and out of such arrears, the Committee considers a sum of **Rs. 12,43,525** to have been justifiabily recovered. Thus the total recovery of the school in pursuance of order dated 11/02/2009 was **Rs. 4,97,86,553.** As noticed supra, the shortfall of the school for implementation of VI Pay Commission report was to the tune of **Rs. 5,46,52,856.** The difference of Rs. 48,66,303, though appears as a shortfall, is not a shortfall in real sense as while working out the funds available with the school, the audit officer of the Committee had set apart a sum of Rs. 3,93,42,279 as the requirement of the school for reserve for future contingencies. Thus, in effect, the reserve for future contingencies gets reduced.

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In view of the foregoing discussion, the Committee is of the view that in so far as the hike in tuition fee or recovery of arrears of tuition fee is concerned, no intervention is called for.

2. **Incremental development fee:**

As per the reply submitted by the school to the questionnaire issued by the Committee, it stated that the development fee was increased from 10% to 15%. The reply did not clarify as to whether the hike in the percentage of development fee was prospective w.e.f. 01/04/2009 or the arrears for the period 01/09/2008 to 31/03/2009 were recovered at the increased rate. In the details furnished by the school under cover of its written submission dated 10/10/2014, the school stated that it had recovered a sum of Rs. 46,22,780 representing the arrears of development fee for the period 01/09/2008 to 31/03/2009 while the arrears of tuition fee recovered for the same period were Rs. 1,24,35,250. The school was originally charging development fee in 2008-09, @ 10% of tuition fee. This is evident from the fee schedule of the school for that year. Even presuming that the school was justified in charging development fee, it could have recovered the arrears for the period 01/09/2008 to 31/03/2009 only @ 10% of the arrears of tuition fee for that period. The school could not have hiked the rate of development fee w.e.f. 01/09/2008 as any hike in fee after the commencement of the academic session is prohibited by section 17(3) of Delhi School Education Act, 1973, unless specifically permitted by the Director of Education. The permission granted by the Director of Education

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vide order dated 11/02/2009 was in respect of hike in tuition fee alone. However, since development fee is normally linked to tuition fee, a hike in tuition fee would have resulted in a hike in development fee also and this was impliedly permitted by the Director vide para 15 of the aforesaid order. However, such hike in development fee could only be recovered at the same rate at which the development fee was originally being charged. The school contends that vide para 14 of the aforesaid order, the schools were permitted to hike the development fee to 15% of the tuition fee. While that may be true for such schools where the development fee being charged was at a rate lesser than 15%, such hike could only have been effected prospectively. There is no provision or intent in para 14 of the order to make the hike retrospectively applicable.

In view of the foregoing discussion, the Committee is of the view that the school could have recovered arrears of development fee for the period 01/09/2008 to 31/03/2009 @ 10% of the hike in tuition fee for that period. As noticed supra, the arrears of tuition fee recovered by the school for this period amounted to Rs. 1,24,35,250. The school could have justifiably recovered the arrears of development fee amounting to Rs. 12,43,525 as against Rs. 46,22,780, recovered by the school. **The excess amount of Rs. 33,79,255 ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund.**

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3. **Regular Development Fee:**

The Committee has already discussed some aspects of the issue of development fee while discussing the issue of tuition fee. To sum up the position regarding development fee, the following position emerges:

(a) The school was charging development fee in all the five years for which the information was sought by the Committee i.e. 2006-07 to 2010-11.

(b) The Development fee charged in 2009-10 was Rs. 1,73,28,635 and in 2010-11, it was Rs. 1,68,74,730

(c) The development fee was utilised for the permitted purposes.

(d) The school treats development fee as a capital receipt.

(e) The school did not maintain any depreciation reserve account in its books upto 31/03/2011 and accounted for the fixed assets on written down value basis i.e. net of depreciation.

(f) The school claims to have started maintaining depreciation reserve account in its books from 2012-13. However, it did not file its balance sheet for that year in support of its contention.

(g) The school maintains a separate bank account as well as FDRs for development fund/depreciation reserve fund. The value of FDRs + balance in the bank account as on 31/03/2008 was 5,40,09,933, as against the unutilised development fund of Rs. 1,41,42,460. The position as on 31/03/2011 was that the unutilised balance of

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development fund was Rs. 5,22,03,175 and the investment in earmarked FDRs was Rs. 7,51,11,669.

It appears to the Committee that the school was substantially complying with the pre conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School (Supra). The only shortcoming as observed by the Committee was that the school was not maintaining a depreciation reserve account in its books. However, the FDRs maintained against development fund/depreciation reserve were in excess of the unutilised development fund. The Committee is of the view that the school may not have passed appropriate entries in its books of accounts for creation of depreciation reserve but by its calculations, it kept on earmarking the FDRs against such depreciation and it probably carried out the corrections in the accounting entries in the year 2012-13. However, the Committee is not in a position to examine this aspect as the school did not file its audited balance sheet for the year 2012-13.

In such circumstances, the Committee is of the view that it cannot make any recommendation for refund of regular development fee charged in the years 2009-10 and 2010-11 in pursuance of order dated 11/02/2009 issued by the Director of Education. The matter requires further scrutiny and the Committee therefore recommends that the Director of Education to conduct a special inspection particularly to examine whether the necessary accounting entries have been passed by the school in the year 2012-13 to

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create the depreciation reserve fund account in its books. Only then, will it be possible to ascertain whether the earmarked FDRs/bank account cover the unutilised development fund as well as depreciation reserve fund or not.

Recommendations:

The Committee therefore recommends that:

1. **No intervention is required so far as the recovery of arrears of tuition fee or incremental tuition fee for the year 2009-10 in pursuance of order dated 11/02/2009, is concerned.**
2. **The school ought to refund a sum of Rs. 33,79,255 out of the arrears of development fee recovered by it for the period 01/09/2008 to 31/03/2009 along with interest @ 9% per annum, from the date of collection to the date of refund.**
3. **The Director of Education ought to conduct special inspection to ascertain whether the school has created the depreciation reserve account in its books in 2012-13 and whether the earmarked FDRs/bank balances are sufficient to cover the unutilised development fund and the depreciation reserve fund.**

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 18/03/2015

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The school did not reply to the questionnaire dated 27/02/2012 issued by the Committee which was followed by a reminder dated 27/03/2012. The annual returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 for the years 2006-07 to 2010-11, were requisitioned by the Committee from the concerned Dy. Director of Education. On prima facie examination of such returns, it appeared that the school had hiked the fee in accordance with order dated 11/02/2009 issued by the Director of Education and also implemented the recommendations of the VI Pay Commission. Accordingly, the school was placed in category 'B' for the purpose of verification.

The Committee issued a revised questionnaire to the school on 29/07/2013, which besides raising queries regarding the fee hike and salary hike effected by the school for implementing the recommendations of VI Pay Commission, also sought relevant information regarding charging of development fee and maintenance of earmarked development and depreciation reserve funds. The school, vide its letter dated 07/08/2013, sought two months time to furnish the record on the ground that detailed compilations had to be made for furnishing the reply. The request for two months time was not acceded to by the Committee but the school was advised to furnish its reply by 13/09/2013. The school furnished its reply under cover of

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its letter dated 12/09/2013. Vide this letter, the school stated as follows:

(a) It had implemented the recommendations of the VI Pay Commission. The increased salary was paid to the staff w.e.f. January 2006. However, in support of its contention, the school enclosed by way of annexure, details of salary of staff for the month of February 2009 amounting to Rs. 38,74,771 and March 2009 amounting to Rs. 56,75,736. (In effect, the school stated that it had implemented the recommendations of VI Pay Commission w.e.f. March 2009 and paid the arrears for the period January 2006 to February 2009).

(b) It had paid the arrears of salary to staff which became due on account of the retrospective application of recommendations of the VI Pay Commission report. In support, the school furnished details of arrears paid/payable to the staff, which amounted to Rs. 4,17,64,290.

(c) It hiked the tuition fee w.e.f. September 2008 as per the order dated 11/02/2009 issued by the Director of Education. However, no details of pre hike and post hike fee were furnished. Similarly no details of arrear recovered by the school, were furnished.

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(d) The school was charging development fee in all the five years for which the information was sought. Details of receipt and utilisation of development fee for the years 2006-07 to 2010-11 were furnished, which are as follows:

Year	*Opening balance of development fund	Development fee		*Unutilised balance (Rs.)
		Received during the year (Rs.)	Utilised during the year (Rs.)	
2006-07		57,27,050	5,88,450	51,38,600
2007-08	51,38,600	66,35,619	6,12,090	1,11,62,129
2008-09	1,11,62,129	74,64,665	22,17,684	1,64,09,110
2009-10	1,64,09,110	1,38,96,883	7,38,789	2,95,67,204
2010-11	2,95,67,204	1,50,56,965	31,06,207	4,15,17,962

*Derived by the Committee

(e) The school was maintaining reserve fund for depreciation on assets acquired out of development fee.

(f) The depreciation reserve fund and unutilised development fund were kept in the form of FDRs in Nationalised Bank.

On being reminded about the information which had not been provided by the school, the school, under cover of its letter dated 20/11/2013, furnished the pre hike and post hike fee details. As per the information so furnished, the school hiked the tuition fee from Rs. 2,050 per month to Rs. 2,550 per month w.e.f. 01/09/2008, i.e. by Rs. 500 per month. The recovery for the period 01/09/2008 to 31/03/2009 was made by way of arrears. Though the school did not explicitly state as to how much development fee was hiked and recovered by way of arrears, the school stated that the total arrears recovered, including development fee, for the

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aforesaid period were @ Rs. 4,025 per student. This amounts to Rs. 3,500 as arrears on account of tuition fee for seven months and Rs. 525 on account of arrears of development fee for seven months. Effectively the school increased development fee @ 15% of the increased tuition fee. The development fee charged by the school as per the original fee statement for the year 2008-09, filed under section 17(3) of Delhi School Education Act, 1973 was Rs. 2,460 which was @ 10% of tuition fee.

The Committee issued a notice dated 01/12/2014 requiring the school to appear before the Committee on 19/12/2014. Further, the school was required to furnish the details of arrear fee and salary for the period 01/01/2006 to 31/08/2008, 01/09/2008 to 31/03/2009 and regular fee and salary for the year 2009-10, duly reconciled with the audited Income & Expenditure Account of the school, statement of account of the Parent Society, details of accrued liabilities of gratuity and leave encashment. On this date, Sh. Hiren Mehta, Chartered Accountant appeared and requested for another date after 10th January 2015. As requested by him, the matter was directed to be relisted on 14/01/2015, which was postponed to 22/01/2015 on account of certain exigencies. On this date, Ms. Sunita Tanwar, Principal of the school, Sh. Jaspal Singh, Senior Accountant, appeared along with Sh. Hiren Mehta, Chartered Accountant. They furnished the details as required by the Committee's notice. The details furnished by the school were perused by the Committee and the representatives of the school were heard. The school furnished

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the following details, with regard to fee and salary (regular as well as arrears) :

Fee	2008-09	2009-10	Total
Arrear fee for the period from 01.01.2006 to 31.08.2008	48,13,840	71,57,901	1,19,71,741
Arrear of tuition fee for the period from 01.09.2008 to 31.03.2009	41,53,930	62,30,896	1,03,84,826
Arrear of Development Fee	6,23,299	9,34,949	15,58,248
Regular/ Normal Tuition Fee	7,43,84,250	9,26,74,390	
Salary			
Arrear Salary for 01.01.2006 to 31.08.2008	1,12,86,087	1,72,77,518	2,85,63,605
Arrear Salary for 01.09.2008 to 31.03.2009	1,19,31,400		1,19,31,400
Regular/ Normal Salary	4,45,36,832	7,48,16,353	

The school also filed employee wise details of its accrued liabilities of gratuity and leave encashment. The amount of liability on account of gratuity was **Rs. 1,83,31,023** and that on account of leave encashment was **Rs. 94,43,135**.

The information as furnished by the school, was verified by the Committee with reference to its books of accounts and was found to be in order. The books of accounts were found to be reliable. The Committee also noticed that the school paid salaries through direct bank transfer.

The Committee observed that the school was transferring a sum of Rs. 5,00,000 per annum to DPS Society for the stated purpose of teachers training. The Committee also required the school to give

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justification for recovering arrears of development fee @ 15% of tuition fee when the statement filed by the school under section 17(3) of the Delhi School Education Act, 1973 authorised it to charge development fee @ 10% of tuition fee. The representatives of the school sought liberty to file written submissions on these aspects.

During the course of hearing the representatives of the school contended that:

(a) VI Pay Commission was implemented by the school w.e.f. February 2009 and arrears for the period 01/01/2006 to 31/01/2009 were paid.

(b) For the purpose of implementation, the tuition fee of the students was hiked @ Rs. 500 per month w.e.f. 01/04/2009. Arrears of tuition fee were recovered @ Rs. 4,025 per student for the period 01/09/2008 to 31/03/2009, which comprised of Rs. 3,500 on account of increased tuition fee for seven months and Rs. 525 on account of increased development fee for seven months. Besides, the fee hike as above, lump sum arrears were recovered as provided in order dated 11/02/2009 issued by the Director of Education.

(c) The fee hike effected by the school was justified as the financial position of the school did not permit it to implement the recommendations of the VI Pay Commission out of its own resources.

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The hearing was closed with the rider that a fresh hearing may be afforded to the school if the Committee felt it necessary.

However, the school vide its letter dated 30/01/2015, submitted that there was an additional liability of Rs. 45.34 lacs on account of the annual increment between February and June 2006, which was conveyed to the school by its Parent Society vide a letter dated 08/07/2014, a copy of which was enclosed. The school did not file any written submissions on aspect of transfer of funds to the Society and charging incremental development fee @ 15% for the period 01/09/2008 to 31/03/2009 instead of 10%. The Committee noticed that the school transferred a sum of Rs. 3,00,000 per annum from 1996-97 to 2004-05 and Rs. 5,00,000 per annum from 2005-06 to 2009-10. Thus, upto 31/03/2010, the school had transferred a sum of Rs. 52,00,000 to its Parent Society. Transfer of funds by the school to its Parent Society is forbidden as per the ratio of the decisions of the Hon'ble Supreme Court in the case of Modern School vs. Union of India & ors. (2004) 5 SCC 583 and Action Committee Unaided Pvt. Schools vs. Director of Education & ors. 2009 (11) SCALE 77.

Determination:

1. **Tuition Fee:**

The Committee directed its audit officer to prepare a preliminary calculation sheet under its supervision, taking into account the detailed information provided by the school, during the course of hearing and also including a sum of Rs. 52,00,000 as deemed to be

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available with the school for the purpose of implementation of VI Pay Commission report. She prepared a calculation sheet which is as follows:

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

	Particulars	**Amount (Rs.)**	**Amount (Rs.)**
	Transfer of funds to the society @ Rs.3,00,000 p.a. from 1996-97 to 2004-05 and @ Rs.5,00,000 p.a. from 2005-06 to 2009-10		**5,200,000**
	Current Assets + Investments		
	Cash and Bank Balance	(355,158)	
	FDRs General (Excluding FDRs against CBSE and Development funds)	44,186,305	
	Interest accrued on all FDRs	7,109,384	
	Prepaid Expenses	193,689	
	Students Debit Balance	44,289	
	Advance for expenses	31,579	
	Advance LTC	2,000	
	Amount Receivable	17,500	
	Stationery	41,284	**51,270,872**
Less:-	Current Liabilities		
	Expenses Payable	1,633,032	
	Other Advance	84,750	
	Retention Money	178,624	
	Sundry Creditors	706,546	
	Audit Fee payable	70,552	
	Stale Cheque	128,422	
	TDS	32,619	
	PF Payable	1,199	
	Student Credit Balances	309,767	
	Caution Money	6,272,625	
	Advance Fees	2,940,200	**12,358,336**
	Net Current Assets + Investments + Funds diverted		**44,112,536**
Less:-	**Total Liabilities after implementation of VIth Pay Commission:**		
	Arrear of Salary as per 6th CPC w.e.f. 1.1.2006 to 31.8.2008	28,563,605	
	Arrear of Salary as per 6th CPC w.e.f. 1.9.2008 to 31.3.2009	11,931,400	

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Add:-	Incremental Salary in 2009-10	30,279,521	70,774,526
	Excess / (Short) Fund Before Fee Hike		**(26,661,990)**
	Arrear of tuition fee from 01.01.2006 to 31.08.2008	11,971,741	
	Arrear of tuition fee from 01.09.2008 to 31.03.2009	10,384,826	
	Arrear of Development Fee for the period from 1-9-08 to 31-3-09	1,558,248	
	Incremental Tuition fee in 2009-10	18,290,140	42,204,955
	Excess / (Short) Fund After Fee Hike		**15,542,965**

Working notes	2008-09	2009-10
Normal/ regular salary	44,536,832	74,816,353
Incremental salary 2009-10	**30,279,521**	
Regular Tuition fee	74,384,250	92,674,390
Incremental tuition fee in 2009-10	**18,290,140**	

The Committee has checked the calculation sheet prepared under its directions and supervision and finds the same in order. As per the aforesaid calculation sheet, the school had a surplus of Rs. 1,55,42,965 after considering the funds actually available and deemed to be available with it at the threshold and the funds generated by way of recovery of arrear fee and incremental fee as per the aforesaid order dated 11/02/2009 vis a vis the additional liability of the school for implementation of VI Pay Commission recommendations. However, the Committee notes that while working out surplus, no regard has been given for the requirement of the school to keep funds in reserve to meet its accrued liabilities for gratuity and leave encashment. Further, no provision has been made for the reserve to be kept for future contingencies. The Committee has taken a consistent view that the schools ought to keep funds equivalent to four months salary in reserve for any future contingency. The total expenditure on normal salary of the school for the year 2009-10 was Rs. 7,48,16,353. Based on this, the

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requirement of the school to keep funds in reserve for future contingencies amounts to Rs. 2,49,38,784. If this amount is taken into consideration, the school would have no surplus after implementation of the VI Pay Commission report. This position obtains without accounting for the liability on account of gratuity, which amounts to Rs. 1,83,31,023 and that on account of leave encashment, which amounts to Rs. 94,43,135.

