

PDF Compressor Free Version

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

Vs.

Govt. of NCT of Delhi & Ors.

Report of Delhi High Court Committee for Review of School Fee for  
September 2016

Index				
S.N.	Particulars		Page No.	
(a)	Cause List of the cases taken up in September 2016 on 01.09.2016, 06.09.2016, 07.09.2016, 08.09.2016, 14.09.2016, 15.09.2016, 20.09.2016 and 21.09.2016		01 to 02	
(b)	Miscellaneous/ Interim orders passed in September 2016 on above dates		03 to 55	
(c)	Final recommendations/ Review orders passed in the following cases:-		56 to 114	
	S.N.	Date	Name of the School	
	1	06.09.2016	Recommendation in respect of Holy Child Auxilium School, Vasant Vihar (B-186) recommending no intervention	56 to 62
	2	14.09.2016	Recommendation in respect of Happy Home Public School, Sector-11, Rohini (B-45) recommending refund of unjustified fees alongwith 9% interest	63 to 71
	3	14.09.2016	Recommendation in respect of South Delhi Public School, Defence Colony (B-316) recommending refund of unjustified fees alongwith 9% interest	72 to 82
	4	20.09.2016	Recommendation in respect of Rockfield Public School, Sector-16, Rohini (B-43) recommending no intervention	83 to 90
	5	21.09.2016	Recommendation in respect of Jinvani Bharti Public School, Sector-4, Dwarka (B-387) recommending refund of unjustified fees alongwith 9% interest	91 to 95
	6	21.09.2016	Review application of Modern Public School, Shalimar Bagh (B-23) disposed off as not maintainable	96 to 105
	7	21.09.2016	Review application of Krishan Lal Kohli Saraswati Bal Mandir, Mehrauli (B-370) disposed off as not maintainable	106 to 114

Place: Delhi

Date:

  
Secretary

Delhi High Court Committee for Review of School Fee

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

000001

PDF Compressor Free Version Thursday 1st September 2016

Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-342	Rishabh Public School, Mayur Vihar Phase-I
2	B-347	Ever Green Public School, Vasundhara Enclave
3	B-356	Notre Dame School, BTPS Staff Colony, Badarpur
4	B-146	Vishwa Bharti Public School, Sector 6, Dwarka
5	B-180	St. Paul's School, Safdarjung Development Area

Review Applications

S. No.	Cat. No.	School Name & Address
1	C-118	St. Krishna Bodh Public School, West Nathu Colony
2	B-75	Indraprastha World School, Paschim Vihar
3	B-88	Bhatnagar International School, Vasant Kunj
4	B-118	Manav Sthali School, New Rajinder Nagar
5	B-10	Universal Public School, Preet Vihar
6	C-397	National Public School, Jhilmil

Cause List for Tuesday 6th September 2016

Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-220	Presidium School, Ashok Vihar
2	B-45	Happy Home Public School, Sector 2, Rohini
3	B-46	Mother Divine Public School, Sector 3, Rohini
4	B-656	St. Thomas Girls S. S. School, Mandir Marg
5	B-137	St. Mary's School, Safdarjung Enclave
6	B-350	Bal Mandir Sr. Sec. School, Defence Enclave

Cause List for Wednesday 7th September 2016

Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-95	Modern Convent School, Sector 4, Dwarka
2	B-176	Vivekanand School, D- Block, Anand Vihar
3	B-86	Delhi Police Public School, Safdarjung Enclave
4	B-438	Springdales School, Dhaula Kuan
5	B-316	South Delhi Public School, Defence Colony

Review Applications

S. No.	Cat. No.	School Name & Address
1	B-618	Mount Carmel School, Anand Niketan
2	B-388	Mount Carmel School, Dwarka
3	B-685	Daisi Dales Sr. Sec. School, East of Kailash
4	B-147	N.K. Bagrodia Public School, Sector-4, Dwarka
5	B-130	The Pinnacle School, Panchsheel Enclave
6	B-608	Cambridge Primary School, Darya Ganj
7	B-690	Cambridge Primary School, New Rohtak Road

Cause List for Thursday 8th September 2016

Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-43	Rockfield Public School, Sector 3, Rohini
2	B-185	Chinmaya Vidyalaya, Vasant Vihar
3	B-236	Maharaja Aggarwal Adarsh Public School, Pitampura
4	B-188	The Mother's S.S.School, Sri Aurobindo Marg
5	B-231	Vivekanand Public School, B-Block, Anand Vihar

TRUE COPY

Secret





## Cause List for Wednesday 14th September 2016

## Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-255	Ranjit Public School, Vikas Puri
2	B-435	Ramjas School, Pusa Road
3	B-296	M.M. Public School, Pitam Pura
4	B-441	G.D Salwan Public School, Old Rajinder Nagar
5	B-317	Vidya Public School, Cannought Place

## Cause List for Thursday 15th September 2016

## Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-145	Somerville School, Vasundhara Enclave
2	B-525	St. Xavier's Sr. Sec. School, Raj Niwas Marg
3	B-293	St. Xavier's School, Shahbad Daulatpur, Rohini
4	B-156	Ryan International School, Vasant Kunj
5	B-345	Ryan International School, Gharauli, Mayur Vihar
6	B-342	Rishabh Public School, Mayur Vihar Phase-I

## Cause List for Tuesday 20th September 2016

## Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-187	Balwantray Mehta Vidya Bhawan, GK-II
2	B-444	C.L.Bhalla Dayanand Model School, Karol Bagh
3	B-389	B.G.S International Public School, Sect.5, Dwarka
4	B-406	Happy School, Darya Ganj
5	B-65	Sumermal Jain Public School, Janak Puri
6	B-356	Notre Dame School, BTPS Staff Colony, Badarpur

## Cause List for Wednesday 21st September 2016

## Regular Matters

S. No.	Cat. No.	School Name & Address
1	B-414	Jindal Public School, Dashrath Puri, Dwarka
2	B-387	Jinvani Bharti Public School, Sect.4, Dwarka
3	B-402	Girarattan Jindal Public School, Sect.7, Rohini
4	B-476	J.D.Tytler School, New Rajinder Nagar
5	B-348	Ahlcon International School, Mayur Vihar Phase-I
6	B-249	G.D. Goenka Public School (Formerly St. Martin's Public School), A-2 Paschim Vihar

## Review Applications

S. No.	Cat. No.	School Name & Address
1	B-40	Kulachi Hansraj Model School, Ashok Vihar-III
2	C-118	St. Krishna Bodh Public School, West Nathu Colony
3	B-88	Bhatnagar International School, Vasant Kunj
4	B-118	Manav Sthali School, New Rajinder Nagar
5	B-685	Daisi Dales Sr, Sec. School, East of Kailash
6	B-75	Indraprastha World School, Paschim Vihar

## Review orders for pronouncement

1	B-23	Modern Public School, Shalimar Bagh
2	B-370	Krishan Lal Kohli Saraswati Bal Mandir, Mehrauli

TRUE COPY

Secretary



01-09.016

**B-342****Rishabh Public School, Mayur Vihar, Phase-I, Delhi**

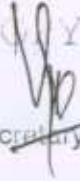
An application has been heard on behalf of the school seeking adjournment. In the last date of hearing also an application was filed for adjournment. Last opportunity is granted to the school and in case no one appears on the next date of hearing the matter will be decided on the basis of material available on the record. As requested the matter will come up for hearing on 15<sup>th</sup> Sept. 2016 at 11.00 A.M.

  
**R.K. SHARMA**  
MEMBER

  
**J.S. KOCHAR**  
MEMBER

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

TRUE COPY

  
Secretary





PDF Compressor Free Version

**Ever Green Public School, Vasundhara Enclave, Delhi**

Present : Sh. Rahul Jain, C.A. of the school.

The Committee has perused the circular issued by the school to the parents of the students regarding fee hike effected by the school in pursuance of order dated 11.2.2009 issued by the Directorate of Education. As per the circular the school increased tuition fee of the students @ Rs.300 p.m. w.e.f. Sept. 2008 and accordingly recovered arrears of Rs.2100 per student for the period Sept. 2008 to March 2009. Besides, the school also recovered Rs.3000 per student as lump sum fee as provided in the aforesaid order.

Although the school was charging development fee in 2008-09 @ 10% of tuition fee, the authorized representative of the school submit that no increase in the development fee w.e.f. 1.09. 2008 to 31.3.2009, although the development fee was increased to 15% of the tuition fee w.e.f. 1st April 2009. The information has been filed by the school on 23.06.2015, as required by the Committee vide its notice dated 14.05.2015. As per the information furnished, the school recovered the entire amount of arrears fee aggregating Rs. 36,96,660 in the years 2008-09 and 2009-10. However the arrear salary to the staff was paid only during the financial years 2011-12 and 2012-13. From the copy of bank statement filed by the school showing the payment of arrear salary, the Committee observes that the school started paying arrears on 29<sup>th</sup> March 2012. Significantly this Committee started functioning on 26.12.2011 and sent its questionnaire to the schools on 27.2.2012 which was followed by reminder dated 27.3.2012. The school has not produced its audited financials for the years 2011-12 & 2012-13. The school has also not produced its books of accounts today for perusal by the Committee. The authorized representative seeks some time to produce the same. They will be produced on the next of date of hearing i.e. 17<sup>th</sup> October 2016 at 11.00 A.M. The school will also furnish the information regarding fee and salary as per the format given in the notice dated 14.05.2015 for the years 2011-2012 & 2012-13 and also its books of accounts etc. for those years.

TRUE COPY

Secretary



*Sh*  
R.K. SHARMA  
MEMBER

*J.S.*  
J.S.KOCHAR  
MEMBER

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

J.S.KOCHAR  
MEMBER

JUSTICE ANIL KUMAR

CHAIRPERSON


B-347

PDF Compressor Free Version

Notre Dame School, BTPS Staff Colony, Badarpur, Delhi

Present : Sh. Justine Varghese, Teacher of the school.


An application has been <sup>filed</sup> heard on behalf of the school seeking adjournment . In the last date of hearing also an application was filed for adjournment. Last opportunity is granted to the school and in case no one appears on the next date of hearing the matter will be decided on the basis of material available on the record. As requested the matter will come up for hearing on 20<sup>th</sup> Sept. 2016 at 11.00 A.M.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



PDF Compressor Free Version

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

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

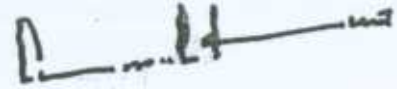
The authorized representative was provided with a copy of calculation sheet prepared by the office of the Committee. The school may submit its comment on the same on the next date of hearing. The matter to be taken up on 18<sup>th</sup> Oct. 2016 at 11.00 A.M.



R.K. SHARMA  
MEMBER




J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



PDF Compressor Free Version

St. Paul School , Safdarjung Development Area, Delhi

Present : Sh. Jose P.T., Jr. Accountant and Sh. Roy P. Thomas, Accountant of the school.

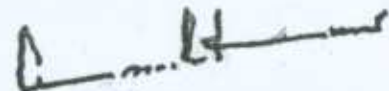
An application has been filed by the school seeking adjournment on account of hospitalization of the Senior Accountant of the school. As requested the matter will come up for hearing on 17<sup>th</sup> October at 11.00 A.M.



**R.K. SHARMA  
MEMBER**




**J.S. KOCHAR  
MEMBER**



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

TRUE COPY



Secretary





PDF Compressor Free Version

Presidium School, Ashok Vihar, New Delhi.

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

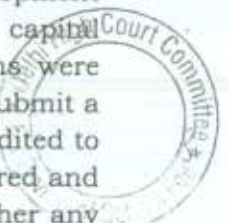
The authorized representatives of the school contend that the school was granted recognition w.e.f. academic session 2008-09 vide letter dated 18/07/2008 of the Dy. Director of Education Distt, North West-B. In support, they filed copy of this letter. They contend that as such the school was not required to pay any arrear for the period 01/01/2006 to 31/08/2008. The school paid arrears for the period 01/09/2008 to 31/03/2009 and in support they filed copy of the arrear payment sheet and bank statement showing the encashment of cheques issued to the staff towards arrear payments. The committee observes that none of the cheques has been presented to the bank and it is possible that they might have been issued payable to bearer.

However, the authorized representative contend that the school did not recover any arrear fee for payment of the arrear salary for the period 01/09/2008 to 31/03/2009 and did not hike the tuition fee as provided in the order dated 11/02/2009 issued by the Director of Education. They contend that tuition fee was raised from Rs. 3,650 in 2008-09 to 3,750 in 2009-10 per month which is an increase of only about 2.75%. However, the school has not produced copies of the fee receipts to enable the Committee to verify the fee actually charged in these two years. They submit that the same can be produced for perusal by the Committee. They are advised to produce the same before the audit officer of the Committee on 14/09/2016 at 11.00 a.m. who will verify whether the fee charged in accordance of the fee schedules filed by the school and put up a note for the Committee.

As per fee schedules filed by the school, the school was also charging development fee during all the years i.e. 2008-09 to 2010-11 for which the information was sought from the school. In its reply to the questionnaire issued by the Committee, in response to the question whether the development fee is treated as revenue receipt or capital receipt, the school gave a vague reply. Presently the school is incurring expenditure on creation of fixed asset (capital expenditure). On perusal of the audited financial and the break up of fee filed by the school on 07/07/2015, the Committee observes that the school credited development fee to its income and expenditure accounts in all the years. The authorized representatives submit that though it was treated as a revenue receipt, it was utilized for incurring capital expenditure on acquisition of furniture, fixtures and equipments. With regard to earmarked bank account development fund, they contend that although an earmarked account was opened but the development fee received was not transferred to that account nor the capital expenditure was paid from that account. All the transactions were carried out through the school fund account. The school will submit a detailed note as to how the development fee is received and credited to which bank account and how the capital expenditure are incurred and paid from which account. The school will also state as to whether any earmarked account for depreciation reserve fund or depreciation on

TRUE COPY

Secretary





06/09/2016

B-220

000009

assets acquired out of development fee is maintained. The matter will come up for further consideration on 10/2016 at 11.00 a.m.

PDF Compressor Free Version

*Dr. R.K. SHARMA*  
MEMBER

*J.S. KOCHAR*  
MEMBER

*JUSTICE ANIL KUMAR (Retd.)*  
CHAIRPERSON

14.09.2016

Present Sh. C. B. Mishra,  
Vice Principal of the school appeared  
alongwith fee record of the school  
for the years 2008-09 and 2009-10.

The school fee record was exam-  
randomly checked in their school  
fee software with respect to the  
fee structure which is part of its  
Annual returns for 2008-09 and 2009-10.

The school charged fee as per the  
fee structure provided. Some sample  
copies of Fee Receipts (Print-outs) are  
also submitted by the school which  
are placed opposite in file for kind  
perusal of the Committee.

*14/9/16*

*son*

The school representative asks for  
the copy of the note sheet and the same  
is being provided.

Photocopy received

*14/9/16*

*son*

TRUE COPY

*Secretary*





PDF Compressor Free Version

06/09/2016B-45Happy Home Public School, Sector-2, Rohini, Delhi

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


Arguments heard. Recommendations reserved.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



PDF Compressor Free Version

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

Present : Sh. Manan Budhiraja, A.O., Sh. Puneet Batra, Advocate and Sh. Ashish, Accountant of the school.

The Committee has perused the circular dated 16/02/2009 issued by the school to the parents of the students in pursuance of order dated 11/0/2009 issued by the Director of education. As per the circular, the school hiked the tuition fee of classes LKG to VIII @ Rs. 200 per month and classes IXD to XII @ Rs. 300 per month w.e.f. 01/04/2009 and also recovered the arrears for the period 01/09/2008 to 31/03/2009 in three installments. Besides, the circular also provides recovery of lump sum arrear fee for the period 01/01/2006 to 31/08/2008 @ Rs. 2,500/3,500 per student which was to be recovered in installment @ Rs. 100 per month. The authorized representatives contend that though initially some amount of arrear fee for the period 01/01/2006 to 31/08/2008 was collected, the same was refunded to the students on account of some representations received from the parents regarding roll back of fee hike. Ultimately only sum of Rs. 19,068 was the net recovery on this account.

