

WP(C ) 7777/2009

Delhi Abhibhavak Mahasangh &amp; Ors.

Vs.

Govt. of NCT of Delhi &amp; Ors.

No.DHCC/2018/

Dated:

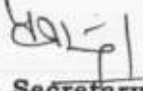
Report of Delhi High Court Committee for Review of School Fee for  
October, November and December 2017

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Place: Delhi

Date:

  
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Delhi High Court Committee for Review of School Fee

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Delhi High Court Committee For Review of School Fee  
(Formerly Known as Justice Anil Dev Singh Committee For Review of School Fee)  
C-Block, Vikas Bhawan-2, Upper Beia Road, Civil Lines, Delhi-110054

**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:**

**PRESIDUM SCHOOL, ASHOK VIHAR, PHASE-II, DELHI-52 (B220)**

Present: Sh. C.B. Mishra, Vice Pricipal & Sh. Samarth Garg, Chartered Accountant of the school.

**Order of the Committee**

In order to examine the justifiability of fee hike effected by the schools in Delhi, the Committee issued a questionnaire dated 27/02/2012 to all the schools (including this school) seeking information with regard to fee, salary, arrears of fee and salary charged/paid by the school pursuant to the implementation of recommendations of the VI Pay Commission. In reply the school has stated that:

- (i) It had increased the salaries of the staff w.e.f. 01/04/2009.
- (ii) The school paid arrear salary to the staff w.e.f. September 2008 to March 2009.
- (iii) The school did not hike the tuition fee as per the order dated 11/02/2009 issued by the Director of Education.
- (iv) The school did not collect any arrear fee from the students for payment of arrear salary for the period Sept. 2008 to March 2009.

*Presidium School, Ashok Vihar Phase-II, Delhi-110052/B-220 /Recommendations*

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- (v) The school charged development fee w.e.f. 2008-09. The development fee recovered by the school in 2009-10 amounted to Rs. 69,33,185 and Rs. 82,40,720 in 2010-11.
- (vi) The development fee was credited to Income & Expenditure Account but the school incurred expenditure for creation of fixed assets which was more than the amount collected as development fee (the school furnished detail of utilisation of development fee as per which it claimed that Rs. 5,46,92,961 was utilised for purchase of assets in 2009-10 and Rs. 8,68,83,787 in 2010-11).
- (vii) The school maintained separate development fee account with Axis Bank but since the development fee was fully utilised for purchase of assets, no amount was kept in earmarked account.

The annual returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were received from the office of the concerned Dy. Director of Education. The deficiencies found therein were brought to the notice of the school, which provided the documents found deficient in the annual returns.

The Committee issued a notice dated 13/05/2015 seeking information about the aggregate amounts of regular tuition fee, arrear fee recovered in pursuance of order dated 11/02/2009 issued by the Director of Education, if any, regular salary and arrear salary paid on acceptance of the recommendations of VI Pay Commission. The information was sought in a



format devised by the Committee to facilitate the calculations regarding justifiability of the fee hike effected by the school in pursuance of the aforesaid order dated 11/02/2009. Besides, the school was also required to furnish copies of bank statements in evidence of the payment of arrear salary, statement of the parent trust/society running the school, as appearing in the books of the accounts of the school for the period 01/04/2006 to 31/03/2011, details of the accrued liabilities of the school for gratuity and leave encashment, copy of the circular issued by the school to the parents regarding fee hike.

The school furnished the required information under cover of its letter dated 07/07/2015. As per the information furnished by the school, it did not pay the arrears of salary to the staff for the period 01/01/2006 to 31/08/2008 as the school was granted recognition only w.e.f. 01/04/2008. Consequently the school did not recover any arrear fee for this period from the students. Even the arrears for the period 01/09/2008 to 31/03/2009 were paid to the staff out of its own funds and no recovery of arrear fee for this period was made from the students, although the school could have recovered the same as per the order dated 11/02/2009 issued by the Director of Education. The school also claimed that it did not hike the regular tuition fee w.e.f. 01/04/2009, which it was permitted to do vide the aforesaid order dated 11/02/2009 but implemented the recommendations of VI Pay Commission, again by taking recourse to its own funds. Consequently it did not issue any circular to the parents regarding fee hike w.e.f. 01/04/2009.

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In view of the submissions made by the school, it would be useful to reproduce here below the fee schedules of the school for the period 2008-09 i.e. prior to implementation of the recommendations of VI Pay Commission and for the period 2009-10 i.e. post implementation:

**Charged at the time of Admission:**

Head of Fee	F.Y. 2008-09 (Rs.)	F.Y. 2009-10 (Rs.)	Increase (Rs.)
Registration fee	25	25	0
Admission Fee	200	200	0
Security	500	500	0

**Charged Annually:**

Head of Fee	F.Y. 2008-09 (Rs.)	F.Y. 2009-10 (Rs.)	Increase (Rs.)
Development Fee	6000	6500	500
Earmarked levies for I Card, Syllabus, Megazine, photography, Educational excursion, activity material, manual, circulars, stationary for project based learning	2000	2500	500
Total	8000	9000	1000

**Charged Quarterly:**

Head of Fee	F.Y. 2008-09(Rs.)	F.Y. 2009-10(Rs.)	Increase (Rs.)
Annual Charges	2000	2750	750

**Charged Monthly:**

Charged Monthly:

Head of Fee	F.Y. 2008-09(Rs.)	F.Y. 2009-10(Rs.)	Increase (Rs.)
Tuition Fee	3650	3750	100
Earmarked levies for meals, refreshments, ICT	500	750	250
Total	4150	4500	350

It would be observed from the above tables that the school hiked the tuition fee @ Rs. 100 per month, although it was entitled to hike the same @ Rs. 500 per month w.e.f. 01/04/2009 in terms of order dated 11/02/2009 issued by the Director of Education while it implemented the recommendations of VI Pay Commission w.e.f. 01/09/2008. The hike in tuition fee in 2009-10 was just 2.74%. Even if the Committee considers the hike of Rs. 250 per month in the earmarked levies for meals, refreshments, ICT etc. as a device adopted by the school to increase the fee in 2009-10 while seemingly not increasing the tuition fee to the extent permitted by the order dated 11/02/2009, the Committee finds that the total increase of Rs. 350 per month was still less than what the school could have recovered as per the above said order and that too amounts to a hike of 8.43% which is less than 10% which the Committee has considered to be normal hike irrespective of whether the schools have implemented the recommendations of VI Pay Commission or not.

In view of the foregoing, the Committee required the school to show to its satisfaction that it had actually implemented the recommendations of VI Pay Commission w.e.f. 01/09/2008 as claimed by it and also to produce its fee

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records for satisfaction of the Committee that the fee actually charged by the school was in accordance with the fee schedules produced by the school.

With regard to the implementation of the recommendations of VI Pay Commission, the school had furnished employee wise details of payment of Rs. 29,86,861 towards arrear payment for the period Sept. 2008 to March 2009. The school also furnished copies of its bank statement showing encashment of the arrears cheques. However, on examination of the same, the Committee observes that a bunch of cheques were presented in the bank on 21/04/2009, 22/04/2009 and 24/04/2009 together which have been encashed in the serial order of cheque numbers, although drawn in favour of individual staff members. This leads to suspicion that they were bearer cheques which were got signed from the staff members and encashed together in branches by one of the school employees and the amount may not have been paid wholly or partly to the staff members. This suspicion also gains strength from the fact that the cheques for regular salary to the staff are presented in clearing. The school did not rebut the suspicion of the Committee and did not produce any other evidence to show that the amount was actually paid to the teachers. Taking all the facts into consideration it is more probable that the arrears were not paid to the teachers. Therefore, so far as the payment of arrear salary for the period Sept. 2008 to March 2009 is concerned, the Committee is not satisfied with the claim of the school that it paid the same to the staff members, particularly when the school did not recover the arrear fee from the students.

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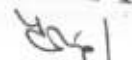
So far as the regular salary w.e.f. 01/04/2009 is concerned, the Committee is satisfied that the school implemented the recommendations of VI Pay Commission.

The fee records which were requisitioned from the school were examined by the audit officer of the Committee and she has recorded that the fee charged by the school in 2008-09 and 2009-10 was in accordance with the fee schedules filed by the school. She also obtained print outs of a few fee receipts for the years 2008-09 and 2009-10 for examination by the Committee. The Committee has examined the same and is satisfied that the fee charged by the school in 2008-09 and 2009-10 was in accordance with the fee schedules filed by it.

In view of the foregoing discussion, while the Committee is not convinced with the claim of the school that it paid arrears of salary for the period Sept. 2008 to March 2009 to the staff, nothing would turn on that as the school did not recover the arrear fee from the students for making such payments.

The Committee also finds that the school hiked the tuition fee @ 2.74% in 2009-10 and therefore, no intervention is required to be made in relation to that.

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**Development Fee:****Development Fee:**

As per the submissions of the school, it was charging development fee w.e.f. 2008-09. The school has conceded that the development fee was treated as revenue receipt (credited to Income & Expenditure Account).

The school was heard on this aspect. It was contended by the authorized representatives who appeared for the school that though it was treated as revenue receipt but the same was utilized for incurring capital expenditures on acquisition of Assets. They also submitted that though the school opened the earmarked bank account but the development fee 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. They submitted that since the amount spent for acquisition of assets was more than the development fee recovered, there was no amount left to be deposited in the earmarked development fund account. However, they conceded that no earmarked depreciation reserve fund was maintained by the school.

As per the documents filed by the school, the development fee recovered by the school in 2009-10 amounted to Rs. 69,33,185 while that in 2010-11 it amounted to Rs. 82,40,720. The Committee has examined the financials of the school in light of the submissions made by it and observes as follows:

The school credited a sum of Rs. 69,33,185 as development fee to its Income & Expenditure Account in 2009-10. The cash profit earned by the school after such credit amounted to Rs. 93,69,591 (after adding back

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depreciation to the net profit). This would indicate that development fee, though treated as a revenue receipt was not utilised incurring revenue expenditure and was therefore, available for incurring capital expenditure. Whether it was utilised for incurring capital expenditure on the permitted assets i.e. furniture & fixture and equipments or was it utilised for incurring non permissible capital expenditure, is the moot point to be considered by the Committee. On examination of the fixed assets of schedule of the school, the Committee finds that the school incurred a total sum of Rs. 5,46,92,961 on addition of fixed assets out of which, a sum of Rs. 4,71,86,566 was spent on purchase of land, Rs. 34,59,644 on construction of building and the remaining amount of only Rs. 40,46,751 on purchase of equipments and furniture & fixture.

In 2010-11, the school credited a sum of Rs. 82,40,720 as development fee to its Income & Expenditure Account. The cash profit earned by the school after such credit amounted to Rs. 1,16,55,664 (after adding back depreciation to the net profit). This would indicate that development fee, though treated as a revenue receipt was not utilised incurring revenue expenditure and was therefore, available for incurring capital expenditure. On examination of the fixed assets of schedule of the school, the Committee finds that the school incurred a total sum of Rs. 8,68,83,787 on addition of fixed assets out of which, a sum of Rs. 7,91,48,582 on construction of building and the remaining amount of only Rs. 77,35,205 on purchase of equipments and furniture & fixture.

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Thus it appears that the school utilised a substantial part of development fee i.e. Rs. 28,86,434 ( 69,33,185 - 40,46,751) received by it out of a total sum of Rs. 69,33,185 in 2009-10 for purchase of land and building. In 2010-11, however, the school utilised a major portion of development fee i.e. Rs. 77,35,205 out of Rs. 82,40,720, on purchase of furniture and fixture & equipments.

The school filed a copy of the account for depreciation reserve fund maintained with Axis Bank, which showed that although the school was operating this account in 2008-09, no amounts were transferred in 2009-10 and 2010-11. The balance in the account as on 31/03/2011 was Rs. 99,185.

Maintenance of depreciation reserve account is a condition precedent for charging development fee by the school as laid down by the Hon'ble Supreme Court in the case of **Modern School V/s. Union of India & Ors. (2004) 5 SCC 583**. The Hon'ble Court held as follows:

*"25. In our view, on account of increased cost due to inflation, the management is entitled to create Development Fund Account. For creating such development fund, the management is required to collect development fees. In the present case, pursuant to the recommendation of Duggal Committee, development fees could be levied at the rate not exceeding 10% to 15% of total annual tuition fee. Direction no.7 further states that development fees not exceeding 10% to 15% of total annual tuition fee shall be charged for supplementing the resources for*



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

Therefore, even if the Committee takes a lenient view with regard to treatment of development fee as a revenue receipt and not as a capital receipt as the school did not utilise it for incurring revenue expenses, the Committee cannot overlook the fact that the school was not maintaining sufficient balance

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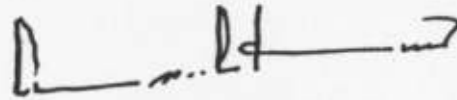


in the earmarked depreciation reserve fund account, although the school was alive to the requirement of maintaining the same as it did open an earmarked depreciation reserve account with Axis Bank.

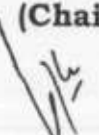
In view of the foregoing discussion, the Committee is of the view that the Development Fee charged by the school to the tune of Rs. 1,51,73,905 during the years 2009-10 and 2010-11 was not justified having been charged without fulfilling the necessary pre conditions for charging the same.

This being so, the school ought to refund the aforesaid amount of Rs. 1,51,73,905 charged by it as development fee in the years 2009-10 and 2010-11 along with interest @ 9% per annum from the date of its collection to the date of its refund.


Ordered accordingly.



Justice Anil Kumar (R)  
(Chairperson)



J.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Dated :- 03/10/2017

**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:**

**Saint Giri Sr.Sec.School Sect.3,Rohini,Delhi (B-508)**

Present: : Sh. Arun Diwedi, Accountant and Sh. Rahul Sharma and Sh. Arun Kumar of the school.

**Order of the Committee**

In order to examine the justifiability of fee hike effected by the schools in Delhi, the Committee issued a questionnaire dated 27/02/2012 to all the schools (including this school) seeking information with regard to fee, salary, arrears of fee and salary charged/paid by the school pursuant to the implementation of recommendations of the VI Pay Commission.

In reply, the school, vide its letter dated 03/03/2012 stated that:

- (i) It had implemented the recommendations of VI Pay Commission and increased salaries of the staff were being paid w.e.f. 01/04/2009. The total monthly salary bill prior to the implementation of VI Pay Commission was Rs. 10,18,916 while after its implementation, it rose to Rs. 16,93,043.
- (ii) The school neither collected arrear fee from the students nor paid any arrear salary to the staff.

St. Giri Senior Sec. School, Rohini, Delhi-110085/B-57/Order

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- (iii) The school hiked the tuition fee as per the aforesaid order dated 11/02/2009 w.e.f. April 2009.

As per the details furnished by the school in its reply to the questionnaire, the monthly tuition fee hike effected by it w.e.f. 01/04/2009 in pursuance of order dated 11/02/2009 for different classes was as follows:

Class	F.Y. 2008-09 (Rs.)	F.Y. 2009-10 (Rs.)	Increase in 2009-10 (Rs.)	Percentage increase
Pre school & pre primary	550	650	100	18.18%
I to V	650	800	150	23.07%
VI to VIII	850	1000	150	17.64%
IX & X	1050	1300	250	23.80%
XI & XII (Commerce)	1450	1610	160	11.03%
XI & XII (Science)	1600	1780	180	11.25%

In the first instance, the relevant calculations were done to examine the justifiability of the fee hike effected, by the Chartered Accountants (CAs) deputed by the Directorate of Education to assist the Committee. However, the same are not being relied upon as the Committee observes that the CAs made the calculations by extrapolating the monthly difference in fee and salaries as per the figures furnished by the school in its reply to the questionnaire, for 12 months, without attempting to reconcile the same with the audited financials of the school.

The Committee issued a notice dated 26/05/2015 seeking information about the aggregate amounts of regular tuition fee, arrear fee recovered in



pursuance of order dated 11/02/2009 issued by the Director of Education, regular salary and arrear salary paid on acceptance of the recommendations of VI Pay Commission. The information was sought in a format devised by the Committee to facilitate the calculations regarding justifiability of the fee hike effected by the school in pursuance of the aforesaid order dated 11/02/2009. Besides, the school was also asked to furnish copies of bank statements in evidence of the payment of arrear salary, statement of the parent trust/society running the school, as appearing in the books of the accounts of the school for the period 01/04/2006 to 31/03/2011, details of the accrued liabilities of the school for gratuity and leave encashment, copy of the circular issued by the school to the parents regarding fee hike. A questionnaire seeking specific details regarding recovery of development fee, its utilisation, its treatment in the accounts and maintenance of earmarked development fund and depreciation reserve fund was also issued to the school.

The information was submitted by the school under cover of its letter dated 01/07/2015. The school also furnished reply to the questionnaire regarding development fee which was issued by the Committee. In its reply, the school submitted as follows:

- (i) The school charged development fee in all the five years for which the information i.e. 2006-07 to 2010-11 was sought. As per the information furnished by the school, the development fee recovered by it in 2009-10 and 2010-11, with which this Committee is

concerned, amounted to Rs. 11,99,200 and Rs. 12,83,400 respectively.

- (ii) The development fee was treated as a capital receipt in 2006-07 but the same was treated as a revenue receipt in the years 2007-08 to 2010-11.
- (iii) The school did not maintain a depreciation reserve fund in respect of assets acquired out of development fee nor an earmarked account to park the un-utilised development fund. It was further stated that the school had spent all its development fee on purchase of fixed assets.

A web notice was issued by the Committee requiring all the schools to furnish information regarding mode of payment of monthly salaries to the staff in the years 2008-09 and 2009-10 which represented the period which was pre implementation and post implementation of the recommendations of VI Pay Commission.

In order to provide an opportunity to the school to justify the fee hike effected by it in pursuance of order dated 11/02/2009 issued by the Director of Education, a notice dated 30/12/2016 (which was deferred to 20/03/2017) was also issued directing the school to produce its books of accounts and other relevant records for verification by the Committee.

On the date of hearing, the authorized representatives of the school appeared before the Committee and partly produced its records. The same were

St. Giri Senior Sec. School, Rohini, Delhi-110085/B-57/Order

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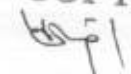
examined by the Committee. The authorized representatives of the school were also partly heard by the Committee.

The Committee noticed that the school had not furnished the required information regarding the mode of payment of salaries in response to the web notice issued by it. The authorized representatives submitted that the school had not received the format, although the same was put out on the website of the Directorate of Education. The Committee also observed that the balance sheets filed by the school were not signed by the Manager of the school. The school was directed to file complete set of audited balance sheets from 2006-07 to 2010-11. A format requiring the school to furnish information regarding mode of salary every month in 2008-09 and 2009-10 was also handed over to authorized representatives and the matter was posted for further hearing on 24/04/2017.

The school sought adjournment on account of non availability of its Accounts Manager. The Committee observed that the school had furnished the statement of mode of payment of salary in 2008-09 and 2009-10 in the mean time. The Committee noticed that as per its own admission, the school had always been paying salary either in cash or by bearer cheques in both the years. Further, there was a drop in staff strength from March 2009 to April 2009 when the school claimed to have implemented the recommendations of the 6<sup>th</sup> pay commission. The total number of teachers employed in March 2009 were 63 while those shown to have been employed in April 2009 dropped to

57. Further the committee also noticed that the staff statement as on July 2009, which was furnished by the school as part of its annual returns under Rule 180 of the Delhi School Education Rules, 1973, showed that it had 77 staff members out of which 70 were teachers. The school also omitted to give the students strength in 2008-09 and 2009-10 as was required to be given in the format given by the committee. On examining the annual returns filed by the school, the committee observed that the total number of students in 2008-09 was 1594 while in 2009-10 it was 1552. All these factors led to inference by the Committee on the basis of preponderance of probabilities that the school had not actually implemented the recommendations of VI Pay Commission and the implementation was just being manipulated in the records. There was no justification whatsoever for payment of large amount of monthly salaries in cash or by bearer cheques when the school maintained a regular bank account. The inconsistency in the staff strength as reflected in the statement filed with the Committee and that reported in the annual return was also not explained. No cogent and/or believable reasons have been given by the School. Moreover, the slight drop in the student strength in 2009-10 did not justify the reduction in number of teachers employed in 2009-10 when the school claimed to have implemented the recommendations of VI Pay Commission. The Committee has come across a number of schools who ostensibly pay higher amounts of salaries in cash or withdraw by bearer cheques in the names of the teachers but the same is shown as having been paid to a lesser number of teachers at higher amounts corresponding to the

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revised scales as per the VI Pay Commission. This school also followed the same device to circumvent and manipulate the payment as per revised pay scales..

Accordingly, the school was directed to produce its books of accounts and salary registers for 2008-09 and 2009-10 on 16<sup>th</sup> May 2017. The school was also asked to produce the appointment letters and increment letters given to the staff and the matter was posted for further hearing on 24<sup>th</sup> May 2017.

On 24/05/2017, the Committee examined the books of accounts of the school and the salary and employment records of the school. The school was unable to explain satisfactorily as to how the number of teachers which was reported as 70 in the annual return filed by the school, dropped to 57 in the statement filed before this Committee. The Committee also observed that the major part of the salaries was paid in cash and only miniscule portion was paid by cheques that too were payable to the bearers.

The Committee also examined the cash books of the school and was astounded on finding that the school was always maintaining heavy cash in hand. It observed that as on 01/04/2009, the school had a closing balance of Rs. 17,92,947 as cash in hand, out of which only a sum of Rs.6,20,000 was deposited in the bank on 02/04/2009. There had been daily receipts of cash thereafter, but hardly any deposits in the bank. As on 09/04/2009, the cash in hand rose to Rs.30,84,111. The same pattern continued throughout the year. On 05/11/2009; the cash in hand was Rs.22,50,232. The next deposit

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in the bank was on 20/11/2009 amounting to just Rs.1,00,000. On 04/12/2009 the cash in hand was Rs.24,33,806 out of which just Rs. 2,00,000 was deposited in the bank on 7.12.2009. In fact the cash in hand of the school always remained much more than its bank balance and no satisfactory reason or explanation was given by the school.

It is incomprehensible as to why a school should maintain such heavy cash balances in the disclosed facts and circumstances of the School. The school claims to have implemented the recommendations of 6<sup>th</sup> Pay Commission w.e.f. 01/04/2009. The Principal of the school Ms. Sanyogita Giri. stated to be a daughter in law of the chairman of the Parent society was shown to have been paid a salary of Rs.56,662. The PGTs were shown to have been paid between Rs. 30,000 and 36,000 and TGTs around Rs. 28,000. There was no justifiable cause for making payments of such amounts by bearer cheques or in cash considering various circumstances pertaining to school. This coupled with the observations of the Committee that the school was maintaining a very large cash balance of around 25 lacs throughout the year, out of which only small amounts were deposited in the bank, leads it to infer that the school in actual fact did not implement the recommendations of the 6<sup>th</sup> Pay commission and showed its implementation only in its records by showing higher amount of salaries to lower number of teachers.

**Since the very raison d'être of allowing the schools to hike fee in excess of 10% which the Directorate of Education normally considers as**



reasonable, the Committee is of the view that the school ought to refund the entire fee hike effected by it in 2009-10, which is in excess of 10% over the fee charged in the year 2008-09, along with interest of 9% per annum from the date of collection to the date of refund.

Since the fee hike in 2009-10 would also be a part of the fee for the subsequent years, the school ought to refund the fee for the subsequent years to the extent it is relatable to the fee hiked in 2009-10 alongwith interest @ 9% per annum from the date of collection to the date of refund.

#### Development Fee

With regard to the development fee, the school in its reply to the questionnaire conceded that it was treating development fee as a revenue receipt in the years 2009-10 and 2010-11, with which this Committee is concerned, as the same was charged in pursuance of order dated 11/02/2009 issued by the Director of Education. Further, even with regard to maintenance earmarked development fund and depreciation reserve fund, the school conceded that the same were not maintained.

These lapses were reiterated by the authorized representatives of the school during the course of hearing before the Committee on 20.3.2017. However the school claimed that the same was fully utilized for the purchase of fixed assets without relevant data and such facts to establish its allegation. The

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School claimed that no refund ought to be ordered as the school was not left with any funds out of development fee.

Although the contention of the school is not tenable in view of the fact that maintenance of earmarked development fund and depreciation reserve fund and treatment of development fee as a capital receipt are sine qua non for charging the development fee in view of the recommendations of the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of **Modern School vs. Union of India & Ors. (2004) 5 SCC 583**, the Committee has examined the audited financials of the school and observes that even the contention of the school is not correct as even after treating development fee as a revenue receipt, the school suffered a deficit on revenue account in both the years, implying that the development fee was also consumed by the school for meeting its revenue expenses and not for creating any fixed assets.

As per the information furnished by the school, the development fee recovered by it in 2009-10 amounted to Rs. 11,99,200 while that in 2010-11 it amounted to Rs. 12,83,400, totaling Rs. 24,82,600 in these two years.

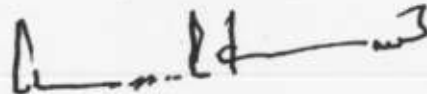
**The Committee is of the view that the aforesaid amount of Rs. 24,82,600 recovered by the school as development fee during the years 2009-10 and 2010-11 ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund.**



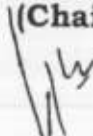
Summary of Recommendations:

- (i) the school ought to refund the entire fee hike effected by it in 2009-10, which is in excess of 10% over the fee charged in the year 2008-09, along with interest of 9% per annum from the date of collection to the date of refund.
- (ii) the school ought to refund the fee for the subsequent years, to the extent it is relatable to the fee hiked in 2009-10, alongwith interest @ 9% per annum from the date of collection to the date of refund.
- (iii) the school ought to refund Rs. 24,82,600 recovered by it as development fee during the years 2009-10 and 2010-11, along with interest @ 9% per annum from the date of collection to the date of refund.