The Committee is therefore of the view that so far as the recovery of arrear fee and incremental tuition fee for the year 2009-10 is concerned, no intervention is required.

2. Incremental development Fee:

The school placed reliance on para 14 of the order dated 11/02/2009, issued by the Director of Education, to contend that the school was justified in recovering the arrears of incremental Development fee for the period 01/09/2008 to 31/03/2009 @ 15% of incremental tuition fee.

The moot question that arises is whether the order dated 11/02/2009 issued by the Director of Education permitting the schools to hike tuition fee and recover the arrear fee in order to meet the additional expenditure on salary on account of implementation of the VI Pay Commission report, permitted any hike in development fee also. If yes, to what extent. Paras 4,5,7, 14 & 15 of the aforesaid order which are relevant for the purpose, read as follows:

> *4. All schools have been placed in five (5) categories based on their monthly tuition Fees at present. Increase in the Tuition fee, as mentioned below, is permitted with effect from 1 September 2008 for those schools who need to raise additional funding for additional*

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requirement on account of the implementation of the 6th Central Pay Commission recommendations:-

Category	Existing Tuition fee (per month)	Proposed increase in tuition fee (Maximum limit) per month
1.	Upto Rs. 500 p.m.	Rs. 100 p.m.
2.	Rs. 501 to Rs. 1,000	Rs. 200 p.m.
3.	Rs. 1,001 to Rs. 1,500	Rs. 300 p.m.
4.	Rs. 1,501 to Rs. 2,000	Rs. 400 p.m.
5.	Above Rs. 2,000	Rs. 500 p.m.

5. *There shall not be any further increase in the Tuition fee beyond the limit prescribed in para 4 hereinabove, till March 2010.*

7. *The arrears for meeting the requirement of salary etc. from 1st January 2006 to 31st August 2008 as per 6th Central Pay Commission recommendations will be paid by the parents subject to the limitation prescribed below:-*

Category	Existing Tuition Fee (per month)	Arrear		Total (i + ii)
		(Ist Installment) (i)	(2nd Installment) (ii)	
1.	Upto Rs.500/- P.M.	Rs.1,000/-	Rs.1,000/-	Rs.2,000/-
2.	Rs.501/- to Rs.1000/-	Rs.1,250/-	Rs.1,250/-	Rs.2,500/-
3.	Rs.1,001/- to Rs.1500/-	Rs.1,500/-	Rs.1,500/-	Rs.3,000/-
4.	Rs.1,501/- to Rs.2,000/-	Rs.1,750/-	Rs.1,750/-	Rs.3,500/-
5.	Above Rs. 2,000/-	Rs.2,250/-	Rs.2,250/-	Rs.4,500/-

The first installment may be deposited by 31st March 2009 and the second by 30th September 2009. Schools, however are at liberty to prescribe later dates.

14. *Development fee, not exceeding 15% of the total annual tuition fee, may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under the head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*

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15. *However, the additional increase in Development Fee on account of increase in Tuition Fee shall be utilized for the purpose of meeting any shortfall on account of salary/arrears only.*

On going through the entire order, the Committee finds that it primarily permits hike in tuition fee w.e.f. 01/09/2008 and recovery of lump sum arrears for payment of arrear salary from 1st January 2006 to 31st August 2008. It further ordains that no further hike in fee till March 2010 would be permitted. The reference to the development fee in the aforesaid order is only in paras 14 & 15, as reproduced above. Whether the schools can recover the incremental development fee on account of hike in tuition fee to the extent of the difference between 15% of tuition fee and the development fee actually charged for the year 2008-09 is the question that is to be determined by the Committee, in this case.

The reliance placed by the school on para 14 of the circular to contend that the development fee w.e.f. 01/09/2008 can be charged @ 15%, is misplaced. The charge of development fee in case of unaided private schools was permitted for the first time by order no. De.15/Act/Duggal.Com./ 203/99/23033-23980 dated 15/12/1999 which was issued in pursuance of the recommendations of Duggal Committee constituted by the Hon'ble Delhi High Court in the case of Delhi Abhibhavak Maha Sangh vs. Union of India **AIR 1999 Del 124**. Para 7 of this order read as under:

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

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

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

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The contention of the school that it charged additional development fee in pursuance of para 14 of the order dated 11/02/2009 has to be examined in light of the above background. Para 14 as aforementioned, did not introduce the development fee as an additional resource and that too for the purpose of meeting the liabilities arising out of the implementation of VI Pay Commission report. It is a repeat of para 7 of the order dated 15/12/1999 issued by the Director of Education. The only change being that the maximum cap of charge of development fee was raised from 10% to 15% of the tuition fee to bring it in accord with the judgment of the Hon'ble Supreme Court. **Para 14 as aforesaid does not envisage any increase in development fee to 15% of tuition fee w.e.f. 01/04/2008, as contended by the school.** The said para has no retrospective operation. It is prospective in nature. It only means that in future, the school may charge development fee @ 15% of the annual tuition fee for specified purposes and subject to fulfillment of the specified conditions. **Since the order is dated 11/02/2009 and para 5 thereof restrains the schools to make any further increase in tuition fee, over and above that permitted vide para 4, till March 2010, para 14 of the circular has to be construed to mean that for the year 2009-10, the schools may charge development fee @ 15% of tuition fee, if the schools were charging at a lesser rate in the past.**

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However, para 15 of the said order can be construed to be permitting increase in development fee as a result of increase in tuition fee. But, where there is no definite linkage between the development fee and the tuition fee e.g. where development fee is charged at a fixed rate within the overall cap of 15%, irrespective of the amount of tuition fee, the school would not be justified in hiking the development fee as a result of tuition fee. Hence, it would be appropriate to examine as to what was the development fee being originally charged by the school and whether there was any linkage between the development fee and tuition fee.

As noticed supra, the school was charging development fee @ 10% of tuition fee in 2008-09 as per the original fee schedule filed by it with the Director of Education under section 17(3) of the Delhi School Education Act, 1973. There was a definite linkage between the two. However, while hiking the fee as per order dated 11/02/2009, the school hiked the percentage of development fee to tuition fee from 10% to 15% and accordingly recovered the arrears. This, in view of the Committee was not warranted and was not authorized by the order dated 11/02/2009 issued by the Director of Education. This amounted to a hike in fee in the midsession, without the specific approval of the Director, which is prohibited by section 17(3) of Delhi School Education Act, 1973. The school, at best, could recover the arrears of development fee for the period 01/09/2008 to 31/03/2009

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@ 10% of the hike in tuition fee which was Rs. 500 per month. Hence the school would have been justified in recovering the arrears of development fee @ Rs. 50 per month i.e. Rs. 350 per student for the seven month period of 01/09/2008 to 31/03/2009. However, the school recovered the same @ Rs. 525 per student. In absolute terms, the school could have recovered the arrears of incremental development fee amounting to Rs. 10,38,483 as the arrears of tuition fee for the period which were recovered by the school amounted to Rs. 1,03,84,826. As against this, the school recovered total sum of Rs. 15,58,248, resulting in excess recovery of Rs. 5,19,765. Hence, in view of the Committee, the aforesaid sum of Rs. 5,19,765 was recovered unauthorisedly and such recovery was in contravention of the provisions of Section 17(3) of Delhi School Education Act, 1973. The Committee is of the view that the school ought to refund such excess recovery of **Rs. 5,19,765** along with interest @ 9% per annum.

3. **Regular Development Fee:**

The Committee notes that the development fee charged by the school in the year 2009-10 and 2010-11 was @ 15% of the tuition fee. So far as the rate of development fee @ 15% in 2009-10 and 2010-11 is concerned, the same suffers from no infirmity as it was authorized by para 14 of the aforesaid order. As per the information furnished by the school and also the audited financials of the school, the

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development fee charged by the school in these two years was as follows:

Development fee charged in 2009-10	Rs. 1,38,96,883
Development fee charged in 2010-11	Rs. 1,50,56,965
Total	Rs. 2,89,53,848

The Committee is of the view that the issue of justifiability of charging of development fee by the school in pursuance of para 14 of the order dated 11/02/2009 is not required in the peculiar circumstances of this case in view of the fact that the school had liabilities on account of Gratuity and Leave Encashment which together amounted to Rs. 2,77,74,158 for which the school did not have sufficient funds after implementing the recommendations of VI Pay Commission. Additionally, the school was short of funds to the tune of Rs. 93,95,819 for setting aside a reserve for future contingencies. In view of this position, the detailed examination the issue of development fee would only be an academic exercise. The Committee is of the view that no recommendation is required to be made so far the charge of regular development fee for 2009-10 and 2010-11 is concerned. However, the Committee has specifically recommended refund of the incremental development fee which has been charged in excess as the same is patently illegal and unauthorized.

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Recommendations:

The Committee therefore recommends that the school ought to refund a sum of Rs. 5,19,765 out of the arrears of development fee for the period 01/09/2008 to 31/03/2009 along with interest @ 9% per annum, from the date of collection to the date of refund. No intervention is required in the matter of recovery of lump sum arrear fee or the recovery of increased tuition fee w.e.f. 01/09/2008 or recovery of development fee for the years 2009-10 and 2010-11.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 25/05/2015

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

St. Mathew's Public School, Paschim Vihar, New Delhi-110069

The school had not replied to the questionnaire dated 27/02/2012 issued by the Committee, which was followed by a reminder dated 27/03/2012. The Committee requisitioned from the concerned Dy. Director of Education, the annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973 for the years 2006-07 to 2010-11. On prima facie examination of these returns, it appeared that the school had hiked the fee in accordance with order dated 11/02/2009 issued by the Director of Education and also implemented the recommendations of the VI Pay Commission. Accordingly, the school was placed in category 'B' for the purpose of verification.

In order to verify the documents received from the Dy. Director of Education, the Committee issued a letter dated 13/06/2013, requiring the school to produce in its office on 03/07/2013, its fee records, salary records, books of accounts, bank statements, copies of provident fund returns and TDS returns for the years 2008-09 to 2010-11. A revised questionnaire was also issued to the school in order to elicit information regarding receipt and utilisation of development fee and maintenance of earmarked development and depreciation reserve funds besides the hike in fee and salary for the purpose of implementation of the VI Pay Commission report. However, on this date, a letter was received from the school, expressing its inability to produce the records on account of the death of the Chairman of the school. The school requested for another date to be given after one month. Accordingly, a fresh notice dated 15/07/2013 was issued to the school to produce its records on 13/08/2013. On this date also, a letter was received from the school seeking further time. The request was accommodated by the Committee and the school was advised to produce its

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For Review of School Fee

records on 05/09/2013. On this date, Ms. Anita Sethi, Principal of the school appeared and produced only some of the records. She also filed reply to the questionnaire issued by the Committee, as per which the school claimed that:

(a) It had implemented the recommendations of the VI Pay Commission w.e.f. 01/04/2009 as is evident from copies of salary sheets for the month of March 2009 and April 2009, which were enclosed as evidence.

(b) The total expenditure on salary in 2008-09 was **Rs. 30,36,925** while that in 2009-10 was **Rs. 44,14,398** and this also included the arrears amounting to **Rs. 13,18,579** (in other words, effectively the increase in regular salary in 2009-10 was to the tune of **Rs. 58,894** only after the purported implementation of VI Pay Commission report).

(c) The regular tuition fee hiked by the school in 2009-10 was as follows:

Class	Monthly Tuition fee in 2008-09 (Rs.)	Monthly Tuition fee in 2009-10 (Rs.)	Increase in 2009-10
Pre primary	950	1150	200
I to V	825	1025	200
VI & VII	990	1200	210
VIII	1100	1200	100

(d) A total of Rs. 3,900 was recovered as arrears fee from each student (Rs. 2,500 towards lump sum arrears and Rs. 1,400 towards arrears @ Rs. 200 per month for the period 01/09/2008 to

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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31/03/2009). This recovery was staggered over a period of seven months.

(e) The school recovered a sum of Rs. 1,31,490 as development fee in 2009-10 and Rs. 30,500 in 2010-11, which was treated as a revenue receipt and utilised for meeting routine revenue expenses.

(f) The school was not maintaining any earmarked development fund and depreciation reserve fund accounts.

The records produced by the school were examined by Sh. A.D. Bhateja, audit officer of the Committee and he observed that the school did not produce complete fee records. As such the school was asked to produce the same on 25/09/2013. On this date also, although the principal of the school appeared in the office of the Committee, she did not produce the fee records and requested for another date. Her request was again accommodated by the audit officer and she was asked to produce the records on 07/10/2013. On this date also, the fee records were not produced and Ms. S. Verma, Vice Principal of the school who appeared, requested for another date. The audit officer of the Committee gave one last opportunity to the school to produce its fee records on 25/10/2013. On this date also, the records produced by the school were inchoate, so far as they pertained to the year 2008-09. However, the fee records for the year 2009-10 and 2010-11 were found to be in order.

With regard to implementation of VI Pay Commission report, he observed that the school had apparently partially implemented the recommendations of the VI Pay Commission. However, the DA was not being paid at the then prevailing rates. With regard to mode of payment of salary,

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he vaguely remarked that salaries were paid by cheques/cash during 2008-09 and 2009-10. He did not examine or work out as to how much of the total salary was paid in cash and how much by cheques and in case of cheques whether the cheques were account payee or bearer.

The Committee issued a notice dated 25/09/2014 to the school for hearing on 16/10/2014. The notice, inter alia, required the school to furnish details of accrued liabilities of gratuity/leave encashment, if applicable to the school and the information relating to the aggregate amount of arrear fee and regular fee received, arrear salary and regular salary paid by the school during the year 2008-09, 2009-10 and 2010-11, in a structured format.

On the date of hearing, Ms. S. Verma, Member of the Society appeared with Sh. Krishan Kumar, Librarian. They sought some time to furnish the information. They were directed to furnish the requisite information by 31/10/2014 after which a fresh hearing would be fixed. The school furnished only the information with regard to fee and salary. However, no details of any accrued liabilities of gratuity and leave encashment were furnished. Instead of furnishing the copy of account of the society in the books of the school, the school furnished the copies of the balance sheets of the society. A fresh hearing notice was issued to the school for hearing on 06/01/2015 at 11.00 a.m.. However, as usual, the school requested for an adjournment on account of the Principal being out of station. The matter was directed to be relisted on 21/01/2015. On this date also, no one appeared from the school, when the matter was called. As such, the hearing was closed. However, after the committee had risen for the day after concluding the hearings of all the schools which were listed for that day, the

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Principal of the school appeared and stated that she was stuck in a traffic jam. The Members of the Committee who were present in the office at that time, again accommodated the school, in the interest of the justice and directed the matter to be relisted on 02/02/2015. However, the school took undue advantage of the indulgence shown to it by the Committee. On 02/02/2015, when the Principal and the Vice Principal of the school appeared, they did not produce the books of accounts, although the notice of hearing clearly and emphatically required the school to keep its books of accounts handy for examination by the Committee during the course of hearing. On the next schedule date, the Principal, the Vice Principal and an office assistant of the school appeared and produced the books of the accounts and the salary registers of the school.