The recovery of arrear fee for the period 01/09/2008 to 31/03/2009 is stated to be Rs. 29,39,895 as per the statement filed by the school.

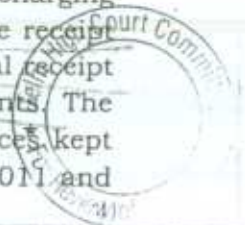
With regard to payment of arrear salary, the authorized representatives contend that a total sum of Rs. 33,31,325 was paid towards 1<sup>st</sup> instalment of arrears of salary payable for the period 01/01/2006 to 31/08/2008 which was 40% of total arrear fee. They contend that remaining 60% of the arrears for the above period as well as the arrear for the period 01/09/2008 to 31/03/2009 have not been paid by the school on account of paucity of funds, as the school had to provide for the accrued liability of gratuity and leave encashment for which the school has furnished a report of actuaries, who have estimated the liability of the school at Rs. 49,43,969 as on 31/03/2010. The school has furnished its own calculations with regard to its accrued liability on account of leave encashment which amounts to Rs. 46,03,093. Besides, they contend that the school also requires sufficient funds to maintain for unforeseen contingencies.

The school has also filed a summarized statement of its transactions with the parent society as per which the net result is that the contribution of the society to school in increased from Rs. 16,80,915 as on 31/03/2007 to Rs. 37,05,144 as on 31/03/2011. Accordingly it is contended that there was no transfer of funds by the school to society.

With regard to development fee, in reply to the questionnaire issued by the Committee, the school has stated that it started charging development fee from 2008-09 which was treated as revenue receipt but in the year 2009-10 and 2010-11, it was treated as capital receipt and utilized for purchase of furniture, fixture and equipments. The authorized representatives contend that the unutilized balances kept in earmarked account and have taken to balance of 31/03/2011 and

TRUE COPY

Secretary



06/09/2016

000012  
B-46  
0

PDF Compressor Free Version

also a certificate issued by Vijaya Bank to the effect that the account is earmarked for this purpose. Accordingly they contend that the school was complying with all the pre conditions laid down by the Duggal Committee which were affirmed by the Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583.

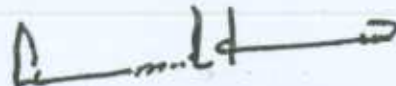
Calculation sheet to be prepared. Matter will come up for further hearing on 18/10/2016 at 11.00 a.m..



R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

Received  
copy  
15/9/16

TRUE COPY



Secretary



06/09/2016

000013

**B-656**

PDF Compressor Free Version

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

Present : Sh. Vinod Kumar, Accountant of the school.

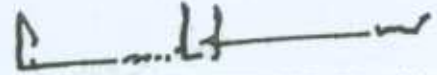
An application has been filed on behalf of the school seeking more time to compile the calculation sheet. As requested, the matter will come up for hearing on 18/10/2016 at 11.00 a.m.



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



**J.S. KOCHAR  
MEMBER**



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

TRUE COPY



Secretary






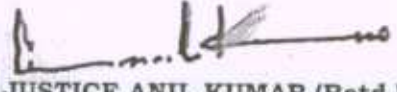
06/09/2016B-137St. Mary's School, Safdarjung Enclave, Delhi

Present : Mr. George Kosh, Authorised Signatory, Mr. Nikhil Paiup, Office Incharge, Mr. P.A., Sivichon, Accounts Supdt., Mr. Biju N.V, Accountant of the school.


The school has filed a letter dated 06/09/2016 containing a calculation sheet as prepared by it and contend that the school was short of funds and as such needed to hike the fee. However, the preliminary calculations prepared by the Committee reveal a different picture. The authorized representatives of the school has been provided a copy of the calculation sheet prepared by the Committee for its response, if any. Matter will come up for hearing on 18/10/2016 at 11.00 a.m.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary

PDF Compressor Free Version

06/09/2016B-350Bal Mandir Sr. Sec. School, Defence Enclave, New Delhi

Present : Sh. N. K. Tiwari

An application has been filed on behalf of the school seeking adjournment on account of non availability of Manager. On 20/07/2016 also, the school has sought adjournment on the same ground. Last opportunity of hearing is provided to the school on 20/10/2016 at 11.00 a.m. In case, the school again seeks adjournment or does not attend, the matter will be disposed off on the basis of available record.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



07/09/2016


PDF Compressor Free Version

B-95

Modern Convent School, Sector-04, Dwarka

Present : Sh. Vinay Kaushik, O.S. of the school.

On the last date of hearing a notice was directed to be issued to Sh. Joginder Maan who has filed a complaint against the school. However he is not present despite issuance of notice. In the meantime the representative of the school who appears today has filed a reply to the complaint. The representative of the school seeks adjournment. As requested the matter will come up for hearing on 20<sup>th</sup> Oct. 2016 at 11.00 A.M.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary






07/09/2016

PDF Compressor Free Version

B-176Vivekanand School, D-Block, Anand Vihar, Delhi

Present : Sh. Manu RG Luthra, CA & Sh. Pradyumn Ahuja, Manager of the school.


A copy of calculation sheet prepared by the Committee has been provided to the authorized representatives of the school for its response and comments, if any. Matter will come up for hearing on 20<sup>th</sup> October 2016. In case the school wants to file written submission in rebuttal of calculation sheet, same will be filed before the next date of hearing.

  
Dr.R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



07/09/2016

PDF Compressor Free Version

B-86

Delhi Police Public School, Safdarjung Enclave, Delhi

Present : Sh. S.N. Joneja, Executive Secretary, Sh. Trilochan Singh, Sh. Ramashankar Prasad & Sh. Radha Krishnan, Accountants of the school.

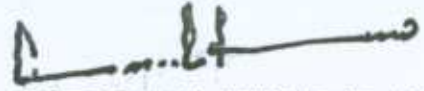
The school has furnished the details as required by the Committee on the last date of hearing. In the letter dated 26.8.2016 the school has clarified that the development fee collected upto 2010-11 was treated as revenue receipt but from 2011-12 onwards it was treated as a capital receipt and the development fund account was opened on 25.5.2013. Calculation sheet to be prepared. Matter to come up for further hearing on 20<sup>th</sup> October 2016 at 11.00 A.M.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



07/09/2016

PDF Compressor Free Version

B-438

Springdales School, Dhaula Kuan, Delhi

Present : Mrs, P. Lamba, Manager, Mrs. Tejender Kaur, Accountant & Sh. S. Kalra, C.A. of the school.

The school has issued circular dated 6.03.2009 to the parents of the students regarding fee hike in pursuance of order dated 11.2.2009 issued by Directorate of Education. As per the circular the school hiked tuition fee by Rs. 200 w.e.f. 1.9.2008 for all the classes plus "consequent to 15% increase in annual development fee of academic session 2008-09" in addition the school also collected Rs. 3500 per student towards lump sum fee for the period 01.1.2006 to 31.08.2009. The circular did not spell the exact amount of additional development fee which was charged by the school. It only mentions the details of fee bill which have been given to the students. The school is required to file the sample copy of the fee bill for students of each class.

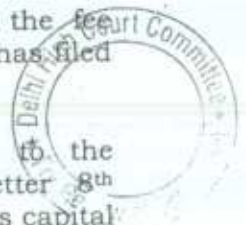
As per the information furnished by the school by its letter dated 09.07.2015 the aggregate amount of arrears of tuition fee is recovered by the school for the period 01.09.2008 to 31.03.2009 is Rs. 66,69,530. The arrears of development fee recovered for the same period about to Rs. 45,28,005 which works out to about 68% of arrears of tuition fee. The school is required to furnish the details as to how the arrears of development fee have been worked out.

The school has furnished a copy of the actuarial valuation report in respect of its accrued liability and account of gratuity. The actuaree has estimated the liability at Rs.1,67,39,729 as on 31<sup>st</sup> March 2010. The authorized representatives of the school submit that the school does not carry any accumulated leave of the staff and the earned leave at the end of years is paid in cash. As such the school did not have any accrued liability on account of leave encashment. The school has also submitted in its letter that no account of the parents society appears in the books of accounts as there are no transaction.

The authorized representatives of the school submit that the school had a liability of Rs.1,21,39,535 as on 31.03.2010 which had been demanded by the Land and Development office, Delhi. He submit that the liability has not yet been discharged and the school is making representation to the concerned authorities. They submit that this was on account of temporary usage of basement of the school for running the classes when some defect occurred in the upper floors. The school has filed copy of the latest demand letter of Land & Development Office which is taken on record. The authorized representatives of the school submit that the school had a short fall to the tune of Rs.5.63 crores after implementation of recommendations of 6<sup>th</sup> Pay Commission and after factoring in the fee hike in pursuance of order dated 11.2.2009. In support he has filed a calculation sheet.

TRUE COPY

regular development fee. With regard to the regular development fee, in reply to the questionnaire issued by the Committee, the school vide its letter 8<sup>th</sup> August 2013 had stated that the development fee is treated as capital receipt in the accounts. However in the fee and salary statement filed





07/09/2016

along with dated 09.07.2015 the school has stated that it treated as a revenue receipt. The Committee has perused the audited financials of the school and observed that development fee is treated as a revenue receipt. The amount of development fee recovered by the school in 2009-10 was Rs.1,40,00,557 in 2009-10 and Rs.1,05,40,380 in 2010-11. The school is required to furnish the details of development fee charged in 2009-10 & 2010-11 mentioning whether the arrears of development fee for the period 01.09.2008 to 31.03.2009 are included in this figure or not. Matter will be listed for further hearing on 20<sup>th</sup> Oct. 2016 at 11.00 A.M.

Dr. R.K. SHARMA  
MEMBER

J.S. KOCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

*Recd. Proofs  
of note sheet etc  
Thurs.  
14/11/16*

TRUE COPY

Secretary



07/09/2016

B-316

PDF Compressor Free Version

South Delhi Public School, Defence Colony, Delhi

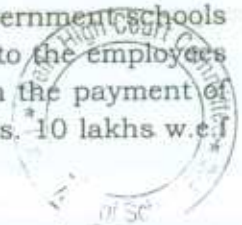
Present : Sh. B.S. Rana, Account Officer & Sh. Mukesh Kumar, Jr.  
Accountant of the school.

Sh. B.S. Rana, Bursar/A.O. the authorized representative of the school with authority letter signed by the Manager of the school present before the Committee. He submits that the school has filed response to the calculation sheet prepared by the Committee which indicated that the school had recovered some of Rs.76,30,692 in excess of its requirements to implement the recommendations of the 6<sup>th</sup> pay commission. In its response vide letter dated 2.9.2016, the school has disputed the collection sheet only in respect of the reserve set aside for accrued liability and gratuity as on 31.3.2010. They submit that the details of accrued liability and gratuity submitted by the school ought to have been accepted. As per the detail submitted, the school had an accrued liability of Rs.96,40,137 by capping the gratuity at Rs.10 lakhs. However, the Committee in its calculation sheet has kept liability at Rs.3,50,000 as on 31.3.2010. Resulting reduction of the amount claimed by the school to Rs.76,46,494. Subject to this, the authorized representatives of the school submit that the calculation sheet prepared by the Committee is in order.

The basis of submission of the school is that the recommendations of the 6<sup>th</sup> pay commission as circulated vide office memorandum dated 2<sup>nd</sup> Sept. 2008 issued by the Ministry of Personnel, Public Grievances and Pensions, Govt. of India provided for the maximum limit of gratuity to be increased to Rs. 10 lakhs for the government servants who retire/die in harness on or after 01.1.2006. The authorized representatives submit that under Section 10 (1) of the Delhi School Education Act 1973 provides that the scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits for the employees of a recognized private school shall not be less than those of the employee in correspondence in schools run by the appropriate authority. Appropriate authority has defined in section 2 clause (e) means in the case of the school recognized by Delhi Administration, the Administrator or any other officer authorized in this behalf. The school is recognized by the Directorate of Education and hence it required to pay salary and other benefits to its employees as per the provision of the Section 10 (1). He further states that since the office memorandum issued by the Government of India is applicable to employees of government schools in Delhi. The same would apply mutates mundane to the employees of this school and in this context the amendment in the payment of gratuity which increased the limit of gratuity to Rs. 10 lakhs w.e.f.

TRUE COPY

Secretary



07/09/2016

24.5.2010 by notification dated 18.5.2010 has to be ignored as far the date of its applicability.

Arguments heard recommendations reserved.

*Sh*

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

*J.S.*

**J.S.KOCHAR  
MEMBER**

*Justice Anil Kumar*

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

TRUE COPY

Secretary



Received  
copy  
Mukul  
15/9/16



08/09/2016

**B-43****Rockfield Public School, Sector-3, Rohini, New Delhi.**

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

Arguments heard. Calculation sheet perused. The authorized representatives of the school submit that the school is not pressing for any claim for further hike in tuition fee over and above the fee hike allowed by the order dated 11/02/2009 issued by the Director of Education.

Recommendations reserved.

24  
Dr. R.K. SHARMA  
MEMBER

J.S. KOCHAR  
MEMBER

Justice Anil Kumar  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY  
Secretary



08/09/2016

PDF Compressor Free Version

B-185Chinmaya Vidyalaya, Vasant Vihar, New Delhi.

Present: Dr. Abijit Bose, Principal, Mrs. Sarojini Gaur, Accountant and Sh. Krishnan Raju Nair, School Administrator of the school.

The authorized representatives have been provided copy of the calculation sheet which apparently shows that some amount is refundable by the school on account of fee hike in excess of its requirement for implementation of VI Pay Commission. Copy of calculation sheet have been provided to the authorized representatives for response by the school, if any. Matter is listed for further hearing on 25/10/2016 at 11.00 a.m.

24  
Dr. R.K. SHARMA  
MEMBER

J.S.KOCHAR  
MEMBER

Justice Anil Kumar  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

Secretary



08/09/2016

PDF Compressor Free Version

B-236

Maharaja Agarsain Adarsh Public School, Pitampura, New Delhi.

Present: Ms. Harsh Arya, Principal, Sh. Lalit, Accountant, Ms. Aruna, Office Supdt. And Ms. Neha, PGT Acctts. Of the school.

The committee has perused the circulars dated 16/02/2009 and 19/02/2009 issued by the school to the parents of the students regarding fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the two circulars, the school hiked the tuition fee of classes pre school to VIII @ Rs. 200 per month and for classes IX to XII @ Rs. 300 per month w.e.f. 01/09/2008. Accordingly, the arrears of the seven months period i.e. 01/09/2008 to 31/03/2009 were recovered.

Perusal of the circular dated 19/02/2009 further reveals that the parents were asked to pay development charges @ Rs. 150 per month in addition to the annual charges. However, the fee schedule filed by the school under section 17(3) of Delhi School Education Act, 1973 with the Director of Education, a copy of which have been furnished by the school shows no such fee. The Committee has perused the books of accounts of the school and observes that the total amount recovered as development fee in 2009-10 to the tune of Rs. 21,45,199 but the same was clubbed in the Income & Expenditure Account with the annual charges and the aggregate was shown as Rs. 60,09,162.

Further, the school recovered the sum of Rs. 20,20,875 in 2010-11 as development fee which also be shown as revenue receipt in the accounts.

It is submitted that the school implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009. However, the arrears for the period 01/01/2006 to 31/03/2009 were not fully paid but were paid to the extent of collection of arrear fee. The school has furnished copies of bank statements showing the payment of arrear salary through direct bank transfer. The school has furnished the detail of its accrued liability of gratuity and leave encashment as on 31/03/2010. As per the details submitted, the liability of gratuity was Rs. 61,97,398 and that for leave encashment was Rs. 26,98,437. The school has also furnished copies of the account for Shree Aggarwal Dharmshala Trust Regd. for the period 01/04/2006 to 31/03/2011. Perusal of the same shows that the school transferred a sum of Rs. 25.00 lacs to the trust in the year 2007-08, Rs. 5.00 lacs in the year 2008-09 and Rs. 16,10,000 in the year 2009-10.