Ordered accordingly.



Justice Anil Kumar (R)  
(Chairperson)



J.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Dated :- 04/10/2017

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:

Sachdeva Public School, Pitampura, Delhi-110088 (B-39)

Orders of the Committee

Present: Sh. Y.P. Rawala, C.A. and Sh. Rakesh Goel, Sr. Accounts Officer of the school.

The Committee had issued a notice dated 10/01/2012, requiring the school to furnish copies of its returns filed under Rule 180 of the Delhi School Education Act, 1973, copies of its fee statements filed under section 17(3) of the Delhi School Education Act, 1973, the detail of salary paid to the staff immediately before and after implementation of recommendations of VI Pay Commission and details of fee increased for the purpose of such implementation including the arrears recovered by the school pursuant to order dated 11/02/2009 issued by the Director of Education.

The school submitted the required information under cover of its letter dated 28/01/2012. As per circulars which were issued by the school to the parents regarding fee hike pursuant to order dated 11/02/2009 issued by the Director of Education, copies of which the

Sachdeva Public School, Pitampura, Delhi-110088/B-39

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school filed, the school recovered the arrear fee from students of different classes at the following rates:

Class	Arrears for the period 01/01/2006 to 31/08/2008 (Rs.)	Arrears for the period 01/09/2008 to 31/03/2009 (Rs.)		Total arrear fee recovered (Rs.)
		Tuition Fee	Development Fee	
	Lump sum			
I & II	3,500	2,800	1,120	7,420
III to V	4,500	3,500	1,295	9,295
VI to XII	4,500	3,500	1,400	9,400

A bare reading of the above circulars showed that the school recovered excessive arrears of development fee from the students as the cap of development fee stipulated by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583 is 15% tuition fee. In this case, the arrears of development fee which were admittedly recovered by the school were @40% of the arrears of tuition fee for the period 01/09/2008 to 31/03/2009 in case of students of classes I & II, 37% in case of students of classes III to V and 40% in case of students of classes VI to XII. We will discuss this issue in detail later in our order.

Later, in order to have standardized information from all 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

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27/02/2012, to all the unaided recognised schools in Delhi (including this school).

The school furnished its reply to the questionnaire under cover of its letter dated 01/03/2012, which was more or less on similar lines as submitted by the school earlier.

In the first instance, the relevant calculations were made by the Chartered Accountants (CAs) who had been deputed by the Directorate of Education to assist this Committee. However, on consideration of the calculations made by the CAs, the Committee observed many factual inaccuracies as well as the fact that the CAs had based their calculations on the basis of monthly differences in salary and fee and extrapolated them to 12 months without attempting any reconciliation with the audited financials of the school. Therefore, the Committee did not rely on the calculations made by the CAs.

The Committee issued a notice dated 05/01/2015 requiring the school to furnish the information regarding the aggregate amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school. Besides, the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike. A questionnaire to specifically elicit the response of the school with regard to charge of development fee, its

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utilisation and maintenance of earmarked development fund and depreciation reserve fund, was also issued to the school. An opportunity of being heard was also provided to the school and it was directed to appear before the Committee on 23/01/2015.

On the date of hearing, Sh. Yash Pal Rawla, Chartered Accountant appeared along with Sh. Rakesh Goel, Sr. Accounts Officer of the school. The school also filed its reply to the Committee's notice dated 05/01/2015. The school also furnished its reply to the questionnaire regarding development fee charged by it for the period 2006-07 to 2010-11. For the years 2009-10 and 2010-11, with which this Committee is concerned, the school stated that it had recovered a sum of Rs. 1,42,45,777 as development fee in 2009-10 and Rs. 1,41,13,873 in 2010-11. It also submitted details of utilisation of development fee and admitted that it had been utilised only partly for creation of fixed assets. Although the school stated that the depreciation reserve fund had been fully utilised, no details of such utilisation were furnished to the Committee.

During the course of hearing, the authorized representatives who appeared for the school submitted that the school prepared a separate balance sheet for development fund with a separate bank account. However, it admitted that it did not maintain any depreciation reserve

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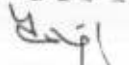


fund as no money out of development fund remained available with the school, the same having been fully utilised.

With regard to the apparent excess recovery of arrears of development fee for the period 01/09/2008 to 31/03/2009, which as we have noticed were recovered @ 40% of arrears of tuition fee as against the cap of 15%, the authorized representatives submitted that originally the school was charging development fee @ 10% of tuition fee. However, w.e.f. 01/09/2008 when the school increased the same to 15% of tuition fee and this resulted in the apparent anomaly.

During the course of hearing, it also came out that the school also had a nursery branch by the name of Sachdeva Junior School, KP Block (Pitampura), which acted as a feeder to the main school. The school was accordingly directed to file all the relevant information in respect of the nursery school including its audited financials in order to have an overall view of the matter. However, instead of furnishing the required information with regard to the nursery school, Sh. R.K. Sachdeva, Manager of the school wrote a letter dated 10/02/2015 to the Committee stating that this school did not have any feeder school in the name of Sachdeva Junior School, KP Block, Pitampura and accordingly did not furnish the required information. A certificate signed by the Secretary of parent society i.e. Laxman Das Sachdeva Memorial Educational Society (Regd.) was also submitted to the effect that Sachdeva Junior School, KP

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Block, Pitampura was an **unrecognized primary school** and was independent of the senior school. Incidentally, the Secretary of the Society who signed this certificate was the same Sh. R.K. Sachdeva, who signed the letter as Manager of the school.

The Committee brought to the notice of the school order no. 1502-1571 dated 23/03/1999 which contemplates that all the pre primary schools being run by the Societies/Trusts in Delhi as branches of the recognised schools, in or outside the school premises shall be deemed as one institution for all purposes. Accordingly the school was advised to furnish the required information of its junior school. The school vide its letter dated 16/11/2015 still contested the matter. However, provided some of the information and financials as required by the Committee in respect of its junior school.

In the meantime there was a change in the constitution of the Committee on account of resignation of Justice Anil Dev Singh as its Chairman. The reconstituted Committee issued a fresh notice of hearing dated 08/08/2017 requiring the school to appear on 28/08/2017. On this date, the authorized representatives of the school again appeared and were partly heard. During the course of hearing, the Committee came across a complaint filed by one Sh. Rajesh Kumar, alleging that the school was collecting a sum of Rs. 3,000 or Rs. 6,000 from the students for the purpose of implementation of VI Pay Commission arrears after a

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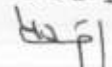
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span of five years and collection was being made through cash or cheque favouring "Better Future Sachdeva Junior School".

A query to this effect was put to the authorized representatives appearing for the school but they denied the contents of the aforesaid complaint. A copy of the complaint was given to the authorized representatives of the school for reply in writing and it was directed that the reply should be accompanied by an affidavit by the Manager of the school verifying the contents of the reply. A notice was also directed to be issued to the complainant. The school was also directed to justify the collection of arrears of incremental development fee for the period Sept. 2008 to March 2009 @ 40% of the arrears of incremental tuition fee as the Committee noticed that the school was apparently charging development fee at a fixed rate of Rs. 200 per month, irrespective of the amount of tuition fee charged from the students. In other words, the development fee charged by the school was not linked to the tuition fee. The school was directed to furnish details of arrears of fee that was recovered by it subsequent to 31<sup>st</sup> March 2011 also and also arrears of salary that was paid after that date., as the submission was made by the authorized representatives that some amount of arrear fee was recovered subsequently and some arrear salary had also been paid afterwards to the staff which had left the school.

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On the next date, the school filed written submissions dated 11/09/2017 which are verified by an affidavit of Sh. Raj Kumar Sachdeva, Manager of the school. It was denied by the school that any demand for payment of any arrear fee was raised in the name of Better Future Sachdeva Junior Schol. It was contended that this school was not run by Sachdeva Public School, Pitampura. It is further stated that all the arrears relating to Sachdeva Public School, Pitampura were collected in its own name. However, the Committee noticed that inadvertently the notice had not been issued to the Complainant.

With regard to collection of arrears of development fee amounting to Rs. 37,57,425, the school furnished a justification statement through which it tried to explain the basis of arriving at the amount of arrears of development fee that was recovered from the students.

Perusal of the statement filed by the school showed that the school recovered the differential amount of development fee calculated @ 15% of the pre hiked as well as the post hiked tuition fee for the entire year 1.04.2008 to 31.03.2009. For doing so, the school relied upon Paras 14 & 15 of Order dated 11.2.2.009 issued by the Director of Education.

The hearing was adjourned to today for hearing the complainant and considering the justification of the hike in development fee @ 40%.

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The Committee notices that a notice dated 12/09/2017 was issued to the complainant Sh. Rajesh Kumar who had alleged that the school was recovering some fee for implementing the recommendations of VI Pay Commission in the name of another school "Better Future Sachdeva Junior School" which was run by the same society. The notice was issued by speed post and has not been received back undelivered. Accordingly the Committee considers the same as having been served. The Complainant has not put in any appearance. Moreover, the Manager of the school Sh. Raj Kumar Sachdeva has filed an affidavit stating that "Better Future Sachdeva Junior School" is not running under the Sachdeva Public School. The same has already been considered by the Committee on 12/09/2017. Earlier the school had filed a letter dated 10/02/2015 vide which it was stated that the above mentioned school was not run by Sh. Laxman Dass Sachdeva Memorial Education Society (Regd.), which is the parent society. Accordingly, the Committee is of the view that the complaint cannot be taken cognizance of.

**So far as the hike in tuition fee and the recovery of arrears of tuition fee for the period 01/09/2008 to 31/03/2009 and also the collection of lump sum arrear fee for the period 01/01/2006 to 31/08/2008 are concerned, the Committee finds the same to be justified as in terms of the calculations made by it, the school incurred a deficit on implementation of the recommendations of VI Pay Commission. Further although the Committee is not satisfied**

Sachdeva Public School, Pitampura, Delhi-110088/B-39

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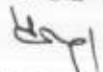


with the explanation given by the school with regard to the justification offered for maintenance of earmarked depreciation reserve fund, the Committee is not inclined to recommend any refund with regard to the development fee collected by the school in 2009-10 and 2010-11, in pursuance of order dated 11/02/2009 issued by the Director of Education on account of the fact that the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity and leave encashment was more than the development fee charged by the school in these two years.

However, with regard to the justification for collection of arrears of development fund for the period Sept. 2008 to March 2009, which were apparently recovered @ 40% of the arrears of the tuition fee for the same period, the Committee considered the chart filed by the school, showing the working of the arrear of development fee for the above mentioned period. With the assistance of this chart, the authorized representative appearing for the school has tried to explain that the arrears of development fee for the aforesaid period are only 15% & not 40% as observed by the Committee.

For appreciating the submissions made by the authorized representative, the following figures are culled out on the chart submitted by the school.

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Class	Tuition Fees actually charged for the period 1.4.2008 to 31.08.2008	Development fee charged as per the fee schedule for the period 01.04.2008 to 31.08.2008.	Tuition fee actually charged for the period 01.09.2008 to 31.03.2009	Development fee charged for the period 1.9.2008 to 31.3.2009	Percentage of development fee to tuition fee for the period 01.09.2008 to 31.3.2009
I & II	10,000	1000	16,800	2520	15%
III to V	10,450	1000	18,130	2695	14.86%
VI to VIII	10,900	1000	18,760	2800	14.92%
IX to XII	11,250	1000	19,250	2800	14.54%

Accordingly it is contended that the arrears of development fee that was recovered was 15% of the arrears of tuition fee or near about.

The Committee has considered the aforesaid submissions made by the school. It is apparent that as per the fee schedule for the year 2008-09 filed by the school under section 17(3) of the Delhi School Education Act, 1973 with the Directorate of Education, a copy of which has been filed by the school today, the school was charging development fee at a fixed rate of Rs. 200 per month, irrespective of amount of tuition fee charged from the students of different classes. As such the development fee charged by the school was not linked to the tuition fee. Moreover, even in percentage terms, the development fee that was being charged by the school was less than 10% of the tuition fee.

The order dated 11/02/2009 issued by the Director of Education did not authorize the schools to increase the rate of development fee to 15% where the schools were charging development fee at a lesser rate or

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at a rate which was not linked to the tuition fee at all. The schools were free to charge development fee at a rate which was less than 15% of tuition fee. The Hon'ble Supreme Court in the case of Modern School only placed a cap of 15% on the schools upto which they could charge development fee, if necessary. The judgment did not mandate that all schools must charge development fee or charge the same @ 15% of tuition fee.

The order dated 11/02/2009 issued by the Director of Education was limited to allowing the schools to increase tuition fee only in order to implement the recommendations of VI Pay Commission. However, since many schools charged development fee as a percentage of tuition fee within the overall cap of 15% laid down by the Hon'ble Supreme Court in the case of Modern School (supra), any increase in tuition fee would automatically result in an increase in development fee in such cases.

Recognizing this, para 15 of the order dated 11/02/2009 mandated that any additional increase in development fee on account of increase in tuition fee shall be utilized for meeting any shortfall on account of salaries/arrears only. It cannot be construed to be authorizing the schools to increase the rate of development fee to 15% of tuition fee where the schools were charging development fee at a rate which was less than that or in case the development fee charged was not

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linked to the tuition fee at all. The school collected a total sum of **Rs. 39,54,600** towards arrears of development fee for the period 01/09/2008 to 31/03/2009, in respect of both the senior school as well as the junior school.

The Committee considers that the arrears of development fee recovered by the school amounting to **Rs. 39,54,600** were not justified as the order dated 11/02/2009 which was issued by the Director of Education in exercise of the powers vested under section 17(3) read with the other relevant provisions of law did not authorize the school to hike any development fee as there could not have been additional development fee on account of increase in tuition fee due to the fact that the development fee charged by the school was not linked to the tuition fee charged by it. The order did not authorize the school to increase development fee to 15% of tuition fee where the school was charging a fixed amount of development fee from all the students irrespective of the amount of tuition fee.

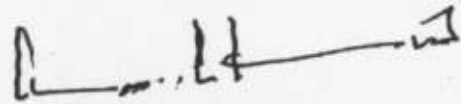
The authorized representative appearing for the school submits that the meeting of the Managing Committee which authorized the fee hike was attended by a representative of the Directorate of Education and he did not raise any objection to the fee hike that was proposed. In the opinion of this Committee, this fact is of no consequence.

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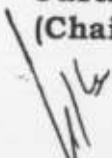
  
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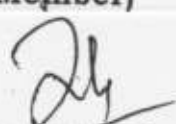
Accordingly, the Committee is of the view that the school ought to refund the arrears of development fee recovered by it for the period 01/09/2008 to 31/03/2009 amounting to Rs. 39,54,600 along with interest @ 9% from the date of collection to the date of refund.



Justice Anil Kumar (R)  
(Chairperson)




CA J.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Date: 03/10/2017

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

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

**In the matter of:**

**Hemnani Public School, Lajpat Nagar, New Delhi-110024 (B-274)**

**Recommendations of the Committee**

Present: Mrs. Sunita Sharma, UDC of the school.

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school), which was followed by a reminder dated 27/03/2012. The school responded vide its letter dated 10/04/2012, stating therein that:

- (a) The school had implemented the recommendations of VI Pay Commission and the increased salaries had been paid to the staff w.e.f. May 2009. (Copies of salary sheets for the month of April 2009 and May 2009 were enclosed in evidence).
- (b) The school paid arrears of salary to the staff amounting to Rs. 11,84,205 on 09/10/2009 and Rs. 8,59,678 on 21/07/2010 (payment instructions given to bank for transfer of amounts to the accounts of staff were enclosed.)

*Hemnani Public School, Lajpat Nagar, New Delhi-110024 (B-274)*

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(c) The school increased the tuition fee in accordance with the rates prescribed vide order dated 11/02/2009 issued by the Director of Education and also recovered arrear fee w.e.f. 01/01/2006. The total arrears that were recovered from the students amounted to Rs. 5100 per student i.e. Rs. 3,000 lump sum arrears + Rs. 2100 towards arrears for seven months from 1st Sept. 2008 to 31<sup>st</sup> March 2009 @ Rs. 300 per month. (Copy of the circular issued to the parents was enclosed).

In the first instance, the calculations regarding the justifiability of hike in fee pursuant to order dated 11/02/2009 issued by the Director of Education were made by the Chartered Accountants appointed by the Directorate of Education (CAs) to assist this Committee. They determined that the school had recovered a sum of Rs. 33,13,375 in excess of its requirements for implementing the recommendations of VI Pay Commission. On reviewing the calculations made by the CAs, the Committee observed that they had not taken into consideration the reserves required to be maintained by the school for accrued liabilities of gratuity and leave encashment. The Committee also came across the other errors in the calculations as the CAs had merely extrapolated the pre and post hike differences in monthly fee and salary, without reconciling the same with the audited financials of the school. Therefore, the calculations made by the CAs were not accepted by the Committee.

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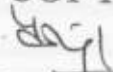
The Committee issued a notice dated 27/04/2015, requiring the school to furnish the information regarding the aggregates amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school and to appear before the Committee on 12/05/2015 to justify the fee hike effected by it as per order dated 11/02/2009 issued by the Director of Education. The date of hearing was deferred to 13/05/2015 with prior intimation to the school. Besides, the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike. The school was also required to furnish copies of the audited financials of its pre primary school in case they were not part of the financials of the main school. A questionnaire with regard to the receipt and utilisation of development fee and maintenance of earmarked development and depreciation reserve fund was also issued to the school along with the notice.

The school furnished the required information in respect of the senior secondary school under cover of its letter dated 12/05/2015.

As per the reply to the questionnaire regarding development fee, the school recovered development fee in all the five years for which the information was sought by the Committee. Particularly, in 2009-10, it recovered a sum of Rs. 3,57,600 and in 2010-11, it recovered Rs.

*Hemnani Public School, Lajpat Nagar, New Delhi-110024 (B-274)*

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7,82,500. No mention was made as to how the development fee was treated in the accounts by the school. However, it was categorically mentioned that the school did not maintain any earmarked accounts for development fund and depreciation reserve fund.

Subsequently the school also submitted its reply in respect of the pre primary school. With regard to development fee, it stated that it had recovered Rs. 42,300 in 2009-10 and Rs. 76,800 in 2010-11 from the students of pre primary school. The school did not give any reply to the other queries with regard to the utilisation of development fee or maintenance of earmarked development and depreciation reserve fund accounts. However, in the information furnished by the school with regard to different components of fee, it stated that the development fee was treated as a revenue receipt.

On the date of hearing, Ms. Prabha Aggarwal, Principal appeared along with Sh. Rajinder Singh and Ms. Sunita Sharma. During the course of hearing, the Principal of the school stated that the school could not pay full arrears of salary on account of paucity of funds and therefore, the payment of arrears was limited to the amount of arrear fee recovered by the school. However, the regular salary was hiked as per the recommendations of VI Pay Commission.

The records produced by the school were verified by the audit officer of the Committee and she endorsed the various contentions raised]

*Hemnani Public School, Lajpat Nagar, New Delhi-110024 (B-274)*

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by the school. She further recorded that the school had no liability towards leave encashment.

Based on the audited financials of the senior school as well as the pre primary school and the information furnished by the school during the course of proceedings before the Committee, which were verified by the Committee with reference to the books of accounts of school and its audited financials, the Committee made the following determinations:

The school had a total sum of Rs. 31,67,419 in its kitty as on 31/03/2008 i.e. before the school hiked the fee as per order dated 11/02/2009. The funds available were worked out as follows:

<b>Current Assets</b>			
Cash in hand	17,825	1,050	18,875
Bank Balance	550,242	181,392	731,634
Investments with accrued interest on FDRs	2,463,928	810,667	3,274,595
Loans	1,700	-	1,700
TDS Payable	1,747	-	1,747
Imprest	5,018	77	5,095
Sindhi Education Society	267,940	-	267,940
<b>Total Current assets</b>	<b>3,308,400</b>	<b>993,186</b>	<b>4,301,586</b>
<b>Less Current Liabilities</b>			
Salary Payable	370,298	34,389	404,687
EPF abd FPF Payable	60,018	8,182	68,200
Audit Fee payable	5,500	4,000	9,500
Security Deposit	563,230	88,550	651,780
KMH Primary School/ HPS Sr. Sec. School	270	(270)	-
<b>Total Current Liabilities</b>	<b>999,316</b>	<b>134,851</b>	<b>1,134,167</b>
<b>Net Current Assets + Investments</b>	<b>2,309,084</b>	<b>858,335</b>	<b>3,167,419</b>

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However, the Committee has taken a consistent view that the schools should not denude themselves of the entire funds available with them while implementing the recommendations of VI Pay Commission but ought to keep adequate funds in reserve to meet its accrued liabilities of gratuity, leave encashment and a further sum equivalent to four months salary for any future contingency. As noticed above, the audit officer of the Committee on examination of the records of the school recorded that the school did not have any accrued liability on account of leave encashment. The observation of the audit officer has been endorsed by the officials of the school who participated in the process of verification of the records. However, the school submitted a detailed statement showing the accrued liability of gratuity amounting to Rs. 43,80,575 for the senior school and Rs. 4,62,687 for the junior school. Accordingly the Committee has determined the following amount which the school ought to keep in reserve out of its available funds:

<b>Funds to be kept in reserve:</b>			
For accrued liability of gratuity as on 31.03.2010	4,380,575	462,687	4,843,262
For future contingencies equivalent to 4 months salary	3,186,579	278,937	3,465,516
<b>Total Reserves</b>	<b>7,567,154</b>	<b>741,624</b>	<b>8,308,778</b>

It is obvious that as against the requirement of reserve amounting to Rs. 83,08,778, the school just had Rs. 31,67,419 in its kitty before effecting the fee hike. Accordingly, the Committee considers that the

Hemnani Public School, Lajpat Nagar, New Delhi-110024 (B-274)

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school did not have any funds of its own which could have utilised for implementing the recommendations of VI Pay Commission.

The additional liability that befell on the school upto 31/03/2010 on account of implementation of recommendations of VI Pay commission amounted to **Rs. 64,52,128** which has been worked out as follows:

<b>Additional liability for implementation of 6th CPC:</b>			
Arrear of Salary as per 6th CPC w.e.f. 01.01.06 to 31.03.2009*	2,266,878		2,266,878
Incremental Salary as per 6th CPC from 01.04.09 to 31.03.2010	4,011,345	173,905	4,185,250
<b>Total</b>	<b>6,278,223</b>	<b>173,905</b>	<b>6,452,128</b>

<b>Working Notes:</b>		
<b>Sr. Sec. School</b>	<b>2008-09</b>	<b>2009-10</b>
Normal/ regular salary	5,548,392	9,559,737
<b>Incremental salary 2009-10</b>	<b>4,011,345</b>	
<b>PP School</b>		
Normal/ regular salary	662,905	836,810
<b>Incremental salary 2009-10</b>	<b>173,905</b>	

As against above, the additional revenue generated by the school by recovering arrear fee and increasing regular fee for the year 2009-10 according to the circular dated 11/02/2009 amounted to **Rs. 44,18,900** as per the following details:

Tuition Fee Arrear for the period from 01.01.06 to 31.03.09*	1,912,830		1,912,830
Development Fee arrear for the period from 01.09.08 to 31.03.09	-	-	-
Incremental Tuition fee in 2009-10	2,517,895	(11,825)	2,506,070
<b>Total</b>	<b>4,430,725</b>	<b>(11,825)</b>	<b>4,418,900</b>

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<b>Working Notes:</b>		
<b>Sr. Sec. School</b>		
Regular/ Normal Tuition fee	7,001,105	9,519,000
<b>Incremental tuition fee in 2009-10</b>	<b>2,517,895</b>	
<b>PP School</b>		
Regular/ Normal Tuition fee	860,670	848,845
<b>Incremental tuition fee in 2009-10</b>	<b>(11,825)</b>	

Thus, the school was in deficit on account of the implementation of the recommendations of VI Pay Commission to the tune of **Rs. 20,33,228** (64,52,128 - 44,18,900) even without considering the deficit on account of the requirement of the school to keep funds in reserve.

In view of the above findings, the Committee considers that the tuition fee hike effected by the school as well as the arrear fee recovered by it pursuant to order dated 11/02/2009 issued by the Director of Education was justified and calls for no interference.

**Regular Development Fee:**

Although the school was not fulfilling 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, the Committee does not consider this to be an appropriate case where the school should be asked for refund of development fee charged in 2009-10 and 2010-11 as the total sum recovered by it on this account from the students of the senior secondary school and the pre primary school amounted only to **Rs. 12,59,200** as against the deficit of **Rs.**

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20,33,228 on implementation of the recommendations of VI Pay Commission.

Accordingly, the Committee is of the view that no intervention is necessary in the matter of recovery of arrear fee or the increased fee pursuant to order dated 11/02/2009 issued by the Director of Education or in the matter of recovery of development fee for the years 2009-10 and 2010-11.

Recommended accordingly.

Justice Anil Kumar (R)  
(Chairperson)

CA J.S. Kochar  
(Member)

Dr. R.K. Sharma  
(Member)

Date: 09/10/2017



**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:**

1. **St. Mark's Senior Secondary Public School, Janak Puri, New Delhi-  
110058 (B-266)**
2. **St. Mark's Senior Secondary Public School, Main Road, Meera Bagh,  
New Delhi-110087 ( B-489)**

**Recommendations of the Committee**

Present: Sh. Sandeep Sethi, Sr. Advocate with Sh. Vendant Verma, Advocate and Sh. R.C. Garg, Member of the Managing Committee, Sh. Bhavesh Garg, Chartered Accountant, Ms. Juhi Gupta, and Ms. Sharmila Mohan, Accountants of the school.