The account books and salary registers were examined by the Committee. The Committee observed that the arrear salary purportedly paid by the school was shown to have been paid in installments along with the monthly salary. The Committee also observed that the amount of arrear salary that was included in the register along with regular salary was entered in a different ink and hand writing. Further, although the school claimed to have made the payment of regular salary and installments of arrear salary together as per the salary register, the entries in the books of accounts i.e. cash book and ledger were made on different dates. Besides, the school produced a separate register also which showed payment of arrear salaries and on which the acknowledgements of receipt of payment were obtained across revenue stamps. Thus, against one payment of arrear, the school obtained acknowledgement of payment twice - once in the salary

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For Review of School Fee

register along with regular salary and again in the arrear payment register. When confronted, the representatives of the school conceded that the arrear payment register was prepared subsequently after the school was subjected to an inspection by the Directorate of Education. The Committee also observed that all the arrear payments were shown to have been made in cash. The regular salary was also found to have been paid in cash in the year 2009-10. The Committee is of the view that its audit officer who examined the records of the school and observed that the salary was being paid in cash/ by cheques did not do justice to his job. The school had been seeking repeated adjournments and was extremely reluctant to produce its records before the audit officer as well as before the Committee. In hindsight, it appears that adjournments sought by the school were utilised by it for modulating its books of accounts, fee records and salary records, to somehow show that it had implemented the recommendations of VI Pay Commission. In our view, the school has not paid any arrears of salary to the staff nor implemented the recommendations of the VI Pay Commission even prospectively. As such, the school took undue advantage of the order dated 11/02/2009 issued by the Director of Education by recovering the arrear fee @ Rs. 3,900 per student and also hiking the regular tuition fee by Rs. 200 per month. Since the school failed to implement the recommendations of the VI Pay Commission, it was wholly unjustified in recovering the arrear fee. Therefore, the same ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund. So far as the hike in regular tuition fee for the year 2009-10 is concerned, the school could at best have hiked the same by 10% over the fee of 2008-09. The hike in excess of 10% ought to be refunded along with

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interest @ 9% per annum from the date of collection to the date of refund. As such hike also forms part of the fee for the subsequent years, the fee hike effected in the subsequent years to the extent it is relatable to the hike of 2009-10 which the Committee has found to be unjustified, ought also be refunded along with interest @ 9% per annum from the date of collection to the date of refund.

So far as development fee is concerned, the school on its own showing, has stated that it was treated as a revenue receipt and utilised for meeting the revenue expenses. This was not the purpose for which the development fee was introduced after the recommendations of the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583. The Committee is therefore of the view that the development fee charged by the school in 2009-10 and 2010-11 ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund.

Recommendations:

To sum up, the school ought to refund the following amounts along with interest @ 9% per annum from the date of their collection to the date of refund:

1. **The arrear fee charged by the school @ Rs. 3,900 per student.**
2. **The regular fee hiked in 2009-10, in excess of 10%.**
3. **The regular fee for the years subsequent to 2009-10, to the extent they relate to the regular fee for 2009-10, of which the Committee has recommended the refund.**

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4. **The development fee charged by the school in 2009-10 and 2010-11.**

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 06/05/2015

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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New Holy Public School, Arya Samaj Road,Uttam Nagar, N. Delhi-59

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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4. With a view to verify the returns, the Office of the Committee vide its notice dated 15.07.2013 and 06.08.2013, required the school to appear on 02.09.2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

5. On 02.09.2013, Sh. Janardan Sharma, Manager of the school attended the Office of the Committee and produced the record. Reply to the questionnaire was also filed. As per the reply;-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.04.2009.

(ii) The school had hiked the fee w.e.f. 01.04.2009, in terms of the order of the Director of Education dated 11.02.2009.

(iii) The school had collected development fee from the students.

6. The record, in the first instance, was examined by Shri A.D.Bhateja, Audit Officer of the Committee. He observed to the effect that: -

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission, but DA and HRA has not been paid as per the prescribed rates.

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(ii) During 2009-10 and 2010-11, five to eight employees were shown on leave without pay.

(iii) Salary to the staff has been paid by cash despite the school has a a bank account.

(iv) The school hiked tuition fee in 2009-10 by Rs.100/- to Rs.200/- p.m. for different classes. During 2010-11 the hike was between Rs.50/- to Rs.100/- for different classes.

7. By notice dated 22.10.2014, the school was asked to appear on 05.11.2014 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8. On 05.11.2014, Sh. Sucha Singh, representative of the school appeared before the Committee and presented a letter from the school Manager seeking adjournment for three weeks on account of the school accountant not being well. At its request, fresh notice of hearing on 07.01.2014 was issued to the school.

9. On 07.01.2014, Sh. Janardan Sharma, Manager, Sh. Brijesh Gupta, CA and Ms. Rachna, LDC of the school appeared before the Committee

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along with the records. It was contended by the school representatives that the school hiked the fee as per the order of the Director of Education dated 11-02-2009. The arrear fee was neither charged from the students nor was the arrear salary paid to the staff. Regarding implementation of the recommendations of the 6th Pay Commission, the representatives were confronted with the observations dated 02-09-2013 of the Audit Officer of the Committee. The representatives agreed with the aforesaid observations. With regard to the development fee, they submitted that it was treated as a revenue receipt and no earmarked accounts of development and deprecation reserve fund were maintained.

10. We have gone through the record, and observations of the Audit Officer of the Committee. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
I	450	550	100	600	50
II	500	600	100	660	60
III	525	725	200	790	65
IV	550	750	200	825	75

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V	575	775	200	850	75
VI	600	800	200	880	80
VII	625	825	200	900	75
VIII	650	850	200	935	85
IX	725	925	200	1000	75
X	825	1000	175	1100	100

11. From the above, it is manifest that the school had increased the fee during the year 2009-10 for all classes in terms of the order of the Director of Education dated 11.02.2009. During 2010-11, the fee was hiked by 10%.

12. The school claimed to have implemented the recommendations of the 6th Pay Commission, but D.A. and HRA have not been paid as per the prescribed norms and salary to the staff has been paid in cash. In such circumstances the claim of the school to have implemented the recommendations of the 6th Pay Commission can not be accepted.

RECOMMENDATION

Re. Fee Hike

Since the school has utilised the order of the Director of Education dated 11.02.2009 for enhancing the tuition fee in 2009-10, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10% ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10 for the aforesaid classes, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re.Development fee;

The school has charged development fee from the students in the following manner:-

Year	Amount
2009-10	Rs. 89, 000.00
2010-11	Rs. 62, 000.00

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ANIL DEV SINGH
COMMITTEE
For Review of School Fee

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New Holy Public School, Arya Samaj Road,Uttam Nagar, N. Delhi-59

The school has admitted that development fee had been treated as revenue receipt and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs.1,51,000.00 during the years 2009-10 to 2010-11 in pursuance of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar **Member**	**Justice Anil Dev Singh (Retd.)** **Chairperson**	**Dr. R.K. Sharma** **Member**

Dated:- 22-01-2015

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Indraprastha Convent Sr.Sec.School, Begampur, Delhi-86

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days (Annexure 30 at page 470 of the First Interim Report).

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Indraprastha Convent Sr.Sec.School, Begampur, Delhi-86

4. With a view to verify the returns, the Office of the Committee vide its notice dated 17.07.2013, required the school to appear on 12.08.2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire. On the scheduled date Sh. Santosh Kumar, PGT and Sh. Sandeep Yadav, Member, M.C attended the office of the Committee and requested for some more time to produce the record. The school was directed to produce its record on 06.09.2013.

5. On 06.09.2013, Sh. Sandeep Yadav, Member, M.C. of the school attended the Office of the Committee and produced the record. Reply to the questionnaire was also filed. As per the reply;-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.07.2010.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009 w.e.f. 01.04.2009.

(iii) The school had not collected development fee from the students.

6. The record, in the first instance, was examined by Shri N.S.Batra, Audit Officer of the Committee. He observed to the effect that: -

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Indraprastha Convent Sr.Sec.School, Begampur, Delhi-86

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission.

(ii) Salary to staff has been paid in cash without deducting TDS.

(iii) The school hiked tuition fee in 2009-10, in excess of the prescribed limit set in the order of the Director of Education dated 11.02.2009. During 2010-11 the hike was within 10%.

7. By notice dated 05.12.2014, the school was asked to appear on 31.12.2014 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8. On 31.12.2014. Sh. Sandeep Yadav, Manager, Sh. S.K. Sharma, Accountant and Sh. I.S.Yadav, Member, M.C. of the school appeared before the Committee and provided the records. It has been contended by the school representatives that:-

(i) The school has hiked the fee in 2009-10, which was much more than the limit prescribed in the order of the Director of Education Dated 11.02.2009.

(ii) The salary to the staff was paid in cash without deducting TDS.

(iii) The school did not charge development fee.

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Indraprastha Convent Sr.Sec.School, Begampur, Delhi-86

9. We have gone through the record, observations of the Audit Officer of the Committee and submissions of the school representatives. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11:

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
I	300	450	150	450	NIL
II	330	530	200	550	20
III	330	530	200	550	20
IV	350	550	200	580	30
V	350	550	200	600	50
VI	400	630	230	630	NIL
VII	430	630	200	650	20
VIII	450	650	200	650	NIL
IX	550	750	200	750	NIL
X	650	850	200	900	50
XI	700	950	250	950	NIL
XII	850	1100	250	1100	NIL

10. From the above, it is manifest that the school has hiked the fee during the year 2009-10, for all classes in excess of the prescribed limit of the order of the Director of Education dated 11.02.2009. During 2010-11, the hike was within 10% for classes II, III, IV, V, VII and X. For classes I, VI, VIII, IX, XI and XII, there was no hike in 2010-11, but if, the

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hike in 2009-10, for these classes is spread over to 2010-11, even then hike in 2010-11 would be more than 10%.

11. The school claimed to have implemented the recommendations of the 6th Pay Commission, but salary to the staff has been paid in cash without deducting TDS. In such circumstances the claim of the school to have implemented the recommendations of the 6th Pay Commission can not be accepted.

12. As per the available record, the school has not charged development fee.

RECOMMENDATION

Re. Fee Hike

Since, the school has increased the tuition fee in 2009-10, in excess of the prescribed limit set in the order of the Director of Education dated 11.02.2009, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. In such circumstances, the Committee recommends that the fee hike effected by the school in the year 2009-10 in

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excess of 10% ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 being a part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10 for the aforesaid classes, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/- Sd/- Sd/-

J.S. Kochar
Member

Justice Anil Dev Singh (Retd.)
Chairperson

Dr. R.K. Sharma
Member

Dated:- 07-01-2015

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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D.S.Memorial Sr.Sec.Public School, Nangloi, Delhi-41

000338

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days (Annexure 30 at page 470 of the First Interim Report).

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'

4. With a view to verify the returns, the Office of the Committee vide its notice dated 26-08-2013, required the school to appear on 20-09-2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the questionnaire.

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5. On 20-09-2013, Sh. Mahipal Yadav, Manager of the school attended the Office of the Committee and produced the record. Reply to the questionnaire was also filed. As per the reply;-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.09.2009.

(ii) The school had hiked the fee w.e.f. 01.04.2009, in terms of the order of the Director of Education dated 11.02.2009.

(iii) The school did not collect the development fee from the students.

6. The record, in the first instance, was examined by Shri N.S.Batra, Audit Officer of the Committee. He observed to the effect that: -

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission, but T.A. has not paid to the staff.

(ii) The school hiked tuition fee in 2009-10, in terms of the order of the Director of Education dated 11.02.2009. During 2010-11 the hike was by 10%.

7. By notice dated 28-10-2014, the school was asked to appear on 19-11-2014 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8. On 19-11-2014. Sh. Mahipal Yadav, Manager, Sh. Pankaj Gupta, CA and Sh. Prashant Yadav, Asstt. Teacher of the school appeared before

JUSTICE ... SINGH COMMITTEE For Review of School Fee

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the Committee and produced the record. It was contended that the school prospectively implemented the recommendations of the 6th Pay Commission w.e.f. 01-09-2009. However, salary arrears were paid for the period 01-04-2009 to 31-08-2009, thus effectively implementing the aforesaid recommendations w.e.f. 01-04-2009. The arrears of salary for the period 01-09-2006 to 31-03-2009 were not paid as the school did not collect the arrear fee for that period. It was further contended that the school paid salary in cash in the year 2009-10. The school submitted that it did not charge development fee.

The school was required to produce its books of accounts and TDS returns for 2011-12 on 21-11-2014, before the Audit Officer of the Committee for verification.

On 21.11.2014, Sh.Pankaj Gupta, C.A. produced the aforesaid relevant record. Mrs. Sunita Nautiyal, Audit Officer of the Committee on examination of the record with reference to the payment of arrear of salary for the period 01-04-2009 to 31-08-2009 prepared a note.

9. By notice dated 05.12.2014, the school was asked to reappear on 30.12.2014 before the Committee for affording another opportunity of hearing to the school.

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ANIL DEV SINGH
COMMITTEE
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D.S.Memorial Sr.Sec.Public School, Nangloi, Delhi-41

10. On 30.12.2014 Sh. Mahipal Yadav, Manager, Sh. Prashant Yadav, Teacher and Sh. Pankaj Gupta, C.A. of the school appeared before the Committee. The Committee has perused the note dated 21-12-2014 of the Audit Officer of the Committee. The Committee has noticed that the school has maintained very heavy cash balance, despite having three bank accounts. The salary in the year 2009-10 was paid in cash even after the purported implementation of the recommendations of the 6th Pay Commission. Even most of the arrears of the period 01-04-2009 to 31-08-2009 paid in 2011-12, was shown to have been paid in cash. The representatives have contended that the school did not charge development fee.

11. We have gone through the record, submissions of the representatives on behalf of the school and observations of the Audit Officer of the Committee. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
I to V	420	520	100	570	50
VI-VIII	550	750	200	820	70
IX-X	650	850	200	930	80
XI-XII	740	940	200	1020	80

JUSTICE
ANIL DEV SINGH
COMMITTEE
For Review of School Fee

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12. From the above, it is manifest that the school has increased the fee during the year 2009-10 for all classes, in terms of the order of the Director of Education dated 11.02.2009. During 2010-11 the hike has been by 10%.

13. The school claimed to have implemented the recommendations of the 6th Pay Commission, but salary and the arrears of salary to the staff For the period 01-04-2009 to 31-08-2009 have been paid in cash. T.A. has also not been paid to the staff. In such circumstances the claim of the school to have implemented the recommendations of the 6th Pay Commission can not be accepted.

14. As per the available record, the school has not charged development fee.

RECOMMENDATION

Re. Fee Hike

Since the school has utilised the order of the Director of Education dated 11.02.2009 for enhancing the tuition fee in 2009-10, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10% ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 being a part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10 ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-

J.S. Kochar
Member

Sd/-

Justice Anil Dev Singh (Retd.)
Chairperson

Sd/-

Dr. R.K. Sharma
Member

Dated:- 07-01-2015

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Lovely Public Sr. Sec.School, New Layalpur.Delhi-51

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Lovely Public Sr. Sec.School, New Layalpur.Delhi-51

4. With a view to verify the returns, the Office of the Committee vide its notice dated 26.08.2013 required the school to appear on 23.09.2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

5. On 23.09.2013, Sh. Inder Malik, Principal and Sh. Ajay Kumar, Clerk of the school attended the office of the Committee and produced record. Reply to the questionnaire was also filed. As per the reply:-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.04.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009. w.e.f. 01. 04. 2009.

(iii) The school had collected development fee.

6 The record, in the first instance, was examined by Sh.A.D.Bhateja, Audit Officer of the Committee. He observed to the effect that:

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission w.e.f. April, 2009, but D.A. has not been paid as per the prescribed norms.

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Lovely Public Sr. Sec.School, New Layalpur.Delhi-51

(ii) The salary to the staff has been paid in cash and through bearer and a/c payee cheques.

(iii) The school hiked tuition fee in 2009-10 in terms of the order of the Director of Education dated 11.02.2009. During 2010-11, hike in fee was by 10%.

The Audit Officer after examination of the original record produced by the school returned the same to the representatives of the school.

7. By notice dated 30.10.2014, the school was asked to appear on 28.11.2014 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8 On 28.11.2014, Sh. Ajay Kumar, Accountant and Ms.Monika, Representative of CA of the school appeared before the Committee and produced record. It was contended that the school neither recovered any arrear fee, nor paid any arrear salary to the staff. However, recommendations of the 6th Pay Commission were partially implemented

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Lovely Public Sr. Sec.School, New Layalpur.Delhi-51

w.e.f. 01-04-2009 and fee was also hiked as per the order dated 11-02-2009 of the Director of Education. On examination of the bank statements of the school, the Committee has noticed that the school made payment by bearer cheques to a large number of staff members.

The representatives also conceded this position. The school was required to file employee wise details of payments made through account payee/bearer cheques and that paid in cash, within one week.

On 19.12.2014, the school representatives produced the salary record before the Audi Officer of the Committee, who after examination of the mode of payment of salary has reported that the school has paid 71% salary through bearer cheques and cash in 2009.

Discussions and findings

9. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the

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Lovely Public Sr. Sec.School, New Layalpur.Delhi-51

record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
I - VIII	860	1060	200	1350	290
IX - XII	880	1080	200	1460	380

10. From the above, it is obvious that the school has increased the fee during the year 2009-10, in terms of the order of the Director of Education dated 11/02/2009. During 2010-11, the hike was by more than 10%.