TRUE COPY

Secretary





08/09/2016

PDF Compressor Free Version

B-188

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

Present: Sh. Om Prakash, Sh. Anil Jain and Sh. Keshav. Officer staff of the school.

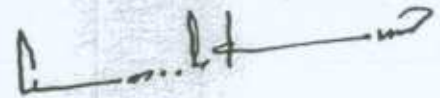
The authorized representatives have been provided copy of the calculation sheet which apparently shows that some amount is refundable by the school on account of fee hike in excess of its requirement for implementation of VI Pay Commission. Copy of calculation sheet have been provided to the authorized representatives for response by the school if any. Matter is listed for further hearing on 25/10/2016 at 11.00 a.m.



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



**J.S. ROCHAR**  
MEMBER



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

TRUE COPY

  
Secretary

08/09/2016

PDF Compressor Free Version

**B-231****Vivekanand Public School, B Block, Anand Vihar, New Delhi.**

Present: Sh. Sunil Khanna, Manager and Sh. Manu Luthra, CA of the school.

The Committee has perused the circular dated 21/02/2009 issued to the parents of the students regarding fee hike in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school had hiked the tuition fee for classes nursery to X @ Rs. 300 per month w.e.f 01/09/2008. For classes XI & XII without computer science, the hike was Rs. 400 per month and for classes with computer science the hike was Rs. 500 per month. Accordingly, the arrears recovered for seven months period i.e. from Sept. 2008 to March 2009 @ Rs. 2100/2800/3500 per student. The school also demanded the lump sum arrear fee for the period 01/01/2006 to 31/08/2008 @ of Rs. 3000/3500/4500 per student, as provided in the order dated 11/02/2009.

However, in the statement of fee and salary filed by the school in response to the Committee's notice dated 13/05/2015, the arrear fee recovered for the period 01/01/2006 to 31/08/2008 has been shown as nil. The authorized representatives submit that the same were not insisted upon by the school on account of protest by the parents. They further submit that even the arrears for the period 01/09/2008 to 31/03/2009 were also paid by a few students.

The school has also treated development fee as revenue receipt in its book. The authorized representatives of the school submit that it is merely an accounting error since the fee collected on this account is meant for capital receipt.

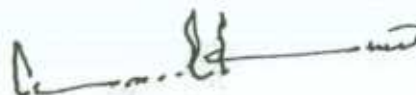
At this stage, the Committee has noticed a complaint filed by one Ms. Upma Saxena, BU-55, SFS Flats, Pitampura, Delhi (Mobile No. 9818447028). The complaint was received on the official Email ID of the Committee. A copy of the complaint has been given to the authorized representatives of the school for its response in writing. **Matter will be heard on 25/10/2016 for which date the notice will also be issued to the complainant.**



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



**J.S. KOCHAR**  
MEMBER



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

TRUE COPY

  
Secretary




08/09/2016

PDF Compressor Free Version

...sheet to be prepared. Matter will come up for further hearing on 27/10/2016 at 11.00 a.m.

Dr. R.K. SHARMA  
MEMBER

J.S. KOCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

Secretary





PDF Compressor Free Version

B-255


Banasthali Public School, Vikas Puri, Delhi

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

In response to the calculation sheet prepared by the Committee, the school has filed its own calculation sheet to show that the school did not have surplus funds which need to be refunded out of the arrear and incremental tuition fee in pursuance of order dated 11.2.2009 issued by the Directorate of Education. The Committee has perused the calculation sheet filed by the school in which the school is claiming an additional amount of Rs,30,11,798 as arrears which are still payable on account of implementation of 6<sup>th</sup> Pay Commission. No other figure in the calculation sheet prepared by the Committee is disputed

In so far as the development fee is concerned, the authorized representatives of the school contend that the treatment of development fee as revenue receipt was merely an accounting error and the Committee ought to consider the expenses incurred out of the development fee for which the school has furnished the details. The Committee observes that the school is claiming expenditure on repair and maintenance of building and furniture, out of development fee for the years 2006-07 to 2010-11 and such expenditure is more than the aggregated development fee collected by the school during these years. Moreover these expenses have already been charged in Income and Expenditure account for the respective years.

Arguments heard . Recommendations reserved.

  
Dr.R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



PDF Compressor Free Version

B-435

Ramjas School, Pusa Road, Delhi Delhi

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

The authorized representatives of the school have furnished the detail of Rs.980 charged as arrears of development fee for the period 01.09.2008 to 31.03.2009. They contend that the arrears of development fee were recovered @15% of the tuition fee and this was permitted by the order dated 25<sup>th</sup> Feb. 2009 issued by the Directorate of Education. A copy of the order is filed by the school.

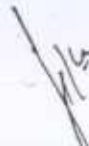
As per the copies of the fee bills filed by the school, the school recovered arrears of tuition fee @ Rs.2800 per student separately and the arrears of development fee @ Rs. 980 per student subsequently. The fee bills for the two recoveries were made in the years 2008-09 and 2009-10 separately. However, in the statement of fee and salary filed by the school under cover of its letter dated 15.07.2015, the recovery of arrears of development fee has been shown as nil. The statement is not in confirmity with the copies of the fee bills filed by the school. The representatives of the school seek sometime to furnish a revised statement.

With regard to accrued liability of gratuity, the school submitted vide its letter dated 15.07.2015 that the same is taken care by the LIC, the school having taken a group gratuity policy. However, the details of accrued liability for leave encashment as on 31.3.2010 have not been filed. The same may be filed within 2 weeks.

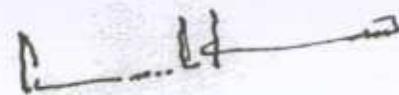
Matter to come up for further hearing on 27<sup>th</sup> October 2016 at 11.00 A.M.



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



**J.S.KOCHAR**  
MEMBER



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

TRUE COPY

Secretary





M.M. Public School, Pitampura, Delhi

PDF Compressor Free Version

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

The Committee has perused the circular dated 09<sup>th</sup> Feb. 2009 issued by the school to the parents of the student for increase in fee for implementation of recommendations of the 6<sup>th</sup> Pay commission. As per the circular the school charged the tuition fee @ Rs.300 for students of all the classes w.e.f. Sept. 2008. Accordingly arrears for the period Sept. 2008 to March 2009 were recovered @ Rs.2001 per student. Additionally the school also recovered lump sum arrear fee @ Rs. 3000 per student.

The Committee has examined the original fee schedule of the school for the year 2008-09. As per this schedule, the existing tuition fee at the time of fee hike for classes 1<sup>st</sup> to 5<sup>th</sup> was Rs. 1000 and for classes 6<sup>th</sup> to 8<sup>th</sup> it was Rs.1100 p.m., for classes 9<sup>th</sup> & 10<sup>th</sup> it was Rs.1250 per month and for classes 11<sup>th</sup> & 12<sup>th</sup> it was Rs.1430 per month. As per the order dated 11.2.2009, the hike in tuition fee allowed to the school where existing tuition fee was Rs.501 to Rs. 1000 was @ Rs.200 per month while the hike allowed to the school where the existing tuition fee was Rs.1001 to Rs. 1500 per month was Rs.300 per month. However the school hiked the tuition fee for all the classes @ Rs. 300 per month as noticed above.

Similarly the recovery of lump sum arrears, where the existing tuition fee was between Rs. 501 to Rs. 1000 was allowed @ Rs. 2500 per student and where the existing tuition fee was Rs. 1001 to Rs. 1500 per month, the recovery allowed @ Rs. 3000 per student. However the school recovered the lump sum arrear fee from the student for all the classes @ Rs.3000 per student.

The representatives of the school submit that as per order dated 11.2.2009 the schools as a whole were placed in 5 categories and since for some classes the existing tuition fee of Rs. 1001 to 1500 per month, the school as a whole claimed in this category and the fee hike @ Rs.300 per month and recovery of lump sum arrear @ Rs. 3000 per student was justified.

It is significant that the school issued the circular regarding fee hike on 09.2.2009 while the order of the Directorate of Education permitting fee hike was issued on 11.2.2009. The representatives of the school submit that this was on account of clerical mistake.

The school has filed/furnished the requisite information as required by the Committee vide its notice dated 14.5.2015. The school has also furnished reply to the questionnaire issued by the Committee under cover of its letter dated 23<sup>rd</sup> May 2013. It is conceded in the reply to the questionnaire that the school was treating development fee as a revenue receipt and no separate development fund or depreciation reserve fund accounts were maintained. During the course of hearing also authorized representative of the school submit that it is indeed so.

TRUE COPY

Secretary





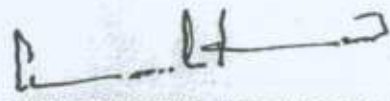


PDF Compressor Free Version

Today the school has furnished copies of the actuarial valuation report certifying the accrued liability of gratuity to be Rs. 14,56,867 and that for leave encashment at Rs. 5,07,896 as on 31.3.2010.

The authorized representatives of the school submit that the fee hike was justified and the school did not even have funds to maintain reserve for future contingencies.

Calculation sheet to be prepared. Matter to come up for further hearing on 27<sup>th</sup> October 2016 at 11.00 A.M.

 <b>Dr.R.K. SHARMA</b> MEMBER	 <b>J.S.KOCHAR</b> MEMBER	 <b>JUSTICE ANIL KUMAR (Retd.)</b> CHAIRPERSON
--	--	--

TRUE COPY

  
Secretary




**PDF Compressor Free Version**

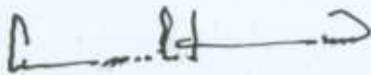
G.D. Salwan Public School, Old Rajinder Nagar, Delhi

Present : Sh. J.N. Chopra, Director, Ms. Seema, Accountant, Sh. Manish, Assistant & Sh. S.N. Dixit, Adviser of the school.

Arguments heard. Recommendations reserved.

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

  
**J.S.KOCHAR**  
**MEMBER**

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

TRUE COPY

  
Secretary



PDF Compressor Free Version

Vidya Public School, Cannought Place, Delhi

An application has been filed on behalf of the school seeking adjournment for a month on account of non availability of the school's Chartered Accountant. On the two previous dates also the school sought an adjournment on account of non availability of chairman and sickness of the chairman.

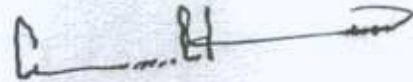
Last opportunity is accorded to the school to appear on 27<sup>th</sup> October 2016 at 11.00 A.M. In case the school does not argue in the matter on the next date of hearing, the Committee will proceed to make its recommendations on the basis of material already on record.



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



**J.S.KOCHAR**  
MEMBER



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

TRUE COPY


  
Secretary

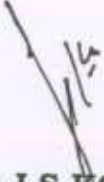


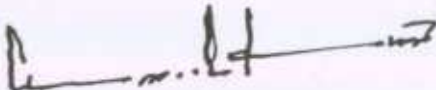
15/09/2016B-145Somerville School, Vasundhara Enclave, New Delhi

Present: Ms. Joby Joseph, Accountant and Sh. Cyril Basil, Office Assistant and Sh. Gulshan Joseph, Accounts Clerk of the school.

None of the complainant is present. The Committee has perused the school's reply to the complaint filed by Ms. A. S. Templeton against the school, and has partly heard the representatives of the school. It is accepted that there was a transfer of Rs. 2,19,56,420 to Somerville School, Sector-132, Noida. It is also accepted that the school had two pre primary schools, one at Vasundhra Enclave and the other is at Darya Ganj which run as feeder school to the main school. In view of these admissions from the representatives of the school, **the school is required to file the information sought by Committee vide notice dated 13/05/2015 for all the school in a consolidated manner giving its break up for the respective schools so as to tally with the audited financials of all the three schools.** The same may be furnished by 10<sup>th</sup> Oct. 2016. Matter will come up for further hearing on 03/11/2016 at 11.00 a.m.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



15/09/2016

000036

**B-525**

**PDF Compressor Free Version**

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

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

The authorized representatives of the school have been provided with a copy of the calculation sheet prepared by the Committee for the comments of the school, if any. List the matter for further hearing on 03/11/2016 at 11.00 a.m.

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

  
**J.S. KOCHAR**  
**MEMBER**

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

TRUE COPY

  
Secretary





B-293

PDF Compressor Free Version

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

Present: Sh. John Thomas, Accountant and Sh. Vinod Singh, Accountant of the school.

The authorized representatives of the school have filed a duly signed statement of fee and salary of the years 2008-09, 2009-10 and 2010-11 and also a statement giving the mode of payment of regular salary for the year 2008-09 to 2010-11. They have also filed a statement showing the accrued liability of leave encashment as on 31/03/2010.

The Committee has examined the circular issued by the school to the parents of the students regarding fee hike effected in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school has hiked tuition fee for all the classes @ Rs. 300 per month w.e.f. 01/9/2008. Besides, the school has also recovered lump sum arrear fee @ Rs. 3,000 per student. The circular do not mention recovery of arrear of development fee. The representatives of the school submit that the school does not charge any development fee. In support, they refer to the fee schedules of the school of 2008-09 and 2009-10 which are filed with the Directorate of Education.

The Committee has perused the statement of fee and salary filed by the school and finds that it does not agree with the audited financials of the school. On examining the audited financials, the Committee has culled out the following figures.

- (i) Total Arrear salary paid for the period 01/01/2006 to 31/08/2008- Rs. 1,08,34,564 ( This has been paid over a period of 4 years from 2009-10 to 2012-13).
- (ii) Total arrear salary paid for the period 01/09/2008 to 31/03/2009- Rs. 55,18,839 ( Paid in the years 2008-09 and 2009-10).
- (iii) Total arrear fee recovered for the period 01/01/2006 to 31/08/2008- Rs. 52,01,235
- (iv) Total arrear fee recovered for the period 01/09/2008 to 31/03/2009 - Rs. 40,39,500 ( These recoveries have also been effected over a period of two years.)

Besides the normal fee recovered by the school, rose from Rs. 2,67,78,310 in 2008-09 to Rs. 3,44,08,701 in 2009-10 as a result of fee hike. The normal salary and contribution to PF etc. rose from Rs. 1,96,05,079 in 2008-09 to Rs. 3,08,55,623 in 2009-10 on account of implementation of the recommendations of the VI Pay Commission. The school has furnished audited balance sheet of the society. It is






15/09/2016

000033  
8-293

submitted that there is no separate balance sheet of the school.  
PDF Compressor Free Version  
All the funds available with the school as on 31/03/2008 to be determined on the basis of the balance sheet of the society.

**Calculation sheet to be prepared.** List the matter for further hearing on 03/11/2016 at 11.00 a.m.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



15/09/2016

000039


**B-156**

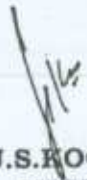
**PDF Compressor Free Version**

**Ryan International School, Vasant Kunj, New Delhi**

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

The authorized representatives appearing for the school have been provided with a copy of the calculation sheet prepared by the Committee, as the same prima facie shows some amount to be refunded by the school. **The school may furnish its comments in rebuttal of the same.** Matter will come up for further hearing on 03/11/2016 at 11.00 a.m.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. ROCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary





15/09/2016

000043

B-345

PDF Compressor Free Version

Ryan International School, Gharauli, Mayur Vihar, New Delhi

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

The Committee has perused circular dated 27/02/2009 issued by the school to the parents of the students for fee hike in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school hiked the tuition fee @ Rs. 300 per month and development fee @ Rs. 274 per month w.e.f. 01/09/2008. Accordingly, recovered the arrear fee @ Rs. 4,018 per student for the seven months period w.e.f. 01/09/2008 to 31/03/2009. The school also recovered lump sum arrear fee @ Rs. 3,000 per student to cover the payment of arrear salary for the period 01/01/2006 to 31/08/2008.

At the outset, the Committee required from the representatives of the school as to how development fee be increased as Rs. 274 per month when the increase in tuition fee was only Rs. 300 per month. The hike in development fee as a percentage of hike in tuition fee works out 91.33 percent. The school was originally charging development fee @ 10% of the annual tuition fee. The authorized representative Sh. Louis Rodrigues appeared for the school concedes that the hike in development fee should have been restricted to 10% of tuition fee and the extent it is charged more than 15% was not in accordance with the permission granted by the Director of Education under section 17(3) of the Delhi School Education Act, 1973 vide order dated 11/02/2009.