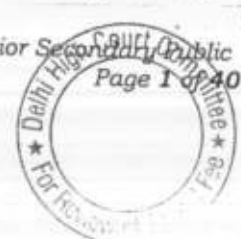
Copies of the Annual returns filed by the school under Rule 180 of the Delhi Education Rules 1973 for the years 2006-07 to 2010-11 were received by this Committee from the Dy. Director of Education, West-B under cover of his letter dated 03/02/2012.

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

*St. Mark's Senior Secondary Public School, Janak Puri/ (B-266) and St. Mark's Senior Secondary Public School, Meera Bagh (B-489)*

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followed by a reminder dated 27/03/2012. However the school did not respond to the questionnaire issued by the Committee.

The initial calculations to examine the justifiability of hike in fee were made by the Chartered Accountants who had been deputed by the Directorate of Education to assist this Committee. However since the calculations had been made without receiving any reply from the school to the questionnaire issued by the Committee and without reconciling them with the audited financials of the school, the Committee did not rely upon them.

The Committee issued a notice dated 13/05/2015 requiring the school to furnish the information regarding the aggregates amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school, with appropriate break up regarding arrear fee recovered by the school pursuant to order dated 11/02/2009 issued by the Director of Education and regular fee charged by the school. Similar information was sought with regard to arrear salary paid pursuant to the implementation of recommendations of VI Pay Commission and the regular salary paid by the school. Besides, the school was also required to produce the statement of account of the parent society/Trust, details of accrued liabilities of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike. A revised questionnaire was also issued to the school incorporating therein the relevant queries made by the Committee vide questionnaire dated 27/02/2012 and the

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relevant queries with regard to charging of development fee and maintenance of earmarked development fund and depreciation reserve fund accounts.

The school furnished the required information vide its letter dated 26/05/2015. It also furnished a reply to the questionnaire issued by the Committee and copy of the circulars dated 16/02/2009, 24/02/2009, 27/02/2009 and 04/03/2009 issued to the parents regarding fee hike.

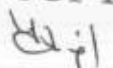
The circulars dated 16/02/2009 were meant for students of class X and class XII. They required the students to pay the arrears of increased tuition fee of Rs. 400 per month (Rs. 2800 for 7 months i.e. Sept. 2008 to March 2009) and Rs. 3,500 lump sum arrear fee covering the period January 2006 to August 2008, latest by 20/02/2009.

By circular 24/02/2009, the students of classes I to VIII were required to pay arrears amounting to Rs. 2100 for the period Sept. 2008 to March 2009 and Rs. 1500, being the first installment of the arrears of Rs. 3000 for the period January 2006 to August 2008 (the second installment of Rs. 1500 was to be demanded later). With respect to the students of classes IX and XI, the corresponding amount of arrears that were demanded were Rs. 2800 and Rs. 1750 (50%).

However by circular dated 27/02/2009, the earlier demand made vide circular dated 24/02/2009 was revised, purportedly in pursuance of circular dated 25/02/2009 issued by the Director of Education. Now the total demand of arrears of fee for the period Sept. 2008 to March 2009 was revised to Rs.

St. Mark's Senior Secondary Public School, Janak Puri/ (B-266) and St. Mark's Senior Secondary Public School, Meera Bagh (B-489)

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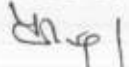
2907 for classes I to V, Rs. 2934 for classes VI to VIII and Rs. 3753 for classes IX and XI.

In reply to the questionnaire issued by the Committee, the school submitted as follows:

- (a) It had implemented the recommendations of VI Pay Commission w.e.f. April 2009 and also hiked the fee pursuant to order dated 11/02/2009 issued by the Director of Education w.e.f. from the same date.
- (b) It had paid arrear salaries as well as recovered arrear fee for the period 01/01/2006 to 31/03/2009.
- (c) It was charging development fee which was being treated as a capital receipt. However, the development reserve fund was majorly utilised for repair and maintenance work and no fixed assets were purchased out of development fund and therefore no separate depreciation reserve fund was maintained.

In the information given along with the questionnaire, it was stated that the school recovered a total sum of Rs. 1,31,54,083 towards arrear of tuition fee and a sum of Rs. 20,15,012 as arrears of development fee. The regular tuition fee for the year 2008-09 that was recovered by the school was Rs. 4,56,53,833 in 2008-09 which rose to Rs. 5,88,47,913 in 2009-10 on account of fee hike w.e.f. 01/04/2009. The regular development fee recovered by the

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school was Rs. 44,15,090 in 2008-09, Rs. 84,37,698 in 2009-10 and Rs. 96,88,870 in 2010-11.

With regard to salary, it was stated that the school paid a total sum of Rs. 2,53,84,123 as arrear salary. The regular salary paid to the staff rose from Rs. 2,45,29,534 in 2008-09 to Rs. 3,99,16,540 in 2009-10 as a result of implementation of the recommendations of VI Pay Commission.

In order to provide an opportunity to the school to justify the fee hike effected by it pursuant to order dated 11/02/2009, the Committee issued a notice dated 26/10/2015 for hearing on 10/11/2015. The Committee observed that there were two more schools being run by the same Society i.e. St. Mark's Sr. Sec. Public School, Meera Bagh and St. Mark's Girls School, Meera Bagh. For the sake of convenience and for taking a holistic view in the matter, the hearing of the other two schools was also fixed for the same date.

On this date, the Chairman of all the three schools Sh. T.P. Aggarwal appeared along with Sh. R.C. Garg, Chartered Accountant, Sh. Gagan Gupta, Ms. Juhi Gupta, Accountant of the Janak Puri school, Ms. Sharmila Mohan, Accountant of the Meera Bagh School and Ms. Anupama Arora, Accountant of Meera Bagh Girl's School.

Written submissions dated 10/11/2015 were filed in respect of all the three schools. It was contended that except in the case of Meera Bagh Girl's School in which the school generated a surplus on account of fee hike effected pursuant to order dated 11/02/2009, the schools could not generate sufficient

St. Mark's Senior Secondary Public School, Janak Puri/ (B-266) and St. Mark's Senior Secondary Public School, Meera Bagh (B-489)

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revenue by hiking the fee and recovering the arrears of fee. In fact, the Janak Puri school had a deficit of Rs. 1,02,15,028 and the Meera Bagh School had a deficit of Rs. 29,34,616. As such the school ought to be allowed to hike the fee further to recover the shortfall. The school also furnished details of accrued liability of gratuity and leave encashment.

As the issues that arise in the cases of the Janak Puri School and the Meera Bagh School are identical, they are both being decided by this common order. However, they are distinguishable in the case of Meera Bagh Girl's school not just on account of it having recovered more fee than was justified, as admitted by the school itself, but also on account of the fact that Meera Bagh Girl's school started from Nursery class while the other two schools started from class I.

For the sake of appreciating the issues involved, the facts in the case of Janak Puri School are being noticed here.

The Committee perused the statement filed by the school and also the other documents. It noticed that from the copies of the circulars filed by the school, it appeared that while the school recovered the arrears of tuition fee @ Rs. 300 per month from students of classes I to VIII for the period 01/09/2008 to 31/03/2009, it recovered arrears of development fee @ Rs. 115 per month from students of classes I to V and @ Rs. 119 per month from students of classes VI to VIII. Likewise, for classes IX to XII, while the hike in tuition fee was Rs. 400 per month, the hike in development fee was @ Rs. 136 per month.

*St. Mark's Senior Secondary Public School, Janak Puri/ (B-266) and St. Mark's Senior Secondary Public School, Meera Bagh (B-489)*

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Apparently, the hike in development fee was much more than 15% of the hike in tuition fee, that the schools can charge as per the ratio of the decision of the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583. The school sought some time to provide the calculation as to how the amount of hike in development fee was arrived at. The school was given liberty to furnish the required explanation.

The school furnished the calculation of arrears of development fee under cover of its letter dated 18/11/2015, as per which it transpires that the school was originally charging development fee @ 10% of tuition fee. However, the school not only increased the development fee to 15% of tuition fee w.e.f. 01/09/2008, but also recovered the differential development fee on the original development fee which the school had already charged as per its fee schedule filed under Section 17(3) of the Delhi School Education Act, 1973.

On account of the resignation of Justice Anil Dev Singh from the Committee, the recommendations could not be finalized.

After the reconstitution of the Committee, the matter was again posted for hearing on 30/08/2017. The hearing in the cases of the two schools situated at Meera Bagh was also fixed for same date. The school was also advised to file copies of its Receipts and Payments accounts for the years 2006-07 to 2010-11 as it was observed by the Committee that the school had not been filing the same as part of its annual returns under Rule 180.

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On the date of hearing, the school was again represented by Sh. T.P. Aggarwal, Chairman and the other officials of the school. They filed Receipts and Payments accounts for the five years as required by the Committee. They also made written submissions dated 30/08/2017 in which they stated that the school had made a request to the Committee for enhancing the arrear tuition fee to recover the deficit of arrear salary amounting to Rs. 1,02,15,028. They reiterated the submissions made earlier with regard to recovery of arrears of development fee.

During the course of hearing, the authorized representatives appearing for the school conceded that at this stage, even if the Committee allows the school an additional fee hike, they would not be able to recover the same as most of the students would have left the school. They submitted that they would be satisfied if the Committee recommends that no intervention is required in the matter of fee hike effected by the school. However, they added a caveat that in the event the Committee finds that the arrears of development fee recovered were in excess of what was permitted to the school by order dated 11/02/2009 of the Director of Education, the same ought to be set off against the deficit incurred on account of payment of increased salaries since the school is not pressing its claim for any additional fee hike.

During the course of hearing, the Committee raised a specific query with regard to the pre primary school which was attached to the main school, as the

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financials of the main school contained fee of the students only from class I. ~~Janak Puri~~  
The school denied the existence of any pre primary school.

However, during the course of examination of accounts of the main school which were produced in a laptop, the Committee came across heavy financial transactions between the main school and another school with the name of 'St. Marks Preparatory School'. When questioned regarding this school, the authorized representative appearing for the school stated that this school was not run by St. Marks Christian Education Society which runs the main school but by a Private Ltd. Company by the name of 'St. Marks Educational Institutions Pvt. Ltd.' It was conceded by the authorized representative that the only two Directors of this Pvt. Ltd. Company were Sh. T.P. Aggarwal who is also the Chairman of the Main school as also the other two schools at Meera Bagh, and his wife Ms. Anjali Aggarwal. Sh. T.P. Aggarwal who was present at the time of hearing was directed by the Committee to file the consolidated balance sheet of the Pvt. Ltd. Company and also the individual balance sheets of the St. Marks Preparatory School, Janak Puri and Meera Bagh within two weeks, as it was submitted that this Company was running two pre primary schools, which were predominantly feeder schools of the two main schools at Janak Puri and Meera Bagh. The Authorized Representatives of the school submitted that the accounts of all the entities were maintained in Tally software. The Committee gave a specific direction that on the next date of hearing the accounts of all the three schools as well as those of the Pvt. Ltd. Company be produced for examination by the Committee

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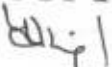
in a laptop, as in terms of order dated 23 March 1999 issued by the Director of Education, the pre primary schools, whether located in the same premises or outside, are to be treated as part of the main school. The insistence for producing the accounts in a laptop was made as on an earlier occasion when the school produced the print outs of the accounts, the transactions with 'St. Marks Educational Institutions Pvt. Ltd.' did not come to the notice of the Committee, may be due to the school not producing the print out of all the accounts.

On 06/10/2017, although the Committee had not issued any notice to the Pvt. Ltd. Company as it had only directed the Chairman of the Main School Sh. T.P. Aggarwal who was also the Managing Director of the Pvt Ltd. Company along with his wife, to file the balance sheets of the Pvt. Ltd. Company and to produce its accounts, an appearance were made on behalf of the Pvt. Ltd. Company by Sh. Sandeep Sethi, Sr. Advocate. Sh. T.P. Aggarwal, Chairman of the three schools, however, was not present. The Ld. Senior Counsel was permitted to make submissions on behalf of the Pvt. Ltd. Company. Written submissions were also filed on behalf of the Pvt. Ltd. Company.

In the written submissions as well as the oral submissions made by Sh. Sethi, it was submitted as follows:

- (a) that St. Mark's Educational Institutions Pvt. Ltd was now known as Magic Beanstalk Institutions Pvt. Ltd. The two preparatory schools

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- were run by this Pvt. Ltd. Company and not by the Society which runs the two main schools.
- (b) that the order dated 23 March, 1999 was applicable to the pre primary schools being run by the regd. Societies/Trusts in Delhi as branches of recognised schools and therefore did not apply to the two pre primary schools in question as it was run by a Pvt. Ltd. Company incorporating under the provisions of the Companies Act 1956 on 17/01/1982.
- (c) That these schools are not recognised under the Delhi School Education Act, 1973 and the jurisdiction of this Committee is confined to the examine the accounts of recognised schools only in terms of the judgment of the Hon'ble Delhi High Court in WP(C) 7777 of 2009 by which this Committee was constituted. The Company and its two pre schools are not liable to submit the audited balance sheets and their accounts as required by this Committee.
- (d) That the Delhi School Education Act, 1973 did not prohibit running of unrecognized schools at the pre primary level. The pre schools require no recognition from the Govt. nor affiliation from any board.
- (e) That St. Mark's Preparatory School is not a "pre dominantly" feeder school and the observations to this effect by the Hon'ble Committee in its order sheet dated 30/08/2017 are incorrect. There is no nexus between the students who seek admission in the schools. The Company did not admit at any stage that the preparatory schools run

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- by the Company are pre dominantly feeder schools of St. Mark's Senior Secondary Public School, Meera Bagh.
- (f) that the Company was incorporated much prior to the establishment of two schools, namely St. Mark's Senior Secondary Public School, Meera Bagh and St. Mark's Girls Senior Secondary School, Meera Bagh which were established in the year 1990 and 2000.
- (g) That the pre schools run by the company are being run on private land and the same do not fall under the ambit of DOE or DSEAR or RTE.
- (h) That the Company and the Society are distinct legal entities and have no nexus with each other although both of them are engaged in education.

The school also filed its written submissions dated 06/10/2017 and on its behalf Sh. Vedant Verma, Advocate addressed the arguments. In its written submissions, the school reiterated its arguments that the school had incurred deficiency on implementation of the recommendations of VI Pay Commission and as such the fee hike effected by it was justified. It was submitted that while the three main schools were established in the 1976, 1990 and 2000 on land allotted by DDA, the two preparatory schools at Janak Puri and Meera Bagh are run and managed by Magic Beanstalk Institution Pvt. Ltd. and were not under control of Society and the schools run by the Society. It was clarified that since St. Mark's Girls Senior Secondary School at Meera Bagh had entry level from pre school stage itself, the said preparatory schools are not pre

St. Mark's Senior Secondary Public School, Janak Puri/ (B-266) and St. Mark's Senior Secondary School, Meera Bagh (B-489)

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dominant feeder schools of the schools run by the Society. However, instead of producing the accounts of the schools in a laptop as directed by the Committee in the previous hearing, the school stated that it had brought the print outs of the accounts. In the written submissions, the school made no claim that the accounts of the school which are maintained in a Tally software were not available or could not be produced in a laptop as directed by the Committee. However, during the course of hearing, the counsel appearing for the school stated that accounts had since been deleted from the software, although on the last date of hearing they were produced in a laptop.

Since the jurisdiction of the Committee to examine the records of the two pre primary schools by the name of St. Mark's Preparatory Schools, run by Magic Beanstalk Institutions Pvt. Ltd. has been questioned, we prefer to address this issue first.

The grounds on which the jurisdiction of the Committee is questioned are that the two schools by the name of St. Mark's Preparatory Schools are not recognised under the Delhi School Education Act, 1973 and the Act does not prohibit running of unrecognized schools at the pre primary level and they require no recognition from the Govt. or affiliation from any board. Hence they do not come under the ambit of Delhi School Education Act, 1973 or the Rules framed therein. Further, they are not run by the St. Mark's Christian Educational Society which runs the main schools but by a separate legal entity i.e. St. Mark's Educational Institutional Pvt. Ltd. (now known as Magic

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Beanstalk Institutions Pvt. Ltd). Also, they are not located in the premises of the main school which has been allotted by DDA but on private lands. They are not attached to the main schools and are not predominately feeders to the main schools.

The first issue raised by the Ld. Senior counsel that the pre primary schools are not recognised and require no recognition under the law is clearly misconceived. Recognition would come at a later stage. Firstly the school has to be established. The power of the Administrator to regulate education in schools is conferred by section 3 of the Delhi School Education Act, 1973. Sub section 3 thereof reads as follows:

*(3) On and from the commencement of this Act and subject to the provisions of clause (1) of Article 30 of the Constitution, the establishment of a new school or the opening of a higher class or the closing down of an existing class in any existing school in Delhi shall be subject to the provisions of this Act and the rules made thereunder and any school or higher class established or opened otherwise than in accordance with the provisions of this Act shall not be recognised by the appropriate authority.*

It is thus evident that the provisions of the Delhi School Education Act, 1973 and the Rules framed thereunder govern all the schools established after the commencement of this Act. Only the schools opened in accordance with the provisions of this Act and the Rules are eligible to be granted recognition. It is the admitted position that the two pre primary schools in question were established in the years 1990 and 2000 i.e. after the commencement of this Act. There is thus no gainsaying that the two pre primary schools did not come

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under the ambit of the Act and the Rules of 1973. The manner of opening the new schools is provided in Rule 44 of the Rules.

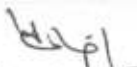
The issue whether schools at pre primary level require recognition or approval from the competent authority under the provisions of the Delhi School Education Act, 1973 read with the Rules, is not *res integra*. The issue directly arose in **Social Jurist, a Civil Rights Group vs. GNCT & Others WP(C) 43/2006**. The Hon'ble Delhi High Court, after examining the provisions of the Act and the Rules of 1973 in detail, observed as follows:

*"12. The material facts which provide the basis of the present proceedings are not in serious dispute. It is not in dispute that a large number of educational institutions have been established in Delhi which neither have the permission of the Government nor the recognition of the appropriate authority for the same. According to the petitioner, there are nearly 10,000 such institutions in Delhi, while according to the respondent/MCD, the number does not exceed 2000. The Directorate of Education does not, however, have any data available with it as to the total number of institutions that have been unauthorizedly set up and are functioning without due and proper recognition. The Director of Education has on affidavit made the following candid admission in this regard:*

*"3. That there are no norms available in the provision/Act/Rule for schools which are recognized. Primary schools are recognized by MCD, NDMC, Delhi Cantonment Board while recognition to middle, secondary and senior Secondary school is granted by Directorate of Education.*

*4. That no such survey has been conducted by Education Department regarding the unrecognized schools in Delhi. Most of the unrecognized schools in general are primary, pre-primary or play schools. Since primary education is under the preview of local authority, so MCD, NDMC & Delhi Cantonment Board are the bodies dealing with recognition and other matter of these schools."*

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13. What was however admitted by learned counsel for the parties was that a very large number of educational institutions offering pre-primary, primary, secondary and higher secondary classes have been set up in Delhi which have neither the permission of the Government nor the recognition from the appropriate authority. The Director of Education has further stated on affidavit that no norms are applicable to such institutions, nor have these institutions been inspected or evaluated by any officer of the Directorate of Education. The irony is, that according to the Directorate of Education, the Delhi School Education Act, 1973 does not authorize the officers of the Education Department to either inspect or even enter such institutions for purposes of verifying the infrastructural and other facilities made available in the same to the students. The result is that these institutions are islands of authority subject to no control, inspection, supervision or directions of any statutory or non-statutory body or authority. The all important question that arises in that background is whether on a true and correct interpretation of the provisions of the Delhi School Education Act, 1973, the hands off policy adopted by the Department of Education is justified. If one were to go by the affidavit filed on behalf of the Directorate of Education, the Department of Education is pleading nothing but helplessness in the matter on account of a lacuna in the legislation which according to their understanding does not empower them to act in the matter against such institutions setting up shops without the requisite infrastructural facilities, no matter the institutions may be endangering the lives of the students who get admitted to the same for various reasons and compulsions.

14. To the credit of Mr. Midha, whom we requested to appear and assist us on behalf of the Government of Delhi, we must mention that he departed from the line of defence taken by the Directorate of Education. He argued **and in our opinion rightly** so that the understanding of the Director of Education regarding the legal position in relation to the regulation of education in Delhi and in relation to the competence of the administrator to provide for planned development of school education in Delhi was not wholly correct. Mr. Midha contended that the scheme of the Act and in particular the provisions of Section 3 and 4 thereof left no manner of doubt that the administrator was competent to regulate education in **'all the schools in Delhi'** and that **no new school can be established and no higher class in any existing school started and no existing class closed down in any existing school except in accordance with the provisions of the Act and the Rules made**

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*thereunder. The argument that the Act envisaged two types of schools, namely, recognized and unrecognized was, according to Mr. Midha, wholly erroneous for after the commencement of the Act, there could be only one class of schools, namely, schools that have been permitted in terms of Section 3 read with Rule 44 of the Delhi School Education Act and the Rules. He also drew our attention to Section 28 of the Act which provides that the administrator was competent to frame rules to carry out the provisions of the Act and in particular to provide for the manner in which the education may be regulated. The rules can also provide for the condition which every existing school should be required to comply with and the requirements of establishment of a school or the opening of a higher class and/or closing down of an existing class in an existing school. Mr. Midha in that view fairly conceded that the Directorate of Education ought to have regulated the establishment of schools in Delhi for there was no question of any school being allowed to come up otherwise than in accordance with the provisions of the said Act. But since the Act did not provide for a closure of any school, such of the schools as were unauthorized and/or unrecognized could be directed to be closed down by the concerned local authority on the ground of misuse of the property in which such schools were running.*

(Emphasis supplied by us)

After detailed discussion of the provisions of the Act and the Rules of 1973, the Hon'ble High Court held as follows:

*"25. The language employed in Section 3 and the definition of the term 'School' in 2(u) supra would therefore make it manifest that **the power of the administrator to regulate education extends to not only recognized but all schools whether the same are recognized or unrecognized.** We have therefore no hesitation in rejecting the contention urged by Mr. Sinha that the Act is confined in its application to only recognized schools.*

*26. Coming then to the question of establishment of a new school. The provisions of sub-section 3 to Section 3 make it clear that on and from the commencement of the Act, the establishment of any new school or the opening of a higher class in an existing school or the closing down of any*

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existing class in an existing school can be subject to the provisions of the Act and the Rules only. This implies that from the date of commencement of the Act, while the existing schools were deemed to be recognized and hence allowed to continue subject to their fulfilling the requirements of recognition, new schools could be established only in accordance with the Act. The establishment of a new School could in turn take place only with the permission of the administrator. This is evident from Section 3(2) of the Act which authorizes the administrator to permit the establishment of any such school. We may as well refer to Rule 44 of the Rules framed under the Act which makes a provision regarding the opening of new schools. The rule reads as under :

44. Notices of intention to open a new school - (1) With a view to enabling the Administrator to arrange for the planned development of school education in Delhi, every individual, association of individuals, society or trust, desiring to establish a new school, not being a minority school, shall, before establishing such new school, give an intimation in writing to the Administrator of his or their intention to establish such school.

(2) The intimation, referred to in sub-rule(1), shall contain the following particulars, namely :-

(a) the Zone in which the new school is proposed to be established, and the approximate number of students likely to be educated in such schools;

(b) the stage of education intended to be imparted in the new school;

(c) the number of schools of the intended stage in existence in the Zone where the new school is proposed to be established and the population of such a zone;

(d) whether the person proposing to establish the new school have any alternative Zone in view; and if so, the particulars of such alternative Zone with respect to the matters specified in clauses (a) and (c);

(e) the particulars including measurements of the building or other structure in which the school is proposed to be run;

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(f) the financial resources from which the expenses for the establishment and running of the school is proposed to be made for any aid;

(g) the composition of the managing committee of the proposed new school until the new school is recognized and a new managing committee is constituted in accordance with the scheme of management made under the Act;

(h) the proposed procedure, until its recognition under the Act, for the selection of the head of the school and other teachers and nonteaching staff and the minimum qualification for their recruitment;

(i) the proposed scales of pay for the head of the school and other teaching and non-teaching staff until the school is recognized under the Act;

(j) admission, tuition and other fees which would be levied and collected until its recognition under the Act, from the student of the proposed new school;

(k) any other facility which is proposed to be provided for the students of the proposed new school.

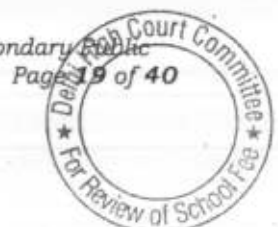
**27. It is evident from a conjoint reading of Section 3(2) and 3(3) read with Rule 44 supra that establishment of a new school is also a matter that is regulated under the Act and that such a school could be established only with the permission of the administrator and subject to the fulfillment of the requirements stipulated in the Rules.**

(Emphasis supplied by us)

In view of the law laid down by the Hon'ble High Court of Delhi, it cannot be contended that the pre primary schools require no approval or recognition under the provisions of Delhi School Education Act, 1973 and they do not come within its ambit.

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The next issue raised by the Ld. Senior counsel appearing for the pre-primary school is that since the pre primary schools are not run by the same Society which runs the main schools but by a Private Ltd. company which is a distinct legal entity, and since they are located on private lands as distinct from the main schools which are located on lands allotted by DDA, they cannot be considered as being attached or being feeder schools of the main school.