11. According to school it has **partially** implemented the recommendations of the 6th Pay Commission, but salary to the staff has been paid in cash and through bearer cheques. We find that many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by showing payment of salary and/or arrears of salary to the teachers in cash or through bearer cheques. The stand of the school that it had implemented the recommendations of the 6th Pay Commission does not inspire confidence as there is no plausible and convincing reason, why the payments were

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ANIL DEV SINGH
COMMITTEE
For Review of School Fee

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not made by bank transfer or by account payee cheques. In the circumstances the stand of the school that it has partially implemented the recommendations of the 6th Pay Commission is a ruse and cannot be accepted.

RECOMMENDATION

Re. Fee Hike

Since the school has hiked the fee in 2009-10, in terms of the order of the Director of Education, dated 11.02.2009, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Lovely Public Sr. Sec.School, New Layalpur.Delhi-51

Re. Development Fee;

The school has charged development fee from the students in the following manner;

Year	Development Fee Charged
2009-10	Rs. 3,458,470.00
2010-11	Rs. 4,347,735.00

The development fee has been treated as a revenue receipt and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs. 7,806,205.00 during the years 2009-10 and 2010-11 in the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to

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COMMITTEE
For Review of School Fee

refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-
J.S. Kochar
Member

Sd/-
Justice Anil Dev Singh (Retd.)
Chairperson

Sd/-
Dr. R.K. Sharma
Member

Dated— 25.05.2015

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JUSTICE ... SINGH COMMITTEE For Review of School Fee

Dilshad Public School, Dilshad Garden, Delhi-110095

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns for the years 2008-09 to 2010-11 filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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Dilshad Public School, Dilshad Garden, Delhi-110095

4. With a view to verify the returns, the Office of the Committee vide its notice dated 26.08.2013, required the school to appear on 27.09.2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

5. On 27.09.2013, Ms. Urmila Sharma, Vice Principal of the school attended the Office of the Committee and produced the record. Reply to the questionnaire was also filed. As per the reply:-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.04.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009. w.e.f. 01 04 2009.

(iii) The school had collected development fee from the students.

6. The record, in the first instance, was examined by Shri N.S.Batra, Audit Officer of the Committee. He observed to the effect that: -

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission.

(ii) Salary to the staff has been paid in cash without deducting PF.

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Dilshad Public School, Dilshad Garden, Delhi-110095

(iii) The school hiked tuition fee in 2009-10, in between Rs.50/- to Rs.200/- per month for different classes. During 2010-11, the hike was by Rs. 50/- to Rs.100/- per month for different classes.

The Audit Officer after examination of the record produced by the school returned the same to her.

7. By notice dated 30.10.2014, the school was asked to appear on 28.11.2014 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8. On 28.11.2014, Ms. Urmila Sharma, Vice Principal and Sh. Vineet Batra, Account Consultant of the school appeared before the Committee. They submitted some of the information, as required by the Committee vide notice dated 30-10-2014. The school did not furnish the details of development fee received and utilized as per the questionnaire. The school was required to file complete reply to the notice and the questionnaire within one week.

9. The school vide notice dated 11.12.2014 was again provided an opportunity of hearing on 23.12.2014.

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Dilshad Public School, Dilshad Garden, Delhi-110095

10. On 23.12.2014, Ms. Urmila Sharma, Vice Principal and Sh. Manu Luthra, C.A. of the school appeared before the Committee. It was submitted by the school representatives that the school had partially implemented the recommendations of the 6^{th} Pay Commission. However, the representatives conceded that the salary was paid in cash despite the school maintaining a bank account with the State Bank of India, Dilshad Garden Branch. TDS was also nominally deducted from the salary of only one employee of the school. The representatives also contended that due regard should be given for the fact that the school did not hike any fee in 2008-09.

With regard to the development fee, the school had furnished its reply to the questionnaire; vide which it has admitted that only a minimum amount was utilized for the purchase of fixed assets. The remaining amount, which forms the bulk, was utilized for meeting revenue expenses.

The school was directed to produce copies of its returns filed under Rule 180 of DSER 1973 for the years 2006-07 and 2007-08 and its fee receipts, fee register and books of accounts for the years 2006-07, 2007-08 and 2008-09, so that the extent of fee hike, if any, in these years may be examined.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Dilshad Public School, Dilshad Garden, Delhi-110095

11. The school submitted the above record on 25.02.2015. The record was examined by Ms. Sunita Nautiyal, AAO. She has observed that the school did not increase tuition fee for most of the classes in 2007-08 and 2008-09.

12. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2006-07 and 2010-11: -

Class	Tuition Fee during 2006-07	Tuition Fee during 2007-08	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
I	450	450	450	550	100	600	50
II	450	450	**500**	550	50	650	**100**
III	550	550	550	650	100	700	50
IV	550	550	550	650	100	750	**100**
V	550	**600**	600	650	50	750	**100**
VI	650	650	650	750	100	850	**100**
VII	650	650	650	750	100	850	**100**
VIII	650	**700**	700	800	100	850	50
IX	800	800	800	1000	200	1000	NIL
X	800	**850**	850	1000	150	1000	NIL

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Dilshad Public School, Dilshad Garden, Delhi-110095

13. From the above, it is manifest that the school has increased the fee during the year 2007-08 for classes V, VIII and X only and during 2008-09 for class II by Rs. 50/- pm. In case the increase in 2009-10 for these classes is spread over to 2007-08 and 2008-09, then the average increase from 2007-08 to 2009-10 was within the permissible limit of 10 %. During 2010-11, the hike for some of the classes was marginally in excess of 10% , but not much in absolute terms.

14. According to school, it has implemented the recommendations of the 6th Pay Commission partially. Salary was paid in cash. We find the many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by paying the salary/arrears of salary to the teachers in cash/bearer cheques. Such a plea gives a lie to the stand of the school that it had partially implemented the recommendations of the 6th Pay Commission as there is no plausible and convincing reason, why the payment was not made by bank transfer or by account payee cheques.

15. The school has charged development fee. The same has been treated as revenue receipt in the accounts, without maintaining separate development and depreciation reserve fund.

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Dilshad Public School, Dilshad Garden, Delhi-110095

RECOMMENDATION

Re. Fee Hike

Since the school has not utilised the order of the Director of Education dated 11.02.2009, for enhancing tuition fee in 2009-10, the Committee feels that no intervention is required qua the aspect of fee.

Re. Development Fee;

The school has charged development fee in the following manner:-

Year	Development Fee Charged
2009-10	Rs. 2,59,800.00
2010-11	Rs. 1,40,500.00

The development fee had been treated as revenue receipt and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India&

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Ors. Therefore, the Development Fee charged by the school to the tune of Rs.4,90,300.00 during the years 2009-10 and 2010-11 in the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated— 17-03-2015

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi-110007

The school had not responded to the initial questionnaire dated 27/02/2012 sent by the Committee, which was followed by a reminder dated 27/03/2012. The annual returns filed by the school under Rule 180 of Delhi School Education Rules 1973, were requisitioned by the Committee from the office of the concerned Dy. Director of Education. On perusal of these returns, it appeared that the school had implemented the recommendations of the Sixth Pay Commission and had also hiked the fee in accordance with order dated 11/02/2009 issued by the Director of Education. Therefore, the school was placed in category 'B' for the purpose of verification.

The Committee issued a notice dated 26/08/2013, requiring the school to produce in its office on 26/09/2013, its fee records, salary records, books of accounts and TDS and Provident Fund Returns. The Committee also issued a revised questionnaire to the school, incorporating therein the relevant queries regarding collection and utilization of development fee, its treatment in the accounts and maintenance of earmarked development and depreciation reserve funds. On the scheduled date, one Sh. Rajan George, a representative of the school appeared but sought another date on account of the pre occupation of the school in finalizing its income tax return. Accordingly, the school was given another opportunity to produce the required records on 14/10/2013. On ths date , Sh. Rajan George, Chartered Accountant appeared and produced the

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JUSTICE ... SINGH COMMITTEE For Review of School Fee

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Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi-110007

required records for verification by the Audit Officer of the Committee. He also filed reply to the revised questionnaire issued by the Committee.

As per the aforesaid reply, the school stated to the effect that:

(a) It had implemented the VI Pay Commission report and the increased salary to the staff was being paid w.e.f. 01/04/2009 (in support the school furnished salary sheet for the month of March 2009 showing total salary expenditure of Rs.9,36,827 for that month and that for the month of April 2009, showing total salary expenditure of Rs.12,01,300 for that month).

(b) The school had paid arrears to the staff for the period 01/06/2006 to 31/03/2009. In support calculation sheets showing arrear of salary payable were enclosed , as per which the arrear for the period September 2008 to March 2009 amounted to **Rs.23,74,505** and the pro rata arrears for the period 01/06/2006 to 31/08/2008 were **Rs. 30,73,900.**

(c) The school increased the fee w.e.f. 01/09/2008 in accordance with order dated 11/02/2009 issued by the Directorate of Education. Accordingly, it collected arrears of Rs.300 p.m. for the period 01/09/2008 to 31/03/2009 from the students. The total amount collected on this account was **Rs. 28,98,000.** The school also collected lump sum arrears for the period 01/01/2006 to 31/08/2008, @ Rs.1000/Rs.2000/Rs.3000, depending upon the

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For Review of School Fee

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year of joining of the student. The total amount, thus collected, was **Rs.28,87,135**.

(d) The school was charging development fee in all the five years for which the information was sought i.e. 2006-07 to 2010-11. The same was treated as a Revenue receipt and was mainly used for meeting the revenue expenditure like repairs and maintenance and computer hobby expenses. Further, no earmarked bank accounts were maintained either for development fund or for depreciation reserve fund. The amount was stated to have been kept in FDRs. The development fee collected by the school in the years 2009-10 and 2010-11 was Rs. 8,30,640 and Rs. 8,31,000 respectively.

The records produced by the school were verified by Sh. A. D. Bhateja, Audit Officer of the Committee. He observed that the school had implemented the recommendations of 6th Pay Commission as stated by it in its reply to the questionnaire. Proper deductions for TDS and Provident Fund were made from the salaries and appropriate returns were being filed by the school. The salary was paid by direct bank transfers.

With regard to hike in fee, he observed that the school had hiked the fee uniformly for all the classes @ Rs.300 p.m., which was in accordance with the order of Director of Education, dated 11/02/2009. The school had also collected arrear fee amounting to Rs.57,85,135. During 2010-11, the hike in fee was within the tolerance limit of 10%.

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JUSTICE ... COMMITTEE For Review of School Fee

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Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi-110007

No adverse feature was noticed in so far as maintenance of accounts is concerned by the audit officer.

The Committee issued a notice dated 05/12/2014 to the school for hearing on 29/12/2014. The notice, inter alia, required the school to furnish details of accrued liabilities of gratuity/leave encashment, if applicable to the school. Besides, it required the school to furnish information regarding aggregate fee and salary (including arrears), in a structured format.

On the date of hearing Sh. Rajan George, Chartered Accountant, appeared with Sh. Neeraj Sharma and Sh. R.K. Dubey . They filed written submissions dated 29/12/2014, giving the information required by the Committee vide its notice dated 05/12/2014. They were also heard by the Committee. The school furnished employee wise detail of its accrued liabilities on account of gratuity and leave encashment. As per the details furnished, the school had an accrued liability of Rs. 1,36,36,761 on account of gratuity and Rs. 18,94,400 on account of leave encashment as on 31/03/2010.

During the course of hearing, the Committee observed that, besides the hike in tuition fee in 2009-10, the school had also hiked computer hobby fee substantially during the same period. The revenue under this head went up from Rs.6,55,195 in 2008-09 to Rs.11,02,050 in 2009-10. Moreover, this fee was not included in the fee structure furnished to the Directorate of Education under section 17(3) of the Delhi School

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Education Act 1973. However, the school did not recover the arrears of incremental development fee for the period 01/09/2008 to 31/03/2009. The representatives of the school conceded, as was also mentioned in the reply to the questionnaire, that the regular development fee was treated as a revenue receipt and no earmarked development fund or depreciation reserve fund were maintained.

Based on the audited financials of the school, the information furnished by way of reply to the questionnaire and the information furnished in response to the notice of hearing issued by the Committee, a preliminary calculation sheet was drawn up by the Committee. While preparing the calculation sheet, the Committee duly accounted for the requirement of school to keep funds in reserve for meeting its accrued liabilities of gratuity and leave encashment as also funds to be kept in reserve for future contingencies. The liability in respect of gratuity as on 31/03/2010 was capped at Rs.3.50 lacs which was the maximum amount payable to an employee as on that date in terms of the extant law. The preliminary calculation sheet drawn up by the Committee is as follows :

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JUSTICE ... COMMITTEE For Review of School Fee

Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi-110007

Statement showing Funds availability of as on 31-03-2008 and the effect of fee hike and salary hike consequently implementation of Sixth Pay Commission Report

	Particulars	Amount (Rs.)	Amount (Rs.)
	Current Assets		
	Cash in hand	24,661	
	The BOR Ltd.	577,745	
	The BOR Ltd. A/c 14039	9,551	
	Centurian Bank of Punjab	2,163	
	ICICI Bank	26,345	
	Amount Receivable	1,355,789	
	Investments	60,557,184	
	Cheque in Hand	5,000	**62,558,438**
Less:-	Current Liabilities		
	Caution Money	1,355,810	
	Pupil Fund	1,180,795	
	Cheque issued but not presented	225,650	
	Advance School fee received	142,625	
	Expenses payable & other liabilities	1,471,193	**4,376,073**
	Net Current Assets + Investments		**58,182,365**
Less:-	Arrear of Salary as per 6th CPC w.e.f 1.1.06 to 31.8.08	3,248,000	
	Arrear of Salary as per 6th CPC w.e.f 1.9.08 to 31.3.09	2,374,505	
	Incremental Salary as per 6th CPC in 2009-10	4,544,278	10,166,783
	Excess / (Short) Fund Before Fee Hike		**48,015,582**
Add:-	Fee Arrear for the period from 01.01.06 to 31.08.08	3,248,000	
	Fee arrear for the period from 1.9.08 to 31.3.09	2,537,135	
	Incremental Tuition fee in 2009-10	5,690,375	11,475,510
	Excess / (Short) Fund After Fee Hike		**59,491,092**
Less:-	**Reserve for future contingencies:**		
	Reserve equivalent to 4 months salary	5,533,374	
	Reserve for Gratuity as on 31.03.2010*	12,991,778	
	Reserve for Leave Encashment as on 31.03.2010	1,894,400	20,419,552
	Excess / (Short) Fund		**39,071,540**

* Provision for gratuity capped at Rs.3.50 lacs

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi-110007

Working notes

	2008-09	2009-10
Salary	11,201,106	15,642,507
Administration charges on EPF	57,172	52,359
Employers contribution to EPF	428,367	390,257
Computer Hobby Services	369,200	515,000
Total expenditure on salary	12,055,845	16,600,123
Incremental Salary in 2009-10	**4,544,278**	

	2008-09	2009-10
Tuition Fee	20,925,230	25,660,780
Computer Hobby fee	655,195	1,102,050
Science Fee	117,600	325,260
Informative Practice fee	-	300,310
Total fee	21,698,025	27,388,400
Incremental Tuition Fee in 2009-10	**5,690,375**	

Prima facie, it appeared that the school had a sum of Rs.5,81,82,365, available with it as on 31/03/2008. After taking into account the required reserves for gratuity leave encashment and future contingencies, which amounted to Rs.2,04,19,552, the school had a sum of Rs. 3,70,62,813 available with it. The total liability for payment of arrears to the staff and the incremental salary for the year 2009-10, was Rs.1,01,66,783. Thus, prima facie, it appeared that the school had sufficient funds of its own and it did not need to hike any fee or recover any fee for meeting its additional liabilities on implementation of the Sixth Pay Commission Report. However, the school recovered arrear fee as well as hiked tuition fee in the year 2009-10 and generated a sum of **Rs. 1,14,75,510** as additional revenue.

A copy of the above calculation sheet was furnished to the school and a hearing was fixed for 14/01/2015, to enable the school to furnish its comments on the calculation sheet. The hearing was rescheduled to

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18/02/2015, at the request of the school. On this date Sh. Rajan George, Chartered Accountant appeared and filed written submissions in response to the preliminary calculation sheet. In the written submissions , the school contested the preliminary calculation sheet. The grounds on which the school contested are as follows:

(a) The school is run on most economical basis and no direct or indirect personal benefits are enjoyed by any member of the managing committee or the trustees. The funds are solely utilised for the purpose of education. Several expenses which normally would have been incurred by the school were borne by the trust or other entities owned by the trustees.

(b) The school charges much lower fee than several other schools having comparable facilities.

(c) The school is being run or prime land in building located at Rajpur Road, belonging to the trust.

(d) According to the agreement dated 09/05/2003, in consideration of the use of this property, the school had undertaken to provide funds of its savings for establishment of another school in the national capital territory of Delhi as permitted under rule 177 of the Delhi School Education Rules 1973. Towards this commitment, a sum of Rs. 488.08 lacs has already been spent towards purchase of a plot of land in village Shahpur, Bamheta vide registered sale deed dated 31/03/2012. After the purchase of

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this land, the entire funds available with the school have been used up.