So far as regular development fee is concerned, the school replied to the questionnaire issued by the Committee that it was treating development fee as a revenue receipt. Although it is also stated that the school was maintaining a separate depreciation reserve fund account and unutilized development fund was parked in an earmarked fund account. In view of the apparent contradiction, the Committee sought a clarification from the authorized representative and they submit that the earmarked fund account was started only in the year 2011-12.

The school has also filed yearwise details of payment of arrears from 2009-10 to 2014-15 along with copies of the bank statements reflecting the payments. It is submitted initially that the school did not pay the arrears in full, but subsequently the staff of the school filed a petition in the Hon'ble Delhi High Court which by its judgment dated 12<sup>th</sup> August 2013 directed to the school to make full payment along with interest @ 6%. It is submitted that now the entire arrear payment which was due to the staff has been paid.

TRUE COPY

Secretary





15/09/2016

000041

B-345

The school has furnished the details as required by the Committee's Notice dated 13/05/2015. The authorized representatives of the school submit that there are no transaction with the school and its parent society. **Calculation sheet to be prepared. Matter will come up further hearing on 03/11/2016 at 11.00 a.m.**

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



15/09/2016

B-342

Rishab Public School, Mayur Vihar, New Delhi

Present: Sh. Hariom, employee of the Chartered Accountant of the school.

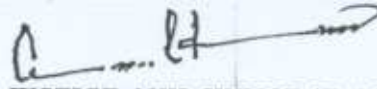
Despite last opportunity given to the school on 01/09/2016, another application has been filed for adjournment on account of the CA of the school is suffering from fever. In the interest of justice and in view of the circumstances prevailing in the city, one more opportunity is given to the school. Matter will come up for hearing on 27/10/2016 at 11.00 a.m.

24

Dr. R.K. SHARMA  
MEMBER




J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



PDF Compressor Free Version

B-187

Balwantray Mehta Vidya Bhawan, Greakter Kailash-II, Delhi

Present :Gp. Capt. SC Bahri, Director, Ms. Alka, Accountants and Sh. Peeyush, Admn. of the school.

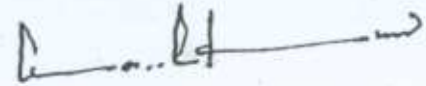
The authorized representatives of the school appeared before the Committee and they have provided with a copy of calculation sheet as apparently the fee hike effected by the school does not appear to be justified. **The school may file written submission in rebuttal of the same, if any. Matter to come up for further hearing on 8<sup>th</sup> Nov. 2016 at 11.00 A.M.**



Dr.R.K. SHARMA  
MEMBER

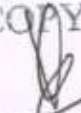


J.S.KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary

PDF Compressor Free Version

C.L. Bhalla Dayanand Model School, Karol Bagh, Delhi

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

The school has not complied with the previous order of the Committee dated 11<sup>th</sup> Aug. 2016. Neither any clarity about the arrear fee recovered from the school nor the balance sheet filed by the school is intelligible and cover the entire period of 2006-07 to 2010-11 which is under examination by the Committee.

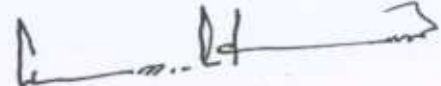
In the interest of justice the school is given one more opportunity to comply with the order dated 11<sup>th</sup> Aug. 2016 and file balance sheet of both the main school as well as pupil fund for the years 2006-07 to 2010-11 with proper indexing of the copies. Matter to come up for hearing for 8<sup>th</sup> Nov. 2016 at 11.00 A.M.



Dr.R.K. SHARMA  
MEMBER




J.S.KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary

**B-389****PDF Compressor Free Version****B.G.S. International Public School, Sec.5, Dwarka, Delhi**

Present : Ms. Punam Gupta, Principal, Sh. Boregowda, Accountant & Sh. Mubarak Hussain, A/c. Assistant of the school.

The authorized representatives of the school had filed the required documents as per order dated 22.8.2016 of the Committee. They have filed the break up of annual fee and annual charges as appearing in the receipt and payment account of the school for the year 2009-10. In addition to the receipt in 2009-10 the school also had certain fee receipt in advance in 2008-09 which also had a component of annual charges. Consequently the figures reflected in the receipt and payment account and in the Income and Expenditure Account are variance of each other. The school did not file break up of annual fee and annual charges for the year 2009-10 as reflected in the Income and expenditure account of the school. This will be done within one week. The authorized representatives have reiterated that the school had implemented the recommendations of 6<sup>th</sup> Pay Commission we..f. 01.6.2009 and did not pay any arrear salary for any period prior to that. Therefore the school did not recover any arrear fee also from the students as provided in the order dated 11.2.2009 of the Director of Education. They submit that the annual charges recovered only in the year 2009-10, as the school was in the process of expanding the school building and the amount was utilized for this.

Calculation sheet to be prepared with reference to the balance sheet as on 31.3.2009 and the information about incremental fee hike and salary hike, as furnished by the school. The school has already furnished the statement of its accrued liability and leave encashment and gratuity as on 31.3.2010.

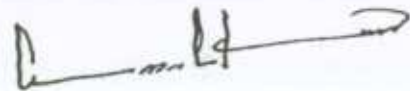
Matter to come up for further hearing on 8<sup>th</sup> Nov. 2016 at 11.00 A.M.



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



**J.S.KOCHAR**  
MEMBER



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

TRUE COPY

Secretary





PDF Compressor Free Version

Happy School, Darya Ganj, Delhi

Present : Sh. Suresh Sharma, Accountant and Sh. P.C. Pandey, Office Incharge of the school.

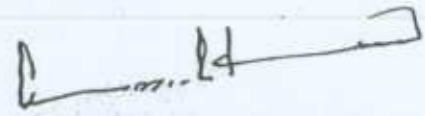
Hearing adjourned to 8<sup>th</sup> Nov, 2016 at 11.00 A.M. as the calculation sheet is not yet ready.



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



**J.S. KOCHAR**  
**MEMBER**



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

TRUE COPY

  
Secretary

20.09.016

**B-65****Sumermal Jain Public School, Janak Puri, Delhi**

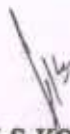
Present :Dr. G.K. Kanwal, Manager, Sh. Rupesh Jaipuria, Office Supdt. & Sh. Deepak Singhal, Auditor of the school.

The school has filed written objections dated 2<sup>nd</sup> Sept. 2016 and the representatives of the school have been heard.

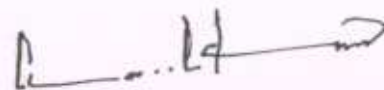
Recommendations reserved.



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



**J.S.KOCHAR**  
**MEMBER**



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

TRUE COPY



Secretary



PDF Compressor Free Version

Notre Dame School, Badarpur, Delhi

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

The Committee has perused the circular dated 26.2.2009 issued by the school to the parents of the students regarding fee hike pursuant to the order dated 11.2.2009 issued by the Director of Education. The school charges differential fee from the students whose parents are working with NTPC and those who don't. It is submitted that the school is located on the land provided by the NTPC and therefore certain concessional fee is allowed to its employees for their children. As per the circular, the school hiked tuition fee @ Rs.200 p.m. for the students of all the classes of non NTPC category, except for class 11 with science commerce ( with computer) and humanities and for which the fee hike was @ Rs. 300 p.m. w.e.f. 01.09.2008. Arrears for 7 months recovered accordingly. For students of the NTPC category the hike was at the tune of Rs.100 per month for the students of pre and pre primary & Rs. 200 per month for the students of all other classes. Arrears for 7 months were recovered accordingly. Besides, the school also recovered the lump sum fee as provided in the order of the Directorate of Education to cover the payment of arrears for the period 01.01.2006 to 31.08.2008. The circular does not mention anything about the arrears of development fee. However, the representatives of the school contend that school did recover arrears of development fee initially but subsequently refunded the same to the student through a/c payee cheques. They have produced copies of the bank statement showing the refund of arrear of development fee.

The school had furnished the information required by the Committee vide its notice dated 14.3.2015 under cover of its letter dated 14.9.2015, the same has been perused by the Committee. It is submitted that the school transferred sum of Rs. 31,47,967 for the development fund account for payment of arrears salary, as the school was in deficit to that extent, even after the fee hike, The school has submitted statement giving details of transaction with its parent society from 2006-07 to 2010-11, which shows minimal transaction during the year 2010-11 on account of TDS. The representatives of the school submit that the school has taken group gratuity policy of Life Insurance Corporation of India to which it contributes the liability accrued for the period every year, there are certain staff such as nuns who are not covered with the policy and hence the school has an accrued liabilities of gratuity and leave encashment, which the school has Rs. 39,31,456 and Rs. 34,98,758 respectively as on 31.3.2010. However the school has not furnished employee wise details of such accrued liabilities, which authorized representatives undertake to submit within two weeks

TRUE COPY





**PDF Compressor Free Version**

The school has filed written submission dated 1.9.2016 contending in it that since the school is minority institution, it is not subject to regulation of fee hike by Directorate of Education and in support of this the school has mentioned two judgment of Hon'ble Supreme Court in the cases T.M.I. Pai Foundation & Vs. State of Karnataka and Ors. and Pramati Educational & Cultural Trust & Ors. Vs. Union of India and Ors. The school has also furnished certificate issued by the Minority Commission which states that the school has been declared as a minority education institution by order 17th Oct. 2014.

With regard to development fee the school in its reply to the questionnaire issued by the Committee the authorized representatives of the school stated that development fee is treated as capital receipt and earmarked funds are maintained for development fund and depreciation reserve fund. On perusal of the balance sheet of the school, it appears that although development fund was treated as a capital receipt, fund accounting with regard to development fund and depreciation reserve fund was rectified during 2010-11. As on 31.3.2011 the final picture after the necessary rectifications that emerges as there is an unutilized development fund amounting to Rs. 65,83,592, while there is no depreciation reserve fund in the books of the school, the same having been merged into capital fund. The representatives submit that since there was no effective charge depreciation on the revenue of the school, the school was not required to maintain any earmarked in accounts of investments for depreciation reserve fund. With regard to unutilized development fund they submit that while there was no specific allocation of development fund, the school had ample funds to cover the same as total investment of the school as on 31.3.2011 were to the tune of Rs.3,29,98,386.

Calculation sheet to be prepared after the receipt of the required information. Matter to come up for further hearing on 8<sup>th</sup> Nov. 2016 at 11.00 A.M.

04/11/16

SOSWIL KUMAR

qf

Dr.R.K. SHARMA  
MEMBER

J.S.KOCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

Secretary



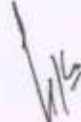
21.09.2016B-414Jindal Public School, Dashrath Puri, Dwarka, Delhi.

Present : Sh. Uttam Singh, Principal, Sh. Manava Prem, CA, Sh. Arvind Kumar Singh, Accountant and Sh. Banne Singh, UDC of the school.

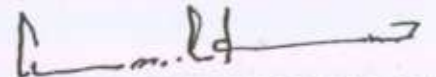
The information furnished by the school vide of its letter dated 11.6.2015 is ex facie incorrect and does not match with the the records produced by the school. The authorized representatives of the school seek some time for furnishing a correct statement. It is contended that a sum Rs. 49,55,601 was paid as arrears through individual cheques to the employees. The school will furnish a certificate issued by its bank specifying as to how the payment of these cheques were made i.e. whether through clearing or by transfer or in cash. As per the copy of the circular dated 26 Feb. 2009 filed by the school regarding fee hike, it appears that the hike in development fee was much more than 10% of the tuition fee, which the school was charging during the year 2008-09. In fact, the arrears of development fee recovered was around 36% of the tuition fee recovered by the school for the period 01/01/2006 to 31/03/2009. The school will furnish the justification for the same. The authorized representatives of the school also seek time to furnish details of accrued liabilities of gratuity and leave encashment as on 31/03/2010. The information and documents as detailed above may be furnished within three weeks. Matter to come up for hearing on 09/11/2016 at 11.00 a.m.



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



**J.S. KOCHAR**  
MEMBER




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

TRUE COPY



Secretary



Copy Received  
  
 07/10/16  
 Banne Singh



21.09.2016

B-387

PDF Compressor Free Version

Jinvani Bharti Public School, Sector -4, Dwarka, Delhi.

Present : None

A notice dated 18/07/2016 was sent to the school for hearing on 22/08/2016 at 11.00 am. However no one appeared on behalf of the school, despite the matter was called twice. In the interest of justice, a fresh notice was issued to the school for hearing on today i.e. 21/09/2016 at 11.00 a.m. The matter was called in the morning session. However no one appeared on behalf of the school. In the noon session also the matter was called but no one appeared. In the mean time the office of the Committee contacted the school telephonically but no satisfactory explanation was given by the school for non appearance. In view of this, the committee is of the view that the school has not actually implemented the recommendations of VI Pay Commission as per the records. The school has admittedly hiked its fee in 2009-10 in pursuance of order dated 11/02/2009 w.e.f. 01/04/2009 @ Rs. 400 per month for pre school and @ Rs. 300 per month for all other classes upto XII. This is different from the comparative chart of tuition fee filed by the school along with its reply to the questionnaire furnished in the cover of its letter dated 12/11/2013.

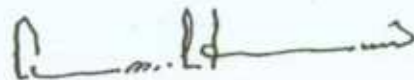
Since in view of the Committee, the school has not implemented the recommendations of VI Pay Commission, the school ought to refund the fee hike effected w.e.f. 01/04/2009 to the extent such hike exceeds 10% of the fee over the fee charged in 2008-09. Since the hike in tuition fee effected 2009-10 would also form part of the fee for the subsequent years, the fee for the subsequent years to the extent it relates the fee hike in 2010-11 ought also be refunded. These refunds ought to be made along with interest @ 9% per annum from the date of collection to the date of refund.



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



**J.S. KOCHAR**  
MEMBER



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

TRUE COPY

  
Secretary

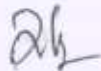



PDF Compressor Free Version

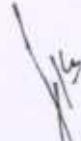
21.09.2016B-402Gitaratthan Jindal Public School, Sector -7, Rohini, Delhi.

Present : Sh. R.N. Jindal, Chairman and Ms. Seema Gupta, Office Assistant of the school.

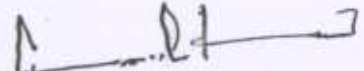
The authorized representatives of the school seek some time as the accountant of the school is unwell. The school will also furnish the break up of the salary in the format given to it, vide notice dated 18/07/2016. They undertake to submit the information as per the format within two weeks. Matter will come up for hearing on 09/11/2016 at 11.00 a.m.



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




**J.S. KOCHAR**  
**MEMBER**



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

TRUE COPY

  
Secretary

21.09.2016

000053

PDF Compressor Free Version

B-476

J.D. Tytler School, New Rajinder Nagar, Delhi.

Present : Sh. J.G. Babbar, Chief Accounts Officer, Sh. Manish Kumar, Advocate, of the school.

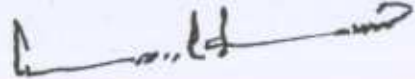
The authorized representatives of the school have furnished the details of its accrued liability of gratuity and leave encashment as on 31/03/2010. The liability of gratuity quantified at Rs. 2,59,43,519 and that for leave encashment at Rs. 35,40,475. They also submit that the school does not have transactions with its parent society and therefore no statement of account of the society in the books of school exists. They further submit that in the light of the financials, the fee hike effected by the school was justified particularly as the school paid a sum of Rs. 96,44,131 as arrear salary for the period Sept. 2008 to March 2009 out of its own resources and did not recover any arrear fee. Arguments heard. Recommendations reserved.



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




**J.S. KOCHAR**  
MEMBER



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

TRUE COPY

  
Secretary

21.09.2016**B-348****PDF Compressor Free Version**Ahlcon International School, Mayur Vihar Phase-I, Delhi.

Present : Ms. Anita Negi, Accounts Assistant of the school.