The Government of National Capital Territory of Delhi, Dte. Of Edn., had issued the following direction in exercise of the powers conferred under sub-section (1) of section 3 of the Delhi School Education Act, 1973 read with rule 43 of Delhi School Education Rules, 1973 vide order No. 15072-15871 dated 23.3.1999 (Act Branch), which reads as follows:

*"In pursuance of the directions of Hon'ble High Court of Delhi in CWP No. 3723/97, to curb the commercialisation, to check the malpractices and to streamline the education of pre primary level, I S.C. Poddar, Director of Education in exercise of the powers so conferred upon me under sub-section (1) of section 3 of the Delhi School Education Act, 1973 read with rule 43 of Delhi School Education Rules, 1973 order with immediate effect that:*

- 1. All pre primary schools being run by the registered societies/trusts in Delhi as branches of recognised schools by the appropriate authority in or outside the school premises shall be deemed as one institution for all purposes.**
- 2. All such pre primary schools running as branches of recognised schools shall comply with the directions of the Hon'ble High Court in CWP No. 3723/97, provisions of Delhi Schools Education Act, 1973 and the Rules made thereunder and the directions/instructions issued by the Directorate of Education from time to time.**



3. *No student shall be admitted in pre-primary classes by what so ever name it may be called unless he has attained the age of 4 years as on 30<sup>th</sup> September of the academic year in which admission is sought."*

The order, as is evident from its language, has been given a statutory flavour and is binding on all the concerned parties.

The aforesaid order makes it clear that it is immaterial whether the pre primary schools are located in the same premises as that of the main school or they are located outside. Hence the argument of the Ld. Senior counsel that since they are located on private land which does not form part of the main school, they cannot be treated as part of main school, is not tenable.

The school is trying to take advantage of the fact that the order mandated All pre primary schools *being run by the registered societies/trusts* to be part of the main school for all purposes while the pre primary schools which are in question are not run by the same Society which runs the main school but by a Pvt. Ltd. company.

In this connection, it is first required to be examined whether a Private Limited Company can at all establish a school under the provisions of the Delhi School Education Act, 1973. As stated supra, the manner of opening a new school is provided in Rule 44 of the Delhi School Education Rules, 1973, the relevant portion of which is extracted below:

44. **Notices of intention to open a new school - (1)** *With a view to enabling the Administrator to arrange for the planned development of school education in Delhi, every individual,*

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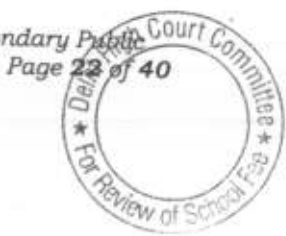


*association of individuals, society or trust, desiring to establish a new school, not being a minority school, shall, before establishing such new school, give an intimation in writing to the Administrator of his or their intention to establish such school.*

.....  
.....  
.....

It is apparent that only an individual or an Association of Individuals or a Society or a Trust can open a school. It is not envisaged in the law that companies with limited liabilities can open a school in Delhi. They have probably been excluded from the persons who can open schools in Delhi since schools cannot be run on commercial lines or indulge in profiteering. Companies incorporated under section 25 of the Companies Act 1956 would however, stand on a different footing since they are not permitted to distribute their profits amongst the shareholders. The certificate of incorporation of St. Mark's Educational Institutions Pvt. Ltd. (now Magic Beanstalk Institutions Pvt. Ltd.), which has been placed on record by the company along with its written submissions dated 06/10/2017, makes it amply clear that it is not a company registered under Section 25 of the Companies Act, 1956.

In view of the foregoing discussion, we are of the view that the pre primary schools were illegally established by St. Mark's Educational Institutions Pvt. Ltd. (now Magic Beanstalk Institutions Pvt. Ltd.). No notice under Rule 44 of the Rules, which the company might have given to the Directorate of Education showing its intention to establish the pre primary



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schools, has been placed on record by the Company. Perhaps the notice was not given to avoid any scrutiny or objection by the Directorate of Education to the establishment of the pre primary schools by a Pvt. Ltd. company.

The last contention of the Ld. Senior counsel with regard to the jurisdiction of the Committee to look into the accounts of the pre primary schools now needs to be dealt with. It was contended that the pre primary schools are run by a separate legal entity which is a Private Limited company and not by the Society which runs the main schools and hence they cannot be considered as part of the main schools, despite the order dated 23/03/1999 issued by the Director of Education. It was contended that the said order would be applicable only to pre primary schools which are run by the same Society which runs the main schools.

It is significant that the only two directors of the Pvt. Ltd. company in question are Sh. T.P. Aggarwal who is the Chairman of all the three St. Mark's Schools and who is also the Chairman of the Parent Society which runs these schools, and his wife.

It is a well-settled principle, haloed by time, that a company has a separate and an independent identity from its shareholders (**Saloman vs. Saloman and Company Ltd., 1897 AC 22, HL**), but it is subject to the doctrine of lifting the corporate veil in an appropriate case. The corporate veil can be lifted to examine the real faces behind the facade. In **Tata Engineering and Loco Motive Company Ltd. vs. State of Bihar, AIR 1965 SC 40**, it was

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held that the doctrine of lifting the veil marks a change in the attitude that law had originally adopted towards the concept of the separate entity or personality of the corporation. This change was a result of the impact of complexity of economic factors. In view of such impact judicial decisions have recognized exceptions to the rule about the juristic personality of the corporation. The Supreme Court did not circumscribe the exceptions in a straight jacket. Rather it indicated that exceptions are expandable. In this regard the Supreme Court ruled as under:-

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

In **Juggi Lal vs. ITO, AIR 1969 SC 932**, it was held by the Supreme Court that while it is true that from juristic point of view that the company has a legal personality, distinct from that of its members and is capable of enjoying

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rights and being subjected to the duties which are not the same as those enjoyed or borne by its members, in certain exceptional cases the court is entitled to lift the corporate veil of an entity and to pay regard to the economic realities behind the legal facade e.g. the court has the power to disregard the corporate entity if it is used for tax evasion or to circumvent tax obligation or to perpetrate fraud.

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

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

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

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actually is behind it. One can peep through it. To put it more aggressively, in an appropriate case, the veil could even be busted.

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

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

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

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The doctrine of lifting the veil has not only been applied to corporate entities but also to a non corporate entity as well by the Supreme Court. In the case of **Secretary Haryana State Electricity Board vs. Suresh, (1999) 3 SCC 601**, the aforesaid doctrine was applied to a non corporate entity. Haryana State Electricity Board, which is a Statutory Board, was established with one of its primary functions to supply power to urban and rural areas in the State of Haryana through its plants and stations. The board floated tenders for selection of contractors to undertake the work of keeping the aforesaid plants and stations clean and hygienic. Pursuant thereto one such work was awarded to a contractor who performed the said work through safai karamcharies. Subsequently a dispute was raised by the safai karmacharies in respect of their entitlement to be absorbed permanently on completion of 240 days in a year with the board. In view of the admitted facts, the doctrine of lifting the veil was invoked to find out the real relationship of workman with the board. In doing so the Supreme Court held as follows:

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



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In light of the above discussion on the aspect of lifting of corporate veil, we have to examine whether this is a fit case where the veil of St. Mark's Educational Institutions Pvt. Ltd. (now Magic Beanstalk Institutions Pvt Ltd.) ought to be lifted or not. In the view of this Committee, there cannot be a more appropriate case than this where the corporate veil requires to be lifted. Clearly the pre primary schools established by this company were in violation of the specific provisions of the Delhi School Education Act, 1973 and the Rules framed thereunder. The corporate cloak was given to avoid scrutiny of the affairs of the pre primary schools by the statutory authorities of the Directorate of Education. The schools were established by the Pvt. Ltd. company which was incorporated by the Chairman of the three St. Mark's schools and his wife who are the only two directors of the company. They have been established contrary to Rule 44 of the Delhi School Education Rules, 1973 which specifically requires a notice to be given to the Administrator before opening any new school and which requires a host of information to be furnished to the Directorate of Education and which does not envisage setting up of any school by a company with limited liabilities. This has also been done in the teeth of numerous judgments of the Hon'ble Supreme Court which lay down that the schools cannot be run on commercial lines and indulge in profiteering. It is settled law that no person can take advantage of his own wrong.

The issue of jurisdiction of this Committee has clearly been raised to avoid production of accounts of the private limited company before it, as

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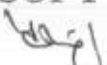


probably they would have revealed that the schools had ample funds of their own out of which they could have implemented the recommendations of VI Pay Commission without resorting to any fee hike or recovering any arrear fee.

Since the accounts of the private limited company have not been produced by the Chairman of the schools who is also the Managing Director of the Company despite a specific direction to do so, the Committee draws an adverse inference against the school and holds that the school had ample funds of its own coupled with the funds available with the pre primary schools attached to them and could have absorbed the additional financial burden which it had to bear on implementation of the recommendations of VIth Pay Commission. Therefore, it did not require to hike any fee or recover any arrears of fee pursuant to order dated 11/02/2009 issued by the Director of Education.

The contention raised by the private limited company in its written submissions dated 06/10/2017 to the effect that there was no nexus between the students who seek admission in the schools run by the Society and in the pre school or that the observation of the Committee that St. Mark's Preparatory schools were pre dominantly feeder schools of the main schools, in its order dated 30/08/2017 was incorrect, is wholly untenable and is an afterthought. This was not an observation by the Committee but the Committee had only recorded the submission made by the authorized representative of the school himself. The Chairman of the school as well as the Company Sh. T.P. Aggarwal

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was present at the time of hearing and he raised no objection to the submission of the authorized representative. Further, copy of the proceeding sheet was sought by the school on 08/09/2017 which was given on that date itself. No objection was raised with regard to the correctness of the record of the proceedings of 30/08/2017 by the school or its Chairman till 06/10/2017.

The facts pertaining to St. Mark's Senior Secondary Public School, Meera Bagh are similar except for the figures. They are not repeated here for the sake of brevity. However since the issues arise in the case of this school are the same as they are in the case of Janak Puri school, the aforesaid discussion and reasoning would cover their case also.

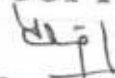
The Committee, accordingly draws an adverse inference against this school also and holds that the school had ample funds of its own coupled with the funds available with the pre primary schools attached to them and could have absorbed the additional financial burden which it had to bear on implementation of the recommendations of VIth Pay Commission. Therefore, it did not require to hike any fee or recover any arrears of fee pursuant to order dated 11/02/2009 issued by the Director of Education for the purpose of implementing the recommendations of VI Pay Commission.

**St. Mark's Senior Secondary Public School, Janak Puri**

The school vide its written submissions dated 13/10/2017, which were filed after the conclusion of hearing on 06/10/2017 enclosed a calculation sheet as per which it admitted that it had recovered a total of Rs. 1,31,54,083

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as arrear fee pursuant to order dated 11/02/2009 issued by the Director of Education. This comprised of the lump sum arrear fee amounting to **Rs. 73,38,233** for the period 01/01/2006 to 31/08/2008 and arrears of tuition fee amounting to **Rs. 58,15,850** for the period 01/09/2008 to 31/03/2009. It also recovered a sum of **Rs. 20,15,012** as arrear of development fee for the period 01/09/2008 to 31/03/2009. Further, the regular tuition fee hiked w.e.f. 01/04/2009 as per the aforesaid order dated 11/02/2009 resulted in an additional revenue of **Rs. 1,31,94,080** upto 31/03/2010.

In view of the adverse inference drawn by the Committee against this school, the Committee is of the view that this school ought to refund the entire amount of arrear fee recovered as well as the additional fee recovered w.e.f. 01/04/2009 along with interest @ 9% per annum from the date of collection to the date of refund, as the Committee is of the view that the school, in conjunction with the pre primary school run by the Pvt. Ltd. company, had sufficient funds out of which it could have absorbed the financial impact of implementation of the recommendations of VI Pay Commission. The total refund of tuition fee and arrear fee, being recommended by the Committee amounts to Rs. 2,83,63,175 as follows:



Particulars	Amount (Rs.)
Lump sum Arrear fee for the period 01/01/2006 to 31/08/2008	73,38,233
Arrears of tuition fee for the period 01/09/2008 to 31/03/2009	58,15,850
Arrears of development fee for the period 01/09/2008 to 31/03/2009	20,15,012
Incremental tuition fee for the period 01/04/2009 to 31/03/2010	1,31,94,080
Total	2,83,63,175

### Regular Development Fee

In reply to the questionnaire dated 13/05/2015 issued to the school, in so far as the regular development fee charged by the school is concerned, it stated that it had been charging development fee in all the five years for which the information was sought by the Committee. Although the same was treated as a capital receipt, *"it was majorly utilised for incurring capital repair and maintenance work and no fixed assets were purchased out of development reserve fund. Thus no separate depreciation reserve fund maintained for depreciation on assets acquired out of development fee"*.

The Delhi School Education Act, 1973 or the Rules framed thereunder do not provide for charging development fee by unaided Pvt. Schools. The only rule which permits the schools to charge development fee is Rule 151 of the Delhi School Education Rules, 1973. However the same applies only to Aided Schools. Pursuant to the fee hike effected by the Unaided Pvt. Schools for the purpose of implementing the recommendations of V Pay Commission, a Public Interest Litigation petition was filed before the Hon'ble Delhi High Court, the judgment of which is reported as **Delhi Abibhavak Mahasangh v. Union of**



**India and others AIR 1999 Delhi 124.** While disposing off this petition, the High Court constituted a Committee under the chairmanship of Justice Santosh Duggal (Retd.), to go into the accounts of the individuals schools and see for itself whether the fee hiked by the schools was justified or not. This Committee made a slew of recommendations, one of which was with regard to charging of development fee by Unaided Pvt. Schools. The recommendation with regard to allowing such schools to charge development fee is as follows:

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

Pursuant to the report of the Duggal Committee, the Government of National Capital Territory of Delhi passed an order dated December 15, 1999 in order to give effect to its recommendations. One of the directions (no. 7) given vide the aforesaid order was that Development fee not exceeding 10% of the total annual tuition fee for supplementing the resources for the purpose of purchase, upgradation and replacement of furniture, fixtures and equipment.

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which shall be treated as capital receipt and shall be collected only if the school is maintaining a depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts. The collection under this head along with any income generated from the investment made out of this fund, will be kept in a separately maintained development fund account.

The judgment of the Delhi High Court was challenged in the Supreme Court by some of the Unaided Pvt. Schools. The decision of the Supreme Court is reported as **Modern Schools & others vs. Union of India & ors. ( 2004) 5 SCC 583.**

The Hon'ble Supreme Court admitted, inter alia, the following point for determination

***"Whether managements of Recognized unaided schools are entitled to set-up a Development Fund Account under the provisions of the Delhi School Education Act, 1973?"***

On this issue, the Court held as follows:

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

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Therefore, direction no.7 seeks to introduce a proper accounting practice to be followed by non-business organizations/not-for-profit organization. With this correct practice being introduced, development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipments is justified. Taking into account the cost of inflation between 15<sup>th</sup> December, 1999 and 31<sup>st</sup> December, 2003 we are of the view that the management of recognized unaided schools should be permitted to charge development fee not exceeding 15% of the total annual tuition fee.

*(Emphasis supplied by us)*

It is apparent that the development fee can only be charged by the schools to create a development fund which would be utilised for purchase, upgradation and replacement of furniture, fixtures and equipments. Further, the schools charging development fee are also required to maintain a depreciation reserve fund.

As is evident from the averment made by the school in its reply to the questionnaire, the development fee was not being utilised for purchase or upgradation of furniture & fixtures or equipments but for incurring capital repair and maintenance work. Further it was categorically stated that no fixed assets were purchased out of development reserve fund. With regard to depreciation reserve fund also, it was categorically stated that no separate depreciation reserve fund maintained.

Thus, the school was not fulfilling any of the pre conditions for charging development fee. Accordingly, the Committee is of the view that the development fee charged by the school was unjustified, being contrary to the

law laid down by the Hon'ble Supreme Court in the case of Modern School (supra).

The quantum of development fee for the years 2009-10 and 2010-11, with which this Committee is concerned, as the same were recovered in pursuance of order dated 11/02/2009 issued by the Director of Education, the school stated that it had recovered a sum of Rs. 84,37,698 as development fee in the year 2009-10. For the year 2010-11, the school recovered a sum of Rs. 96,88,870 on this account.

In view of the aforesaid discussion, the school ought to refund the aforesaid amount of Rs. 84,37,698 collected as development fee for the year 2009-10 and Rs. 96,88,870 for the year 2010-11 along with interest @ 9% per annum from the date of collection to the date of refund.

**St. Mark's Senior Secondary Public School, Meera Bagh**

The school vide its written submissions dated 13/10/2017, which were filed after the conclusion of hearing on 06/10/2017 enclosed a calculation sheet as per which it admitted that it had recovered a total of Rs. 1,93,83,916 as arrear fee pursuant to order dated 11/02/2009 issued by the Director of Education. This comprised of the lump sum arrear fee amounting to **Rs. 1,08,96,364** for the period 01/01/2006 to 31/08/2008 and arrears of tuition fee amounting to **Rs. 84,87,552** for the period 01/09/2008 to 31/03/2009. It also recovered a sum of **Rs. 29,05,038** as arrear of development fee for the period 01/09/2008 to 31/03/2009. Further, the regular tuition fee ~~hiked~~

St. Mark's Senior Secondary Public School, Janak Puri/ (B-266) and St. Mark's Senior Secondary Public School, Meera Bagh (B-489)

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w.e.f. 01/04/2009 as per the aforesaid order dated 11/02/2009 resulted in an additional revenue of **Rs. 1,62,56,715** upto 31/03/2010.

In view of the adverse inference drawn by the Committee against this school, the Committee is of the view that this school ought to refund the entire amount of arrear fee recovered as well as the additional fee recovered w.e.f. 01/04/2009 along with interest @ 9% per annum from the date of collection to the date of refund, as the Committee is of the view that the school, in conjunction with the pre primary school run by the Pvt. Ltd. company, had sufficient funds out of which it could have absorbed the financial impact of implementation of the recommendations of VI Pay Commission. The total refund of tuition fee and arrear fee, being recommended by the Committee amounts to Rs. 3,85,45,669 as follows:

Particulars	Amount (Rs.)
Lump sum Arrear fee for the period 01/01/2006 to 31/08/2008	1,08,96,364
Arrears of tuition fee for the period 01/09/2008 to 31/03/2009	84,87,552
Arrears of development fee for the period 01/09/2008 to 31/03/2009	29,05,038
Incremental tuition fee for the period 01/04/2009 to 31/03/2010	1,62,56,715
Total	3,85,45,669

**Regular Development Fee:**

In reply to the questionnaire dated 14/08/2013 issued to the school, in so far as the regular development fee charged by the school is concerned, it stated that it had been charging development fee in all the five years for which the information was sought by the Committee. With regard to its utilisation, it

St. Mark's Senior Secondary Public School, Janak Puri/ (B-266) and St. Mark's Senior Secondary Public School, Meera Bagh (B-489)

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stated in categorical terms "No assets are acquired out of development fees. The development fees received spent on current repairs only."

The quantum of development fee and its utilisation for the years 2009-10 and 2010-11, with which this Committee is concerned, as the same were recovered in pursuance of order dated 11/02/2009 issued by the Director of Education, the school stated that it had recovered a sum of Rs. 1,18,92,508 as development fee in the year 2009-10. As against this, the amount spent by the school on repair and maintenance of building and other repairs amounted to Rs. 1,49,29,792. The difference of Rs. 30,37,284 was charged to Income & Expenditure Account.

For the year 2010-11, the school recovered a sum of Rs. 1,26,07,150 as development fee out of which it spent a sum of Rs. 1,12,21,672 on repair and maintenance of building and other repairs. The balance of Rs. 13,85,478 was carried to reserve fund to be spent in next years.

We have already discussed the law relating to the competence of the Unaided Pvt. Schools to charge development fee in the case of Janak Puri school. As is apparent from the replies given by the school to the questionnaire issued by the Committee, the school was not following any of the pre conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). The school categorically stated that no assets were acquired out of development fee and the entire amount was spent on repair and maintenance of building and other repairs.



Since no assets were acquired, there could have been no occasion to create a depreciation reserve fund and the school candidly admitted so in its reply to the questionnaire. Further, the school submitted that the expenditure on repair and maintenance to the extent it exceeded the development fee was charged to the Income & Expenditure Account. It is thus evident that the school did not even treat the development fee as a capital receipt but treated the same as a revenue receipt.

The Committee is therefore of the view that the school ought to refund the development fee of Rs. 1,18,92,508 charged in the year 2009-10 and Rs. 1,26,07,150 charged in the year 2010-11, along with interest @ 9% per annum.

**Summary of Recommendations:**

**St. Mark's Senior Secondary Public School (Janak Puri)**

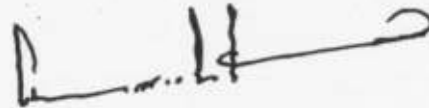
The school ought to refund the following amounts along with interest @ 9% per annum from the date of collection to the date of refund:

Particulars	Amount (Rs.)
Lump sum Arrear fee for the period 01/01/2006 to 31/08/2008	73,38,233
Arrears of tuition fee for the period 01/09/2008 to 31/03/2009	58,15,850
Arrears of development fee for the period 01/09/2008 to 31/03/2009	20,15,012
Incremental tuition fee for the period 01/04/2009 to 31/03/2010	1,31,94,080
Development fee for the year 2009-10	84,37,698
Development fee for the year 2010-11	96,88,870
<b>Total</b>	<b>4,64,89,743</b>

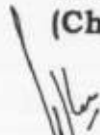
St. Mark's Senior Secondary Public School (Meera Bagh)

The school ought to refund the following amounts along with interest @ 9% per annum from the date of collection to the date of refund:

Particulars	Amount (Rs.)
Lump sum Arrear fee for the period 01/01/2006 to 31/08/2008	1,08,96,364
Arrears of tuition fee for the period 01/09/2008 to 31/03/2009	84,87,552
Arrears of development fee for the period 01/09/2008 to 31/03/2009	29,05,038
Incremental tuition fee for the period 01/04/2009 to 31/03/2010	1,62,56,715
Development Fee for the year 2009-10	1,18,92,508
Development fee for the year 2010-11	1,26,07,150
<b>Total</b>	<b>6,30,45,327</b>



Justice Anil Kumar (R)  
(Chairperson)



CA J.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Date: 13/11/2017

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**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL**

**FEE, NEW DELHI**

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

**In the matter of:**

**S.D. Public School, East Punjabi Bagh, New Delhi-110026 (B-70)**

**Recommendations of the Committee**

Present: Sh. R.K. Batra, C.A., Ms. Anita Gupta, A.O. & Ms. Annu Sahni,  
UDC of the school

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

The school submitted its reply under cover of its letter dated 02/03/2012. The school in its reply, stated as follows:

- (a) It had implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009 and also paid arrears of salary amounting to Rs. 1,15,21,486 on account of retrospective application of the recommendations of VI Pay Commission w.e.f. 01/01/2006. The monthly expenditure on salary rose from Rs. 24,68,531 to Rs.35,26,835 on account of the implementation of the recommendations of VI Pay Commission.



(b) It had increased the fee of the students as per the order dated 11/02/2009 issued by the Director of Education and also recovered a sum of Rs. 1,14,88,955 as arrear fee from the students.

The initial calculations to examine the justifiability of hike in fee were, in the first instance made by the Chartered Accountants who had been deputed by the Directorate of Education to assist this Committee and they determined that the school had recovered fee in excess of its requirements to the tune of Rs. 1,77,66,061, when compared to the additional expenditure incurred by it on implementation of the recommendations of VI Pay Commission after considering that the school had funds available with it to the tune of Rs. 1,72,23,140 before fee hike. However, the Committee has not accepted the calculations made by the CAs for the reason that the same have been made by extrapolating the monthly differentials of fee and salary for the pre implementation and post implementation period and are not based on the audited financials of the school. Moreover the CAs did not take into consideration the requirement of the school to keep funds in reserve for meeting the accrued liabilities on account of gratuity and leave encashment or for keeping a reasonable reserve for future contingencies.

The Committee issued a notice dated 08/05//2015 requiring the school to furnish the information regarding the aggregate amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school. Besides the school was also required to produce

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the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike.

The school furnished the required information and details under cover of its letter dated 20/05/2015. The Committee issued a notice dated 28/10/2015 requiring the school to appear before it along with all its books of accounts, bank statements, fee and salary records, TDS and Provident Funds Returns etc. on 26/11/2015. On this date, Ms. Suman Gandhi, Acting Principal of the school appeared with Ms. Anita Gupta, Accounts Officer, Ms. Sunita Sharma and Ms. Anmu Sahni, LDCs. They were heard by the Committee. They submitted that the school paid arrear salary to the extent it was able to collect the arrear fee from the students but the salary was prospectively increased to be in line with the recommendations of VI Pay Commission w.e.f. 01/04/2009. They also contended that the school did not have sufficient funds of its own considering it had large amount of accrued liabilities of gratuity and leave encashment. Besides, the school also required to maintain a reasonable reserve with itself for future contingencies. The Committee noticed that the school was also charging development fee and it was treated as a revenue receipt and the same was also spent on revenue expenses, contrary to the recommendations of 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.

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The Committee also noticed that the school recovered arrears of development fee @ 15% of arrears of tuition fee for the period 01/09/2008 to 31/03/2009, although the school was charging development fee @ 10% of tuition fee in the year 2008-09.

In the meantime, Justice Anil Dev Singh (Retd.) resigned as Chairman of the Committee. After the reconstitution of the Committee the matter was again fixed for hearing on 19/09/2017. The school was also required to furnish its Receipt and Payment Accounts for the years 2006-07 to 2010-11 as it was found that the school was not filing the same as part of its audited financials as required under Rule 180 of the Delhi School Education Rules, 1973.