(e) The school has generated savings over 10 years by way of interest received from banks amounting to Rs.162.41 lacs as on 31/03/2008, which ought to be excluded from the calculation sheet as it does not form part of "School Fund" under section 18 (3) of the Delhi School Education Act.

(f) A sum of Rs.17,92,511 ought to be deducted as the same have been claimed by the employees on various accounts.

(g) Property tax amounting to Rs. 17,94,276 has been paid by the trust on behalf of the school during the years 2007-08 to 2010-11, which the school is required to reimburse to the trust.

(h) During the period 2008-09 to 2010-11, the administrative expenses of the school increased by Rs.20,92,722, which have not been considered on the preliminary calculation sheet.

(i) As per para 14 of order dated 11/02/2009 of the Directorate of Education, the school can charge development fee upto 15% of the tuition fee but the school has been chagrining very nominal development fee which is less than 3.5%. Therefore, the expenses incurred on development work after 31/03/2008 , which amount to Rs.1,57,68,084 ought to be reduced from the surplus as worked out in the calculation sheet. Further, the school has to further incur expenditure amounting to Rs.1,26,45,000 on various development works.

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Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi-110007

(j) In case the aforesaid adjustments are made , the school would actually have a deficit and therefore, the decision to hike the fee was justified.

Vide letter dated 20/02/2015, the school furnished copies of property tax receipts and registered sale deed of land purchased in Bamheta.

Discussion:

The Committee has perused the financials of the school as well as the annual returns filed by it under Rule 180 of Delhi School Education Rules, 1973, the reply furnished by the school to the questionnaire issued by it , the observations of the Audit Officer and the preliminary calculation sheet and the submissions of the school regarding the adjustments to be made to the preliminary calculation sheet.

The Committee notes that so far as arithmetical accuracy of the calculation sheet is concerned, the school has not disputed the same. So far as the contentions raised by the school, the same are discussed as under :-

(a) The fact that the school is run on economical basis and no benefits are enjoyed by any member of the managing committee or trustees and the fact that the school charges lower fee than several other schools, is no justification for hiking the fee where no such hike is required. Similarly it is the responsibility of the trust to provide

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land, building and other infrastructure to the school and the trust is only discharging its responsibilities under the law.

(b) The so called agreement dated 09/05/2003 which reportedly provides that in consideration of the use of the property of the trust by the school, the school has undertaken to provide funds out of its savings for establishment of another school in Delhi as per rule 177 of the Delhi School Education Rules 1973 shows total misunderstanding of the law on part of the school. Rule 177 provides for utilisation of 'savings' for establishment of any other recognized school. The savings have to be calculated after providing for the pay, allowances and other benefits admissible to the employees of the school. That is to say that the salaries and allowances of the employees, are a first charge on the fees of the school. The school cannot keep its savings intact while keeping the claims of salaries and allowances of the employees in abeyance. Hence, the increased salaries and arrears payable to the employees as a consequence of implementation of the Sixth Pay Commission Report have to be provided for first out of the funds available and if such funds are not adequate to fully provide for the increased liabilities, can the school resort to hike in fee. In fact that is the mandate of the judgment of the Hon'ble Delhi High Court in WP (C) 7777 of 2009. Moreover, the school has taken a self contradictory stand. On one hand it claims to have kept funds in reserve for establishment of another school, as provided by Rule 177, in the same breath, it contends that a sum of

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For Review of School Fee

Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi-110007

Rs.488.08 lacs has already been spent on purchase of a plot of land in village Shahpur, Bamheta on 31/03/2012. On perusal of the copy of sale deed provided by the school, it transpires that village Shahpura, Bamheta is situated in District Ghaziabad, Uttar Pradesh. Rule 177 provides for utilisation of savings for establishment of any other "recognized school". The expression recognized school is defined under section 2 (t) of the Delhi School Education Act 1973 to mean a school recognized by the " appropriate authority". The expression "appropriate authority" is defined by section 2 (e) of the act to mean an authority designated or sponsored by the Central Government, or the administrator of Delhi or the Municipal Corporation of Delhi. Further, section 1 of the Act provides that it extends to the whole of Union Territory of Delhi. By no stretch of imagination or logic, can a school to be established in the state of Uttar Pradesh, be considered to be a recognized school as defined under the Delhi School Education Act 1973.

(c) The contention that the school generated savings by way of interest received from banks amounting to Rs. 162.41 lacs and the same does not form part of "School Fund" as per section 18 (3) of the Act, deserves serious deliberation. To have better understanding of the contention of the school, it would be apposite to reproduce herebelow section 18 (3) of the Delhi School Education Act 1973. The same reads as under :-

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Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi-110007

"(3)In every recognized unaided school, there shall be a fund, to be called the "Recognised Unaided School Fund", and there shall be credited thereto income accruing to the school by way of –

(a) Fees,

(b) Any charges and payments which may be realised by the school for other specific purposes, and

(c) Any other contributions, endowments, gifts and the like.

At first blush, the contention of the school appears attractive. However, this provision of law has to be considered in the context of the available jurisprudence in the matter of management and running of private educational institutions in the country. It is trite that the schools cannot be run on commercial lines and are not supposed to engage in profiteering . While there may be legitimate occasions when the schools generate certain surpluses, the schools cannot design their fee structures to create such surpluses. The very fact that the school claims that it earned interest to the tune of Rs.162.41 lacs over a period of 10 years i.e. Rs.16.24 lacs per year on an average, shows that the school generated huge surpluses in the past. In fact only for two years i.e. 2006-07 and 2007-08, the interest income of the school was Rs.23.12 lacs and Rs. 60.00 lacs respectively. An interest of Rs. 60.00 lacs can be earned on an investment of about Rs.6.70 crores, presuming the rate of interest to be 9% per annum. The audited balance sheet of the school as on

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31/03/2008 shows the total investment to be Rs. 6.05 crores. The only source of income of the school is the fee received from the students. In the year 2007-08, the total fee revenue of the school was Rs.1.96 crores out of which the school had a net surplus of Rs. 64.70 lacs, without accounting for the interest of Rs. 60 lacs. This shows that the school earned a net profit @ 33% of its total fee revenue. In the circumstances, the Committee has no hesitation to hold that the school is being run on commercial lines. As such, though the interest on investments may not technically be part of School Fund, as defined by section 18 (3) of Delhi School Education Act, has nevertheless to be considered as available to the school for meetings its increased liabilities on account of implementation of Sixth Pay Commission Report. Even the order dated 11/02/2009 issued by the Director of Education provides that *"the schools should not consider the increase in fee to be the only source of augmenting their revenue. They should also venture upon other permissible measures for increasing revenue receipts".* (Para 11). In fact Para 13 of the order provides that even the interest on deposit made as a condition precedent to the recognition of the schools and as pledged in favour of the government should be utilized for payment of arrears. The validity of this order has been upheld by the Hon.ble Delhi High Court in WP (C) 7777 of 2009. The only interference made by the Hon'ble Court is that it has held the requirement of prior approval of the Parent Teacher Association regarding fee hike , to be ultra

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vires. In view of this discussion the Committee rejects the contentions of the school.

(d) The contention regarding exclusion of Rs.17.92 lacs which have been claimed by the employees from the funds available as worked out by the Committee, has to be rejected as the school has neither furnished any documentary evidence of the nature of such claims nor the periods to which they relate nor has indicated whether the school has admitted such claims.

(e) The contention regarding exclusion of Rs. 17.94 lacs which the school claims, represents the property tax of the school paid by the trust for the years 2007-08 to 2010-11, from the funds available with the school as worked out by the Committee, is not tenable atleast for the years 2009-10 and 2010-11 as the computation of funds available with the school have been made with a cutoff date of 31/03/2008. Only for the year 2007-08, the contention can be accepted. As per the details furnished by the school, a sum of **Rs. 5,30,586** represents the property tax for that year. The Committee will duly factor in this sum while making the final calculations.

(f) The contention of the school regarding increase in administrative expenses of the school during the period 2008-09 and 2010-11, aggregating Rs. 20.92 lacs has to be rejected in view of the large income earned by the school on account of interest during these

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years. The school has earned handsome profits year after year, despite the increase in administrative expenses, which are miniscule when considered that they represent the increase over a period of three years.

Determinations:

Tuition Fee

In view of the foregoing discussion, the only adjustment which is required to be made to the preliminary calculations made by the Committee is a reduction of Rs. 5,30,586 from the figure of funds available with the school as on 31/03/2008, The figure taken in preliminary calculation sheet is Rs. 5,81,82,365 which gets reduced to Rs. 5,76,51,779. This does not change the view of the Committee that the school did not need to hike any fee or recover any arrear fee for implementation of the recommendations of the Sixth Pay Commission.

The Committee is, therefore, of the view that the school ought to refund the arrear fee recovered for the period 01/01/2006 to 31/08/2008 as well as for the period 01/09/2008 to 31/03/2009. The respective amounts for the aforesaid period are **Rs. 32,48,000** and **Rs. 25,37,135.** Likewise the school ought to refund the amount of incremental tuition fee for the year 2009-10, amounting to **Rs. 56,90,375**. All these refunds ought to be made alongwith interest @ 9% per annum from the date of collection to the date of refund.

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Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi-110007

Development Fee:

The school, of its own showing , was not fulfilling any of the essential pre-conditions for collecting development fee, as prescribed by the Duggal Committee, which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India (2004) 5 SCC 583, for charging Development fee. Admittedly, the school was neither treating the development fee as a capital receipt nor keeping the unutilised development fee and depreciation reserve on assets acquired out of development fund in earmarked fund accounts. In fact, as per the submissions of the school, a major portion of the development fee was utilized for meeting its revenue expenditure. The school has treated development fee as an additional souorce of revenue rather than for utilising the same for purchase or upgradation of its furniture and fixtures and equipments. The Hon'ble Supreme Court in the case of Modern School (supra) held as follows:

> *"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*

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

It is apparent that maintenance of earmarked development fund and depreciation reserve fund are sine qua non for charging development fee. Further, the school is required to treat the development fee as a capital receipt rather than revenue receipt. The same is required to be utilized for specified capital assets.

The Committee is therefore, of the view that the school is not justified in charging development fee. However, since the mandate of the Committee is to examine the issue of fee in pursuance of order dated 11/02/2009, the Committee is restricting its recommendations for the years 2009-10 and 2010-11. The school ought to refund development fee amounting to Rs. 8,30,640 charged in 2009-10 and Rs. 8,31,000 charged in 2010-11 alongwith interest @ 9% per annum from the date of collection to the date of refund. For the other years the Director of Education may take an appropriate view in accordance of law. As for the contention of the school that it was charging development fee at the rate of about 3.5% instead of the permissible 15% of tuition fee, the Committee does not deem it to be worthy of consideration in view of its finding that the school could not have charged any development fee since it was not fulfilling the essential pre conditions prescribed for charging the same.

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Rukmani Devi Jaipuria Public School, Rajpur Road, Delhi-110007

Recommendations:

In view of the foregoing discussion and determinations, the school ought to refund the following amounts to the students alongwith interest @ 9% per annum from the date of collection to the date of refund:

1. Arrear fee for the period 01/01/2006 to 31/08/2008	**Rs. 32,48,000**
2. Arrear fee for the period 01/09/2008 to 31/03/2009	**Rs. 25,37,135**
3. Incremental tuition fee for the year 2009-10	**Rs. 56,90,375**
4. Development fee for the year 2009-10	**Rs. 8,30,640**
5. Development fee for the year 2010-11	**Rs. 8,31,000**

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 01/05/2015

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Rani Public School, Sant Nagar,Burari Road, Delhi-84

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days (Annexure 30 at page 470 of the First Interim Report).

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

4. With a view to verify the returns, the Office of the Committee vide its notice dated 26.08.2013, required the school to appear on 26.09.2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

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Rani Public School, Sant Nagar,Burari Road, Delhi-84

5. On 26.09.2013, Mrs. Geeta Saini Principal of the school attended the Office of the Committee and produced the record. Reply to the questionnaire was also filed. As per the reply;-

i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.04.2010.

ii) The school had not hiked the fee in terms of the order of the Director of Education dated 11.02.2009.

iii) The school had not collected development fee from the students.

6. The record, in the first instance, was examined by Shri N.S.Batra, Audit Officer of the Committee. He observed to the effect that: -

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission.

(ii). DA and HRA has been paid as per the prescribed rates. However, Transport Allowance has not been paid.

(iii) The school hiked tuition fee in 2009-10 by 13.6% to 27.2% for different classes. During 2010-11 the hike was within 10%.

7. By notice dated 05.12.2014, the school was asked to appear on 29.12.2014 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

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Rani Public School, Sant Nagar,Burari Road, Delhi-84

8. On 29.12.2014. Mrs. Geeta Saini, Principal and Sh. Prateek, Account Assistant of the school appeared before the Committee and provided the records. They contended that :

(i) The school hiked the fee in 2009-10, which was more than 10%, but the hike was not to the maximum permissible limit set out in the order of the Director of Education Dated 11.02.2009.

(ii) The school has partially implemented the recommendations of the 6th Pay Commission w.e.f. April 2010, in as much as the basic pay, DA (not at the full rates) and HRA @ 30% was paid.

(iii) The salary to the staff was paid by bank transfer.

(iv) The school did not charge development fee.

During the course of hearing the Committee examined the books of accounts and bank statements of the school. It was noticed that the salary for April 2010 and May 2010 was paid in cash. Further, no TDS was deducted till 31-03-2013. Salary for other months had also been sporadically paid in cash. The Committee also found that the monthly salary bill fluctuated every month to a large extent. The contention

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of the representatives was that the teachers often remained on leave without pay. The Committee also found that the balance sheets of the school carried just a compilation report and that too purportedly issued by M/s M.K. Goswami & Co. The report does not give any address or telephone number of the auditor.

9. We have gone through the record, and observations of the Audit Officer of the Committee and submissions of the school representatives. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11:

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
Nursery	290	360	70	400	40
K.G.	330	420	90	460	40
I	440	500	60	540	40
II	470	560	90	600	40
III	480	570	90	610	40
IV	500	580	80	620	40
V	520	650	130	690	40
VI	540	680	140	730	50
VII	560	700	140	750	50
VIII	590	750	160	800	50

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Rani Public School, Sant Nagar,Burari Road, Delhi-84

10. From the above, it is manifest that the school had increased the fee during the year 2009-10, for all classes though, not in terms of the order of the Director of Education dated 11.02.2009, but, in excess of 10%. During 2010-11, the hike was within 10%.

11. The school claimed to have implemented the recommendations of the 6th Pay Commission, but D.A.,T.A. and HRA have not been paid to the staff as per the prescribed norms. The salary to the staff was paid in cash without deducting TDS. In such circumstances the claim of the school to have implemented the recommendations of the 6th Pay Commission can not be accepted.

12. As per the available record, the school has not charged development fee.

RECOMMENDATION

Re. Fee Hike

Though, the school has not utilised the order of the Director of Education dated 11.02.2009 for enhancing the tuition fee in 2009-10, nevertheless the hike was in excess of the tolerance limit of 10%. As already pointed out the Committee is of the view that the school has not implemented the recommendations of the 6th Pay Commission. In the circumstances we are of the opinion that the

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increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10% ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Since, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10 for the aforesaid classes, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated:- 09-01-2015

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Nav Bharti Sr. Sec. School, Sri Nagar Colony, Delhi-110052

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

4. With a view to verify the returns, the Office of the Committee vide its notice dated 26.08.2013 and 30.09.2013, required the school to appear on 23.10.2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

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Nav Bharti Sr. Sec. School, Sri Nagar Colony, Delhi-110052

5. On 23.10.2013 Sh. Sanjeev Bharti, Manager and Sh. Vinod Sharma, Head Clerk of the school attended the Office of the Committee and produced the record for the scrutiny by the Audit Officer of the Committee. Reply to the questionnaire was also filed. As per the reply;-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.04.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009, w.e.f. 01.04.2009.

(iii) The school had collected development fee from the students.

6. The record, in the first instance, was examined by Shri A.D.Bhateja, Audit Officer of the Committee. He observed to the effect that: -

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission, but HRA, TA and DA have not been paid as per the prescribed rates.

(ii) The school hiked tuition fee in 2009-10 in terms of the order of the Director of Education dated 11.02.2009. During 2010-11, the hike was by 10%.

The Audit Officer after examination of the record produced by the school returned the same to them.

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Nav Bharti Sr. Sec. School, Sri Nagar Colony, Delhi-110052

7. By notice dated 05.12.2014, the school was asked to appear on 26.12.2014 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

No one appeared on the scheduled date. However, the office of the Committee received a letter dated 23.12.2014 from the school seeking an adjournment. The school was provided last opportunity to appear on 21.01.2015 before the Committee for hearing.