The Committee has perused the circular dated 01/4/2009 issued by the school to the parents of the students regarding fee hike. As per the circular, the school hiked the tuition fee w.e.f. 05/09/2008 @ Rs. 300 per month for students of classes Nursery to X and @ Rs. 400 per month for students of classes IX and XII. Accordingly the arrears for seven months period were recovered. Besides, the school also recovered lump sum fee arrears @ Rs. 3000/3500 per student for the period 01/01/2006 to 31/08/2008. It is submitted by the authorized representative appearing for the school, though the school was charging development fee but no arrears of the same for the period 01/09/2008 to 31/03/2009 were recovered.

With regard to implementation of the recommendations of VI Pay Commission, she submits that the school implemented the recommendations of VI Pay Commission and started paying the increased salary w.e.f. 01 April 2009 and the payment of arrears for the period 01/01/2006 to 31/03/2009 was staggered and the final payment came to be made in 2013-14. The total amount of arrears were paid Rs. 1,27,13,699 for the period 01/01/2006 to 31/08/2008 and Rs. 73,61,253 for the period 01/09/2008 to 31/03/2009.

The school has filed statement of account of Shanti Devi Progressive Education Society for the period 01/04/2006 to 31/03/2011. The same reflects frequent transactions between the school and society. The opening balance of the society in the books of the school was Rs. 7,97,92,646 as on 01/04/2006 which went down to Rs. 6,12,25,553 as on 31/03/2011 as a result of multifarious transactions of receipts and payments, indicating that funds to the tune of Rs. 1,85,67,093 were transferred to the society during this period.

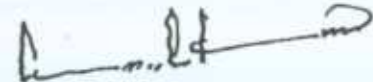
The school has also furnished details of its accrued liability of gratuity as on 31/03/2010 which amounts to Rs. 51,82,967. No details of accrued liability of leave encashment filed. The authorized representative seeks some time to file the same. The same may be filed within 10 days. Calculation sheet to be prepared thereafter. Matter to come up for further hearing on 09/11/2016 at 11.00 a.m.



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



**J.S. ROCHAR**  
MEMBER



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

TRUE COPY



Secretary





21.09.2016B-249G.D. Goenka Public School (Formerly St. Martin's Public School)  
A-2, Paschim Vihar, New Delhi.

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

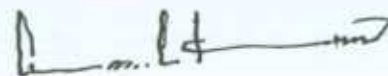
The school has furnished copy of the circular regarding fee hike for nursery and prep. as was required in the last hearing. It has also furnished the details of utilization of development fund. The authorized representative of the school has produced a pass book of its bank account with Punjab National Bank earmarked for development fund. The outstanding balance of this account as on 31/03/2010 was Rs. 4,70,403 and Rs. 5,00,938 as on 31/03/2011. It is submitted that development fee collected is transferred every month to this account and is utilized for the permitted purposes. However, the details of utilization of development fee filed today shown as a sum of Rs. 34,65,815 was collected as development fee in the year 2009-10, the whole of which was utilized for the purpose of repayment of bank loan and outstanding creditors for the purpose of additions to building. Similarly, sum of Rs. 89,62,395 was collected as development fee in the year 2010-11, the whole of which was utilized for repayment of bank loan taken for building construction. Rest of the information required by the Committee for the purpose of making relevant calculation, are already on record. Calculation sheet to be prepared. Matter to come up for further hearing on 09/11/2016 at 11.00 a.m.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

Secretary



PDF Compressor Free Version

**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF  
SCHOOL FEE, NEW DELHI**  
(Formerly Justice Anil Dev Singh Committee for review of school Fee)

**In the matter of:**

**Holy Child Auxilium School, Vasant Vihar, New Delhi-110057**  
**(B-186)**

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

**Recommendations of the Committee**

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school). The school submitted its reply under cover of its letter dated 21/03/2012, vide which it stated as follows:

- (a) The School had implemented the recommendations of VI Pay Commission and the increased salary of the staff were being paid w.e.f. 01/09/2009.
- (b) The school had paid arrears consequent to implementation of VI Pay Commission report for the period 01/01/2006 to 31/08/2009.
- (c) The school had increased the fee in terms of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/04/2009.
- (d) The school recovered one time arrear fee @ Rs. 1250 for classes KG to V and Rs. 1500 for classes VI to XII. The total collection of arrear fee was Rs. 34,58,250.

Holy Child Auxilium School, Vasant Vihar, New Delhi/Recommendation/B-186

**TRUE COPY**

Secretary





PDF Compressor Free Version

The details of salary paid to the staff for the months of August 2009 and September 2009 were furnished to show the incremental expenditure. As per the reply filed by the school, it appeared that the school had not recovered any arrear fee for the period 01/09/2008 to 31/03/2009 and also recovered one time lump sum fee @ 50% of the amount that was permitted vide order dated 11/02/2009 issued by the Director of Education.

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

The Committee issued a notice dated 13/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment, a copy of the circular issued

TRUE COPY

Secretary





PDF Compressor Free Version

to the parents regarding the fee hike. The school was also issued a questionnaire regarding development fee.

In response to the notice issued by the Committee, the school vide its letter dated nil, which was received in the office of the Committee on 11/07/2016 furnished the required information and documents.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 23/06/2016 for hearing on 04/07/2016. The authorized representatives of the school were heard by the Committee and the information, documents and the records of the school were examined.

As per the circulars dated 18/02/2009 and 24/04/2009 issued by the school to the parents regarding fee hike in pursuance of order dated 11/02/2009 issued by the Director of Education, the school hiked the tuition fee w.e.f. 01/09/2008 @ Rs. 200 per month and development fee @ Rs. 30 per month for classes KG to V class, besides recovering the lump sum fee as provided in the order dated 11/02/2009. For classes VI to XII, the hike in tuition fee was to the tune of Rs. 300 per month and that in development fee it was Rs. 45 per month. The hike in development fee was @ 15% of the hike in tuition fee. The Committee has examined the fee schedule of the year 2008-09 and observes that originally also the development fee was recovered by the school @ 15% of the tuition fee. This contradicted the earlier submission of the school vide its reply dated 21/03/2012 to the questionnaire issued by the Committee. The authorized representatives of the school filed actuarial valuation report of Sh. M.L. Sodhi, Consulting Actuary who estimated the Holy Child Auxilium School, Vasant Vihar, New Delhi/Recommendation/B-186

TRUE COPY

Secretary



PDF Compressor Free Version

accrued liability of leave encashment of the school at Rs. 11,71,663 and Rs. 1,11,48,778 for gratuity as on 31/03/2010. They submitted that the school needed to keep sufficient funds in reserve to meet these liabilities. They also submitted that the school also has to keep funds in reserve for any future contingencies and like in the case of other schools, the sum equivalent to 4 months of salary ought to be set aside out of the available funds and only the remaining amount should be considered as available for meeting the additional liabilities arising on account of implementation of the recommendations of VI Pay Commission. The representatives of the school also submitted that there were no transaction between the school and its parent society.

The Committee has considered the submissions made by the representatives of the school and is of the view that the contentions of the school with regard to maintenance of sufficient funds to cover the accrued liabilities of gratuity, leave encashment and future contingencies need to be accepted accordingly they shall be duly factored in while making the relevant calculations.

Based on the information submitted by the school as well as its audited financials, a calculation sheet was prepared by the Committee taking the basis as the audited balance sheet as on 31/03/2008, as the school hiked the fee w.e.f. 01/09/2008. The calculation sheet is as follows:

TRUE COPY

Secretary





PDF Compressor Free Version

Statement showing Fund available as on 31.03.2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars	Amount (Rs.)	Amount (Rs.)
	<u>Current Assets + Investments</u>		
	Cash in Hand	8,777	
	Cash at Bank	4,419,183	
	Fixed Deposits	5,000,000	
	Staff Loans & Advance	133,000	9,560,960
<b>Less</b>	<u>Current Liabilities</u>		
	Caution Money refundable	514,715	514,715
	<b>Net Current Assets (Funds Available)</b>		<b>9,046,245</b>
<b>Less</b>	<b>Reserves required to be maintained:</b>		
	for future contingencies (equivalent to 4 months salary)	10,236,884	
	for accrued liability towards Leave Encashment as on 31.03.2010	1,171,663	
	for accrued liability towards Gratuity as on 31.03.2010	11,148,778	22,557,325
			<b>(13,511,080)</b>
	<b>Funds available for implementation of 6th Pay Commission before Fee hike</b>		
<b>Less</b>	<b>Total Liabilities after implementation of 6th Pay Commission:</b>		
	Arrear of Salary as per 6th CPC	11,619,792	
	Incremental Salary for 2009-10 (as per calculation given below)	9,331,669	20,951,461
	<b>Excess / (Short) Fund Before Fee Hike</b>		<b>(20,951,461)</b>
<b>Add</b>	<b>Total Recovery after 6th Pay Commission</b>		
	Arrear of tuition fee	5,812,061	
	Arrear of Development fee	1,025,658	
	Incremental tuition fee for 2009-10 (as per calculation given below)	6,422,481	13,260,200
	<b>Excess / (Short) Fund After Fee Hike</b>		<b>(7,691,261)</b>

**Working Notes:**

	<b>2008-09</b>	<b>2009-10</b>
Normal/ regular salary as per I & E A/c	21,378,983	30,710,652
<b>Incremental salary in 2009-10</b>	<b>9,331,669</b>	
	<b>2008-09</b>	<b>2009-10</b>
Normal/ Regular Tuition fee as per I & E A/c	35,988,689	42,411,170
<b>Incremental tuition fee in 2009-10</b>	<b>6,422,481</b>	

As per the above calculation sheet, the school had available with it, a sum of Rs. 90,46,245 as on 31/03/2008. However, the requirement of the school to keep funds in reserve was to the tune of Rs. 22,557,325. Thus effectively, the school did not have any funds of its own available to meet the additional liabilities arising on account of implementation of VI

Holy Child Auxilium School, Vasant Vihar, New Delhi/Recommendation/B-186

Page 5 of

TRUE COPY

Secretary





PDF Compressor Free Version

Pay Commission. Therefore, a fee hike had to be effected. Whether the extent of fee hike was justified or not is the question to be determined by this Committee. The additional liabilities of the school for implementing the recommendations of VI Pay Commission have been quantified by the Committee at Rs. 2,09,51,461 upto 31/03/2010. The additional revenue generated by the school by hiking the fee and recovering the arrear fee was of the order of Rs. 1,32,60,200. Thus the school incurred a further deficit to the tune of Rs. 76,51, 261. Therefore even after the fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education, the school could not fully fund its additional liabilities on account of implementation of VI Pay Commission report and was in fact in deficit. The school has not made any claim to be allowed to hike any fee over and above that hiked by it in pursuance of the aforesaid order. The Committee is therefore of the view that the tuition fee hike effected by the school was in order.

**Development Fee:**

In its reply to the questionnaire regarding regular development fee as well as in the fee and salary statement subsequently filed, the school has conceded that it was treating development fee as a revenue receipt and as such no earmarked accounts were maintained for development fund and depreciation reserve fund. The amounts recovered on account of development fee were Rs. 57,81,575 in the year 2009-10 and Rs. 59,50,046 in the year 2010-11. It is also evident from the above calculation sheet that the school was using its development fee for meeting its revenue expenditure including salary. In normal

Holy Child Auxillium School, Vasant Vihar, New Delhi/Recommendation/B-186

Page 6 of

TRUE COPY

Secretary



**PDF Compressor Free Version**

circumstances, the Committee would have recommended refund of development fee for these two years on account of non compliance 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 vs. Union of India ( 2004) 5 SCC 583. However, considering that the school did not have funds in reserve even to cover accrued liabilities of leave encashment and gratuity etc. at threshold, the deficit being to the tune of Rs. 1,35,11,080 which got further accentuated by Rs. 76,91,261 on implementation of the recommendations of VI Pay Commission, the Committee refrains from recommending any part of development fee.


**Recommendations:**

In view of the foregoing discussion, the school is not required to make any refund out of its hiked tuition fee or development fee that was recovered in pursuance of order dated 11/02/2009 issued by the Director of Education.

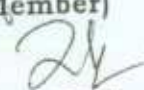
Recommended accordingly.



Justice Anil Kumar (R)  
(Chairperson)



CA J.S. Kochar  
(Member)



Dr. R.K.Sharma  
(Member)

Date: 06/09/2016

TRUE COPY

Secretary





PDF Compressor Free Version

**DELHI HIGH COURT COMMITTEE FOR REVIEW OF  
SCHOOL FEE, NEW DELHI**  
(Formerly Justice Anil Dev Singh Committee for review of school Fee)

**In the matter of:**

**Happy Home Public School, Sector-11, Rohini, Delhi-  
110085 (B-45)**

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

**Recommendations of the Committee**

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

- (a) The School had implemented the recommendations of VI Pay Commission and the increased salary of the staff were being paid w.e.f. 01/07/2009.
- (b) The school had paid arrears consequent to implementation of VI Pay Commission report amounting to Rs.46,47,702 for the period 01/09/2008 to 30/06/2009, Rs.32,66,401 for the period 01/01/2006 to 31/08/2008 in two instalments.
- (c) The school had increased the fee in terms of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/09/2008. As per the annexure filed, the hike in tuition fee was to the tune of Rs.200 per month for classes pre

TRUE COPY

Secretary





PDF Compressor Free Version

Rs.300 per month for classes XI & XII. Accordingly, the arrears for the seven months period i.e. 01/09/2008 to 31/03/2009 were recovered @ Rs. 1400/2100 per student. The arrears of development fee for the same period were recovered at different rates between Rs. 420 per student and Rs.770 per student. Besides, the school also recovered the lump sum fee for the period 01/01/2006 to 31/08/2008 as per the order dated 11/02/2009 of the Director of Education.

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

The Committee issued a notice dated 08/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file

TRUE COPY

Secretary



PDF Compressor Free Version

Statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment, a copy of the circular issued to the parents regarding the fee hike. The school was also issued a questionnaire regarding development fee.

In response to the notice issued by the Committee, the school vide its letter dated 26/05/2015 furnished the required information and documents.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 23/06/2016 for hearing on 07/07/2016. The meeting of the Committee scheduled for 07/07/2016 was cancelled as it was declared a holiday by the Government. The hearing was rescheduled for 22/07/2016 on which date the authorized representatives of the school were heard by the Committee and the information, documents and the records of the school were examined. The school filed copies of its bank statement and also produced its TDS returns to show that the arrears of salary paid by the school were through account payee cheques and proper TDS was deducted and deposited with the government. The school also furnished actuarial valuation report of gratuity issued by M/s Charan Gupta, Consultant Pvt. Ltd., consultant actuaries. The accrued liability in respect of gratuity, as estimated by them was Rs. 17, 73,823 as on 31<sup>st</sup> March 2010.





PDF Compressor Free Version

The Committee perused the circular issued by the school pursuant to order dated 11.2.2009 issued by the Directorate of Education regarding fee hike for purpose of implementation of the VI<sup>th</sup> Pay Commission. It was observed that the information furnished by the school with regard to fee hike pursuant to order dated 11/02/2009 in its reply to the questionnaire was correct. Besides the aforesaid fee hikes w.e.f. 1<sup>st</sup> Sept. 2008, the school also recovered lump sum arrear fee @ Rs.2500/Rs.3000/- per student. The Committee also observed that the arrears of development fee recovered by the school for this period varied between Rs.420/- per student and Rs.770/- per student, which worked out to 30% to 36% of the hike in tuition fee. The authorized representatives of the school contended that the development fee originally charged in 2008-09 was @ 10% of tuition fee. However, the arrears of development fee for the period 01.09.2008 to 31<sup>st</sup> March 2009 were recovered @ 15% of the tuition fee and thus created the anomaly in the ratio of arrears of development fee and arrears of tuition fee.

On perusal of the audited financials of the school, the Committee observed that the school treats the development fee charged by it as a revenue receipt. This position was also confirmed by the reply to the questionnaire issued by the Committee regarding development fee. It was further conceded that no separate depreciation reserve fund or development fund are maintained by the

TRUE COPY

Secretary





PDF Compressor Free Version

The development fee recovered by the school in 2009-10 amounted to Rs.24,32,430/- and Rs.30,61,660 in 2010-11.