On the date of hearing, Sh. R.K. Batra, C.A., Ms. Anita Gupta, A.O. & Ms. Annu Sahni, UDC of the school appeared and were heard by the Committee.

The school filed copies of the Receipt and Payment accounts for the years 2006-07 to 2010-11. On perusal of the same, the Committee observed that in 2005-06, the school had taken a loan of Rs.15 lacs from Syndicate Bank which was repaid in 2006-07. Similarly Rs. 25 lacs was taken in 2007-08 which was repaid in 2008-09. When queried about these transactions, the Authrosied Representatives appearing for the school submitted that the loans are taken against the school's own FDRs, as and when there was requirement for meeting short term financial problems.

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The Committee prepared a calculation sheet based on the audited financials of the school to examine the justifiability of fee hike effected by the school in pursuant to order dated 11.2.2009 issued by the Directorate of Education. The Committee observed that after accounting for the accrued liability of the school for gratuity and leave encashment as on 31.3.2010 and also providing a reserve for future contingencies equivalent to 4 months salary, the school was in deficit after implementation of the recommendations of the 6<sup>th</sup> Pay Commission, even after considering the fee hike effected by it w.e.f. 01/09/2008 and the arrear fee collected by it for the period 01/01/2006 to 31/08/2008. The authorized representatives appearing for the school fairly admitted that the school was treating development fee as a revenue receipt thus was not complying with the pre conditions laid down by the Duggal Committee which are affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India. However, they submitted that the deficit incurred by the school was so large that the development fee charged in the years 2009-10 & 2010-11 was also inadequate to make good the short fall.

The Committee has verified these contentions of the school, which it finds are correct.

However, as stated supra, the school recovered arrears of development fee @ 15% of arrears of tuition fee for the period 01/09/2008 to 31/03/2009, purportedly in pursuance of the order dated 11/02/2009. The Committee finds that the school was charging development fee @ 10%

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of tuition fee in the year 2008-09 as per the fee statement filed by it u/s 17(3) of Delhi School Education Act 1973 and as such could have recovered the arrears for the aforesaid period only @ 10% of the incremental tuition fee. The limit of 15% provided by the order dated 11/02/2009 is the maximum upto which the schools could have charged the development fee. However, in view of this Committee, the arrears could have been recovered @ 15% only in case the school was originally charging development fee @ 15%.

Apparently the school charged Rs. 1,63,065 in excess of what was permitted to it by order dated 11/02/2009. The school has not produced any approval in writing from the Director of Education for hiking the development fee from 10% to 15% from the middle of the academic session i.e. w.e.f. 01/09/2008, as required u/s 17(3) of the Act.

The authorized representatives appearing for the school requested for some time to respond to observations made by the Committee in this regard. Accordingly, the matter was adjourned to 20<sup>th</sup> Nov. 2017 at 11.00 A.M.

On 20<sup>th</sup> Nov. 2017, the authorized representatives of the school appeared and submitted that the school agreed with the finding of the Committee that it recovered a sum of Rs. 1,63,065 in excess of what was recoverable as arrears of development fee in terms of order dated 11/02/2009 issued by the Director of Education. They further submitted that the school had sent letters to the individual parents to collect the

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cheques from the school and some of the parents turned up and collected the cheques which had since been encashed from the bank. They filed copy of the bank statements in support of their submission. They further submitted that many parents still had not turned up and the school is keeping the cheques ready for delivery as and when they turn up to collect the same.

As the school has agreed with the findings of the Committee that it recovered a sum of Rs. 1,63,065 and already initiated the process to make refund of the excess collection, the Committee directs the school to carry this exercise to its logical conclusion and if required, the school may issue a public notice to the effect that the students or their parents may collect the cheques from the school.

In view of what is stated above, the Committee does not consider that there is any requirement for any further intervention. The Director of Education may however ensure that the refunds are actually made to the students or their parents.

Justice Anil Kumar (R)  
(Chairperson)

CA J.S. Kochar  
(Member)

Dated: 20/11/2017

I agree.  
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30/11/17

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

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

**In the matter of:**

**S.D. Public School, Cheerakhana, Nai Sadak, Delhi-110006 (B-227)**

**Recommendations of the Committee**

Present: Ms. Kiran Kaul, Principal., Sh. Navin Chaurasia, Accountant,  
Sh. Nandan Singh, Lab Astt. & Sh. Abhishek Chawla, TGT of the school.

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

The school submitted its reply under cover of its letter dated 02/03/2012. As per the reply, the school stated that it had implemented the recommendations of VI Pay Commission prospectively w.e.f. 01/04/2009 but it had not paid the arrears to the staff resulting from the retrospective applicability of the recommendations w.e.f. 01/01/2006. At the same time, it did not charge any arrears of fee from parents. Further the school stated that it did not increase the fee of the students consequent to implementation of the recommendations of VI Pay Commission in terms of order dated 11/02/2009 issued by the Director of Education for the reason that the school had very limited number of students and its fee structure

S.D. Public School, Cheerakhana, Nai Sadak, Delhi-110006/B-227

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was very low as it did not increase any fee during the years 2002-03, 2005-06 and 2007-08 and the decision with regard to fee hike was taken with the consent of the PTA (Parent Teacher Association).

As the contention of the school regarding hike in fee was very vague and unintelligible, the Committee issued a notice dtd 28/03/2012 to the school to produce its record on 10/04/2012. On this date, Ms. Kiran Kaul, Principal of the school appeared and produced the fee receipts, fee registers, cash book & ledgers for the years 2008-09 to 2010-11 before the audit officer of the Committee, who after examining the same recorded that the school had, in fact, recovered more fee than was permitted by the order dated 11/02/2009 of the Director of Education. The Principal of the school clarified that what it meant by stating that the school had not hiked the fee in terms of order dated 11/02/2009 but it had hiked more than what was permitted by the said order.

The initial calculations to examine the justifiability of hike in fee were, in the first instance made by the Chartered Accountants who had been deputed by the Directorate of Education to assist this Committee and they determined that the school had recovered fee in excess of its requirements to the tune of Rs. 1,58,775 when compared to the additional expenditure incurred by it on implementation of the recommendations of VI Pay Commission. The Committee has not accepted the calculations made by the CAs for the reason that the same have been made by extrapolating the monthly differentials of fee and salary for the pre implementation and post

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implementation period and are not based on the audited financials of the school.

The Committee issued a notice dated 28/10/2015 requiring the school to appear before it on 26/11/2015 and to furnish the information regarding the aggregates amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school. Besides the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike.

On this date, the Principal of the school appeared along with other officials and reiterated the submissions made by the school in its reply to the questionnaire and in response to the queries raised by the audit officer of the Committee. Further the Committee noticed that the school was also charging development fee and it was treated as a revenue receipt and the same was also spent on revenue expenses, contrary to the recommendations of 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.

In the meantime, Justice Anil Dev Singh (Retd.) resigned as Chairman of the Committee. After the reconstitution of the Committee the matter was again fixed for hearing on 13/10/2017. On this date, the Principal of the school submitted that the school could not have implemented the recommendations of VI Pay Commission out of its own funds as the school did not have any. Further, even with the hike in fee that was permitted to

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the school, the school could not have implemented the recommendations of VI Pay Commission. She sought some time to place before the Committee the correspondence made by the school with the Directorate of Education seeking a higher fee hike than was permitted to the school vide order dated 11/02/2009 of the Director. The matter was accordingly adjourned for hearing the school today.

The only issue to be examined by the Committee whether the fee that was prospectively hiked by the school w.e.f. 01/04/2009 was justified or not.

Ms. Kiran Kaul, Principal of the school has been heard. She submits that the school did not have enough funds of its own out of which it could have absorbed the impact of implementation of the recommendations of the 6<sup>th</sup> pay commission even prospectively w.e.f. 01/04/2009 and the fee hiked that was permitted by the Director of Education vide order dated 11/02/2009 could not have taken care of the entire additional expenditure on account of the revised salaries as per the recommendations of the 6<sup>th</sup> Pay Commission. Therefore, the school first represented to the Director of Education vide letter dated 26/12/2008 to be allowed to hike the fee by 50% of the existing fee. This was before the Director of Education had issued the order dated 11/02/2009. After the aforesaid order was issued the school again represented to the Director of Education vide letter dated 13/04/2009 that the school ought to be allowed to increase tuition fee by Rs. 500 per

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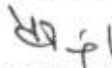
  
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month of all the classes, instead of Rs.100 p.m. that was permitted by the order dated 11.2.2009 for Nursery class to Class 3rd, Rs.200 for Class 4<sup>th</sup> to Class 8<sup>th</sup> and Rs. 300 for Class 9<sup>th</sup> to Class 12<sup>th</sup>. Thereafter, the school also made a representation to the Grievance Redressal Committee constituted by the Director of Education by order dated 11/02/2009. The principal further submits that the school did not get any communication from the Grievance Redressal Committee with regard to redressal of grievances raised by the school before it.

The Committee notices that the actual fee hike effected by the school was Rs. 430 to Rs. 500 per month for classes Pre school to 3<sup>rd</sup> while it was permitted to hike the same by only Rs. 200 per month by order dated 11/02/2009. Similarly, for classes 4<sup>th</sup> to 8<sup>th</sup> the hike was to the tune of Rs. 420 per month while the permitted hike was only Rs.300 per month. For classes 9<sup>th</sup> to 12<sup>th</sup> the actual hike was Rs.430 per month while the permitted hike was Rs.300 per month.

The Committee has examined the position of availability of funds with the school as on 31.3.2009. As per its audited balance sheet, the school had a total sum of Rs. 35,15,319 as its Current Assets and FDRs with banks, against which it had Current liabilities amounting to Rs. 11,10,931, leaving a sum of Rs.24,04,388 with the school. The Committee also notes that the school has filed a statement of its accrued

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liability of gratuity as on 31.3.2010, as per which its accrued liability aggregated Rs. 39,03,419.

The Committee has taken a consistent view that schools ought to retain sufficient funds with them for meeting their accrued liabilities of gratuity and leave encashment besides a reasonable reserves for future contingencies, which the Committee has determined to be equivalent to 4 months salary.

If the liability of gratuity of this school alone is taken into consideration, the school would not have any funds available with it for meeting its increased liabilities on account of implementation of 6<sup>th</sup> pay commission and in fact there would be a shortfall.

The Committee has determined that the additional expenditure that the school incurred in 2009-10 on account of increased salaries amounted to Rs. 30,54,899 while the additional revenue generated by it by increased fee in that year amounted to Rs.25,37,033. This despite the fact that the school increased more fee than it was permitted to do, vide order dated 11/02/2009 issued by the Director of Education.

In the judgment dated 12/08/2011 delivered by the Hon'ble High Court of Delhi in WP (C) 7777 of 2009, by which this Committee was constituted, it was mandated that where the schools are able to establish that the fee hike allowed by order dated 11/02/2009 was not sufficient to meet the additional expenditure on account of salaries and



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to implementation of the recommendations of the 6<sup>th</sup> Pay Commission, the schools could set up a claim for an additional fee hiked before this Committee.

The Committee notices that the school tried to exhaust its remedies as provided by order dated 11/02/2009 by making a representation before the Grievances Redressal Committee but the same remained unredressed.

As discussed above the school has been able to establish that the fee hike permitted by order dated 11/02/2009 was not sufficient to fully offset the increased liabilities on account of implementation of the recommendations of the 6<sup>th</sup> pay commission.

We, therefore, accept the contention of the school that the fee hike effected by it to the extent it was actually hiked was justified.

Although the Committee notices that the development fee charged by the school in the year 2009-10 and 2010-11 was not in accordance with the recommendations made by the Duggal Committee which were upheld by the Hon'ble Supreme Court in the case of Modern school vs. Union of India, keeping in view the fact that the school did not have any funds for reasonable reserve equivalent to 4 months salary which amounts to Rs. 30,92,739, as against which the development fee recovered by the school in these two years was Rs. 21,43,500, the



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Committee is not inclined to take any adverse view with regard to recovery of development fee also.

**In view of the above discussion, the Committee is of the view that no intervention is required to be made either with regard to the fee hike effected by the school w.e.f. 01/04/2009 or with regard to development fee charged by it in the years 2009-10 and 2010-11.**

Pronounced in the open meeting of the Committee, after conclusion of the hearing.

**Justice Anil Kumar (R)**  
(Chairperson)

**CA J.S. Kochar**  
(Member)

**Dr. R.K. Sharma**  
(Member)

**Date: 30/11/2017**

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

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

In the matter of:

Mata Gujri Public School, C-Block, Greater Kailash-I, New Delhi-

110048 (B-380)

Order of the Committee

Present: Sh. J.S. Ghuman, Director, Mrs. Daljit Kaur, Principal & Sh. H.S. Duggal, General Secretary of the school.

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012, to all the unaided recognised schools in Delhi (including this school), which was followed by a reminder dated 27/03/2012.

The school furnished its reply vide letter dated 28/05/2012 in which it stated that it had increased the salaries of the staff with effect from September 2008 in consequence of the recommendations of 6<sup>th</sup> Pay Commission. It paid arrears of salaries consequent to implementation of the recommendations of 6<sup>th</sup> Pay Commission but did not mention the period or the amount of arrears paid.

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With regard to hike in fee in pursuance of order dated 11/02/2009 issued by the Director of Education, the school stated that it had increased the fee as per norms with effect from 2009-10 and also recovered the arrear fee for the period 01/01/2006 to 31/08/2008 @ Rs.2500 per student in five installments and for the period 01/09/2008 to 31/03/2009, it recovered arrears @ Rs.1400 per student. However, 50 students who were given full fee concession did not pay any arrears. The school also furnished a comparative statement of fee charged by it in 2008-09 and 2009-10 in order to show the extent of hike in 2009-10. On perusal of the comparative statement, it appears that the school increased tuition fee @ Rs.200 per month for all the classes. Development fee was introduced in 2009-10 at varying rates between Rs.110 per month and Rs.160 per month for different classes. Computer fee was also increased by Rs.50 per month for all the classes. Besides, some components of Annual charges were also increased in 2009-10.

The calculations in order to examine the justifiability of hike in tuition fee with effect from 01/04/2009 were, in the first instance, made by the Chartered Accountants who had been deputed by the Directorate of Education to assist this Committee and they worked out that the school had increased more fee than was necessary for implementation of the recommendations of 6<sup>th</sup> Pay Commission. However, the Committee noticed that the CAs had not taken into consideration the requirement of

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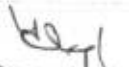
the school to keep funds in reserve for meeting its accrued liabilities of Gratuity and Leave Encashment and for future contingencies. Accordingly the calculations made by them were not accepted by the Committee.

The Committee issued a notice dated 22/05/2015 requiring the school to furnish the information regarding the aggregate amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school. Besides, the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike. A questionnaire with regard to recovery and utilisation of Development fee was also issued to the school for its response.

The school furnished the required information under cover of its letter dated 06/07/2015. The school also furnished its reply to the questionnaire regarding development fee. As per the reply submitted by the school, it appeared that the school had introduced development fee only in the year 2010-11. The same was treated as a revenue receipt and no earmarked accounts/ funds were concededly maintained for Depreciation Reserve or Development Fund.

The Committee issued a notice of hearing, requiring the school to appear before it on 10/11/2015. Sh. Gurdeep Singh, System  
Mata Gujri Public School, C-Block, Greater Kailash-I, New Delhi-110048 (B-380) Page 3 of 10

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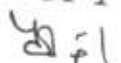


Administrator appeared with Sh. Pramod Kumar on behalf of the school. During the course of hearing, it was noticed by the Committee that the school was transferring large sums to its Parent Society every year. The authorized representative submitted that the surplus generated by the school is transferred to the parent society. He also reiterated that the school started charging development fee only from 2010-11 and conceded that the same was treated as a revenue receipt and no earmarked development or depreciation reserve fund were maintained. He submitted that the school had paid arrear salary which amounted to Rs.76,66,978 against which it recovered the arrear fee only to the tune of Rs.54,10,450. He further submitted that the balance amount was paid out of the school's own funds.

In the meantime, there was a change in the constitution of the Committee. The reconstituted Committee issued a notice of hearing dated 18/08/2017 requiring the school to appear before it on 31/08/2017 and offer justification for the fee hike effected by it by producing its fee, salary and accounting records.

In the meantime, the Committee prepared a preliminary calculation sheet based on the audited financials of the school and the information furnished by it in response to the various communications from the Committee. Prima facie, it appeared that the school had recovered more fee than was required in order to offset the additional

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financial burden which arose on account of implementation of the recommendations of 6th Pay Commission. A copy of the calculation sheet was furnished to the authorized representative appearing for the school during the course of hearing. In the preliminary calculation sheet, the Committee had included a sum of Rs.40,43,711 as funds which were deemed to be available with the school as they had apparently been transferred to the parent society. Further, it had disregarded the loan against the FDRs from its calculations.

The school, in its rebuttal, disputed only these two items from the preliminary calculation sheet and contended that loan to Mata Gujri Educational Society ought not to be considered as funds available, as the same was utilised by the society for constructing additional class rooms to accommodate more students. It brought to the notice of the Committee that the students strength rose from 1169 as on 30/04/2007 to 1454 as on 30/09/2010 and the additional class rooms were needed to accommodate the increased student strength. With regard to the loan of Rs.19 lacs claimed by the school, the Committee observed that the loan had been taken against the school's own FDRs. However, the balance outstanding as on 31/03/2008 was not Rs.19 lacs but Rs.14,40,504. The Committee also noticed that the school had also charged development fee in 2009-10 amounting to Rs.21,97,850 and as such the development fee was not introduced in 2010-11, as claimed by



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the school in its reply to the questionnaire but was introduced in 2009-10.

During the course of hearing, on examination of the audited financials of the school, it appeared that the school was also running a pre-primary school by the name of Mata Gujri Kinder Kin, besides the Sr. Sec. School and the financials of the Sr. Sec. School did not incorporate the financials of the main school. The school was directed to file the relevant information with regard to its pre-primary school also.

On 27/11/2017, Sh. H.S. Duggal, Chartered Accountant and General Secretary of the Parent Society appeared alongwith the Principal and the Director of the School. He submitted that the school is a minority institution and as such it enjoys autonomy with regard to fixation of fee etc. He further contended that the school charges very reasonable fees and even as on date the fee charged by the school is very much on the lower side as compared to the other schools in the locality. It was also contended that the balance sheet of the main school and pre primary school ought not to be considered in isolation but only on consolidated basis. He stated that the school had placed on record the consolidated balance sheet of the school and the Society for the years 2006-07 to 2010-11 and that the fund position, as emerging after consolidation of balance sheet ought to be taken into account, as the Society had no activity other than running the Sr. Sec. School and

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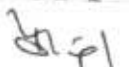
  
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the pre-primary school. The Committee considered the submission as logical but observed that while the school had filed the individual balance sheet of the pre primary school as well as consolidated balance sheet of the society, it had not furnished the information on a consolidated basis on the lines it submitted in respect of the senior school under cover of its letter dated 06/07/2015. The authorized representative sought some time for doing the needful. Accordingly, the matter was adjourned on that day..

The school, thereafter furnished the consolidated Balance sheets of the two schools as well as the parent society and also the information regarding fee and salary and the accrued liabilities of gratuity and leave encashment for the two schools in a consolidated manner to facilitate the relevant calculations.

The Committee agrees with the contentions of the authorized representative that when the society has no other activity apart from running the two schools, the funds position ought to be taken from the consolidated balance sheet of the society as that would take care of the inter-unit transfer of funds. Accordingly, the Committee prepared the following calculation sheet based on the consolidated funds position and fee and salary of the two institutions:

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Statement showing Fund available as on 31.03.2008 with Mata Gujri Educational Society and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars	Amount (Rs.)	Amount (Rs.)
	<u>Current Assets + Investments</u>		
	Bank Balance in Savings Bank Account	565,070	
	Bank Balance in Fixed Deposits	14,568,217	
	Interest Accrued but not due	1,011,541	
	Staff Advances and Imprest	3,753	
	Other Advances	34,800	
	Prepaid Expenses	218,027	
	TDS	346,752	
	Imprest to Staff	26,619	
	Fees receivable	21,052	16,795,831
<b>Less</b>	<u>Current Liabilities</u>		
	Liabilities for expenses	2,337,553	
	Other Liabilities	205,704	
	New Admission Fee Advance	900,100	
	Loan from PS Bank	1,440,504	
	TDS Payable	379	
	Other Security Deposit	11,500	
	Security Deposits	1,528,800	6,424,540
	<b>Net Current Assets + Investments</b>		<b>10,371,291</b>
<b>Less</b>	<b>Reserves required to be maintained:</b>		
	for future contingencies (equivalent to 4 months salary)	6,679,657	
	for accrued liability towards leave encashment as on 31.03.2010	3,003,391	
	for accrued liability towards Gratuity as on 31.03.2010 (in r/o employees having more than 5 years service)	4,625,768	14,308,816
			<b>(3,937,525)</b>
<b>Less</b>	<b>Additional Liabilities after implementation of 6th CPC:</b>		
	Arrear of Salary as per 6th CPC w.e.f. 01.1.06 to 31.3.09	8,106,721	
	Incremental Salary for 2009-10 (as per calculation given below)	6,053,856	14,160,577
	<b>Excess / (Short) Fund Before Fee Hike</b>		<b>(18,098,102)</b>
<b>Add</b>	<b>Additional Recovery for implementation of 6th CPC:</b>		
	Arrear of tuition fee w.e.f. 01.1.06 to 31.3.09	5,737,320	
	Incremental tuition fee for 2009-10 (as per calculation given below)	6,048,292	11,785,612
	<b>Excess / (Short) Fund After Fee Hike</b>		<b>(6,312,490)</b>

<b>Development fee refundable being treated as revenue receipt :</b>	<b>Rs.</b>
For the year 2009-10	2,197,850
For the year 2010-11	2,253,925
Total	4,451,775
Add: Excess fee recovered as per above calculation	(6,312,490)
	<b>(1,860,715)</b>

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**Working Notes:**

	2008-09	2009-10
Normal/ regular salary	13,985,116	20,038,972
<b>Incremental salary in 2009-10</b>	<b>6,053,856</b>	
	2008-09	2009-10
Normal/ Regular Tuition fee	11,589,592	15,408,269
Computer Fee	1,587,690	2,319,930
Other Charges	3,328,975	3,200
Annual Charges/ Activity Fee	2,261,070	7,084,220
<b>Total</b>	<b>18,767,327</b>	<b>24,815,619</b>
<b>Incremental fee in 2009-10</b>	<b>6,048,292</b>	

As would be apparent from the above calculation sheet, the school had available with it a sum of Rs.1,03,71,291 as on 31/03/2008. However, the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity, leave encashment and for future contingencies amounted to Rs.1,43,08,816. In effect, the school had no funds available for implementing the recommendations of 6<sup>th</sup> Pay Commission and had to hike the fee for that purpose. The total additional liability that befell on school for such implementation amounted to Rs.1,41,60,577. As against this, the additional revenue generated by the school by way of recovering arrear fee and hiking the tuition fee amounted to Rs.1,17,85,612. The resultant deficit of the school was Rs.63,12,490 after considering its requirement to keep funds in reserve as above. Therefore, in so far as recovering arrear fee and hiking tuition fee pursuant to order 11/02/2009 issued by the Director of Education is concerned, the Committee is of the view that the fee hike effected by the school was justified.

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With regard to development fee, the Committee notices that the school was admittedly not complying with any of the pre-conditions laid down by Duggal Committee for charging development fee which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School. However, the Committee notices that the development fee recovered by the school in 2009-10 and 2010-11 amounted to Rs.44,51,775. Since the deficit incurred by the school in implementing the recommendations of 6<sup>th</sup> Pay Commission exceeded the amount of development fee recovered by the school in these two years, the Committee is not inclined to recommend refund of any part of the development fee charged by the school.

**Resultantly, the Committee is of the view that no intervention is required to be made either in the case of recovery of arrear fee or for hike in tuition fee with effect from 01/09/2008 or with regard to development fee recovered by the school in 2009-10 and 2010-11.**

**Justice Anil Kumar (R)**  
(Chairperson)

**CA J.S. Kochar**  
(Member)

**Dr. R.K. Sharma**  
(Member)

**Date: 11/12/2017**

Mata Gujri Public School, C-Block, Greater Kailash-I, New Delhi-110048 (B-380)

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**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF**

**SCHOOL FEE, NEW DELHI**

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

**In the matter of:**

**Titiksha Public School, Sector-XI, Rohini, Delhi-110085 (B-55)**

**Recommendations of the Committee**

Present: Sh. Rajesh Kumar Verma, Accountant of the school.

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

The school submitted the reply to the questionnaire under cover of its letter dated 01/03/2012. As per the reply submitted by the school, it increased the salary of the staff with effect from 01/04/2009 in accordance with the recommendations of VI Pay Commission. It also paid the arrears of salary from 01/09/2008 to 31/03/2009 on 10/09/2009, 02/10/2010, 03/02/2012 and 04/02/2012. However, it submitted that it had not charged any arrear fee from the students. The fee was prospectively increased with effect from 01/04/2009 in accordance with the order dated 11/02/2009 issued by the Director of Education.

Titiksha Public School, Sector-XI, Rohini, Delhi-110085/B-55

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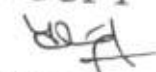


The relevant calculations to examine the justifiability of the fee hike effected by the school with effect from 01/04/2009 were made by the Chartered Accountants deputed by the Directorate of Education to assist this Committee and they determine that the school had incurred a deficit after implementation of the recommendations of VI Pay Commission. However, the Committee did not accept the determinations made by the CAs for the reason that they had accepted the averments made by the school in the reply to the questionnaire submitted by it, without undertaking any verification as on the face of it, the documents which were submitted along with the questionnaire raised suspicion about the assertion of the school that it had paid arrears of salary without recovering any arrears of fee from the students.