8. On 21.01.2015, Sh. Sanjay Bhartiya, Manager, Sh. R.P. Ram, Member SMC and Sh. Ramesh Goyal, CA of the school appeared before the Committee and produced the records. It was contended that the school did not charge any arrear fee for the period 01-01-2006 to 31-03-2009 and only hiked the monthly fee w.e.f. 01-04-2009, as per the order of the Director of Education, dated 11-02-2009. With regard to the implementation of the recommendations of the 6th Pay Commission, it was conceded that the school did not pay HRA and TA as per its recommendations and DA was also not paid to the full extent. It was also contended that the school had liability for the payment of gratuity and as such the fee hike was justified.

On examination of the records produced by the school, the Committee observed that the entire payment of arrears was purportedly

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made in cash while the salary to its regular teachers was paid by bank transfer. The Committee also observed that a substantial amount of the regular salary was purportedly paid to the temporary staff that was employed on year to year basis and such payments were made in cash. Further, the names of such teachers were also not included in the staff statement filed by the school before the department under Rule 180 of DSER 1973.

With regard to the development fee, it was conceded that the same had been treated as a revenue receipt without maintaining a separate development and depreciation reserved fund.

9. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
I to V	1000	1200	200	1320	120
VI to VIII	1050	1350	300	1480	130
IX- X	1150	1450	300	1600	150
XI-XII	1300	1600	300	1760	160

SINGH COMMITTEE For Review of School Fee

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Nav Bharti Sr. Sec. School, Sri Nagar Colony, Delhi-110052

10. From the above, it is manifest that the school has increased the fee during the year 2009-10, in terms of the order of the Director of Education dated 11.2.2009. During 2010-11, there was hike by 10% for all classes.

11. According to school it has implemented the recommendations of the 6th Pay Commission partially as DA, TA and HRA have not been paid as per the prescribed norms. The arrears have been purportedly paid in cash. We find the many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by paying the arrears of salary to the teachers in cash. Such a plea gives a lie to the stand of the school that it had partially implemented the recommendations of the 6th Pay Commission as there is no plausible and convincing reason, why the payment was not made by bank transfer or by account payee cheques.

12. The school has charged development fee. The same has been treated as revenue receipt in the accounts, without maintaining separate development and depreciation reserve fund.

RECOMMENDATION

Re. Fee Hike

Since the school has hiked the tuition fee in 2009-10, in terms of the order of the Director of Education, without

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implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, for above mentioned classes, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re. Development Fee;

The school has charged development fee in the following manner:-

Year	Development Fee Charged
2009-10	Rs.27,57,850.00
2010-11	Rs.29,20,380.00

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Nav Bharti Sr. Sec. School, Sri Nagar Colony, Delhi-110052

The development fee had been treated as revenue receipt and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs.56,78,230.00 during the years 2009-10 and 2010-11 in the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar	**Justice Anil Dev Singh (Retd.)**	**Dr. R.K. Sharma**
Member	**Chairperson**	**Member**

Dated— 16-03-2015

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St. Rosier Public Sr. Sec. School, Shalimar Bagh, Delhi-110088

The school had not submitted its reply to the questionnaire dated 27/02/2012 issued by the Committee, which was followed by a reminder dated 27/03/2012. The annual returns filed by the school under Rule 180 of Delhi School Education Rules 1973, were requisitioned by the Committee from the office of the concerned Dy. Director of Education. The same were submitted to the Committee. On prima-facie examination of the returns and the information furnished by the school alongwith such returns, it appeared that the school had hiked the fee in pursuance of order dated 11/02/2009 issued by the Director of Education and also implemented the recommendations of the Sixth Pay Commission. The school, in a communication dated 27/01/2012, addressed to the Dy. Director of Education, District North-West A, stated that it had hiked the fee in accordance with the aforesaid order dated 11/02/2009 and its annual expenditure on salary rose from **Rs. 27,45,408 in 2008-09** to **Rs. 55,18,320 in 2009-10** after implementation of the Sixth Pay Commission Report. Besides, it also stated that it had paid arrears to the tune of **Rs. 6,31,656**. The school also furnished copy of an undated circular, which was issued to the parents, as per which the fee hike to the extent of Rs.200 p.m. w.e.f. 01/09/2008 was communicated to them. Accordingly, the school was placed in category 'B' for the purpose of verification.

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In order to verify the veracity of the documents and claims of the school, the Committee, vide its letter dated 31/05/2013, required the school to produce its fee records, salary records, books of accounts, bank statements, Provident Fund returns and TDS returns for the years 2008-09 to 2010-11, in the office of the Committee on 21/06/2013. The school was also issued a revised questionnaire eliciting information regarding development fee, besides tuition fee and expenditure on salary etc. However, no one appeared on behalf of the school on this date. However, a letter was received from the school seeking two months time on account of non availability of the Principal of the school due to summer vacations. The Committee issued another letter dated 15/07/2013 to the school to produce the required records in the office of the Committee on 08/08/2013. On this date, one Ms. Suman, a TGT of the school appeared and produced some of the records, which the school was required to produce. She also filed reply to the questionnaire, signed by the Manager of the school. As per the reply, the school claimed as follows :-

(a) It had implemented the recommendations of Sixth Pay Commission and increased salary to the staff was being paid w.e.f. 01/04/2009.

(b) It had paid arrears of salary consequent to the implementation of Sixth Pay Commission Report.

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(c) It had hiked the fee in pursuance of order dated 11/02/2009 issued by the Directorate of Education. (A comparative chart was enclosed showing the fee hike for different classes).

(d) The school had recovered arrear fee from the students. (An annexure was mentioned to have been attached with the reply but no such annexure was found attached).

(e) The school was not charging development fee up to 2008-09 but started charging in 2009-10 and 2010-11. The amounts of development fee recovered in these two years were **Rs. 7,98,845** and **Rs. 8,29,726** respectively. It was used for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipments.

(f) The development fee was treated as a revenue receipt.

(g) No earmarked funds were maintained for development fee or for depreciation reserve.

Before proceeding further, the following few facts need to be noticed.

(i) The school did not furnish the figures for the pre implementation period or the post implementation but merely enclosed the salary sheets for the period before implementation of the 6th Pay Commission report as well as salary sheet for the period after its implementation. As per these sheets, the monthly salary before implementation of Sixth Pay Commission

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Report was Rs. 2,38,043 but after its implementation it rose to Rs. 5,40,819.

(ii) With regard to arrears of salary also, the school did not furnish any specific figure but enclosed 21 arrear payment sheets spanning over a period of two years. The detail of payment of arrears as per the payment sheets filed by the school is as follows :-

Year 2009-10		
Date	**Amount (Rs.)**	**Mode of payment**
13/04/09	83,000.00	Cash
18/04/09	10,000.00	Cash
20/04/09	10,000.00	Cash
01/05/09	10,000.00	Cash
02/05/09	93,000.00	Cash
08/05/09	30,000.00	Cash
16/09/09	123,000.00	Cash
Total	**359,000.00**	
Year 2010-11		
05/05/10	180,000.00	Cash
15/07/10	180,000.00	Cash
18/08/10	180,000.00	Cash
20/09/10	103,000.00	Cash
11/10/10	20,000.00	Cash
13/11/10	63,000.00	Cash
14/11/10	30,000.00	Cash
20/11/10	30,000.00	Cash
22/11/10	54,363.00	Cash
14/03/11	96,405.00	Cheque
18/03/11	48,000.00	Cheque
25/03/11	68,000.00	Cheque
Total	**1,052,768.00**	
Grand Total	**1,411,768.00**	

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As mentioned earlier, the school, in its communication dated 27/01/2012 to the Dy. Director of Education had mentioned that it had paid arrears amounting to **Rs. 6,31,656.** However, in reply to the questionnaire issued by this Committee, the school furnished payment sheets showing payment of arrears amounting to Rs. 14,11,768. The entire payment of arrears as per the payment sheets had already been made by 25/03/2011. The communication to the Dy. Director of Education was dated 27/01/2012. This fact is quite significant as would be apparent from the discussion in the subsequent paragraphs.

(iii) The entire payment of arrears is shown to have been made in cash except the payments of Rs. 96,405 on 14/03/2011, Rs.48,000 on 18/03/2011 and Rs. 68,000 on 25/03/2011 which are purported to have been paid by cheques. The Committee has verified from the bank statements filed by the school that against all the aforementioned payments purportedly made by cheque, cash has been withdrawn from the bank.

The records produced by the school on 08/08/2013, 06/09/2013 and 13/09/2013 were examined by Sh. N.S. Batra, audit officer of the Committee and after examining the records he observed as follows:

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(1) The fee charged by the school as per the fee schedules for the years 2008-09 and 2009-10 was as follows:-

Class	Monthly Fee 2008-09 (Rs.)	Monthly Fee 2009-10 (Rs.)	Increase	%age Increase
I	530	730	200	37.73%
II	540	740	200	37.04%
III	560	760	200	35.71%
IV	580	780	200	34.48%
V	595	795	200	33.61%
VI	615	815	200	32.52%
VII	640	840	200	31.25%
VIII	650	850	200	30.77%

However, the actual fee charged by the school was not in agreement with the fee schedule. The variation in fee was to the tune of about Rs.170 to Rs.190 p.m. (A few instances were mentioned by him and copies of the fee receipts were placed on record). Subsequently the school clarified that the difference on account of recovery of development fee and arrear fee, which the school had included in the tuition fee in the fee receipts. Such development fee and arrear fee were not reflected in the fee schedules filed by the school with the Directorate of Education as part of returns under Rule 180 of Delhi School Education Rules 1973.

(2) The fee hiked by the school in the year 2010-11 was also around 33% for all the classes. The details of fee hike in 2010-11, was tabulated by him as follows:-

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Class	Monthly Fee 2009-10 (Rs.)	Monthly Fee 2010-11 (Rs.)	Increase	%age Increase
I	730	1000	270	36.9%
II	740	1010	270	36.5%
III	760	1030	270	35.5%
IV	780	1040	260	33.3%
V	795	1050	255	32.1%
VI	815	1090	275	33.7%
VII	840	1130	290	34.5%
VIII	850	1140	290	34.1%

This position was accepted by the representative of the school, who made an endorsement at the bottom of the noting of the audit officer. by recording as follows:-

" I agree with above which are as per record".

(3) With regard to implementation of Sixth Pay Commission Report, he stated that the same appears to have been implemented w.e.f. 01/04/2009. The monthly outgo on salary for the month of March 2009 was Rs. 2,21,597 while that for the month of June 2009 was Rs. 5,40,819.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 05/12/2014 requiring the school to appear before it on 26/12/2014. Vide this notice, the school was asked to furnish the information regarding fee (including arrear fee) charged by the school under various heads, the arrear as well as regular salary paid by the school in the years 2008-09 to 2010-11, in a structured format, duly reconciled with its audited Income and Expenditure accounts. Besides, the school was also required to

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furnish the statement of the account of the Parent Society as appearing in the books of the school and the details of its accrued liabilities of gratuity and leave encashment.

The school put in its appearance through Dr. I.C. Gupta, Chairman, Ms. Suman Sethi, Principal and Ms. Suman Saini, teacher. They furnished the information under cover of letter dated 26/12/2014. They were also heard by the Committee.

In the letter filed by the school, it was contended that though the provisions regarding gratuity and leave encashment were applicable to the school but nobody had applied for the same.

The following information was furnished by the school with regard to various components of fee and salary for the years 2008-09 to 2010-11.

Fee	**2008-09**	**2009-10**	**2010-11**	**2011-12**
Arrear fee for the period from 01.01.2006 to 31.08.2008	0	0	0	
Arrear fee (Tuition fee) for the period from 01.09.2008 to 31.03.2009	0	3,01,880	0	
Arrear fee (Development fee) for the period from 01.09.2008 to 31.03.2009	0	0	0	
Regular/ Normal Tuition Fee	34,21,155	49,47,482	71,86,750	
Regular/ Normal Development Fee (treated as revenue receipt)	0	7,98,845	8,29,726	
Computer fees	0	3,49,350	3,60,450	
Salary				
Arrear Salary for 01.01.2006 to 31.08.2008	0	0	0	
Arrear Salary for 01.09.2008 to 31.03.2009	0	6,31,656	8.06,768	4,40,000
Regular/ Normal Salary	27,45,408	55,18,320	67,61,293	93,33,961

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During the course of hearing, the Committee observed that besides charging tuition fees and annual charges, which are reflected in the fee schedules filed by the school, the school also charges development fee and computer fee and such fees are not reflected in the fee schedules. The school also filed a copy of the circular dated 16/03/2009, issued to the parents regarding the fee hike effected by the school. Significantly, this circular is different from the copy of the circular which was furnished to the Dy. Director of Education vide letter dated 27/01/2012. While the earlier circular mentioned the fee hike to be Rs.200 p.m. effective from 01/09/2008, the circular now filed mentioned the fee hike to be effective from 01/04/2009 and Rs.60/- p.m. for the year 2009-10 towards *"enhanced expenditure in respect of payment of salaries etc"*.

The Committee also observed that bulk of the payment of regular salaries, even after purported implementation of Sixth Pay Commission Report, continued to be paid either in cash or by bearer cheques. The following statement was got prepared by the Committee, which was duly authenticated by the Principal of the school :-

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	2008-09			2009-10			2010-11		
Paid for previous month in	Bank Transfer	Bearer cheques/ Cash	Total	Bank Transfer	Bearer cheques/ Cash	Total	Bank Transfer	Bearer cheques/ Cash	Total
April	168,753	61,232	229,985	-	221,597	221,597	357,977	125,690	483,667
May	174,863	62,880	237,743	283,996	167,078	451,074	357,977	151,590	509,567
June	174,863	62,880	237,743	280,141	260,678	540,819	387,563	122,004	509,567
July	-	238,043	238,043	280,141	318,166	598,307	387,563	122,004	509,567
August	176,576	63,180	239,756	419,581	131,909	551,490	-	595,709	595,709
Sept.	-	218,045	218,045	419,581	106,032	525,613	-	570,582	570,582
Oct.	156,565	63,180	219,745	-	477,039	477,039	406,584	198,129	604,713
Nov.	-	220,208	220,208	357,977	129,362	487,339	-	650,717	650,717
Dec.	156,565	65,032	221,597	-	387,489	387,489	-	481,392	481,392
Jan.	-	221,597	221,597	-	399,001	399,001	299,894	297,512	597,406
Feb.	-	221,597	221,597	-	346,467	346,467	223,651	325,532	549,183
March	146,357	63,924	210,281	-	352,934	352,934	326,770	209,943	536,713
Total as per Salary Register	1,154,542	1,561,798	2,716,340	2,041,417	3,297,752	5,339,169	2,747,979	3,850,804	6,598,783

It is apparent from the above statement that in the year 2009-10 when the recommendations of the Sixth Pay Commission had been implemented, a whopping Rs.32.97 lacs out of the total salary of Rs. 53.39 lacs was paid either by bearer cheques or by cash. This constituted 61.77% of the total salary . In 2010-11 also the position remained the same as a sum of Rs.38.50 lacs out of a total of Rs.65.98 lacs was paid either by bearer cheques or by cash. This constituted 58.36% of the total salary.

With regard to arrears of salary, the school has been giving out different figures at different times. Initially, in its communication dated **27/01/2012** to the Dy, Director of Education, it mentioned the

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total arrears that had been paid as **Rs. 6,31,656.** Subsequently, alongwith the reply to the questionnaire issued by the Committee which was submitted on **08/08/2013,** the school enclosed arrear payment sheets, as per which a total amount of Rs. 3,59,000 was paid in 2009-10 and Rs. 10,52,768 in 2010-11, thus totaling **Rs. 14,11,768. On this date , there was no mention of any payment in 2011-12**. However, during the course of hearing on 26/12/2014, the amounts paid in 2009-10 and 2010-11 were rejigged to Rs. 6,31,656 and Rs. 8,06,768 as against Rs. 3,59,000 and Rs. 10,52,768 respectively as per the payment sheets enclosed with the reply to the questionnaire. Further payment of **Rs.4,40,000 in 2011-12** was also claimed to have been made.

During the course of hearing, while examining the books of accounts, the Committee found that in respect of payment of arrears in 2009-10, the entries in the cash book as well as ledger were altered. The corresponding entries of tuition fee and development fee on the receipt side of cash book were also altered to balance the payments.

In view of the foregoing facts the Committee is of the view that while the school took full advantage of the order dated 11/02/2009 issued by the Directorate of Education to hike the fee, it did not implement the recommendation of the Sixth Pay Commission Report. The same was shown as having been implemented by altering the records. At every stage, the school has tried to mislead the Committee

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St. Rosier Public Sr. Sec. School, Shalimar Bagh, Delhi-110088

and changed its stand and even produced records, which were manifestly incorrect.

The Committee is therefore of the view that:

(a) the school ought to refund the tuition fee hiked in the year 2009-10, in excess of 10%, which the Committee considers as reasonable to offset the inflationary pressures.

(b) The school ought to refund the computer fee which was introduced in the year 2009-10 as the Committee considers the same to be part of the tuition fee and moreover, the school illegally recovered it as the same was not included in the fee statement filed with the Directorate of Education U/s 17 (3) of the Delhi School Education Act 1973.