Perusal of the balance sheet of the school by the Committee showed that the school had taken loans from different banks to fund its capital expenditure for construction of school building as well as purchase of buses. The repayments of loan and payment of interest were being made from the fee charged from the students. The transport fee charged was more or less fully consumed in the revenue expenditure of running and maintenance of buses.

The authorized representatives sought some time to file the details of its accrued liability on account of leave encashment as on 31<sup>st</sup> March 2010. As requested the school was given liberty to file the same within two weeks. The school vide its letter dated 22/08/2016 filed an actuarial valuation report in respect of its estimated liability on account of leave encashment, which had been certified by the actuaries at Rs.6,91,717 as on 31/03/2010.

The Committee prepared the following calculation sheet in order to assess whether the fee hiked by the school in pursuance order dated 11/02/2009 was justified or excessive or short.

TRUE COPY

Secretary



PDF Compressor Free Version

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.)
	Funds diverted for repayment of loans taken for capital expenditure and interest paid thereon		10,589,626
	<u>Current Assets + Investments</u>		
	Cash in Hand	366,684	
	Cash at Bank	181,113	
	Fixed Deposits with OBC	649,672	
	Prepaid Insurance	88,727	
	Shares of Delhi State Co.Op Bank Ltd.	8,250	1,294,446
<b>Less</b>	<u>Current Liabilities</u>		
	Expenses Payable	777,540	
	AP Enterprises	32,316	
	Security refundable	517,500	
	Panzer Division Security & All	20,538	1,347,894
	Net Current Assets + Investments		(53,448)
	<b>Net Current Assets + Investments + Funds diverted</b>		<b>10,536,178</b>
	<b>Funds available for implementation of 6th CPC</b>		<b>10,536,178</b>
<b>Less</b>	<b>Reserves required to be maintained:</b>		
	for future contingencies (equivalent to 4 months salary) for accrued liability towards Leave Encashment as on 31.03.10	6,008,450	
	for accrued liability towards Gratuity as on 31.03.10	691,717	
		1,773,823	8,473,990
	<b>Funds available for implementation of 6th Pay Commission before Fee hike</b>		<b>2,062,188</b>
<b>Less</b>	<b>Total Liabilities after implementation of VIth Pay Commission:</b>		
	Arrear of Salary as per 6th CPC	6,343,661	
	Incremental Salary for 2009-10 (as per calculation given below)	9,114,779	15,458,440
	<b>Excess / (Short) Fund Before Fee Hike</b>		<b>(13,396,252)</b>
<b>Add</b>	<b>Total Recovery after VI th Pay Commission</b>		
	Arrear of tuition fee	3,032,186	
	Arrear of Development fee	418,738	
	Incremental tuition fee for 2009-10 (as per calculation given below)	3,861,832	7,312,756
	<b>Excess / (Short) Fund After Fee Hike</b>		<b>(6,083,496)</b>

In view of the judgment of the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583 which lays down that the capital expenditure cannot form part of the fee structure of the school, the Committee has considered the repayment of loans to the banks and payment of interest thereon during the year

TRUE COPY

Secretary





PDF Compressor Free Version

2008-09 to 2009-10 out of the School Fund as diversion of funds since the loans were taken for construction of building/purchase of fixed assets like buses. There was no surplus so far as transport fund is concerned as the transport fee and the expenditure on transportation were more or less balanced and no surplus was available therefrom for financing the purchase of buses. Therefore, the Committee has considered the funds so diverted as deemed to be available with the school for the purpose of meeting its additional liabilities on account of implementation of VI Pay Commission report.

As per the above calculation sheet, though the net current assets + investments as on 31/03/2008 were in the negative zone to the tune of Rs.53,488, after considering the funds deemed to be available as discussed above, school had available with it, a sum of Rs. **1,05,36,178** as on 31/03/2008. However, the requirement of the school to keep funds in reserve was to the tune of **Rs.84,73,990**. Thus effectively, the school had available to it a sum of **Rs.20,62,188** to meet the additional liabilities arising on account of implementation of VI Pay Commission. The additional expenditure incurred by the school for implementing the recommendations of VI Pay Commission upto 31/03/2010 was **Rs.1,54,58,440**. Thus the school had a shortfall of **Rs.1,33,96,252** which needed to be bridged by recovery of arrear fee and increased fee which was permitted by the aforesaid order dated 11/02/2009. The arrear fee and the hiked fee recovered by the school aggregated **Rs.73,12,756**. Thus the school was in

TRUE COPY

Secretary





PDF Compressor Free Version

to the tune of Rs.60,83,496 out of tuition fee after implementing the recommendations of VI Pay Commission. This deficit was made up to the extent of Rs.54,94,090 by taking the development fee as a source of its revenue in 2009-10 and 2010-11. The remaining shortfall also must have been met by the school out of its development fee for 2011-12 as the school has not made any claim for being allowed a further fee hike in addition to hike allowed to it by order dated 11/02/2009 of the Director of Education.

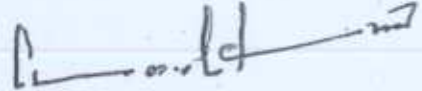
The Committee is therefore of the opinion that the fee hiked by the school in pursuance of order dated 11/02/2009 was justified and no interference is called on that account except to the extent that the arrears of development fee for the period 01/09/2008 to 31/01/2009, which were recovered by the school @ 15% of tuition fee when the school was charging development fee @ 10% per annum in the year 2008-09 was not justified and in fact was illegal being contrary to the specific provisions of section 17(3) of the Delhi School Education Act, 1973 which forbids any increase in any fee after the start of the academic session without specific approval of the Director of Education. The approval granted by the Director of Education vide order dated 11/02/2009 was only for the additional development fee which would arise on account of increase in tuition fee w.e.f. 01/09/2008. The increase in development fee on account of increase in tuition fee would obviously be @ 10%. The total





PDF Compressor Free Version

Amounts of the development fee recovered by the school were to the tune of Rs.418,738 @ 15% of tuition fee. One third of this amount i.e. 5% of the additional tuition fee amounting to Rs. 1,39,579 ought to be refunded to the students along with interest @ 9% per annum from the date of collection to the date of refund.

Recommended accordingly.

  
Justice Anil Kumar (R)  
(Chairperson)

  
CA J.S. Kochar  
(Member)

  
Dr. R.K.Sharma  
(Member)

Date: 14/09/2016

TRUE COPY

  
Secretary



PDF Compressor Free Version

**DELHI HIGH COURT COMMITTEE FOR REVIEW OF  
SCHOOL FEE, NEW DELHI**  
(Formerly Justice Anil Dev Singh Committee for review of school Fee)

**In the matter of:**

**South Delhi Public School, Defence Colony, New Delhi-  
110024 ( B-316)**

Present : Sh. B.S. Rana, Accounts Officer & Sh. Mukesh Kumar, Jr.  
Accountant of the school.

**Recommendations of the Committee**

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school). The school submitted its reply vide its letter dated 09/03/2012, stating as follows:

- (a) The School had implemented the recommendations of VI Pay Commission and the increased salary of the staff were being paid w.e.f. 01/02/2009.
- (b) The school had paid arrears consequent to implementation of VI Pay Commission report amounting to Rs.81,57,637 for the period 01/01/2006 to 31/01/2009.
- (c) The school had increased the fee in terms of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/02/2009 and recovered the arrear fee for the period

TRUE COPY

Secretary





PDF Compressor Free Version

01/01/2006 to 31/01/2009. The total amount recovered as arrear fee was Rs.56,24,200.

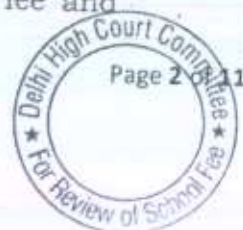
In the first instance, the preliminary calculations with regard to funds available with the school and the justification for hike in fee were done by the Chartered Accountants assisting this Committee. However, on a review of the calculations by the Committee, it was found that the same were not based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

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

In response to the notice issued by the Committee, the school vide its letter dated 11/06/2015 furnished the required information and documents. The school filed the details of fee and

TRUE COPY

Secretary



PDF Compressor Free Version

for the years 2008-09, 2009-10 and 2010-11. As per the details filed, the arrears of salary of salary for 01/01/2006 to 31/03/2009 were paid, 40% of the arrear amounting to Rs. 33,73,657 were paid on 7<sup>th</sup> March 2009 while the remaining 60% amounting to Rs. 47,36,497 were paid on 7/10/2009. The school also submitted copies of bank statements in support of payment of arrear salary which were stated to have been paid by account payee cheques. The school also filed copies of its capital fund account which is stated to be account of parent society running the school for the period 01/01/2006 to 31/03/2011. The school also filed purportedly the details of its accrued liabilities of gratuity and leave encashment. However, as noted infra, these details were the actual payments of gratuity and leave encashment during the year 2009-10 and 2010-11 and not the accrued liabilities on these accounts.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 30/06/2016 for hearing on 19/07/2016. On this date the authorized representatives of the school were partly heard by the Committee and the information, documents and the records of the school were examined.

The Committee perused the circular dated 12/02/2009 issued by the school regarding fee hike effected by it in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school increased the tuition fee w.e.f. 01/09/2008 @ Rs. 300 per month for classes Prep to VIII and @ Rs. 400 per month for



**PDF Compressor Free Version**

classes IX to XII. The school was previously charging development fee @ 10% of tuition fee in 2008-09. Besides the school also recovered lump sum fee @ Rs.3,000/3,500 as provided in the order dated 11/02/2009 for payment of arrear salary for the period 01/01/2006 to 31/08/2008. However, as per the circular, the school recovered the arrears of development fee for the period 01/09/2008 to 31/03/2009 @ 15% of the increased tuition fee.

The authorized representative of the school submitted that the recommendations of VI Pay Commission had actually been implemented w.e.f. 01/02/2009 and the school paid arrears of salary for the period 01/01/2006 to 31/01/2009. He also submitted that the school has never transferred any funds to the society. On the contrary, it keeps getting funds from the society from time to time. He clarified during the course of hearing that the details of gratuity and leave encashment filed by the school did not represent the accrued liabilities of the school but the actual payments made during the year. The school was given liberty to file the details of its accrued liabilities as on 31/03/2010 within one week.

As regards development fee, he submitted that the school treats the development fee as a capital receipt and earmarked bank accounts are maintained for development fund as well as depreciation reserve fund. He also furnished copies of bank statements/pass book of these accounts.





**PDF Compressor Free Version**

The school filed the details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010 on 26/07/2016. As per the details filed, the accrued liability of the school was Rs.97,40,137 on account of gratuity and Rs.48,46,494 on account of leave encashment. While perusing the details of gratuity, the Committee observed that the school had shown gratuity of some of the staff members in excess of Rs.3,50,000 which, in the opinion of the Committee was erroneous as the Payment of Grauity Act,1972 enhancing the ceiling of gratuity to Rs.10.00 lacs came into effect w.e.f. 24/05/2010 and as on 31/03/2010 the ceiling was Rs.3.50 lacs. Accordingly in the calculation sheet prepared by the Committee, the accrued liability on account of gratuity was taken by the Committee at Rs.76,46,494.

The Committee prepared the following calculation sheet in order to assess whether the fee hiked by the school in pursuance order dated 11/02/2009 was justified or excessive or short.

PDF Compressor Free Version

Statement showing Fund available as on 31.03.2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars	Amount Rs.	Amount (Rs.)
	<u>Current Assets + Investments</u>		
	Cash and Bank Balances	5,266,765	
	Investments	8,346,028	
	Fixed Deposits with Bank alongwith accrued interest	14,561,799	
	Advance against Salary	6,230	
	Advance to Suppliers	175,000	
	Housing Loan to Staff	507,602	
	TDS	12,879	
	ERB Fund Deposits	3,950,424	
	Scholarship Fund Deposits	13,355	
	Caution Money Deposit (in form of Cash, Bank balance and FDR)	2,384,051	35,224,133
<b>Less</b>	<u>Current Liabilities</u>		
	Caution Money Refundable	2,384,051	
	ABN Chinar	5,000	
	TDS Payable	6,230	
	Sania Education Services	6,450	2,401,731
	<b>Net Current Assets + Investments (Funds available for implementation of 6th CPC)</b>		<b>32,822,402</b>
<b>Less</b>	<b>Reserves required to be maintained:</b>		
	for future contingencies (equivalent to 4 months salary)	7,773,430	
	for accrued liability towards Leave Encashment as on 31.03.2010	4,883,025	
	for accrued liability towards Gratuity as on 31.03.2010 *	7,646,494	20,302,949
	<b>Funds available for implementation of 6th Pay Commission before Fee hike</b>		<b>12,519,453</b>
<b>Less</b>	<b>Total Liabilities after implementation of VIth Pay Commission:</b>		
	Arrear of Salary as per 6th CPC	8,110,154	
	Incremental Salary for 2009-10 (as per calculation given below)	8,147,216	
	Incremental salary for Feb. & March 2009	1,093,476	17,350,846
	<b>Excess / (Short) Fund Before Fee Hike</b>		<b>(4,831,393)</b>
<b>Add</b>	<b>Total Recovery after VI th Pay Commission</b>		
	Arrear of tuition fee	5,624,190	
	Arrear of Development fee	917,520	
	Incremental tuition fee for 2009-10 (as per calculation given below)	5,920,375	12,462,085
	<b>Excess / (Short) Fund After Fee Hike</b>		<b>7,630,692</b>

\* Restricted to Rs. 3,50,000 (maximum payable as on 31.3.2010)

**PDF Compressor Free Version**Working Notes:

Gross regular salary for 2008-09		16,266,551
Less: Incremental salary of Feb. & March 2009		<u>1,093,476</u>
Pre-implementation salary for 2008-09 (A)		15,173,075
Post implementation salary for 2009-10 (B)		<u>23,320,291</u>
Incremental salary in 2009-10 on account of implementation of 6th CPC		<u>8,147,216</u>
Gross monthly salary for January 2009 i.e. pre-implementation		1,024,313
Gross monthly salary for February 2009 i.e. post-implementation		<u>1,571,051</u>
Monthly increase in gross salary after implementation of 6th CPC		<u>546,738</u>
	<b>2008-09</b>	<b>2009-10</b>
Normal/ Regular Tuition fee as per I & E A/c	<u>21,032,775</u>	26,953,150
Incremental tuition fee in 2009-10	<u>5,920,375</u>	

As per the above calculation sheet, prima facie, the school had collected fee purportedly in pursuance of order dated 11/02/2009 of the Director of Education, which was in excess of its requirements for implementation of the recommendations of VI Pay Commission, considering the funds already available with the school before the fee hike was effected. Apparently, the excess collection was to the tune of Rs.76,30,692 which the school might be required to refund to the students. A copy of the above calculation sheet was furnished to the school on 23/08/2016 for its response, if any and the matter was posted for final hearing on 07/09/2016.