The Committee issued a notice dated 27/04/2015 requiring the school to furnish the information regarding the aggregate amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school. Besides, the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and the copy of the circular issued to the parents regarding fee hike. A fresh questionnaire with regard to the recovery and collection of development fee was also issued to the school. The school was also provided with an opportunity of being heard on 08/05/2015. The hearing was rescheduled for 26/05/2015 at the request of the school. On 26/05/2015, the school put in appearance

Titiksha Public School, Sector-XI, Rohini, Delhi-110085/B-55

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through Sh. R.K. Grover and Sh. R.K. Verma who did not have any authorization from the Principal or Manager of the school. They sought to file reply to the notice issued by the Committee, which was found to be ex facie incorrect. The same was not taken on record. The school filed the required information and reply to the questionnaire regarding development fee under cover of its letter dated 26/05/2015 which was received in the office of the Committee on 01/06/2015.

As per the reply to the questionnaire regarding development fee, the school stated that it had not charged any development fee from the students in the years 2009-10 and 2010-11.

A fresh notice of hearing was issued on 28/08/2017 after reconstitution of the Committee for hearing on 14/09/2017. On this date, Sh. R.K. Grover, Sr. Accountant and Sh. Rajesh Kumar Verma, Accountant of the school appeared and were partly heard.

The Committee noticed that the school, vide its letter dated 26.5.2015 had furnished a comparative statement of the fee collected under different heads as well as the salary paid in the different heads for the years 2008-09, 2009-10 & 2010-11. It was submitted by the authorized representatives appearing for the school that since the school did not charge any arrear fee from the students, no circular of fee hike was issued to the parents. However, it was admitted by them that the regular fee for the year 2009-10 was increased by the maximum amount

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which was permitted to be increased by the Director of Education vide order dated 11/02/2009.

The Committee noticed that as per the fee schedules filed by the school as part of its returns under Rule 180 of Delhi School Education Rules 1973, the school charged the tuition fee in the two years i.e. 2008-09 and 2009-10, as follows :

Class	Monthly Tuition Fee for 2008-09	Monthly Tuition Fee for 2009-10	Increase in 2009-10
PS/PP	1200	1500	300
I	960	1160	200
II & III	1150	1450	300
IV to VIII	1200	1500	300
IX & X	1400	1700	300
XI & XII Commerce	1570	1900	330
XI & XII Science	1800	2200	400

It was reiterated that the school did not charge any development fee in the years 2009-10 & 2010-11.

The Committee noticed that the total tuition fee received by the school rose from Rs.1,29,09,638 in 2008-09 to Rs.1,91,70,767 in 2009-10 on account of the fee hike effected by the school w.e.f. 01/04/2009, pursuant to order dated 11/02/2009.

The Committee also noticed that the school had claimed that it paid arrears of salary amounting to Rs.20,52,848 in the year 2009-10, which pertained to the period 01/09/2008 to 31/03/2009. Further, the

regular salary paid by the school rose from Rs.96,54,643 in 2008-09 to Rs. 1,79,81,344 in 2009-10 on account of implementation of the recommendations of the 6<sup>th</sup> pay commission.

In order to verify these figures, the Committee examined the books of accounts of the school which were maintained in Tally Software and were produced in a laptop. It observed as follows :

- A. The fee is by and large collected in cash from the students but the same is deposited in its bank account either on the same day or on the next working day.
- B. Bulk of the expenses incurred by the school are through banking channels. The school maintains only a small cash in hand which on an average amounts to Rs.7000 to 8000.
- C. The school pays its regular salary to the staff through cheques. However, the arrears amounting to Rs.22,52,848 were purportedly paid in cash. The school did not have cash in hand for payment of these arrears but withdrew the same from the bank.
- D. The figure of Rs.96,54,643 which was shown as total expenditure on salary in 2008-09 included sum of Rs.11,34,124 which it claimed to have paid to guest teachers, to whom admittedly the school did not pay as per the sixth pay commission. The corresponding amount in 2009-10 was Rs.21,76,776.

The issues arising in the case of this school have been considered and the Committee is of the view that the school did not pay any arrear salary.



to the staff, as claimed by it as there was no justifiable reason to pay the arrears in cash when the regular salary is paid to the staff by cheques and the school did not have any cash in hand to make payments in cash and actually withdrew the cash from its bank account to show the ostensible payments. Accordingly the Committee has ignored the purported arrear payments to the staff from the relevant calculations. Further, the Committee has also excluded the payments made to the guest teachers as admittedly they had not been paid salary in accordance with the recommendations of VI Pay Commission. The exclusions have been made from the figures of salary for both the years i.e. 2008-09 and 2009-10 to work out the incremental financial burden on the school as a result of implementation of the recommendations of VI Pay Commission. The school in its submissions dated 26/05/2015 also stated that it had no accrued liability of gratuity and leave encashment.

Accordingly the Committee prepared the following calculation sheet:

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Statement showing Fund available as on 31.03.2009 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	995,859	
	Bank Balances	1,385,444	
	Pre paid insurance	4,317	
	Prepaid Expenses	10,165	
	Staff advance	66,000	2,461,785
<b>Less</b>	<u>Current Liabilities</u>		
	Fee received in Advance	-	
	Security Deposit - students	-	
	Expenses payable	338,492	
	Audit fee payable	20,777	
	EPF Payable	19,806	
	Slary & Allowances payable	901,381	
	TDS Payable	23,991	1,304,447
<b>Less</b>	<b>Net Current Assets + Investments</b>		<b>1,157,338</b>
	<b>Additional Liabilities after implementation of 6th CPC:</b>		
	Arrear of Salary as per 6th CPC 1.1.2006 to 31.8.2008	-	
	Arrear of Salary as per 6th CPC 1.9.2008 to 31.3.2009	-	
	Incremental Salary for 2009-10 (as per calculation given below)	7,284,049	7,284,049
<b>Add</b>	<b>Excess / (Short) Fund Before Fee Hike</b>		<b>(6,126,711)</b>
	<b>Additional Recovery for 6th CPC:</b>		
	Arrear of tuition fee w.e.f 01.01.06 to 31.03.09	-	
	Incremental fee for 2009-10 (as per calculation given below)	6,261,129	6,261,129
	<b>Excess / (Short) Fund After Fee Hike</b>		<b>134,418</b>
<b>Less</b>	<b>Reserves required to be maintained:</b>		
	for future contingencies (equivalent to 4 months salary)	5,268,189	
	for accrued liability of Gratuity as on 31.03.2010	-	
	for accrued liability of Leave Encashment as on 31.03.10	-	<b>5,268,189</b>
			<b>(5,133,771)</b>





**Working Notes:**

	2008-09	2009-10
Normal/ regular salary	8,520,519.00	15,804,568
<b>Incremental salary in 2009-10</b>	<b>7,284,049</b>	
	2008-09	2009-10
Normal/ Regular Tuition fee	12,909,638	19,170,767
<b>Incremental tuition fee in 2009-10</b>	<b>6,261,129</b>	

It is apparent from the above calculation sheet that the school had a sum of Rs.11,57,338 available with it as on 31/03/2009. The incremental revenue generated by the school on account of fee hike as per order dated 11.2.2009 during the year 2009-10 amounted to Rs. 62,61,129 while the incremental salary for the same period consequent to implementation of the recommendations of the sixth pay commission amounted to Rs.72,84,049.

Apparently the school recovered a sum of Rs.1,34,418 in excess of what was required for implementation of the recommendations of the sixth pay commission prospectively w.e.f. 1.4.2009, after taking into consideration the funds already available with it. However, keeping in view the fact that while working on the above figures, the Committee has not taken any reserve for future contingencies, which the Committee has been taking into consideration in case of all the schools, the Committee does not deem it a fit case where the school should be asked to refund the excess amount of Rs.1,34,418 as the requirement of the school to

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keep funds in reserve amounts to Rs. 52,68,189 which is equivalent to four months salary for the year 2009-10.

Resultantly, the Committee is of the view that no intervention is required with regard to the hike in tuition fee effected by the school with effect from 01/04/2009 in pursuance of order dated 11/02/2009 issued by the Director of Education.

Justice Anil Kumar (R)  
(Chairperson)

CA J.S. Kochar  
(Member)

Dr. R.K. Sharma  
(Member)

Date: 18/12/2017

**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:**

**Maharaja Aggarsain Adarsh Public School, DU Block, Pitampura,**

**Delhi-110034 (B-236)**

**Order of the Committee**

Present: Dr. Harsh Arya, Principal, Ms. Neha Gupta, PGT (Accounts) & Sh. Lalit Kumar, Accounts Officer of the school.

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012, to all the unaided recognised schools in Delhi (including this school), which was followed by a reminder dated 27/03/2012. However, the school did not respond to the questionnaire or to the reminder. The concerned Dy. Director of Education was asked by the Committee to direct the school to furnish its reply.

In response to a communication issued by the Education officer of Zone-XI of the Directorate of Education, the school furnished its reply to her on 27/09/2012, which was forwarded to this Committee.

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In its reply, the school stated that it had increased the salaries of the staff with effect from 01/04/2009 in consequence of the recommendations of 6<sup>th</sup> Pay Commission. However, the school furnished details of its salary bill for the month of March 2009 and April 2010, which did not appear to be relevant as the salary bill for the month of April 2009 ought to have been enclosed in order to show the increased financial burden.

The school also furnished copies of payment sheets of the arrears of salary paid to the staff as per which a total sum of Rs.38,43,644 was paid on 31/03/2009, Rs.26,24,279 which was paid on 26/11/2009, Rs.26,00,257 which was paid on 26/04/2010 and Rs.23,65,283 which was paid on 03/06/2011. However, the school stated that the students did not pay the arrear fee, although the Managing Committee of the School had resolved to recover arrears of tuition fee both for the period 01/09/2008 to 31/03/2009 and 01/01/2006 to 31/08/2008 at the rates prescribed by order dated 11/02/2009 issued by the Director of Education. The regular tuition fee was increased with effect from 01/04/2009 at the rate of Rs.200 per month from students of classes Pre-school to VIII and @ Rs.300 per month from the students of classes IX to XII. Further, the school introduced development fee with effect from 01/04/2009 at a fixed rate of Rs.150 per month from students of all the classes.

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The calculations in order to examine the justifiability of hike in tuition fee with effect from 01/04/2009 were, in the first instance, made by the Chartered Accountants who had been deputed by the Directorate of Education to assist this Committee and they worked out that the school incurred a deficit on implementation of the recommendations of 6<sup>th</sup> Pay Commission. However, the Committee noticed that they had taken into consideration the arrear fee as per the resolution passed by the Managing Committee, in the teeth of the assertion made by the school that the students did not pay the arrear fee. Accordingly the calculations made by them were not accepted by the Committee.

The Committee issued a notice dated 13/05/2015 requiring the school to furnish the information regarding the aggregate amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school. Besides, the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike. A questionnaire with regard to recovery and utilisation of Development fee was also issued to the school for its response.

The school furnished the required information under cover of its letter dated 09/06/2015. The school also furnished its reply to the questionnaire regarding development fee. As per the reply, the school

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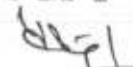


stated that it had recovered a sum of Rs.21.45 lacs as development fee in 2009-10 and Rs.20.20 lacs in 2010-11. The development fee was treated as a revenue receipt.

The Committee issued a notice of hearing, requiring the school to appear before it on 07/07/2016, which was postponed to 22/07/2016, alongwith all its records and to give its justification in support of the fee hike effected by it and arrear fee recovered by it as per order dated 11/02/2009 issued by the Directorate of Education.

On the date of hearing, Sh. Sushil Gupta, Chartered Accountant appeared with Sh. Harsh Arya, Principal, Sh, Lalit Kumar, Accountant, Ms. Aruna Seth, Sh. Anil Kumar and Sh. Ram Kumar, Support Staff. The Committee observes that the school had not filed a copy of the circular issued to the parents regarding fee hike. It also observed that the figures of fee and salary submitted by the School were filled in the notice issued by the Committee itself instead of being submitted on the letter head of the school and also that the school had not furnished details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010. The school sought some time to furnish a proper reply to the notice dated 13/05/2015. Accordingly, the matter was directed to be relisted on 08/09/2016. On this date, the school furnished a revised reply to the notice dated 13/05/2015 alongwith the necessary detail and documents.

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The committee 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. This was contrary to what the school stated in its reply to questionnaire issued by the Committee in the first instance when the school stated that the students had not paid the arrear fee.

Further, perusal of the circular dated 19/02/2009 revealed 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 had been furnished by the school showed 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.

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

However, the school admitted fairly in its reply to the questionnaire regarding development fee that it had recovered these sums in the years 2009-10 and 2010-11.

It was submitted on behalf of the school that it 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 equivalent to arrear fee collected. The school furnished copies of bank statements showing the payment of arrear salary through direct bank transfer. The school also furnished the details 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 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 showed that it had been transferring certain amounts to the Parent trust and between 2006-07 and 2009-10, it transferred a sum of Rs. 19,81,807.

The Committee had prepared the following Calculation Sheet in order to examine the justifiability of fee hike effected by the school and

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the arrear fee and development fee charged by the school pursuant to order dated 11/02/2009 issued by the Director of Education.

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	20,783	
	Bank Balances	132,959	
	FDRs	10,629,525	
	Interest receivable	858,507	
	Amount receivable in cash or kind	476,319	12,118,093
Less	<u>Current Liabilities</u>		
	Security Deposit from Students	1,207,042	
	Expenses payable	929,748	
	Sundry Creditors	72,361	
	TDS payable	11,496	
	Advance fee	207,350	2,427,997
Add	Net Current Assets + Investments (Funds available)		9,690,096
	Amount transferred to Shri Aggarwal Dharamshala Trust @ in the years 2006-07 to 2009-10 (Decrease in Credit balance)		1,981,807
Less	Funds deemed to be available		11,671,903
	<b>Reserves required to be maintained:</b>		
	for future contingencies (equivalent to 4 months salary)	8,057,156	
	for accrued liability towards Leave Encashment as on 31.03.2010	2,698,437	
	for accrued liability towards Gratuity as on 31.03.2010	6,197,398	16,952,991
Less	<b>Additional Liabilities on implementation of 6th Pay Commission:</b>		(5,281,088)
	Arrear of Salary as per 6th CPC from 01.1.06 to 31.3.09	9,068,180	
	Incremental Salary for 2009-10 (as per calculation given below)	10,376,904	19,445,084
Add	<b>Excess / (Short) Fund Before Fee Hike</b>		(24,726,172)
	<b>Additional Recovery for 6th Pay Commission:</b>		
	Arrear of tuition fee from 1.9.2008 to 31.3.09	3,525,020	
	Arrear of development fee		
	Incremental Annual Fee in 2009-10	3,863,963	
	Incremental tuition fee for 2009-10 (as per calculation given below)	4,633,887	12,022,870
	<b>Excess / (Short) Fund After Fee Hike</b>		(12,703,302)

<b>Development fee refundable being treated as a revenue receipt:</b>	<b>Rs.</b>
For the year 2009-10	2,145,199
For the year 2010-11	<u>2,020,875</u>
Total	4,166,074
Less: Shortfall in Tuition Fee	<u>(12,703,302)</u>
	<b><u>(8,537,228)</u></b>

**Working Notes:**

	<b>2008-09</b>	<b>2009-10</b>
Normal/ regular salary	<u>13,794,563</u>	24,171,467
Incremental salary in 2009-10	<u>10,376,904</u>	
	<b>2008-09</b>	<b>2009-10</b>
Normal/ Regular Tuition fee and Computer Fee	<u>13,477,835</u>	18,111,722
Incremental tuition fee in 2009-10	<u>4,633,887</u>	

The matter was taken up for hearing on 19/12/2017 and the above calculation sheet was considered during the course of hearing.

As is obvious from the calculation sheet, the school had Net current assets plus investments amounting to Rs.96,90,096 as on 31/03/2008. After taking into account the amount of Rs.19,81,807 which the school transferred to Aggarwal Dharamshala Trust which runs the school from the year 2006-07 to 2009-10, the Committee has determined that the school had available with it a sum of Rs.1,16,71,903. After considering the funds required to be kept in reserve by the school, the Committee observes that the school did not have any funds of its own which could have been utilized for meeting the additional liabilities arising on implementation of the recommendations of the 6<sup>th</sup> pay commission. The additional liabilities upto 31.3.2010 as worked out by the Committee amounted to Rs.1,94,45,084. These were partially met by the school by recovering

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arrear fee for the period 01/09/2008 to 31/03/2009 and by increasing the tuition fee for the year 2009-10. The funds generated in this manner amounted to Rs.1,06,57,545. Thus there was a gap of Rs.87,87,539. This was also partially met to the extent of Rs.13,65,325 by introducing fee under a new head namely computer fee. This still left a gap of Rs.74,22,240. It was submitted by the Principal of the school that the school invested a sum of Rs.37,02,866 in computers in the year 2010-11 in which the computer fee was discontinued. Therefore, the school did not generate any revenue out of computer fee that it charged in 2009-10. In support of this submission the school has drawn the attention of the Committee to its audited balance sheet as on 31/03/2011 which shows the addition of computers in the fixed assets.

In view of the submissions made, the Committee is of the view that the fee hiked by the school pursuant to order dated 11/02/2009 for implementation of the recommendations of the 6<sup>th</sup> pay commission and the computer fee recovered by it in 2009-10 call for no interference.

So far as the development fee is concerned the Committee notices that the school was not fulfilling any of the pre conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School as the school admittedly treated development fee as a revenue receipt in its accounts which was also

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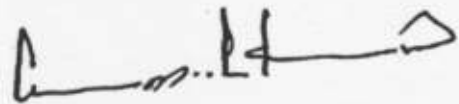
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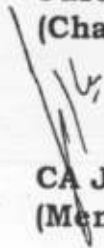


utilized for meeting the revenue expenses. The total recovery on this account in the years 2009-10 and 2010-11 amounted to Rs.41,66,074. However, in view of the deficit incurred by the school in implementing the recommendations of the 6<sup>th</sup> pay commission, which was larger than the total collection of development fee in these two years, the Committee is not inclined to take any adverse view in respect of development fee also.

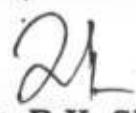
In view of the foregoing discussion, the Committee is of the view that neither fee hike effected by the school with effect from 01/09/2008 nor the development fee recovered by the school in 2009-10 and 2010-11 call for any interference.



Justice Anil Kumar (R)  
(Chairperson)



CA J.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Date: 19/12/2017

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

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

**In the matter of:**

**VIVEKANAND CONVENT SCHOOL(C-189),**

**SHAHDARA**

**DELHI**

**And in the matter of**

**Applications/representations dated**

**31<sup>st</sup> March, 2017 and 1<sup>st</sup> June, 2017**

**seeking review of Order Dated**

**17<sup>th</sup> October, 2012 by the Committee**

**in respect of the School.**

Present: Shri R.P.Sharma, Manager and Mr. Kapil Upadhyay Accountant of the school.

**ORDER**

1. The Committee passed the order/recommendation dated 17<sup>th</sup> October, 2012 in respect of Vivekanand Convent School, C-56, Jyoti Colony, Indra Street, Shahadara, Delhi referred to as 'The School'. The committee had recommended by recommendation/order dated 17<sup>th</sup> October, 2012 had held that the school resorted to hike in fees for some classes and the hike was more than the tolerance limit of 10%.

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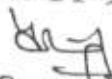


2. The Committee on 17<sup>th</sup> October, 2012's in its meeting had held on the basis of observations made by the audit officer of the Committee that the school had not implemented the 6<sup>th</sup> pay commission report. The Committee held that the school resorted to hike in fees for some classes and the hike was more than the tolerance limit of 10%. While passing its recommendation/order dated 17<sup>th</sup> October, 2012, the Committee had not issued the notice of hearing to the school and had passed the order on the basis of the report of the audit officer of the Committee. Consequently without hearing the pleas and contentions of the school, the committee recommended that the fee hike by the school from 1<sup>st</sup> April, 2009 for all the classes was unjustified and same ought to be refunded by the school along with interest @ 9% per annum. However, no hike was recommended for the year 2010 - 11 as according to the report of the audit officer of the Committee, the fee was not hiked in 2010 - 11.
3. The school has sought review of recommendation/order of the Committee dated 17<sup>th</sup> October, 2012 contending inter alia on the ground that there had never been hike of more than 10% and the school was not heard in respect of the record produced by the school and merely on the basis of the report of the audit officer of the Committee, the recommendation/order dated 17<sup>th</sup> October, 2012 has been passed. The School admitted that there had been a mistake in the annual returns filed by the school for 2009 - 10. According to the school not giving a reasonable opportunity of being heard and passing the order only on the report of the audit officer of the Committee, is denial of principles of natural justice and the recommendations/order suffers from procedural illegalities and in the circumstances the Committee should reconsider its recommendation/order which has been passed without considering the record produced by the school before the Committee.

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4. The manager and the accountant of the school appeared pursuant to the notice issued by this Committee on the review applications of the school on 5<sup>th</sup> September, 2017 and contended very emphatically that the school was not heard as no notice was issued to the school and merely on the basis of the record produced before the Committee and the report of the audit officer of the Committee, the Committee has passed the recommendation/order dated 17<sup>th</sup> October, 2012 which is in denial of the principle of natural justice. The representatives of the school contended very emphatically that the School is seeking review of recommendation/order dated 17<sup>th</sup> October, 2012 on account of procedural lapse by the Committee.
5. Perusal of the record reveals that though the school had not replied to the questionnaire sent by the Committee, therefore, the annual returns of the school under Rule 180 of Delhi School Education Rules, 1973 were obtained from Directorate of Education. On the preliminary examination of the returns filed by the school, since it had appeared that the school had not hiked the fees in terms of order dated 11<sup>th</sup> February, 2009 of the Director of Education and therefore, the school was placed in category 'C'.
6. In these circumstances the notice was issued to the school to produce its record of fees, books of accounts, bank statements, salary payment register. The authorized officers of the school had appeared and produced the records. The records of the school were examined by A.K.Vij, audit officer of the committee. On perusal of observation of the audit officer, the committee inferred that the observations were perfunctorily recorded on the basis of fee structure submitted by school and not on the basis of examination of actual fee charged as per the records of the school.

  
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7. The record of the school was, therefore, called again on 10<sup>th</sup> October, 2012 and were got examined from another audit officer. Thereafter, no notice was issued to the school nor the copy of the observations of audit officer were sent to the school and the Committee in its meeting on 17<sup>th</sup> October, 2012 decided the matter and made the recommendation as the stated hereinabove. It had been observed by the Committee that since the school had hiked the fee in 2009 - 10, in terms of the order of the Director of Education dated 11<sup>th</sup> February, 2009, without implementing the recommendations of 6<sup>th</sup> Pay Commission, the increase in fees in excess of 10% was unjustified.
8. Apparently the school has not sought review of the order/recommendation of the committee dated 17<sup>th</sup> October, 2012 on merits but on account of a procedural lapse on the part of the Committee whereby merely on the report of the audit officer, the recommendation/order dated 17<sup>th</sup> October, 2012 was passed. It is also Alleged that the copy of the report of the audit officer was also not given to the school nor the school was given any reasonable opportunity to make its submission pursuant to the observations made by the audit officer of the Committee.
9. The applicant is thus seeking review on account of lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. 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. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must

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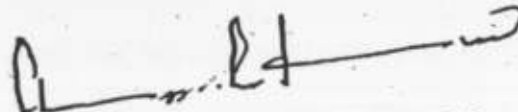
be corrected *ex.debit a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

10. 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 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 observations of the first Audit officer were found to be perfunctorily recorded by him necessitating reproduction of the record




before the Audit officer which was done by another Audit officer. The observations of the audit officer were not sent or communicated to the school nor any notice was issued to the school to appear before the Committee to refute the observations of Audit officer, if any, against the School. The Committee merely on the basis of the observations made by the audit officer passed the recommendations/order dated 17<sup>th</sup> October, 2012. Consequently the plea of the School that the order/recommendation suffer from procedural illegality is to be accepted and the recommendation/order dated 17<sup>th</sup> October, 2012 is liable to be recalled and set aside and the applications for review are to be allowed.

11. Consequently the applications of the School dated 31<sup>st</sup> March, 2017 and 1<sup>st</sup> June, 2017 are allowed and the recommendations/order dated 17<sup>th</sup> October, 2012 is recalled and said order dated 17<sup>th</sup> October, 2012 is set aside. A copy of this order be sent to the school and the hearing be fixed for actual date after notice to the School.

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

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

  
**Dr.R.K. SHARMA**

**MEMBER**

Date:12,12.2017

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

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

**In the matter of:**

**S.G.N. PUBLIC SCHOOL(B-611),  
H-243, KUNWARR SINGH NAGAR  
OPP. NILOTHI MORE,  
NAJAFGARH ROAD, NANGLOI  
Delhi 110041**

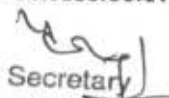
**And in the matter of**

**Applications/representations dated  
13<sup>th</sup> March, 2017 seeking review of  
Order Dated 17<sup>th</sup> March, 2015  
passed by the Committee in  
respect of the School.**

Present: Mr. Nishant Kumar, Authorized representative. Sh. A.K.Singh,  
Manager, Sh. Kunal representative of the School.