(c) The school ought to refund the fee hiked in excess of 10% in the year 2010-11 as admittedly the hike was to the tune of around 35%, when the school had not even implemented the recommendations of the Sixth Pay Commission. Moreover, such hike in 2010-11 cannot be justified even if the school had implemented the same.

(d) The school ought to refund the entire computer fee charged in 2010-11 as the same was illegally recovered having not been mentioned in the fee statement filed with the Directorate of Education u/s 17(3) of Delhi School Education Act 1973.

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(e) The school ought to refund the development fee charged in 2009-10 as well as 2010-11 as admittedly the school was treating the development as a revenue receipt without maintaining any earmarked fund accounts for development and depreciation reserves.

(f) The refund on account of ripple effect in the fees for the years subsequent to 2010-11, ought also be granted to the students.

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

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 01/05/2015

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Sri Guru Nanak Public School, Adarsh Nagar, Delhi-110033

The school submitted, under cover of its letter dated 18/02/2012, addressed to the Dy. Director of Education, district North West A, copies of Annual Returns filed by it under Rule 180 of Delhi School Education Rules, 1973, copies of its statement of fees, for the years 2006-07 to 2010-11, details of salary paid to the staff, before implementation of 6th Pay Commission Report and after its implementation (including arrears) and a statement indicating the extent of fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education.

In order to obtain specific relevant information, the Committee issued a questionnaire dated 27/02/2012 to the school, which was followed by a reminder dated 27/03/2012. However, the questionnaire was not responded to by the school. The Committee issued a notice dated 26/08/2013, requiring the school to produce in its office, the fee records, salary records, books of accounts and TDS and Provident Fund Returns on 30/09/2013. The Committee also issued a revised questionnaire to the school, incorporating therein the relevant queries regarding collection and utilization of development fee, its treatment in the accounts and maintenance of earmarked development and depreciation reserve funds.

On the scheduled date, Sh. Dheeren M. Doshi, Principal and Ms. Vandana, a teacher of the school appeared and produced the required records for verification by the Audit Officer of the Committee. They also filed reply to the revised questionnaire issued by the Committee.

As per the aforesaid reply, the school stated that:

(a) It had implemented the VI Pay Commission report and the increased salary to the staff was being paid w.e.f. September 2008. However, the increased salary was paid w.e.f. March 2009 and it paid the arrears of

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salary for the period 01/09/2008 to 28/02/2009. In support of this contention, the school enclosed details of its pay bill for the month of February 2009 as per which the salary for that month amounted to Rs. 7,57,827 and that for March 2009, as per which, the salary for that month amounted to Rs. 10,00,373. A statement in respect of arrears for the period September 2008 to February 2009 was also enclosed showing total payment of Rs. 15,12,259.

(b) With regard to hike in fee also, the school stated that it had hiked the fee w.e.f. September 2008 and furnished the details of pre-hike and post-hike fees charged by the school. The details as furnished by the school were as follows:

Class	Monthly tuition fee, as originally charged in 2008-09 (Rs.)	Monthly tuition fee, as revised effective from 01/09/2008 (Rs.)	Increase in monthly tuition fee (Rs.)
I-V	670	870	200
VI-VIII	800	1000	200
IX & X	955	1155	200
XI & XII	1015	1315	300

The fee in respect of students enjoying concession remained the same at Rs.100 per month.

(c) The school charged arrear fee for the period September 2008 to March 2009 @ Rs. 1400/2100 per student. It also recovered arrears of development fee @ 10% of incremental tuition fee, i.e. @ Rs. 140/210 per student. The total collection of arrear fee amounted to Rs. 24,45,800.

(d) The school charged development fee in all the five years for which the information was sought by the Committee i.e. 2006-07 to 2010-11. The

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year-wise collection and utilisation of development fee, as furnished by the school was as follows:

Year	Development fee collected (Rs.)	Development fee utilised (Rs.)	Un-utilised Balance of Development fee (Rs.)
2006-07	12,51,520	2,01,380	10,50,140
2007-08	12,97,350	4,29,738	8,67,612
2008-09	17,21,680	3,85,166	13,36,514
2009-10	20,85,020	12,15,751	8,69,268
2010-11	21,46,565	6,68,810	14,77,755
Total	**85,02,135**	**29,00,845**	**56,01,290**

(e) The school was treating development fee as a capital receipt. However, though a separate development fund account was maintained in the books, no earmarked bank account was maintained either for development fund or for depreciation reserve fund.

The records produced by the school were verified by Sh. A. D. Bhateja, Audit Officer of the Committee and he observed that the school had implemented the recommendations of 6th Pay Commission w.e.f. 01/03/2009 and had paid arrears of salary for the period 01/09/2008 to 28/02/2009, which amounted to Rs.15,12,254. All the payments were made by bank transfer and TDS and PF was properly deducted and deposited with the authorities. The school had furnished copies of TDS and PF returns. The fee was hiked by the school as per order dated 11/02/2009 w.e.f. 01/04/2009 and the school collected arrear of tuition fee amounting to Rs. 24,45,800 and arrears of development fee amounting to Rs.2,44,580. The books of accounts were maintained by the school in normal course and no adverse feature was noticed.

The Committee issued a notice dated 05/12/2014 to the school for hearing on 26/12/2014. The notice, inter alia, required the school to furnish details of accrued liabilities of gratuity/leave encashment, if applicable to the school.

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Sri Guru Nanak Public School, Adarsh Nagar, Delhi-110033

On the date of hearing Sh. S.S. Puri, Honorary Secretary of the Parent body, Sh. Dhiren M. Doshi, Sh. H.S. Dua and Sh. Rakesh Dhingra, Chartered Accountants, Ms. Vandana Trehan and Ms. Baljeet Kaur, UDCs appeared and were heard. They also furnished the details as required by the Committee. They submitted that the school neither charged the arrear fee for the period 01/01/2006 to 31/08/2008 nor paid the arrear salary for the corresponding period. The arrear fee for the period 01/09/2008 to 31/03/2009 amounted to Rs. 24,45,800 in tuition fee account and Rs. 2,44,580 in development fee account. They reiterated that the arrear salary paid by the school amounted to Rs.15,12,254 and all such payments were made through bank transfer. The 6th Pay Commission report was implemented w.e.f. 01/03/2009. They conceded that although the school treated development fee as a capital receipt, the unutilised development fund and depreciation reserve fund were not kept in earmarked accounts. With regard to gratuity, the school submitted that it is making provision on a regular basis. However, no provision was made for liability on account of leave encashment. The school was given liberty to file details of its liability for leave encashment within one week. However, the school did not avail of the liberty granted to it.

The Audit Officer of the Committee was directed to prepare a preliminary calculation sheet, based on the information furnished by the school which stood verified and the funds already available with the school as on 31/03/2008, as reflected in the Balance sheet of the school as on that date. She prepared the following statement:

Statement showing Fund available as on 31-03-2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars		**Amount (Rs.)**
	Current Assets + Investments		
	Cash in hand	19,234	

Sri Guru Nanak Public School, Adarsh Nagar, Delhi-110033

	Bank Balance	2,739,485	
	Loan & advances	135,693	
	FDRs	14,257,700	**17,152,112**
Less:	*Current Liabilities*		
	Security Deposits	441,005	**441,005**
	Net Current Assets + Investments (Funds Available)		**16,711,107**
	Total Liabilities after implementation of VIth Pay Commission		
Less:	Arrear of Salary as per VI th Pay Commission from 01.9.08 to 31.3.09	1,512,254	
	Incremental Salary in 2009-10 (as per calculation given below)	4,397,811	5,910,065
	Excess / (Short) Fund Before Fee Hike		**10,801,042**
Add:	**Total Recovery after VI th Pay Commission**		
	Recovery of Arrears of tuition fee from Sept.08 to March 09	2,445,800	
	Recovery of arrears of Development fee from Sept.08 to March 09	244,580	
	Incremental Tuition Fee in 2009-10 as per calculation given below	5,162,400	7,852,780
	Excess / (Short) Fund After Fee Hike		**18,653,822**
Less:-	**Reserve for future contingencies:**		
	Reserve equivalent to 4 months salary	4,550,752	
	Reserve for Gratuity as on 31.03.2010	5,315,275	
			9,866,027
	Excess / (Short) Fund		**8,787,795**

Working Notes:

	2008-09	2009-10
Normal/ regular salary	9,254,446	13,652,257
Incremental salary 2009-10	**4,397,811**	

	2008-09	2009-10
Regular Tuition fee	15,472,060	20,634,460
Incremental tuition fee in 2009-10	**5,162,400**	

As per the above statement it appeared that the school had sufficient funds of its own out of which it could have implemented the recommendations of 6th Pay Commission without resorting to any fee hike.

A copy of the above calculation sheet was furnished to the school and a hearing was fixed to enable the school to furnish its comments on the calculation sheet. The school contested the preliminary calculation sheet vide its letter dated 10/03/2015. The grounds on which the school contested are as follows:

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(a) The funds in hand, as calculated by the Committee, include FDRs for Rs.1,42,57,700 which, inter alia, consists of amounts against capital liabilities like annual charges for Rs.59,04,161 and development charges of Rs. 69,84,170. These ought to be excluded as they are to be utilised for specific purposes. If these amounts are excluded, there would be a deficiency of Rs. 41,00,536 instead of a surplus as projected in the calculation sheet.

(b) There was some dispute in the matter of ownership of the land on which the school is situated and various cases are pending in Court. The school lost one of such cases. In the appeal, filed by the school, a settlement was entered upon with the claimants of land and the school agreed to pay Rs.51,00,000 for settlement of dispute. This payment was made on 06/09/2014. Further, the entire building was booked by Municipal Corporation of Delhi for demolition. The school is paying large amount of legal expenses to the advocates to save the school building. The school is, therefore, keeping funds and reserve for such purposes.

(c) The school has expansion plans for starting the science stream and handsome amount was to be utilised for construction and maintenance of science labs and funds were kept in reserve for such purposes.

(d) The school had to utilize its development charges for payment of arrears of salary as per the recommendations of 6th Pay Commission.

(e) The school had an uncovered liability against depreciation reserve fund which the school is required to maintain as per the recommendations of Duggal Committee. Since this amount would be in lacs, the school needs funds to be kept in reserve.

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(f) The incremental fee of Rs. 51,62,400 for the year 2009-10 ought not be taken into account as the school, in normal course would have hiked the fee by 10% even if the 6th Pay Commission was not implemented. Therefore, a sum of Rs. 21,85,080 out of the aforesaid sum of Rs.51,62,400 ought to be reduced.

At the time of hearing on 17/02/2015, the aforesaid representatives of the school again appeared and reiterated the objections the school had raised in writing. In particular, they emphasized that the school was anticipating huge liabilities on account of the litigation which was going on between the school and certain people claiming ownership of the land on which the school building was situated and the school was keeping funds in reserve for such purpose. On a query by the Committee, the representatives conceded that the entire reserves were built up out of the fee revenues of the school. The parent body had contributed no corpus funds. With regard to development fund, the representatives contended that it was only a technical error in not earmarking the FDRs against development fund. In response to a query by the Committee however, the representatives conceded that even the depreciation reserve fund was not earmarked by the school.

The Committee, during the course of hearing on 17/03/2015, noticed that the school had not furnished its detail of liability for leave encashment. The representatives of the school submitted that it was on account of oversight and sought three days time for doing the needful. The school furnished the detail on 20/03/2015, as per which its liability for leave encashment as on 31/03/2010 amounted to **Rs.21,02,929.**

Discussion:

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The Committee has perused the financials of the school as well as the annual returns filed by it under Rule 180 of Delhi School Education Rules, 1973, the observations of the Audit Officer and the preliminary calculation sheet prepared by another Audit Officer. The Committee has also considered the written and oral submissions of the school with regard to the preliminary calculation sheet. Various contentions raised by the school are discussed as under:

(a) There is no merit in the contention of the school that the funds amounting to Rs. 59,04,161 out of Annual charges and Rs. 69,84,170 out of development charges ought to be excluded from the calculations as they are to be utilised in future for specific purposes. Annual charges are meant for recovering the administrative overhead expenses of the school and are required to be spent for the year for which they are collected. The very fact that the school had accumulated Rs. 59.04 lacs out of annual charges over a number of years shows that the school was recovering excessive annual charges beyond its need. If the contention of the school is accepted, every school may design a fee structure showing less of tuition fee and more of annual charges. Accordingly, the school may show a deficit in tuition fee which is utilised for payment of salaries and a surplus in annual charges and then claim to hike the tuition fee to make up the deficit. Such arguments cannot be countenanced. Both tuition fee and annual charges have come by way of fee from students and if there is an accumulation of surplus in annual charges, the same can be utilised for implementation of 6th Pay Commission recommendations. Regarding development charges, the discussion will follow in the subsequent paragraphs.

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(b) The school cannot keep in reserve funds for incurring capital expenditure like settlement of land dispute or for construction of science labs, without first discharging its liability of making payment of increased salaries and arrears as per the recommendations of the 6th Pay Commission. Rule 177 of Delhi School Education Rules, 1973, clearly stipulates that the fee has to be first utilized for payment of pay and allowances to the staff and capital expenditure can be incurred only if any savings remain after making such payments. The school, as per its own submission, had utilized development charges for payment of arrears for implementing the recommendations of 6th Pay Commission. It cannot claim to keep funds in reserve if it has not even preserved the funds out of development fee, which it could have legitimately set apart in earmarked accounts, subject to fulfillment of other pre-conditions as laid down by the Duggal Committee. The school cannot also be permitted to keep any funds for depreciation reserve as it has of its own volition chosen not to keep either development fund or depreciation reserve fund in earmarked FDRs.

(c) The contention of the school to exclude a sum of Rs. 21,85,080 out of the incremental fees of Rs. 51,62,400 for the year 2009-10 also cannot be accepted because there is no norm or rule that the schools must increase fee by 10% every year. When the school is in possession of adequate funds, a fee hike is neither necessary nor justified. The Committee has allowed a fee hike upto the extent of 10% to such schools who have not implemented the 6th Pay Commission Report as they were not in possession of funds. The same yardstick cannot be applied for the school which has adequate funds available with it. Moreover, the Committee has of its own, allowed the school to retain with it a sum of Rs.45,50,752

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in reserve for future contingencies. The school cannot be allowed a further hike of 10% in fee as the school does not require it.

(d) The liability for leave encashment as on 31/03/2010 amounting to **Rs.21,02,929**, as furnished by the school shall be duly factored in while making the final determinations.

(e) The Committee notes that the school implemented the recommendations of 6th Pay Commission w.e.f. 01/03/2009. However, the incremental salary for the month of March 2009 has not been taken into calculations. Although the school has not raised this issue, the Committee is of the view that in the interest of justice, the school ought to be allowed the benefit which is due to it. The incremental salary for the month of March 2009 i.e. the difference of gross salary for the month of February and March 2009, was **Rs. 2,42,546**. The Committee will duly factor this amount in the final determinations.

Determinations:

In view of the foregoing discussion, the Committee makes the following determinations:

Particulars		**Amount (Rs.)**
Net Current Assets + Investments (Funds available) before effecting the fee hike, as per the preliminary Calculation Sheet		**16,711,107**
Less: Amount to be kept in Reserve as per preliminary calculation sheet, which are not disputed by the school		
(a) For future contingencies	4,550,752	
(b) For accrued liability of Gratuity	5,315,275	
For leave encashment as per the submission of school	2,102,929	11,968,956
Adjusted figure of funds available/ deemed to be available before fee hike		**4,742,151**

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The aggregate of arrear salary and incremental salary for the year 2009-10, consequent to implementation of 6th Pay Commission Report was as follows:

Particulars		Amount (Rs.)
Arrear salary for the period 01/09/2008 to 31/03/09, as per preliminary calculation sheet, which is not disputed		1,512,254
Incremental salary for 2009-10 as per preliminary calculation sheet Add: Incremental salary for March 2009	4,397,811 242,546	4,640,357
Total financial impact of implementation of 6th Pay Commission Report upto 31/03/2010		**6,152,611**

In view of the position that emerges, the school needed to hike the fee to bridge the gap of **Rs. 14,10,460** (6,152,611-4,742,151). However, the school recovered arrear fee amounting to **Rs. 26,90,380** (tuition fee + development fee). Hence, even the arrear fee recovered by the school was in excess of its requirement by Rs. 12,79,920. To this extent, the arrear fee recovered by the school was unjustified. The same ought to be refunded alongwith interest @ 9% per annum from the date of collection to the date of refund.

Further, since the school had already made up its deficit out of the arrear fee, it ought not to have hiked its regular tuition fee in terms of order dated 11/02/2009. Such hike resulted in an additional revenue of **Rs. 51,62,400.** The Committee is of the view that this amount ought also to be refunded alongwith interest @ 9% per annum from the date of collection to the date of refund.