On this date, Sh. B.S. Rana, Burser/Accounts Officer and authorized representative of the school appeared with an authority letter signed by the Manager of the school. He submitted that the school has filed response to the calculation sheet prepared by the Committee vide written submissions dated 02/09/2016 which he reiterated during the



PDF Compressor Free Version

course of hearing. The school in its written submissions disputed the calculation sheet prepared by the Committee only on the issue of the reduction of the accrued liability of gratuity from Rs.97,40,137 to Rs. 76,46,494 on account of the ceiling of gratuity as on 31/03/2010 taken by the Committee at Rs.3.50 lacs vis a vis Rs.10.00 lacs taken by the school. No other component of the calculation sheet was disputed by the school and the authorized representative of the school also confirmed during the course of hearing that the rest of the calculations made by the Committee did not call for any interference. The school submitted that the recommendations of the 6<sup>th</sup> pay commission were circulated vide Office Memorandum dated 2<sup>nd</sup> Sept. 2008 which was issued by the Ministry of Personnel, Public Grievances and Pensions, Govt. of India, conveying that the President of India had accepted the Government's decision on the recommendations of the VI Pay Commission. One of the recommendations provided for the maximum limit of gratuity to be increased to Rs.10 lakhs for the government servants who retire/die in harness on or after 01.01.2006. The Authorized Representative further submitted that Section 10 (1) of the Delhi School Education Act 1973 (DSEA) provides that the scales of pay and allowances , medical facilities, pension , **gratuity** , provident fund and other prescribed benefits for the employees of a recognized private school shall not be less than those of the employees in corresponding schools run by the appropriate authority. Appropriate authority as defined in section 2 clause (e) means, in the case of the school recognized by Delhi Administration, the Administrator or any other officer authorized in this behalf. This school is recognized by the Directorate of Education and hence it was required to

TRUE

  
Secretary



PDF Compressor Free Version

pay salary and other benefits to its employees as per the provisions of the Section 10 (1) of the DSEA, 1973. The Authorized Representative further submitted that since the office memorandum issued by the Government of India is applicable to employees of government schools in Delhi, the same would apply mutatis mutandice to the employees of this school and in this context the amendment in the Payment of Gratuity, which\* increased the limit of gratuity to Rs.10 lakhs w.e.f 24.5.2010 by notification dated 18.5.2010 ought to be ignored as far the date of its applicability is concerned.

The Committee has considered the arguments advanced by the school and its Authorized Representative and is of the view that the same merit acceptance for the reasons discussed hereinafter.

The fact that this school is required to pay salary and other benefits to the staff, which shall not be less than those paid to the employees of the Government school, is undisputed. The recommendations of VI Pay Commission apply to the employees of the Government schools is also not in dispute. One of the recommendations of the VI Pay Commission which has received the Presidential assent, is that gratuity of government employees (schools) shall be capped at Rs. 10.00 lacs and this applies to all government employees who retire or die in harness on or after 01/01/2006. The school is required to pay the salary and other benefits to its staff which shall not be less than those paid to employees of the Government school, is statutorily provided by section 10(1) of DSEA, 1973. The amendment in the Payment of Gratuity





PDF Compressor Free Version

Act, 1972, which applies to gratuity payable to employees of private organizations came into effect w.e.f. 24/05/2010.

While it is a fact that this school is a private organization, it is also required to statutorily pay the salary and benefits to its staff which shall not be less than those payable to the staff of the government schools. Payment of Gratuity Act, 1972 is a general law while Delhi School Education Act, 1973 is a special law which governs the private schools recognised by the government. When there is seemingly a conflict in the provisions of a general law and a special law, it is trite that the provisions of special law will prevail.

The Committee is conscious of the fact that in the case of some others schools, it had taken a view that as on 31/03/2010, the cap in the gratuity payable was Rs. 3.50 lacs as the amendment in Payment of Gratuity Act, came into effect only on 24/05/2010, no other school had placed the office memorandum dated 02<sup>nd</sup> Sept. 2008 issued by the Government of India before this Committee and therefore the Committee did not have the any occasion of perusing the same.

In light of the above discussion, the Committee accepts the contention of the school that the accrued liability of gratuity as on 31/03/2010 ought to be taken with a cap of Rs. 10.00 lacs and not Rs. 3.50 lacs. The difference in the figure of accrued liability of gratuity as worked out by the school and that worked out by the Committee is Rs. 21,09,445 (97,40,137 - 76,30,692). This amount shall be reduced from





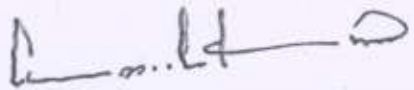
PDF Compressor Free Version

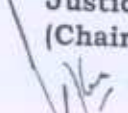
Rs. 55,21,247, which was initially worked out by the Committee to be the fee recovered in excess by the school.


The Committee is therefore of the view that the school ought to refund a sum of Rs. 55,21,247, being the fee recovered by it in excess of its requirement for implementation of the recommendations of VI Pay Commission, along with interest @ 9% per annum.

So far as development fee is concerned, the Committee is of the view that the school was complying with all the preconditions 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. Therefore, the same does not call any interference.

Recommended accordingly.

  
Justice Anil Kumar (R)  
(Chairperson)

  
CA J.S. Kochar  
(Member)

  
Dr. R.K.Sharma  
(Member)

| Date: 14/09/2016

TRUE COPY

  
Secretary



PDF Compressor Free Version

The school recovered arrears @ Rs. 1400 per student for the period 01/09/2008 to 31/03/2009.

Nothing was mentioned about the recovery of arrear fee for the period 01/01/2006 to 31/08/2008 or payment of arrear salary for that period.

The Committee issued a notice dated 08/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, in a structured format, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment, a copy of the circular issued to the parents regarding the fee hike. The school was also issued a questionnaire regarding development fee.

In response to the notice issued by the Committee, the school vide its letter dated nil, received in the office of the Committee on 25/05/2015, furnished the required information and documents. The school also submitted that the implementation of VI Pay Commission resulted in a situation of deficit and appropriate directions from the Committee were sought "to rectify the situation of deficit faced by the school." In other words, the school was claiming that it be allowed a further fee hike, over and above permitted to it vide order dated 11/02/2009.

TRUE COPY

Secretary



**PDF Compressor Free Version**

in order to provide an opportunity of being heard to the school, the Committee issued a notice dated 23/06/2016 for hearing on 07/07/2016. The meeting of the Committee scheduled for 07/07/2016 was cancelled as it was declared a holiday by the Government. The hearing was rescheduled for 22/07/2016 on which date the authorized representatives of the school were heard by the Committee and the information, documents and the records of the school were examined.

As per the circular, the school hiked the fee @ Rs. 200 per month w.e.f. 01/09/2008 and recovered Rs. 1400 as arrear fee for the period Sept. 2008 to March 2009 i.e. for 7 months. It appeared from the circular that the school did not recover any lump sum fee for payment of arrear salary for the period 01/01/2006 to 31/08/2008. During the course of hearing the authorized representatives of the school confirmed this position. They submitted that as the school did not recover any lump sum fee for payment of arrear salary from January 2006 to August 2008, the same were not paid.

The school also filed details of its accrued liability of gratuity amounting to Rs.10,93,685 as on 31/03/2010 and leave encashment amounting to Rs.4,25,000.

The school also furnished its own calculation sheet as per which the school was in deficit after partial implementation of the recommendations of VI Pay Commission. Accordingly, it was

**TRUE COPY**

Secretary





PDF Compressor Free Version

submitted that the fee hike effected by the school w.e.f. 01/09/2008 was justified.

The Committee also perused the reply to the questionnaire issued regarding development fee. The school had stated that the development fee was treated as a capital receipt and the school was maintaining depreciation fund equivalent to the depreciation charged in the revenue in respect of assets acquired out of development fee (in its books). However the earmarked bank accounts for keeping depreciation reserve fund and unutilized development fund, are now being maintained. On a query by the Committee, the authorized representatives stated that the earmarked bank accounts are being maintained only from financial year 2013-2014 onwards. They also submitted that the development fund was being utilized only for the permitted purposes.

The Committee noticed that the development fee charged by the school in 2009-10 aggregated Rs. 7,76,220 and Rs. 9,71,630 in 2010-11.

The Committee also noticed that the school was diverting its funds for creation of fixed assets by way of first taking loans for their acquisition and then repaying the same along with interest out of the school fund which would otherwise been available with the school for meeting the additional expenditure arising on account of implementation of recommendations of VI Pay Commission. In view of the decision of the Hon'ble Supreme Court in the case of Modern

TRUE COPY

Secretary



PDF Compressor Free Version

vs. Union of India ( 2004) 5 SCC 583, the capital expenditure incurred by the school cannot form part of the fee structure which is chargeable from the students. The total diversion of funds in the years 2007-08 to 2010-11 for which the audited financials were available to the Committee, amounted to Rs. 11,14,857 as per details below:

Repayment of Secured Loan with interest in 2007-08	637,497
Repayment of Secured Loan with interest in 2008-09	218,740
Repayment of Secured Loan with interest in 2009-10	258,620
<b>Total diversion of funds</b>	<u>1,114,857</u>

Based on the information furnished by the school and its audited financials, the Committee prepared the following calculation sheet so as to assess whether the fee hike in pursuance of order dated 11/02/2009 was justified or not. As the school hiked the fee w.e.f. 01/09/2008, the balance sheet of the school as on 31/03/2008 was taken as the basis for determining the funds already available with the school which could have been utilised for meeting the additional expenditure on account of implementation of the recommendations of VI Pay Commission.

TRUE COPY

Secretary





## PDF Compressor Free Version

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.)
<b>Diversion of funds as per detail given below</b>			<b>1,114,857</b>
	<u>Current Assets + Investments</u>		
	Cash in Hand	1,320	
	Cash at Bank	(52,911)	
	Investments	1,026,390	
	Loan to Rockfield Education Society	131,743	
<b>Less</b>	<u>Current Liabilities</u>		
	Salaries Payable	4,411	
	Caution Money	253,900	
	Audit Fee Payable	11,236	
	<b>Net Current Assets + Investments + Funds diverted (Funds available)</b>		<b>1,106,542</b>
<b>Less</b>	<b>Reserves required to be maintained:</b>		<b>1,951,852</b>
	for future contingencies (equivalent to 4 months salary)	2,577,406	
	for accrued liability towards Leave Encashment as on 31.03.2010	425,000	
	for accrued liability towards Gratuity as on 31.03.2010	1,093,685	
	<b>Funds available for implementation of 6th Pay Commission before Fee hike</b>		<b>(2,144,239)</b>
<b>Less</b>	<b>Additional Liabilities after implementation of 6th Pay Commission:</b>		
	Arrear of Salary as per 6th CPC	1,520,679	
	Incremental Salary for 2009-10 (as per calculation given below)	2,993,511	
	<b>Excess / (Short) Fund Before Fee Hike</b>		<b>(4,514,190)</b>
<b>Add</b>	<b>Total Recovery for implementation of 6th Pay Commission:</b>		<b>(6,658,429)</b>
	Arrear of tuition fee	752,000	
	Arrear of Development fee		
	Incremental tuition fee for 2009-10 (as per calculation given below)	2,074,874	
	<b>Excess / (Short) Fund After Fee Hike</b>		<b>(3,831,555)</b>

**Development fee refundable being treated as revenue receipt :**

For the year 2009-10	776,220
For the year 2010-11	971,630
Total	1,747,850
Less: Shortfall in Tuition Fee	(3,831,555)
	<u>(2,083,705)</u>

**Working Notes:**

Normal/ regular salary	2008-09	2009-10
Incremental salary in 2009-10	4,738,708	7,732,219
	<u>2,993,511</u>	
Normal/ Regular Tuition fee	2008-09	2009-10
Incremental tuition fee in 2009-10	6,196,880	8,271,754
	<u>2,074,874</u>	

It is apparent from the above calculation sheet that the net current assets of the school as on 31/03/2008, after taking effect of



**PDF Compressor Free Version**

The diversion of funds towards repayment of loans and interest, were Rs.19,51,852. 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 future contingencies equivalent to four months salary, the school had no funds of its own. In fact, the school was short of funds even to maintain the contingency reserve and such shortfall was to the tune of Rs. 21,44,239. The total financial impact of implementation of the recommendations of VI Pay Commission, to the extent it did, was Rs.45,14,190. The aggregate of arrear fee and incremental fee for the year 2009-10 which was recovered pursuant to order dated 11/02/2009 was just Rs.28,26,874.

Thus the school was in deficit to the tune of Rs.38,31,555, taking into account its requirement to keep funds in reserve for future contingencies. The development fee recovered by the school for the years 2009-10 and 2010-11 was Rs.17,47,850.

In view of the foregoing position, the Committee is not examining the issue of propriety of charging development fee in 2009-10 and 2010-11, in pursuance of order dated 11/02/2009.

On 08/09/2016, the authorized representatives of the school were finally heard. They stated that the school was not pressing the school's claim for being allowed a further fee hike over and above that



PDF Compressor Free Version

...to it vide order dated 11/02/2009 of the Director of Education.

In the light of foregoing discussion, the Committee is of the view that the fee hiked by the school in pursuance of order dated 11/02/2009 of the Director of Education was justified and therefore, calls for no interference.

Recommended accordingly.

Justice Anil Kumar (R)  
(Chairperson)

CA J.S. Kochar  
(Member)

Dr. R.K. Sharma  
(Member)

Date: 20/09/2016

TRUE COPY

Secretary



PDF Compressor Free Version

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

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

**In the matter of:**

**Jinvani Bharti Public School, Sector -4, Dwarka, Delhi.(B-387)**

Present : Nemo

**Recommendations of the Committee**

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school) which was followed by a reminder dated 27/03/2012. However, the school did not respond to the same. A revised questionnaire was issued to the school on 07/08/2013 requiring it to furnish the information by 16/08/2013. However, the same was also not responded by the school. Again a reminder was sent on 05/09/2013. This was also ignored by the school. The Committee also observed that instead of the audited balance sheets of the school, the school had apparently been submitting the balance sheet of Palam Jain Educational and Welfare Society Regd. to the Directorate of Education contrary to the requirement as per Rule 180 of the Delhi School Education Rules, 1973. Again a reminder was sent on 06/11/2013 by the Committee to the school to submit reply to the questionnaire and also the audited balance sheets of the school instead of the society. The Principal of the school was also telephonically

TRUE COPY

Secretary





**PDF Compressor Free Version**

contacted by the office of the Committee to respond to do the needful. Finally, the school submitted its reply vide letter dated 12/11/2013 in which it was stated that the audited final accounts of the school were not available separately and the Chartered Accountant of the school had been asked to prepare it and that the school would submit the same after sometime. However, in response to the questionnaire, the school stated that it had implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009. But the arrears of salary to the staff had not been paid. The school also submitted that it had hiked the fee pursuant to order dated 11/02/2009 issued by the Director of Education and filed a comparative chart showing the fee charged by the school for 2008-09 and 2009-10. As per the chart submitted by the school, the fee hike effected by the school w.e.f. 01/04/2009 for different classes was as follows:

Class	Tuition fee per month (Rs.)		Increase in 2009-10 (Rs.)
	2008-09	2009-10	
Pre school	1100	1500	400
Pre Primary	1100	1400	300
I	1000	1300	300
II	1000	1300	300
III	1000	1300	300
IV	1000	1300	300
V	1100	1400	300
VI	1100	1400	300
VII	1200	1500	300
VIII	1200	1500	300
IX	1300	1600	300
X	1300	1600	300
XI (Commerce)	1400	1700	300
XI (Science)	1400	1700	300
XII (Commerce)	1400	1700	300
XII (Science)	1400	1700	300

TRUE COPY

Secretary



**PDF Compressor Free Version**

It is apparent from the above table that the school took benefit of the order dated 11/02/2009 to hike the tuition fee to the maximum extent permitted by this order. In fact for class pre school, it hiked the fee by an amount which was more than even the maximum amount permitted by the aforesaid order.

The school also stated in its reply to the questionnaire that it was not charging any development fee.

The school subsequently filed its audited balance sheets under cover of its letter 06/01/2014.

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

In response to the notice issued by the Committee, the school vide its letter dated 27/05/2015 furnished the required information and documents. In its letter, the school stated that it had not calculated any liability on account

TRUE COPY

Secretary





**PDF Compressor Free Version**

of gratuity or leave encashment since the school was having an excess of expenditure incurred. It also stated that since no arrears were recovered from the parents, the school did not issue any circular.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 18/07/2016 for hearing on 22/08/2016. The school was also required to produce its accounting fee and salary records besides TDS and Provident Fund Returns in order to substantiate its claim of having implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009. However, nobody appeared on behalf of the school on the date of hearing. In the interest of justice, no adverse order was passed on that date and a fresh notice was issued to the school to appear on 21/09/2016. Again no body appeared on this date. Both the notices were sent by the Committee by Speed Post and none of them was received back unserved. The office of the Committee contacted the school telephonically but no satisfactory explanation was given by the school for non appearance.

In view of the position that obtains, and the persistent defaults committed by the school while submitting the reply to the questionnaire and the recalcitrant attitude of the school in attending the hearings, the committee is of the view that the school has not actually implemented the recommendations of VI Pay Commission and is avoiding production of its records before the Committee.