**ORDER ON THE APPLICATION OF REVIEW**

1. The Committee recommended return of fees with interest by S.G.N. Public School (B-611), H-243, Kunwarr Singh Nagar, Opp. Nilothi More, Najafgarh Road, Nangloi Delhi 110 041 referred to as 'The School' and

  
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did not believe the allegation of payment of amounts according to the recommendation of VI pay commission in cash by the School,

2. After giving hearing to the school and considering the documents filed by the school the Committee recommended that the school should refund the increased tuition fee charged in 2009 - 10 as it was found to be in excess of permissible limits of the order of Director of Education dated 11<sup>th</sup> February, 2009. The committee also inferred that the school had not implemented the recommendations of VI pay commission and consequently the increase in fee in excess of tolerance limit of 10% was unjustified and be returned with interest. For subsequent years the fees increased after 2009 - 10 was found to be a part and causing a ripple effect in the subsequent years also, the fee hiked in subsequent years relating to the fee hiked in 2009 - 10 was also ordered/recommended to be refunded with interest. Before making recommendations, the Committee had sent a questionnaire to the school to elicit relevant information. The School did not respond within the time specified by the Committee. The returns filed by the School were received by the Committee from the Director of Education were perused. Notice dated 24<sup>th</sup> October, 2013 was issued to the School to appear on 28<sup>th</sup> November, 2013 and to produce the entire record pertaining to fees and the salary for the years 2008 - 09 to 2010 - 11 and also to furnish the reply to the questionnaire. The authorized representative of the School appeared on 28<sup>th</sup> November, 2013 and produced the record which were perused by Audit officer. The School had submitted new fee structure other than what was filed earlier. On perusal of the record it revealed that the fee hike in 2009 - 10 was 20% to 125% and during 2010 - 11 it was 22.2% to 40% for different classes. The plea of the school that the recommendations of the VI was paid in cash without deducting TDS and PF not believed on the preponderance of probabilities. No cogent reason was given as to why the payment was not made by the School ~~by bank~~.



transfer or by account payee cheques. Consequently by recommendation/order dated 17<sup>th</sup> March 2015, the recommendations was made for the school to refund the fees which was more than 10% of the tolerance with simple interest of 9% per annum.

3. The school has filed applications/representations dated 13<sup>th</sup> August, 2017 seeking review of the recommendation/order of the committee dated 17<sup>th</sup> March 2015. The review has been sought on the ground that the school was in deficit as the fee received from the students is much less than the total salary and the expenditure during the years 2008 - 2009 to 2010 - 11. Subsequently the parent society transfer the amount to the account of the school for its smooth running. According to the allegation of the school it had utilized the income as it was In reserve for major capital expenditure and therefore considering the minimal fee and the additional liabilities, the recommendation/order of the Committee be reviewed. The School was heard on 5<sup>th</sup> September, 2017 and the order on the application of the School seeking review was reserved.
4. Apparently the school has sought review of the order/recommendation of the committee dated 17<sup>th</sup> March 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 17<sup>th</sup> March 2015. It is apparent that the Committee has become functus officio after it passed the order dated 17<sup>th</sup> March 2015.

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5. It is well settled that a quasi-judicial authority becomes '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:

"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.

6. 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 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. 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"

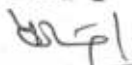
7. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee in the case of Rukmani Devi Public School and consequently the School cannot contend that the Committee has the



power to review its order/recommendation. No rule or a statute has been cited and relied on by the School in support of its allegation that the Committee can review its recommendation/order.

8. From the perusal of the applications/representation dated 13<sup>th</sup> August, 2017 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'. It is also well established that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMaha Vidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors. v. Pradyuman singh ji Arjun singh ji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. It is no more Res Integra that there is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a misapprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts. In Patel Narshi Thakershi & ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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9. 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 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 is taken, 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 quasi-judicial authority suffered from such illegality that vitiates the proceeding and invalidates the order made therein, as the 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 invalidates the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which were perused and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 17<sup>th</sup> March 2015.

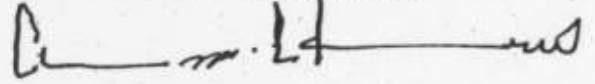


10. In the facts and circumstances, it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.
11. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 17<sup>th</sup> March 2015 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and/or some of the facts were not disclosed on account of oversight 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.
12. The applications/representation dated 17<sup>th</sup> March 2015 seeking recalling/revoking of the order dated 23<sup>rd</sup> November, 2014 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by the School. The applications/representation dated 13<sup>th</sup> August, 2017 by the school

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seeking review of the order/recommendation dated 17<sup>th</sup> March 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: 12.12.2017**

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

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

**In the matter of:**

**Shaheed Bishan Singh Memorial  
Sr. Secondary School(B-240),  
F-213, Mansrovar Garden,  
New Delhi 110015**

**And in the matter of**

**Applications/representations dated  
20<sup>th</sup> June, 2017 seeking review of  
order Dated 4<sup>th</sup> October, 2013 and  
application dated 25<sup>th</sup> August, 2017  
seeking clarification/modification of  
the order passed by the Committee in  
respect of the 'School'.**

Present: Mr. Shekhar Nanavaty, Legal Advisor, Mrs. Satwant Kaur,  
Principal, Shri Sudhir Kumar, Vice Principle of the school with  
Amarjit Kaur, Heal Clerk.

**ORDER ON THE APPLICATIONS OF THE SCHOOL**

1. The Committee recommended return of fees with interest by  
Shaheed Bishan Singh Memorial Senior Secondary School, F-213,

Applications dt. 20.6.2017 and 25.8.17, Shaheed Bishan Singh Sr. Sec School (B-240) Page 1 of 14

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Mansarovar Garden, New Delhi 110015 (B-240), referred to as 'The School', holding that the school did not implement the report of 6<sup>th</sup> Pay commission but increased the fee in terms of order dated 11<sup>th</sup> February, 2009 consequently the hike in excess of tolerance limit of 10% was held to be unjustified. Fee hiked in 2009 - 10 was also found to be a part of the fee for subsequent years and therefore, recommended return of fees in excess of 10% of the tolerance limit for subsequent years also.

2. Before passing the recommendations/order dated 4<sup>th</sup> October, 2013, the committee perused the record produced by the school though the school had not provided the complete information in reply to the questionnaire which was issued to the school. The returns of the school filed under Rule 180 of Delhi School Education Rules, 1973 were obtained from the Directorate of Education. On preliminary examination it had appeared that the fees was high and not in consonance with the order of Directorate of Education dated 11<sup>th</sup> February, 2009. Notice was issued to the school dated 18<sup>th</sup> July, 2013 to appear before the committee on 1<sup>st</sup> August, 2013 and for checking the fees and accounting records of the school. On the scheduled date the officials of the school had appeared and admitted that the School had not implemented the recommendations of 6<sup>th</sup> Pay Commission however, the fees was increased with effect from 2009 - 10. The school also filed the reply to the questionnaire which was not filed earlier. That revealed that the School had not charged the development fee from the students. The committee held in these circumstances that the School had not implemented the recommendations of the 6<sup>th</sup> Pay Commission but increased the fee on the basis of the order of the Directorate of Education and the fee was also hiked beyond the tolerance limit of 10% entailing recommendation/order of the Committee that the fee hike beyond 10% of the tolerance limit be refunded by the School with interest. Since the fees of subsequent year

also had the increased fee beyond the tolerance limit of 10%, for subsequent years also the committee recommended/ordered the school to refund the fees charged in excess of 10% with interest.

3. The school filed an application dated 20<sup>th</sup> June, 2017 contending that 70% of the students are already enjoying concession so average raise in tuition fee was not sufficient to implement the recommendations of 6<sup>th</sup> Pay Commission. The school also contended that it had communicated to the Committee verbally that the school is a minority institution and since the document pertaining to the status of the school as minority institution were not demanded, such documents were not submitted. According to the school, since it is a minority institution, it is not bound to comply the order of the Directorate of education as per rules and in the circumstances, the review of the recommendation/order dated 4<sup>th</sup> October, 2013 has been sought.

4. Later on the school filed another application dated 25<sup>th</sup> August, 2017 contending that since the school is a minority institution working primarily on the lines of a charitable institution, where majority of students are not paying the full fees and huge concessions are given to them, the prayer of the school is of modification/clarifications of the order/recommendation dated 4<sup>th</sup> October, 2013 of the Committee. The school/applicant contended that since the situation where huge concessions are given to the student is not taken into consideration by the Committee, the order for the refund of fees beyond 10% of the tolerance limit requires clarification/modification. The allegation of the school is that even if the hike is more than 10%, the School cannot be directed to refund the hike above 10% because such students have already been given concessions and the school is bearing huge monetary

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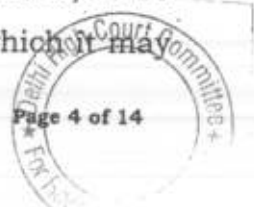


loss in such cases. According to the school this requires clarification/modification to avoid multiplicity of litigation. The school has filed a list of students and fees charged and paid by them which defines and clarifies the allegations, as has been made by the school. For the subsequent years, on account of ripple effect, the order of the Committee has also been challenged and clarification/modification has been sought as the School is alleged to be non-profitable Institute working on the lines of charitable and educational institute. The school has filed fee structure in previous and subsequent years as compared to the academic year of 2009 - 10 and allegedly has sought clarification/modification in view of this information supplied by the school along with the application dated 25<sup>th</sup> August, 2017. The school also contended that the Committee has jurisdiction to entertain such application seeking clarification/modification of recommendation/order dated 4<sup>th</sup> October, 2013.

5. Apparently the school has sought review of the order/recommendation of the committee dated 4<sup>th</sup> October, 2013 on merits of the order passed by the Committee by its application dated 20<sup>th</sup> June, 2017. 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 4<sup>th</sup> October, 2013. It is apparent that the Committee has become functus officio after it passed the order dated 4<sup>th</sup> October, 2013. By the said application dated 20<sup>th</sup> June, 2017 the School sought review on the ground that it is a minority institution and the documents pertaining to minority status were not produced by the School as the documents were not demanded by the Committee. In the said application dated 20<sup>th</sup> June, 2017 the school has categorically sought review of order dated 4<sup>th</sup> October, 2013 on merits. No grounds have been raised by the school from which it may

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be inferred that the School is seeking review on account of procedural lapse.

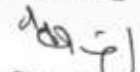
6. It is well settled that a quasi-judicial authority becomes 'functus officio' when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become 'functus officio'. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P. RamanathaAiyar's Advanced law Lexicon (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"

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Consequently after the Committee had made its recommendations and passed the order dated 4<sup>th</sup> October, 2013 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.

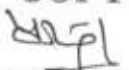
7. Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review of orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also 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 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. The Hon'ble Court passed the following order:

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

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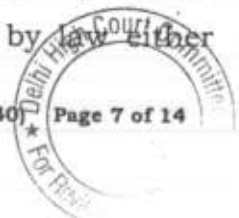


In view of the letter dated 12.02.2014 received from the Committee, we permit the Committee to review the case of Rukmani Devi Public School, Pitam Pura - 110034 **only**.

The writ petition shall be re-notified on 09.05.2014"

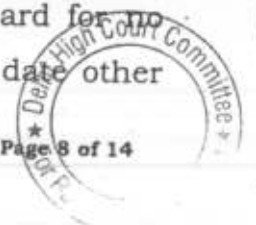
8. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee in the case of Rukmani Devi Public School and consequently the School cannot contend that the Committee has the power to review its order/recommendation. No rule or a statute has been cited and relied on by the School in support of its allegation that the Committee can review its recommendation/order.

9. From the perusal of the application/representation dated 20<sup>th</sup> June, 2017 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'. It is also well established that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya MahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors. v. Pradyuman Singh ji Arjun Singh ji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either



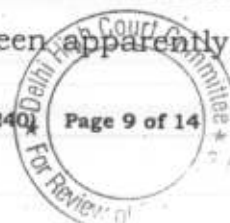
expressly or by necessary implication. It is no more Res Integra that there is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a misapprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts. In Patel NarshiThakershi&ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debit a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

10. 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 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 is taken, 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 quasi-judicial authority suffered from such illegality that vitiates the proceeding and invalidates the order made therein, as the party concerned was not heard for the 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 invalidates the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which were perused and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 4<sup>th</sup> October, 2013.

11. In the facts and circumstances, 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 merits, only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.
  
12. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 4<sup>th</sup> October, 2013 on merits on various grounds inter alia that it is minority institution and consequently the hike/raise claimed by the School even if it is not in consonance with the order dated 11<sup>th</sup> February, 2009, the Committee will not have jurisdiction to direct the School to refund the fees in excess of 10% charged by the school with 9% interest. 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

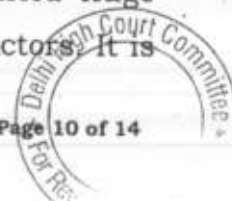


considered incorrectly and/or some of the facts were not disclosed on account of oversight and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a review 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.

13. The applications/representation dated 20<sup>th</sup> June, 2017 seeking recalling/revoking of the order dated 4<sup>th</sup> October, 2013 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by the School. The applications/representation dated 20<sup>th</sup> June, 2017 by the school seeking review of the order/recommendation dated 4<sup>th</sup> October, 2013 is, therefore, not maintainable.

14. The application dated 20<sup>th</sup> June, 2017 was partly argued by the counsel for the school on 17<sup>th</sup> July, 2017 and 23<sup>rd</sup> August, 2017 and was got adjourned by the counsel when during the argument it was put to the learned counsel as to how the application for a review on merits will be maintainable. Instead of arguing the matter on the next date of hearing before the Committee, another application dated 25<sup>th</sup> August, 2017 was filed by the school seeking clarification/modification of the order dated 4<sup>th</sup> October, 2013 on the ground that the Committee has not considered the situation in which the students have already been granted huge concessions due to his family's financial conditions or other factors. It is

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alleged that there might be a possibility that a particular student may have been given concession in the academic year 2008 – 2009 or even in the previous years but who paid the full fee or an amount which might not be the full fee is, but is more than 10% of the fees paid in the year 2008 – 2009 or in previous years. On this hypothetical assumption, it is contended that in such a case the increase of fees even if beyond tolerance limit of 10% cannot be refunded as the said students has already being given the concession and the applicant School had already bore huge monetary losses. According to the applicant this requires clarification/modification to save the multiplicity of proceedings. The school has produced fee structure for 2008 2009; fee structure for 2009 – 2010; fee structure for 2010 – 2011; fee structure for 2011 – 2012; fee structure for 2012 – 13; fee structure for 2013 – 2014; fee structure for 2014 – 2015; fee structure for 2015 – 2016 and fee structure for 2016 – 2017. The applicant School has also filed an annexure containing the alleged details of fee concession given during 2009 – 2010 showing the full fee paid by number of students in all the classes; 75% fees paid by the number of students indicated therein; 50% fees paid by the number of students indicated therein; 25% fees paid by number of students indicated therein in all the classes; 10% fees paid by the number of students indicated therein and freeship given to the number of students indicated in the said annexure. When the circumstances the school seeks rehearing of the entire matter and reconsider the various figures given by the school which may be taken into consideration only, if they are supported by the record of the school in case such a rehearing comes within the purview of review on the basis of the record which had not been produced earlier and no cogent reason has been given as to why such a plea and the documents in support of the said plea were not filed before the Committee earlier. The plea of the school is also based on hypothetical assumption as no specific details of such students have been given except giving the number of such students.



15. In the circumstances the school contends that it amounts to giving "clarification" only and consequently the School is entitled for modification of order dated 4<sup>th</sup> October, 2013. Comparing the application dated 20<sup>th</sup> June, 2017 with the application dated 25<sup>th</sup> August, 2017 it is apparent that the grounds are same in both the applications as even in the subsequent application which is dated 25<sup>th</sup> August, 2017 the relief is sought on the ground that the School is the minority institution and in case the concession has already been given by the school in earlier years, the fees paid in subsequent years even if more than 10% of the tolerant limit imposed based on the order dated 11<sup>th</sup> February, 2009 of Directorate of education cannot be ordered. It is apparent that the grounds taken by the school are the same, as in the application dated 20<sup>th</sup> June, 2017 seeking review of the order/recommendation of the committee dated 4<sup>th</sup> October, 2013 the same grounds have been alleged. If that be so merely describing an application as one for "Clarification" or "modification" though it is really one of review, a party cannot be permitted to circumvent or bypass the law as has been held in various precedents some of which are referred to herein above. What cannot be done directly cannot be permitted to be done indirectly. If the Committee does not have power to review its decision on merits, a fortiori the Committee cannot permit such hearing of an application for allegedly for "clarification", "modification" or "recall" if the application is in substance a clever move for review. In (2000) 7 SCC 296; Delhi Admin. Vs Gurdip Singh Uban, at page 309 it was held by the Supreme Court as under:

17. We next come to applications described as applications for "clarification", "modification" or "recall" of judgments or orders finally passed. We may point out that under the relevant Rule XL of the Supreme Court Rules, 1966 a review application has first to go before the learned Judges in circulation and it will be for the Court to consider whether the application is to be rejected without giving an oral hearing or whether notice is to be issued.

*Order XL Rule 3 states as follows:*

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"3. Unless otherwise ordered by the Court, an application for review shall be disposed of by circulation without any oral arguments, but the petitioner may supplement his petition by additional written arguments. The Court may either dismiss the petition or direct notice to the opposite party...."

In case notice is issued, the review petition will be listed for hearing, after notice is served. This procedure is meant to save the time of the Court and to preclude frivolous review petitions being filed and heard in open court. However, with a view to avoid this procedure of "no hearing", we find that sometimes applications are filed for "clarification", "modification" or "recall" etc. not because any such clarification, modification is indeed necessary but because the applicant in reality wants a review and also wants a hearing, thus avoiding listing of the same in chambers by way of circulation. Such applications, if they are in substance review applications, deserve to be rejected straight away inasmuch as the attempt is obviously to bypass Order XL Rule 3 relating to circulation of the application in chambers for consideration without oral hearing. By describing an application as one for "clarification" or "modification", — though it is really one of review — a party cannot be permitted to circumvent or bypass the circulation procedure and indirectly obtain a hearing in the open court. What cannot be done directly cannot be permitted to be done indirectly. (See in this connection a detailed order of the then Registrar of this Court in *Sone Lal v. State of U.P.*<sup>2</sup> deprecating a similar practice.)

18. We, therefore, agree with the learned Solicitor General that the Court should not permit hearing of such an application for "clarification", "modification" or "recall" if the application is in substance one for review. In that event, the Court could either reject the application straight away with or without costs or permit withdrawal with leave to file a review application to be listed initially in chambers.

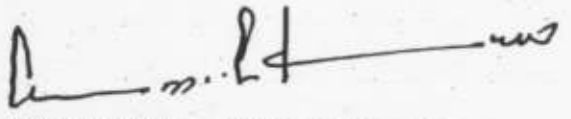
16. The School had filed the application seeking review dated 20<sup>th</sup> June, 2017 and during the hearing on 17<sup>th</sup> July, 2017 and on 23 August 2017 it was observed that the application for review on merits is not maintainable. Just after that the applicant school filed another application dated 25<sup>th</sup> August, 2017 allegedly seeking "clarification" and "modification" on the same grounds. In the circumstances even the application dated 25<sup>th</sup> August, 2017 is not maintainable.

17.. Consequently the applications/representations dated 20<sup>th</sup> June, 2017 and 25<sup>th</sup> August, 2017 seeking recalling/revoking of the order dated 4<sup>th</sup> October, 2013 and passing the order/recommendation again are not maintainable, as this Committee does not have such powers as





has been invoked by the School. The applications/representation dated 20<sup>th</sup> June, 2017 and 25<sup>th</sup> August, 2017 by the school seeking review of the order/recommendation dated 4<sup>th</sup> October, 2013 are, therefore, not maintainable and are disposed off as not maintainable.

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

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

Date:12.12.2017

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

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

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

**In the matter of:**

**The Adarsh Sr. Secondary School (B-238)**

**Kirti Nagar,**

**New Delhi 110015**

**And in the matter of**

**Application/representations dated**

**21<sup>st</sup> August, 2017 seeking review of**

**Order Dated 17<sup>th</sup> March, 2015**

**Passed by the Committee in respect of the School.**

Present: Mr. Ashok Sehgal, Manager; Mr. J.B. Aggarwal, C.A and Dr. Anurag  
Principal of the school

**ORDER ON THE APPLICATION OF REVIEW**

1. The Committee recommended/ordered by recommendation dated 20<sup>th</sup> January, 2013 return of fees with interest, the amount of fee hiked for all the classes. The Adarsh Senior Secondary School, Kirti Nagar is now referred to as 'The School'.
2. Before passing the recommendation/order directing the school to refund the fees, the committee had issued a questionnaire dated 27<sup>th</sup>

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Application for Review dated 21.08.2017, The Adarsh School(B-238) Page 1 of 9

Secretary



February, 2012. However the details as per the questionnaire issued by the Committee were not provided by the School. The annual returns filed by the school with Directorate of Education, the copies were obtained. Prima facie it had appeared that the school hiked the fees in accordance with the order of the Director of Education dated 11<sup>th</sup> February, 2009. The committee had issued another questionnaire to the School seeking documents and records pertaining to the queries which had been raised by the Committee. A reply was submitted by the manager of the school which stated that the School has implemented the recommendations of the VI Pay Commission with effect from 1<sup>st</sup> July, 2009 and hiked the fee with effect from 1<sup>st</sup> April, 2009. The records produced by the school were examined by the audit officer of the Committee. The Committee issued a notice dated 26<sup>th</sup> November, 2013 for hearing on 12<sup>th</sup> December, 2013. During the hearing, the officials of the school represented that the school had substantially implemented with effect from 1<sup>st</sup> July, 2009 the recommendations of VI Pay Commission except that HRA was not paid to the staff and the staff had agreed to forgo HRA. It was also represented that no arrears of salary for the period 1<sup>st</sup> January, 2006 to 30<sup>th</sup> June, 2009 had been paid nor any arrear fee had been recovered from the students. It also transpired that the school had not charged any development fee and the fee structures and the financials also did not show any such charges. On the basis of the record produced it was inferred by the Committee that the school had a sum of ₹ 9,863,513/- available with the School which could have been utilized for implementation of VI Pay Commission. It has also been held that the school had ample funds to implement the VI Pay Commission and the School took advantage of the order dated 11<sup>th</sup> February, 2009 of Directorate of Education. The committee therefore, recommended that the School ought to refund the fee hiked by it for different classes in 2009 - 10 along with interest @9% per annum.

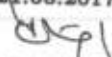
Secretary



3. The school has filed applications/representations dated 21<sup>st</sup> August, 2017 seeking review of the recommendation/order of the committee dated 21<sup>st</sup> August, 2017. The review has been sought inter alia on the grounds that the increase in fee was strictly as per order of the Department of Education dated 11<sup>th</sup> February, 2009 and no complaints have been made against the School for illegal or irregular announcement by anyone. The Committee has not taken into consideration the statutory liabilities of the school which are two words payment of gratuity and for the leave encashment. The grievance has been made in respect of liability of payment to DDA which are still pending adjudication in the High Court. The School also claims that the liability for partially constructed the school building should also be taken into consideration. According to the School the reserves appearing in the balance sheet as on 31<sup>st</sup> March, 2010 are not sufficient even to serve the liability of the school and it cannot be inferred that the court was of the society is sufficient even to meet the liability of the school and exceeds the amount of reserves of the school. In the circumstances the School has sought review of order dated 20<sup>th</sup> January, 2013 passed by the Committee recommending refund of fees by the School with interest.
4. Apparently the school has sought review of the order/recommendation of the committee dated 20<sup>th</sup> January, 2013 on merits of the order/recommendations 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 20<sup>th</sup> January, 2013. It is apparent that the Committee has become functus officio after it passed the order dated 17<sup>th</sup> March 2015.

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Application for Review dated 21.08.2017, The Adarsh School(B-238) Page 3 of 9

  
Secretary

5. It is well settled that a quasi-judicial authority becomes '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:

"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.

6. 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

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Application for Review dated 21.08.2017, The Adarsh School(B-238) Page 4 of 9

Secretary



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 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. 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"

7. 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, if any, on the face of the record in case of other schools, however, no general permission ~~was~~ <sup>was</sup> granted.

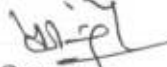


granted to the Committee in the case of Rukmani Devi Public School and consequently the School cannot contend that the Committee has the power to review its order/recommendation. No rule or a statute has been cited and relied on by the School in support of its allegation that the Committee can review its recommendation/order.

8. From the perusal of the applications/representation dated 21<sup>st</sup> August, 2017 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'. It is also well established that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors. v. Pradyuman singh ji Arjunsingji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. It is no more Res Integra that 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. 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.

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9. 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 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 is taken, 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 quasi-judicial authority suffered from such illegality that vitiates the proceeding and invalidates the order made therein, as the 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 invalidates the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which were perused and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 20<sup>th</sup> January, 2013.

  
Secretary





10. In the facts and circumstances, 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.
11. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 20<sup>th</sup> January, 2013 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and/or some of the facts have not been referred to at all. 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.
12. The applications/representation dated 21<sup>st</sup> August, 2017 seeking recalling/revoking of the order dated 20<sup>th</sup> January, 2013 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by the School. The applications/representation dated 21<sup>st</sup> August, 2017 by the school

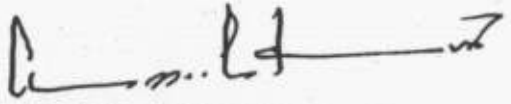
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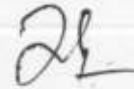
seeking review of the order/recommendation dated 20<sup>th</sup> January, 2013 is, therefore, not maintainable and it is disposed of as not maintainable



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



**J.S. KOCHAR  
MEMBER**



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

**Date: 12.12.2017**

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Application for Review dated 21.08.2017, (The Adarsh School(B-238) Page 9 of 9



Secretary



**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:**

**THE CAMBRIDGE INTERNATIONAL SCHOOL (B-649),**

**JAWAHAR PARK, DEVLII ROAD**

**NEW DELHI 110062**

**And in the matter of**

**Applications/representations dated**

**16<sup>th</sup> June, 2017 seeking review of**

**Order Dated 4<sup>th</sup> September, 2015 passed**

**by the Committee in respect of the School.**

Present: Mr. Amit Gupta Advocate for the School with Sh. P.S. Siwas  
Manager of the School.