Development Fee:

As discussed supra, the school was not fulfilling the essential pre-conditions for collecting development fee, as prescribed by the Duggal Committee, which were

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subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India (2004) 5 SCC 583, for charging Development fee. Admittedly, the school was not keeping the unutilised development fee and depreciation reserve on assets acquired out of development fund in earmarked fund accounts. The Hon'ble Supreme Court in the case of Modern School (supra) held as follows:

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

It is apparent that maintenance of earmarked development fund and depreciation reserve fund are sine qua non for charging development fee. The school was admittedly not maintaining such fund accounts. The Committee is therefore, of the view that the school is not justified in charging development fee. However, since the mandate of the Committee is to examine the issue of fee in pursuance of order dated 11/02/2009, the Committee is restricting its recommendations for the years 2009-10 and 2010-11. The school ought to refund

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development fee amounting to Rs. 20,85,020 charged in 2009-10 and Rs. 21,46,565 charged in 2010-11 alongwith interest @ 9% per annum from the date of collection to the date of refund. For the other years the Director of Education may take an appropriate view in accordance of law.

Recommendations:

In view of the foregoing discussion and determinations, the school ought to refund the following amounts to the students alongwith interest @ 9% per annum from the date of collection to the date of refund:

1. Out of arrear fee charged	**Rs. 12,79,920**
2. Incremental tuition fee for the year 2009-10	**Rs. 51,62,400**
3. Development fee for the year 2009-10	**Rs. 20,85,020**
4. Development fee for the year 2010-11	**Rs. 21,46,565**

Recommended accordingly.

Sd/-	Sd/-	Sd/-
CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated: 09/04/2015

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Navjeevan Model Sec.School, G.T.B.Nagar, Delhi-110009

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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Navjeevan Model Sec.School, G.T.B.Nagar, Delhi-110009

4. With a view to verify the returns, the Office of the Committee required the school to appear on 30.09.2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

5. On 30.09.2013, Sh. Dheeraj, TGT of the school attended the office of the Committee and produced record. Reply to the questionnaire was also filed. As per the reply:-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.06.2009.

(ii) The school had not hiked the fee in terms of the order of the Director of Education dated 11.02.2009.

(iii) The school had collected development fee.

6 The record, in the first instance, was examined by Shri N.S.Batra, Audit Officer of the Committee. He observed to the effect that: -

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission w.e.f. 01.06.2009.

(ii) The school hiked tuition fee in 2009-10 between 16.6% to 26.6%. During 2010-11, hike in fee was by 10.5% to 15.3%.

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(vi) The school had collected development fee from the students.

(vii) TDS and PF had not been deducted from the salary of the staff.

The Audit Officer after examination of the original record produced by the school returned the same to the representative of the school.

7. By notice dated 27.04.2015, the school was asked to appear on 08.05.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8 On 08.05.2015, Sh. Dheeraj, T.G.T. and Ms. Archana, T.G.T., of the school appeared before the Committee and produced record. The representatives submitted that the school implemented the recommendations of the Sixth Pay Commission w.e.f. June, 2009. The total salary payment for the month of May, 2009 was Rs. 2,52,025.00 which rose to Rs. 4,09,370.00 for June, 2009. The school hiked the fee as per the order of the Director of Education dated 11.02.2009. The school did not recover any arrear fee from the students but paid arrear salary of Rs. 1,45,490.00 in 2009-10 and Rs. 4,13,240.00 in 2010-11.

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<u>**Navjeevan Model Sec.School, G.T.B.Nagar, Delhi-110009**</u>

The school had charged development fee of Rs. 78,000.00 in 2009-10 and Rs. 13,500.00 in 2010-11. The development fee was treated as a revenue receipt and was utilized for routine revenue expenditure without maintaining any earmarked account of development and depreciation reserve funds.

On perusal of the record filed by the school, the Committee finds that total increase in salary expenditure in 2009-10 was Rs. 3,44,868.00. As per the submission of the school, the monthly hike in salary on implementation of the recommendations of the Sixth Pay Commission was Rs. 1,57,345.00. On examination of salary register of the school, it is clear that the monthly expenditure has gone down progressively every month. In fact for the month of November, 2009, it was just Rs. 1,25,860.00. This was on account of a majority of teachers being on leave without pay. Till 2010-11, no TDS was deducted.

<u>**Discussion and findings**</u>

9. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the

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record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
Pre-School & Pre-Primary	550	650	100	750	100
I to III	600	70	100	800	100
IV to V	625	750	125	850	100
VI	650	800	150	900	100
VII	675	825	150	925	100
VIII	700	850	150	950	100
IX	750	950	200	1050	100
X	850	1050	200	1200	150

10. From the above, it is manifest that the school has increased the fee during the year 2009-10, in terms of the order dated 11.02.2009 of the Director of Education for classes IX and X. For classes Pre Primary to VIII the hike in fee was though, not in terms of the aforesaid order but was more than the permissible limit of 10%. During 2010-11, the hike was more than 10% for all classes.

11. According to school it has implemented the recommendations of the 6th Pay Commission, but we find that the monthly expenditure on

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salary went down progressively every month. This was on account of a majority of teachers being shown on leave without pay. This is being done as a matter of balancing act and is a strategy to show the implementation of the recommendations of the 6th Pay Commission. The school did not deduct TDS from the salary till 2010-11.

RECOMMENDATION

Re. Fee Hike

Since the school increased the fee during the year 2009-10, in terms of the order of the Director of Education dated 11.02.2009 for classes IX and X and for classes Pre Primary to VIIII, the hike in fee though, was though, not in terms of the aforesaid order but, more than the permissible limit of 10%, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

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Navjeevan Model Sec.School, G.T.B.Nagar, Delhi-110009

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re. Development Fee.

The school has charged development fee from the students as detailed below;

Year	Development Fee Charged
2009-10	Rs. 78,000.00
2010-11	Rs. 13,500.00

The development fee has been treated as a revenue receipt and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed

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by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs. 91,500.00 during the years 2009-10 and 2010-11 in the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson	Dr. R.K. Sharma Member

Dated— 13-05-2015

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Shri Ram Shiksha Mandir Sr.Sec.School, Jindpur, Delhi-36

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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4. With a view to verify the returns, the Office of the Committee vide its notice dated 06.09.2013, required the school to appear on 04.10.2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

5. On 04.10.2013, Sh. Ram Kumar Shehrawat, A.O. and Sh. Amit Bhardwaj, Office Asstt. of the school attended the Office of the Committee and produced the record. Reply to the questionnaire was also filed. As per the reply:-

(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.07.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009. w.e.f. 01 04 2009.

(iii) The school had collected development fee from the students.

6. The record, in the first instance, was examined by Shri A.D.Bhateja, Audit Officer of the Committee. He observed to the effect that: -

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission, but D.A. and T.A. have not been paid as per the prescribed rates.

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(ii) Salary to the staff has been paid in cash or through bearer cheques without deducting PF.

(iii) The school hiked tuition fee in 2009-10, in terms of the order of the Director of Education dated 11.02.2009. During 2010-11, the hike was by 10%.

The Audit Officer after examination of the record produced by the school returned the same to them.

7. By notice dated 30.12.2014, the school was asked to appear on 07.01.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

8. On 07.01.01.2015, Sh. Amit Bhardwaj, Office Asstt. And Sh.Vinod Kumar, Accountant of the school appeared before the Committee and did not produce any record. They request for some more time to produce the record. At per their request the school was directed to appear before the Committee on 15.01.2015 for hearing.

9. On 15.01.2015, Shri Devender Kumar, Manager, Sh. Amit Bhardwaj, Office Asstt., Sh. Vinod Kumar, Accountant and Sh. Manoj

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Kansal, CA of the school appeared before the Committee and produced record. It was contended by them that the recommendations of the 6th Pay commission were implemented w.e.f. 01-07-2009, but the arrear of salary w.e.f. 01-01-2006 to 30-06-2009 were not paid as no arrear fee was collected. On query by the Committee, the representatives contended that the salaries were paid by account payee's cheques but on examination of the bank statement, the Committee observed that most of the staff members were paid by bearer cheques against which cash was withdrawn from the bank. On being confronted, the representatives conceded that the payment was made by bearer cheques as the teachers did not have bank account. With regard to the development fee, the representatives conceded that it was treated as revenue receipt and no earmarked development or depreciation reserved fund was maintained. It was contended that some part of the development fee was utilized for the purchase of fixed assets.

10. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the

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Shri Ram Shiksha Mandir Sr.Sec.School, Jindpur, Delhi-36

record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
Pre School	600	800	200	920	120
Pre Primary	600	800	200	920	120
I	900	1100	200	1266	166
II	925	1125	200	1295	170
III	950	1150	200	1323	173
IV	1000	1200	200	1380	180
V	1050	1350	300	1553	203
VI	1100	1400	300	1610	210
VII	1150	1450	300	1667	217
VIII	1250	1550	300	1783	233
IX	1350	1650	300	1898	248
X	-----	1900	-----	2185	285
XI(Comm.)	-----	3000 (Newly opened)	-----	3200	200
XI(Sci.)		3000 (Newly opened)		3433 (Newlyopened)	433
XII(Comm.)	-----	------	------	3200 (Newly opened)	-----
XII(Sci.)				3433 (Newly opened)	-----

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Shri Ram Shiksha Mandir Sr.Sec.School, Jindpur, Delhi-36

11. From the above, it is manifest that the school has increased the fee during the year 2009-10, in terms of the order of the Director of Education dated 11.02.2009. During 2010-11, the hike was more than 10%.

12. According to school it has implemented the recommendations of the 6th Pay Commission partially. Salary was paid through bearer cheques/cash. We find the many schools have taken this plea that they had implemented the recommendations of the 6th Pay Commission by paying the salary/arrears of salary to the teachers in cash/bearer cheques. Such a plea gives a lie to the stand of the school that it had partially implemented the recommendations of the 6th Pay Commission as there is no plausible and convincing reason, why the payment was not made by bank transfer or by account payee cheques.

13. The school has charged development fee. The same has been treated as revenue receipt in the accounts, without maintaining separate development and depreciation reserve fund.

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Secretary

Shri Ram Shiksha Mandir Sr.Sec.School, Jindpur, Delhi-36 000432

RECOMMENDATION

Re. Fee Hike

Since the school has utilised the order of the Director of Education dated 11.02.2009, for enhancing tuition fee, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10%, ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re. Development Fee;

The school has charged development fee in the following manner:-

Year	Development Fee Charged
2009-10	Rs. 18, 57,129.00
2010-11	Rs. 22, 04,894.00

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Secretary

Shri Ram Shiksha Mandir Sr.Sec.School, Jindpur, Delhi-36 000433

The development fee had been treated as revenue receipt and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs.40,62,023.00 during the years 2009-10 and 2010-11 in the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar **Member**	**Justice Anil Dev Singh (Retd.)** **Chairperson**	**Dr. R.K. Sharma** **Member**

Dated—17.03.2015

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Secretary

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Bhagatji Memorial Model School, Yamuna Road Palla, Delhi-36

000434

1. With a view to elicit the relevant information from the schools with regard to the basic questions, whether or not the schools had implemented the recommendations of the Sixth Pay Commission and if so, whether or not the fee was hiked for the purpose of implementation thereof, a questionnaire prepared by the Committee was issued to the Managers of all schools on 27.02.2012 with the request that the information be furnished to the Committee within Seven days.

2. The school did not respond to the questionnaire within the specified time. However, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received by the Committee on being requisitioned from the concerned Deputy Director of Education.

3. On examination of the aforesaid returns by the Committee, it prima facie, appeared that the school had increased the fee in terms of the order of the Director of Education dated 11-02-2009 as well as implemented the recommendations of the sixth pay commission. In this view of the matter the school was placed in category 'B'.

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4. With a view to verify the returns, the Office of the Committee vide its notice dated 06.09.2013, required the school to appear on 04.10.2013 and to produce entire accounting, fee and salary records for the years 2008-09 to 2010-11 and to furnish reply to the aforesaid questionnaire.

5. On 04.10.2013 the office of the Committee received a letter from the school requesting for some more time to produce the record. The school, vide Committee notice dated 17.10.2013 was directed to produce its record on 30.10.2013.

On 30.10.2013, Sh. Surya Dev, Manager of the school attended the office of the Committee and again requested for some more time to produce the record. At its request the school was directed to produce record on 22.11.2013.

On 22.11.2013, the Manager of the school attended the office of the Committee and asked for further time to produce the record. The school was provided final opportunity to produce its record on 02.12.2013.

6. On 02.12.2013, Sh. Surya Dev Tanwar, Manager of the school attended the Office of the Committee and produced the record. Reply to the questionnaire was also filed. As per the reply:-

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(i) The school had implemented the recommendations of the 6th Pay Commission w.e.f. 01.08.2009.

(ii) The school had hiked the fee in terms of the order of the Director of Education dated 11.02.2009. w.e.f. 01 04 2009.

(iii) The school had not collected development fee from the students.

7. The record, in the first instance, was examined by Shri N.S.Batra, Audit Officer of the Committee. He observed to the effect that: -

(i) The school has claimed to have implemented the recommendations of the 6th Pay Commission, but DA and HRA have not been paid as per the prescribed rates.

(ii) The school hiked tuition fee in 2009-10 by 01.8% to 17.9% for different classes. During 2010-11, the hike was by 10%.

8. By notice dated 15.01.2015, the school was asked to appear on 22.01.2015 along with entire accounting, fee and salary records for the years 2008-09 to 2010-11 for the examination of the same by the Committee and for affording an opportunity of hearing to the school.

9. On 22.01.2015, Sh. Surya Dev Tanwar, Manager and Sh. Satpal Singh, Teacher of the school appeared before the Committee and

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produced records. They submitted that the recommendations of the 6th Pay Commission were partially implemented w.e.f. 01-08-2009. Furthermore the school revised only the basic pay, while the allowances were not paid fully as per the aforesaid recommendations. Almost 50% of the salary was paid in cash. They also submitted that neither the arrear fee was recovered from the students nor the arrear salary was paid to the staff. The hike in fee was nominal except for a few classes where the hike exceeded 10%. With regard to the development fee, it was stated that the school has recovered development fee in 2010-11 to the tune of Rs.2,42,075/-, out of which a sum of Rs.2,11,835/- was utilized for the purchase of a bus. The same was treated as revenue receipt in the accounts.

10. We have gone through the record, observations of the Audit Officer of the Committee and the submissions made by the representatives on behalf of the school. The following chart, which is culled out from the record would show the exact extent of hike in tuition fee during the years 2009-10 and 2010-11: -

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Bhagatji Memorial Model School, Yamuna Road Palla, Delhi-36

Class	Tuition Fee during 2008-09	Tuition Fee during 2009-10	Tuition Fee increased in 2009-10	Tuition Fee during 2010-11	Tuition Fee increased in 2010-11
Pre Primary	390	405	15	445	40
I to V	390	460	70	505	45
VI to VIII	550	560	10	615	55
IX- X	860	1000	140	1100	100

11. From the above, it is manifest that the school has increased the fee during the year 2009-10 by more than 10% for classes I to V and IX to X. During 2010-11, there was hike by 10% for all classes.

12. According to school it has implemented the recommendations of the 6th Pay Commission partially. Almost 50% of the salary was paid in cash. The fact that the salary was paid in cash, gives a lie to plea of the school that it had partially implemented the recommendations of the 6th Pay Commission.

13. The school has charged development fee in 2010-11. The same has been treated as revenue receipt in the accounts, without maintaining separate development and depreciation reserve fund.

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Secretary

Bhagatji Memorial Model School, Yamuna Road Palla, Delhi-36

RECOMMENDATION

Re. Fee Hike

Since the school has hiked the tuition fee in 2009-10, for classes I to V and IX to X, more than 10%, without implementing the recommendations of 6th Pay Commission, we are of the view that the increase in fee, in excess of the tolerance limit of 10%, was unjustified. Therefore, the Committee recommends that the fee hike effected by the school in the year 2009-10 in excess of 10% for the aforesaid classes ought to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Further, the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009-10, for above mentioned classes, ought also to be refunded along with interest @9% per annum from the date of its collection to the date of its refund.

Re. Development Fee;

The school has charged development fee in the following manner:-

Year	Development Fee Charged
2010-11	Rs.2,42,075.00

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Secretary

The development fee had been treated as revenue receipt and no separate depreciation reserve fund and development fund had been maintained.

In the circumstances, the Committee is of the view that the school was not complying with any of the pre-conditions prescribed by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India& Ors. Therefore, the Development Fee charged by the school to the tune of Rs.2,42,075.00 during the year 2010-11 in the garb of the order of the Director of Education dated 11.02.2009 was not in accordance with law. This being so, the school ought to refund the aforesaid development fee along with interest @ 9% per annum from the date of its collection to the date of its refund.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
J.S. Kochar **Member**	**Justice Anil Dev Singh (Retd.)** **Chairperson**	**Dr. R.K. Sharma** **Member**

Dated—18/02/2015

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Secretary

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