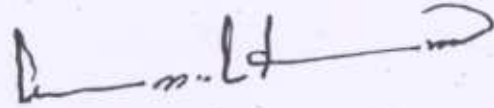


**PDF Compressor Free Version**


The school has admittedly hiked its fee in 2009-10 in pursuance of order dated 11/02/2009 w.e.f. 01/04/2009 @ Rs. 400 per month for pre school and @ Rs. 300 per month for all other classes upto XII.

Since in view of the Committee, the school has not implemented the recommendations of VI Pay Commission, the school ought to refund the fee hike effected w.e.f. 01/04/2009 to the extent such hike exceeds 10% of the fee over the fee charged in 2008-09. Since the hike in tuition fee effected 2009-10 would also form part of the fee for the subsequent years, the fee for the subsequent years to the extent it relates the fee hike in 2009-10 ought also to be refunded. All these refunds ought to be made along with interest @ 9% per annum from the date of collection of fee to the date of refund.


Recommended accordingly.



Justice Anil Kumar (R)  
(Chairperson)




CA J.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Date: 21/09/2016

TRUE COPY



Secretary



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

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

**In the matter of:**

**MODERN PUBLIC SCHOOL (B-0023),**

**Shalimar Bagh,**

**New Delhi 110 088**

**And in the matter of**

**Application/representation dated**

**29<sup>th</sup> July, 2016 to review the order**

**Dated 25<sup>th</sup> April, 2016 passed by the**

**Committee in respect of the School.**

Present: Shri Puneet Batra Advocate for the School.

**ORDER**

The Committee passed the order/recommendation dated 25<sup>th</sup> April, 2016 in respect of Modern Public School, (B-0023) Shalimar Bagh, New Delhi referred to as 'The School' directing the school to refund the development fee amounting to Rs.64,49,186/- which was charged in 2009 - 10 and Rs.79,73,650/- which was charged during 2010-11 with interest @ 9% per annum as the school had not complied with any of the pre-requisite for the Development Fee. The Committee also ordered/recommended that the arrears of tuition fee, a sum of Rs.2,16,53,858/- which was recovered by incremental tuition fee on account of hike effected pursuant to order dated 11.2.2009 be refunded with interest @ 9% per annum from the date of collection to the date of refund. Before passing the order/recommendation dated 25<sup>th</sup> April, 2016 the Committee had issued a questionnaire to the school and a reply was submitted.





**PDF Compressor Free Version**

by letter dated 28<sup>th</sup> February, 2012 alleging inter alia that the school had implemented the recommendations of sixth pay commission and the increased salary was paid to the staff with effect from first September, 2008; the school had increased the fee in terms of order dated 11 February 2009 of the Director of Education and a sum of Rs.1,19,03,401/- was recovered as arrears of fee. The annual returns of the school were examined and it transpired that the school had been filing the bare Balance Sheets and Income and expenditure accounts without their schedules. From the preliminary scrutiny it had transpired that there was no need for the School to hike the fee for implementing the recommendation of sixth pay commission. Another notice dated 30<sup>th</sup> March, 2015 was issued to the school. They school was also directed to produce a statement of account of the society in its books. A questionnaire regarding the development fee was also issued to the school and hearing was fixed on 8<sup>th</sup> April, 2015. The manager of the school with the counsel for the school appeared but they furnished only part of the information which was sought from the school. From the records produced it transpired that the school had recovered 48.36% of the arrears of tuition fee which was not in conformity with the circular issued by the School to the parents. There was an anomaly in the circular which was issued by the school and therefore the school sought for the time to look into the alleged anomaly. It was also noticed that even on 31<sup>st</sup> March, 2015 a sum of Rs.9,18,045 was outstanding as arrears of salary. It was also inferred that the school had recovered development fee arrears @15% of tuition fee. They school had also credited its profit for the year to the account of the parent society, instead of accumulating it with itself to be used for educational purposes. It was also seen that the school treated the development fee as a revenue receipt and no earmarked funds were maintained for unutilized development fee and depreciation reserved fund. The committee prepared a calculation sheet, a copy of which given to the school. The pleas and contentions raised by the school were considered and it was inferred that the school had not come before the Committee with clean hands. They school also tried to mislead the Committee.

TRUE COPY



**PDF Compressor Free Version**

The school also contended incorrectly the judgement of Hon'ble single judge is the final and tried to conceal the appeal filed by Delhi Development Authority in which the writ petition filed by the school was dismissed. A Special Leave Petition filed by the school was also dismissed. It transpired that the school accumulated huge amount of surplus by 2008 which was not permissible in view of the judgement of Hon'ble Supreme Court. It was also noticed that separate bank accounts were not maintained for unutilized development fund. With these facts and the observations, the Committee passed the order/recommendation dated 25<sup>th</sup> April, 2016 which are stated hereinbefore.

The school has sought review of the order dated 25<sup>th</sup> April, 2016 by filing an application/representation dated 29<sup>th</sup> July, 2016 contending that in the order/recommendation dated 25<sup>th</sup> April, 2016 there are errors apparent on the record and consequently the order/recommendation is liable to be reviewed and recalled. According to the school the view of the Committee based on the judgement of the Supreme Court is not entirely correct and is contrary to the express terms and language of the statutory mandate contained in Rule 177 and allied provisions, as the income derived can be utilized for the expansion of the school or for any expenditure of the developmental nature. According to the school the observations of the Committee are contrary to the judgement of the Court. According to school on correct and holistic reading of the judgement, there is no prohibition in acquiring fixed assets from the amounts standing to the credit of Depreciation Reserved Fund. The contention of the school is also that it was not treating the development fund as revenue receipt but it was treating it as capital receipt and the development fee was utilized for capital expenditure. In the circumstances the order/recommendation to refund the development fee for two years is incorrect and contrary to law in the facts established on record.



**PDF Compressor Free Version**

The school contended that it is not charging depreciation from the revenue accounts since 2009 – 10, therefore, the liability to create depreciation reserved fund and utilizing such funds does not arise. It is contended that in the facts and circumstances of the school it is exempted from precondition to create depreciation reserve and earmarking such investment for future acquisition of fixed assets. It is also asserted that in absence of any prescribed format for financial statement from the Director of Education, the school was entitled to adopt the accounting policies suited to its requirement. It is also contended that in the facts and circumstances of the school and for the foregoing reasons, the school has not contravened with the requirements of Directorate of Education and has fulfilled mandatory conditions for charging the Development fee. It is contended that the total Development fee by the school had been utilized in accordance with the provisions of the law and in fact there is deficit in each year regarding the utilization of Development fee. According to the school the net effect of the Director of Education and of the school are the same and there has not been any diversion from the ultimate goal and the only difference is the routing of the transactions. In any case it is the assertion of the School that the development fund has been duly spent for its designated purpose, acquisition of fixed assets. The plea of the school is also that since it does not have any surplus, the unutilized Development fee could not be kept as earmarked investment. The contention of the school is also that the income of the school is governed by section 11 and 12 of the Income Tax Act, 1956 and is out of the purview of the sections of profits and gains from the business and profession. The income of the school is the income from other sources as voluntary contributions. In the circumstances it is contended that the inferences as has been drawn by the committee while passing the order dated 25<sup>th</sup> April, 2016 were not justified. In any case the fee collected from the students has been spent for payment of salaries to the staff. The fee hike and collected by the school was approved by the Management Committee and the Parents Teachers Association of the school. In the circumstances the review of





**PDF Compressor Free Version**

the order/recommendation dated 6<sup>th</sup> February, 2014 has been sought by the school.

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

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

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

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

TRUE COPY

Application/representations dated 29.7.2016 Modern Public School (R-0023)

Page 5 of 10

Secretary



**PDF Compressor Free Version**

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

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

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

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

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





**PDF Compressor Free Version**

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

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

The writ petition shall be re-notified on 09.05.2014"

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

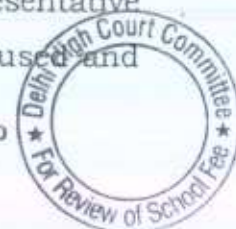
From the perusal of the application/representation dated 29<sup>th</sup> July, 2016 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more res integra that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors.MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors.V. Pradyumansinghji Arjunsinghji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In Patel Narshi Thakershi & ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically



## PDF Compressor Free Version

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

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





**PDF Compressor Free Version**

considered and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 25<sup>th</sup> April, 2016.

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

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


The application/representation dated 29<sup>th</sup> July, 2016 seeking recalling/revoking of the order dated 25<sup>th</sup> April, 2016 and passing the order/recommendation again is not maintainable as this Committee does not have such powers as has been prayed by the School. The applications/representations dated 29<sup>th</sup> July, 2016 by the school seeking



**PDF Compressor Free Version**


review of the order/recommendation dated 25<sup>th</sup> April, 2016 is, therefore, not maintainable and it is disposed of as not maintainable

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



**J.S.KOCHAR  
MEMBER**

Date: 21/09/2016.



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

TRUE COPY



Secretary





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

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

**In the matter of:**

**KRISHAN LAL KOHLI SARASWATI BAL MANDIR (B-0370),**

**Ward NO.6, Mehrauli,**

**New Delhi 110 030**

**And in the matter of**

**Application/representation dated**

**19<sup>th</sup> July, 2016 to review the order**

**Dated 30.12. 2015 passed by the**

**Committee in respect of the School.**

Present: Shri Puneet Batra Advocate for the School.

**ORDER**

The Committee passed the order/recommendation dated 30<sup>th</sup> December, 2015 in respect of Krishan Lal Kohli Saraswati Bal Mandir, (B-0370) Ward No.6, Mehrauli, New Delhi referred to as 'The School' directing the school to refund a sum of Rs.12,88,849/- out of the development fee which was charged in 2010-11 with interest @ 9% per annum. Before passing the order/recommendation dated 30<sup>th</sup> December, 2015 the Committee had issued a questionnaire to the school. The school had not responded to the questionnaire and the reminders sent by the Committee. The annual returns of the school were examined along with a copy of the circular issued to the parents of the students as filed by the school with the Deputy Director. On perusal of the documents preliminary calculations were made. A notice dated 15<sup>th</sup> May, 2015 was issued to the school to furnish relevant information.

Application/representations dated 19.7.2016 Krishan Lal Kohli S.B. Mandir (B-0370)

TRUE COPY

Secretary

Page 1 of 9



**PDF Compressor Free Version**

regarding fee and salary for the year 2008 - 2009 and 2010 - 2011, duly reconciled with the audited Income and Expenditure accounts of the school. The school had furnished its reply by letter dated 30<sup>th</sup> May, 2015. The school also furnished copies of the bank's statement evidencing payment of arrears of salary as well as regular salary by direct bank transfer. Another notice dated 22<sup>nd</sup> July, 2015 was also issued for providing an opportunity of being heard by the Committee on 1<sup>st</sup> August, 2015. The school admitted that it still has to pay more arrears salary. With regard to accrued liability of gratuity, it was represented that the school does not have such liability as it pays annual premium on a group gratuity policy taken in respect of its employees and the information regarding the accrued liability of gratuity provided earlier was erroneous. Based on this information the Committee got a preliminary calculation sheet drawn up, a copy of which was also furnished to the school and the school was also afforded an opportunity of being heard. The Committee determined that the school had a shortfall of Rs.3,31,601 and no recommendation for refund of tuition fee was made. Regarding the development fee it was noticed and observed that the school had not complied with the preconditions for the development fee as it admitted that it was treating the development fee as the revenue receipt and it was utilized for our assets like buses and no earmarked depreciation reserved or development fund accounts were maintained. The Committee therefore, inferred that the development fee collected by the school for the year 2010 - 11 was not in accordance with the law. The Committee however allowed deduction of shortfall in tuition fee from the development fee and directed refund of remaining development fee as detailed hereinabove.

The school has sought review of the order dated 30<sup>th</sup> December, 2015 by filing an application/representation dated 19<sup>th</sup> July, 2016 contending that in the order/recommendation dated 30<sup>th</sup> December, 2015 there are errors apparent on the record and consequently the order/recommendation is liable

TRUE COPY

Secretary





**PDF Compressor Free Version**

to be reviewed and recalled. According to the school the view of the Committee based on the judgement of the Supreme Court is not entirely correct. The school has contended that the interpretation of the Committee is not entirely correct and the view of the Committee is based on an un-holistic reading of the judgement of Hon'ble Supreme Court. According to the school on a bare perusal of Rule it is apparent that the savings made by the school from the income derived by way of fees, after having met the liability of payment of salaries and allowances can be utilized for needed expansion of the school or for any expenditure of developmental nature. It has also been contended that a reasonable reserve fund of not less than 10% of such savings is also required to be maintained. According to the school Rule 177 even permits the transfer of savings from fee, by a particular school to any other school or educational institution under the management of the same society or Trust. The plea of the school is that the interpretation of the Committee is based on erroneous assumption that the concept of development fee was introduced for the first time by the Duggal Committee. The further contention of the school is that the accounting practice adopted by the School for showing fixed assets at the appreciated value is in no manner illegal and is in fact only an alternative method of showing assets at their gross value, along with depreciation reserved fund on the liability side. The school also referred to Accounting Standard I in this regard. The school has sought review of recommendation/order of the Committee on the ground that the recommendations/order are all based on technicalities and grave injustice has been done to the school. The review of the recommendations/order has been sought on the ground that there is no rule/law that development fee cannot be charged unless a development fund and depreciation reserved fund are maintained in separate bank accounts. The recommendation/order of the Committee has also been forfeited on the ground that there is no discussion or even a mention of the accounts given by the school accounting for the entire development fund which was utilised for upgradation/renovation/rebuilding and improvement of facilities and infrastructure of the school only. In the circumstances it is contended that the



TRUE COPY  
 [Signature]  
 ary



**PDF Compressor Free Version**

recommendations/order of the Committee suffers from errors apparent on the face of record. The order/recommendation of the Committee is also faulted on the ground that in cases of other schools the Committee has allowed collection and retention of fees charged up to 15% without there being any separate bank accounts for the development fund and depreciation reserved fund. Consequently it is contended that the recommendations/order of the Committee is merely based on incorrect technicalities and is based on and arrived at which are of sub-silentio and per incurium of the provisions of DSEAR and the law laid down by Hon'ble Supreme Court. It is asserted that the grave and irreparable loss and prejudice shall be caused to the school if the recommendation/order of the Committee is not reviewed and recalled.

Apparently the school has sought review of the order/recommendation of the committee dated 30<sup>th</sup> December, 2015 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 30<sup>th</sup> December, 2015. It is apparent that the Committee has become functus officio after it passed the order dated 30<sup>th</sup> December, 2015. The school has not produced any law or precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its orders on merits.

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





## PDF Compressor Free Version

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

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

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

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

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

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



**PDF Compressor Free Version**

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

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

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

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

The writ petition shall be re-notified on 09.05.2014"

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

From the perusal of the application/representation dated 19<sup>th</sup> July, 2016 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more res integra that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors.MANU/SC/0104/1987

TRUE COPY



Secretary





**PDF Compressor Free Version**

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

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



## PDF Compressor Free Version

opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced the record which was perused and considered and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 30<sup>th</sup> December, 2015.

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

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 30<sup>th</sup> December, 2015 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the order

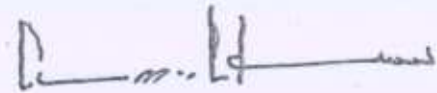




**PDF Compressor Free Version**

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

The application/representation dated 19<sup>th</sup> July, 2016 seeking recalling/revoking of the order dated 30<sup>th</sup> December, 2015 and passing the order/recommendation again is not maintainable as this Committee does not have such powers as has been prayed by the School. The applications/representations dated 19<sup>th</sup> July, 2016 by the school seeking review of the order/recommendation dated 30<sup>th</sup> December, 2015 is, therefore, not maintainable and it is disposed of as not maintainable



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




**J.S.KOCHAR  
MEMBER**



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

Date: 21/09/2016

TRUE COPY



Secretary