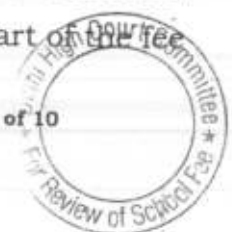
**ORDER**

1. The Committee passed the order/recommendation dated 4<sup>th</sup> September, 2015 in respect of The Cambridge International School at Jawahar Park, Devli Road, New Delhi referred to as 'The School' and recommended that since the school had hiked the fee in 2009 - 10, in terms of the order of the Director of Education dated 11<sup>th</sup> February, 2009, without implementing the recommendations of 6<sup>th</sup> Pay Commission, the increase in fees in excess of 10% was unjustified and recommended that the excess fee beyond 10% should be refunded with interest @9% per annum from the date of collection to the date of refund. It was also held that fee hiked in the year 2009 - 10 is also part of the fee

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Review Application dated 16.6, 2017, The Cambridge Intn. School (B-649)

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

2. The recommendations/order was passed by the Committee after perusing the returns filed by the schools under Rule 180 of the Delhi School Education Rules, 1973 as the school had failed to respond to the questionnaire which was issued by the Committee. In order to give an opportunity to the school of being heard a notice was issued and the school was also directed to furnish information regarding fee and salaries in a structured format, duly reconciled with the income and expenditure accounts. The other relevant material was also requisitioned from the school. Despite notice to the school no one appeared on scheduled date. Another opportunity was granted to the school to appear on a subsequent date. On the subsequent date the officials of the school appeared and produced some of the record. It was also contended on behalf of the school that the recommendations of the 6<sup>th</sup> pay commission were implemented prospectively by the school with effect from 1<sup>st</sup> April, 2009. It had also transpired that though the school was operating a bank account, the salary to the staff was paid by bearer cheques which were en-cashed on the same date. The plea of the school that it had paid the salary to the staff in terms of the recommendations of the 6<sup>th</sup> pay commission was not believed in the facts and circumstances of the school after perusing the documents produced on behalf of the school and considering the probabilities in the facts and circumstances. No plausible and reliable explanation could be given by the school as to why the payments were not made by bank transfer or by account payee cheques in the name of the teachers. Consequently it was inferred that that the school had not implemented the recommendations of 6<sup>th</sup> Pay commission. It had also transpired that the school had not charged the



development fee from the students and consequently the recommendations dated 4<sup>th</sup> September, 2015 were made.

3.. The school filed a representation dated 16<sup>th</sup> June, 2017 against the orders/recommendation of the Committee seeking its review on the grounds that the salary had been paid to the staff which is duly reflected in the salary register. Emphasis was also laid on the fact that there was no complaint from the staff and the salary was paid as per the prevalent practice after getting recognition in 2004 - 2005. For review of the orders/recommendation of the Committee reliance was also placed on the audited balance sheet of the school which were allegedly submitted to the Directorate of Education. The review has also been sought on the ground that the school does not have requisite funds to refund to the students as has been recommended by the Committee and the school has always acted in the most law abiding manner. According to the school the Committee did not take into consideration detailed documents however, did not specify as to which of the documents had not been taken into consideration by the Committee.

4. The school also filed the written synopsis dated 18<sup>th</sup> July, 2017 repeating the pleas and contentions which were raised in the application/representation for review of the orders/recommendation of the Committee. Though Committee had observed and incorporated in its orders/recommendations that the hiked salary was allegedly paid by bearer cheques, however, in the written submission it was alleged that the school had paid the salaries/allowances through ECS. In the written synopsis in para 6 it was rather contended that the salary was paid to the staff through bearer cheques contrary to the allegations made in paragraph 1 that the school has paid the salaries/allowances through ECS.



5. On behalf of the school different orders of the Hon'ble Court dated 27 October 2017; 25 September 2017; 15 September 2017; 6 September 2017 were also produced and relied on. However the Court has neither stayed the disposal of the review petition filed by the school nor has held that the Committee has the power to review its orders or has granted permission to the Committee to consider the review application of the school on merits.
6. The school has filed an additional short written synopsis dated 22<sup>nd</sup> November, 2017 reiterating the pleas and contentions raised in the application seeking review and earlier written synopsis. Though it was observed during the hearings on various dates to the school to explain as to how the application for review is maintainable, as the Committee does not have power to review its own orders. However the school has failed to show any grounds or any precedents authorizing the Committee to review its own orders/recommendations.
7. The application of the school and the written synopsis filed by the school were considered on different dates. The arguments were partly heard on 18<sup>th</sup> July, 2017 and adjourned at the request of the school. Thereafter, the application for review was taken up on 25<sup>th</sup> August, 2017; 20<sup>th</sup> September 2017; 22<sup>nd</sup> November, 2017 and today.
8. Apparently the school has sought review of the order/recommendation of the committee dated 4<sup>th</sup> September, 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 4<sup>th</sup> September, 2015. It is apparent that the Committee has become functus officio after it passed the order dated 4<sup>th</sup> September, 2015. Nothing has been produced to show that the



case of the School is distinguishable and that the Committee has the power to review its order on merits in the case of applicant school.

9. It is well settled 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:

"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.

10. 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 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. 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"

11. 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, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee and only in the case of Rukmani Devi Public School the review was allowed and consequently the School cannot contend that the Committee has the power to review its order/recommendation.





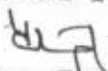
12. From the perusal of the applications/representations dated 16<sup>th</sup> June, 2017 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. It is also well established that no review lies on merits unless a statute specifically provides for it. In *Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors.* MANU/SC/0104/1987 and *Patel Narshi Thakershi and Ors.v.Pradyumansinghji Arjunsingji* MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. 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 debito a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.
13. 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 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 record which were perused and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 4<sup>th</sup> September, 2015.

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

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15. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 4<sup>th</sup> September, 2015 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and/or some of the facts were not disclosed on account of oversight 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 of the Hon'ble Court authorizing the Committee to review its recommendations either expressly or by necessary implication.

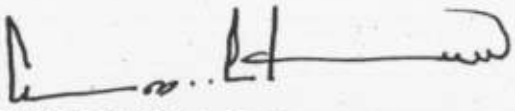
17. The learned counsel for the applicant has also contended that the proceedings now initiated seeking consideration of the pleas and contentions of the school is in fact not reconsideration but continuation of the pleas and contentions of the school which will relate to the stage when the school was issued notice. On the basis of this submission the learned counsel for the Applicant prays that the Committee has the power to consider the grounds now raised by the School in the representation dated 16<sup>th</sup> June, 2017. The plea of the learned counsel is without any legal basis. The learned counsel was asked to produce any such rule and/or legal precedent in support of his contention. The learned counsel for the applicant fairly contended that there is no such precedent nor any rules and regulation holding that even after the decision by the Committee, the proceedings shall be deemed to continue. This plea of the applicant is without any legal and factual basis and therefore, cannot be accepted and on this ground the order dated 4<sup>th</sup> September,

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2015 cannot be reconsidered/reviewed. This ground is to be repelled in the facts and circumstances of the case

18. The applications/representations dated 16<sup>th</sup> June, 2017 seeking recalling/revoking of the order dated 4<sup>th</sup> September, 2015 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by the School. The applications/representation dated 16<sup>th</sup> June, 2017 by the school seeking review of the order/recommendation dated 4<sup>th</sup> September, 2015, is therefore, not maintainable and is disposed of as not maintainable

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

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

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

**Date:19,12.2017**



**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:**

**CANTERBURY PUBLIC SCHOOL (B-333),**

**VIVEK PARK, MAUJPUR**

**DELHI 110062**

**And in the matter of**

**Applications/representations dated**

**24<sup>TH</sup> August, 2017 and 4<sup>th</sup> September, 2017**

**seeking review of Order Dated**

**1<sup>st</sup> August, 2015 passed**

**by the Committee in respect of the School.**

Present: Mr. K.C.Gupta, President of the School with Mr. Neeraj Gupta  
Treasurer of the School.

**ORDER**

1. The Committee passed the order/recommendation dated 1<sup>st</sup> August, 2015 in respect of Canterbury Model Public School at Vivek Park, Maujpur, Delhi 110033 referred to as 'The School' and recommended that since the school had hiked the fee in 2009 - 10, in terms of the order of the Director of Education dated 11<sup>th</sup> February, 2009, without implementing the recommendations of 6<sup>th</sup> Pay Commission, the increase in fees in excess of 10% was unjustified and recommended that the excess fee beyond 10% should be refunded with interest @9% per annum from the date of

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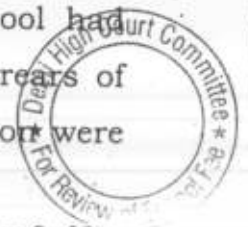
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collection to the date of refund. It was also held that fee hiked in the year 2009 - 10 is also part of the fee for the subsequent years, there would be ripple effect in subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hiked in 2009 - 10 should also be refunded by the school with interest @ 9% per annum from the date of collection to the date of refund. It was also held that they school was not complied with any of the preconditions prescribed for the Development fee and consequently they school was liable to refund the development fee along with interest @ 9 % per annum.

2. The recommendations/order was passed by the Committee after perusing the returns filed by the schools under Rule 180 of the Delhi School Education Rules, 1973 as the school had failed to respond to the questionnaire which was issued by the Committee. In order to have the information in a structured format, another opportunity to the school of being heard notice was issued and the school was also directed to furnish information regarding fee and salaries in a structured format, duly reconciled with the income and expenditure accounts. The other relevant material was also requisitioned from the school. Pursuant to the notice dated 10<sup>th</sup> January, 2019 to the school, the President of the Management and the C.A of the attended the office of the Committee and also produce the record for the scrutiny of Audit Officer of the Committee. On perusal it transpired that the school had not collected arrear fee nor had paid arrears of any salary to the staff. This salary to the staff was paid partly in cash and partly through bank transfer. Another notice was given to the school to produce the entire records. The representative of the school who had appeared pursuant to notice represented that they school had neither collected any arrear fee no one had paid any arrears of salary. However, the recommendations of 6 Pay commission were

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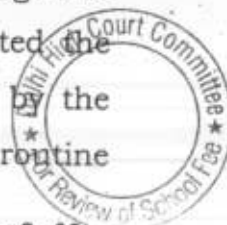


prospectively implemented from 1<sup>st</sup> April, 2009. The salary was paid partly in cash and partly by bank transfer. In 2009 – 10 also the same pattern was repeated and the cash component had increased substantially during the year 2010 and 11 as the entire salary for the whole year was apparently paid in cash. The Development fee was stated as revenue receipt and was utilized mainly for meeting revenue expenditures like salaries and repair of a school buildings et cetera.

3. The school was provided another opportunity pursuant to which the chairman and the treasurer of the school appeared. Component of cash payment of salary was found to be quite high as almost the entire salary was paid in cash. Like the pleas of other schools that the arrears of salary was paid in cash, the plea of the school about payments of arrears and salary was not believed by the committee considering the evidence on record produced by the school on the basis of preponderance of probabilities. There was no plausible and convincing reason to believe the pleas and contentions of the school and it was held that the school did not implement the recommendations of 6<sup>th</sup> pay commission. It was also held that the school had not complied with any of the preconditions regarding Development fee.

4. The school has filed an application/representation which was received on 24<sup>th</sup> August, 2017 contending inter alia that the Committee should pardon the negligible excess amount charged by the school. According to the school it has charged development fee at the rate less than what is prescribed by the Department. The school has prayed for reconsideration of order dated 1<sup>st</sup> August, 2015. The main grounds raised by the school are that though the it has not paid the arrears as the school has not collected the arrears of fees from the students. It was also contended by the school that on account of shortage of funds for the routine

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expenses the school had taken aid from a Samiti. Besides the application for review dated 24<sup>th</sup> August, 2017 in application dated 4<sup>th</sup> September, 2017 was also filed seeking review of order dated 1<sup>st</sup> August, 2015 after Committee. The school relied on alleged contradiction of the statements between note sheet and in printed Interim report IX which reflect that there is an interpretation gap.

5. The applications/representations were listed on 20<sup>th</sup> September, 2017 and were adjourned at the request of the school. The applications came for hearing again on 22<sup>nd</sup> November, 2017 but again they were adjourned at the request of the school. The applications have been taken today and have been heard at length.
  
6. Apparently the school has sought review of the order/recommendation of the committee dated 1<sup>st</sup> August, 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 1<sup>st</sup> August, 2015. It is apparent that the Committee has become functus officio after it passed the order dated 1<sup>st</sup> August, 2015. Nothing has been produced to show that the School is distinguishable and in its case the Committee has the power to review its order on merits.
  
7. It is well settled 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



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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."

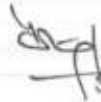
Black's Law Dictionary (6<sup>th</sup>Edn., p 673) gives the meaning of functus officio as follows:

"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.

8. 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:

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" 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 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. 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**.

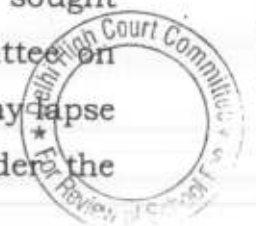
The writ petition shall be re-notified on 09.05.2014"

9. 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, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee except in the case of Rukmani Devi Public School and consequently the School cannot contend that the Committee has the power to review its order/recommendation.

10. From the perusal of the applications/representations dated 24<sup>th</sup> August, 2017 and 4<sup>th</sup> September, 2017 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

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concept 'Procedural lapse'. It is also well established that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya MahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors.v.Pradyuman Singh ji Arjun Singh ji MANU/SC/0433/1970: AIR 1970 SC 1273, the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is neither 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 debit a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

11. 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 cases the party



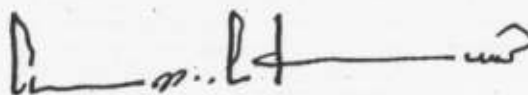
seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that 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 record which were perused and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 1<sup>st</sup> August, 2015.

12. Thus 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.
13. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 1<sup>st</sup> August, 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

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considered incorrectly and/or some of the facts were not disclosed on account of oversight 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.

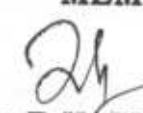
14. The applications/representations dated 24<sup>TH</sup> August, 2017 and 4<sup>th</sup> September, 2017 seeking recalling/revoking of the order dated 1<sup>st</sup> August, 2015 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by the School. The applications/representations dated 24<sup>TH</sup> August, 2017 and 4<sup>th</sup> September, 2017 by the school seeking review of the order/recommendation dated 1<sup>st</sup> August, 2015, is therefore, not maintainable and is disposed of as not maintainable



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



**J.S. KOCHAR  
MEMBER**



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

**Date: 19, 12, 2017**

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**Delhi High Court Committee for Review of School Fee**  
**(Formerly Justice Anil Dev Singh Committee for Review of School Fee)**  
**CAUSE LIST FOR OCTOBER 2017**

**Cause List for Tuesday, 3rd October 2017**

S. No.	Cat. No.	School Name & Address
1	B-424	Pragati Public School, Sect.13, Dwarka
2	B-380	Mata Gujri Public School, Greater Kailash
3	B-138	Army Public School, Dhaula Kuan
4	B-39	Sachdeva Public School, Pitampura
5	B-49	Sachdeva Public School, Sector-13, Rohini

**Cause List for Wednesday, 4th October 2017**

S. No.	Cat. No.	School Name & Address
1	B-184	Mira Model School, Janakpuri
2	B-109	Dr. Radha Krishnan International School, Defence Colony
3	B-6	Ahlcon Public School, Mayur Vihar, Ph-I
4	B-55	Titiksha Public School, Sect. 11, Rohini

**Cause List for Friday, 6th October 2017**

S. No.	Cat. No.	School Name & Address
1	B-266	St. Mark's Sr. Sec. Public School, Janakpuri
2	B-490	St. Mark's Girls Sr. Sec. School, A Block, Meera Bagh
3	B-489	St. Mark's Sr. Sec. School, Meera Bagh

**Cause List for Monday, 9th October 2017**

S. No.	Cat. No.	School Name & Address
1	B-235	Crescent Public School, Pitampura
2	B-274	Hemnani Public School, Lajpat Nagar
3	B-90	Masonic Public School, Vasant Kunj
4	B-56	St. Angel's School, Sector-15, Rohini

**Cause List for Tuesday, 10th October 2017**

S. No.	Cat. No.	School Name & Address
1	B-277	Hans Raj Smarak School, Dilshad Garden
2	B-368	Hans Raj Smarak School, Krishna Nagar
3	B-437	Air Force Bal Bharti School, Lodi Road
4	B-69	S.M. Arya Public School, West Punjabi Bagh

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## Cause List for Wednesday, 11th October 2017

Cause List for Wednesday,

S. No.	Cat. No.	School Name & Address
1	B-286	Mount Abu Public School, Sect.5, Rohini
2	B-294	Mount Abu Sr. Sec. School, Sect.18, Rohini
3	B-660	Tagore International School, East of Kailash
4	B-60	The Heritage School, Sector-23, Rohini

## Cause List for Thursday, 12th October 2017

S. No.	Cat. No.	School Name & Address
1	B-544	Queen Mary's School, Model Town-III
2	B-295	Lions Public School, Ashok Vihar
3	B-202	St. Gregorious School, Dwarka
4	B-488	Queen Mary's School, Sect.25, Rohini

## Cause List for Friday, 13th October 2017

S. No.	Cat. No.	School Name & Address
1	B-227	S D Public School, Cheerakhana, Nai Sarak
2	B-237	S D Public School, Kirti Nagar
3	B-653	Apeejay School, Sheikh Sarai-I
4	B-63	Tagore School, Maya Puri

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Delhi High Court Committee for Review of School Fee  
(Formerly Justice Anil Dev Singh Committee for Review of School Fee)  
CAUSE LIST FOR NOVEMBER 2017  
Cause List for Monday, 13th November 2017

S. No.	Cat. No.	School Name & Address
1	B-346	St. Mary's School, Mayur Vihar Phase-II
2	B-407	Saraswati Vidyalaya Sr. Sec. School for Girls, Darya Ganj
3	B-138	Army Public School, Dhaula Kuan
4	B-109	Dr. Radha Krishnan International School, Defence Colony

Cause List for Tuesday, 14th November 2017

S. No.	Cat. No.	School Name & Address
1	B-378	Dev Samaj Modern School-2, Sukhdev Vihar
2	B-633	Dev Samaj Modern School, Nehru Nagar
3	B-6	Ahicon Public School, Mayur Vihar, Ph-I
4	B-49	Sachdeva Public School, Sector-13, Rohini

Cause List for Monday, 20th November 2017

S. No.	Cat. No.	School Name & Address
1	B-70	S.D. Public School, East Punjabi Bagh
2	B-235	Crescent Public School, Pitampura
3	B-90	Masonic Public School, Vasant Kunj
4	B-437	Air Force Bal Bharti School, Lodi Road

Cause List for Tuesday, 21st November 2017

S. No.	Cat. No.	School Name & Address
1	B-56	St. Angel's School, Sector-15, Rohini
2	B-544	Queen Mary's School, Model Town-III
3	B-202	St. Gregorious School, Dwarka
4	B-488	Queen Mary's School, Sect.25, Rohini

Cause List for Wednesday, 22nd November 2017

S. No.	Cat. No.	School Name & Address
1	B-649	Review - The Cambridge International School, Jawahar Park
2	B-333	Review - Canterbury Public School, Maujpur
3	B-116	Review- Bhai Joga Singh Public School, Karol Bagh
3	B-335	Bhai Parmanand Vidya Mandir, Surya Niketan
4	B-340	Preet Public School, Preet Vihar
5	B-172	Ganga International School, Saavda Ghevra
6	B-677	Ganga International School, Hiran Kudna
7	B-235	Crescent Public School, Pitampura

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## Cause List for Monday, 27th November 2017

S. No.	Cat. No.	School Name & Address
1	B-380	Mata Gujri Public School, Greater Kailash
2	B-55	Titiksha Public School, Sect. 11, Rohini
3	B-277	Hans Raj Smarak School, Dilshad Garden
4	B-368	Hans Raj Smarak School, Krishna Nagar

## Cause List for Wednesday, 29th November 2017

S. No.	Cat. No.	School Name & Address
1	B-623	Col. Satsangi's Kiran Memorial School, Chhatarpur
2	B-604	Lal Bahadur Shastri Smarak School, R.K. Puram
3	B-642	Apeejay School, Pitampura
4	B-184	Mira Model School, Janakpuri

## Cause List for Thursday, 30th November 2017

S. No.	Cat. No.	School Name & Address
1	B-69	S.M. Arya Public School, West Punjabi Bagh
2	B-295	Lions Public School, Ashok Vihar
3	B-227	S D Public School, Cheerakhana, Nai Sarak
4	B-237	S D Public School, Kirti Nagar

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**Delhi High Court Committee for Review of School Fee**  
**(Formerly Justice Anil Dev Singh Committee for Review of School Fee)**  
**CAUSE LIST FOR DECEMBER 2017**

**Cause List for Tuesday, 5th December 2017**

S. No.	Cat. No.	School Name & Address
1	B-60	The Heritage School, Sector-23, Rohini
2	B-63	Tagore School, Maya Puri
3	B-378	Dev Samaj Modern School-2, Sukhdev Vihar
4	B-633	Dev Samaj Modern School, Nehru Nagar

**Cause List for Wednesday, 6th December 2017**

S. No.	Cat. No.	School Name & Address
1	B-286	Mount Abu Public School, Sect.5, Rohini
2	B-294	Mount Abu Sr. Sec. School, Sect.18, Rohini
3	B-544	Queen Mary's School, Model Town-III
4	B-69	S.M. Arya Public School, West Punjabi Bagh

**Cause List for Thursday, 7th December 2017**

S. No.	Cat. No.	School Name & Address
1	B-116	Review- Bhai Joga Singh Public School, Karol Bagh
2	B-235	Crescent Public School, Pitampura
3	B-642	Apeejay School, Pitampura
4	B-184	Mira Model School, Janakpuri

**Cause List for Monday, 11th December 2017**

S. No.	Cat. No.	School Name & Address
1	B-437	Air Force Bal Bharti School, Lodi Road
2	B-90	Masonic Public School, Vasant Kunj
3	B-56	St. Angel's School, Sector-15, Rohini
4	B-380	Mata Gujri Public School, Greater Kailash

**Cause List for Tuesday, 12th December 2017**

S. No.	Cat. No.	School Name & Address
1	B-109	Dr. Radha Krishnan International School, Defence Colony
2	B-335	Bhai Parmanand Vidya Mandir, Surya Niketan
3	B-340	Preet Public School, Preet Vihar
4	B-623	Col. Satsangi's Kiran Memorial School, Chhatarpur

**Cause List for Wednesday, 13th December 2017**

S. No.	Cat. No.	School Name & Address
1	B-346	St. Mary's School, Mayur Vihar Phase-II
2	B-407	Saraswati Vidyalaya Sr. Sec. School for Girls, Darya Ganj
3	B-172	Ganga International School, Saavda Ghevra
4	B-677	Ganga International School, Hiran Kudna

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**Cause List for Monday, 18th December 2017**

S. No.	Cat. No.	School Name & Address
1	B-49	Sachdeva Public School, Sector-13, Rohini
2	B-55	Titiksha Public School, Sect. 11, Rohini
3	B-277	Hans Raj Smarak School, Dilshad Garden
4	B-368	Hans Raj Smarak School, Krishna Nagar

**Cause List for Tuesday, 19th December 2017**

S. No.	Cat. No.	School Name & Address
1	B-649	Review - The Cambridge International School, Jawahar Park
2	B-333	Review - Canterbury Public School, Maujpur
3	B-236	Maharaja Aggarsain Adarsh Public School, Pitampura
4	B-604	Lal Bahadur Shastri Smarak School, R.K. Puram
5	B-237	S D Public School, Kirti Nagar
6	B-295	Lions Public School, Ashok Vihar

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Pragati Public School, Sec.13,Dwarka, Delhi

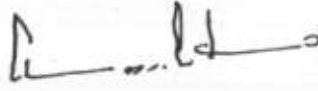
Present: Sh. Anil Kumar Jain, Authorised person, Sh. Rajiv Malik, Authorised person & Sh. Inderjeet Singh, Accounts Incharge of the school.

Hearing in this matter was closed on 7<sup>th</sup> June 2017. Subsequently the Committee received a representation dated 31.8.2017 from the school vide which it requested for one more hearing as the school wanted to place some additional facts/make some additional submissions. Accordingly the hearing was fixed for today. In the meantime the school has filed written submissions dated 27<sup>th</sup> Sept. 2017, purportedly placing some additional facts. The Committee has perused the written submissions and observes that the only additional submission which the school has made pertains to non consideration of the accrued liability of gratuity and leave encashment as on 31.3.2010 amounting to Rs.17,86,029 and Rs.2,45,994 respectively. The Committee has gone through the calculation sheet prepared by it and observes that these liabilities were indeed omitted from the consideration while working out the funds available with the school. The Committee has also perused the statement of accrued liabilities of gratuity and leave encashment which were filed by the school under cover of its letter dated 10.11.2016 and observes that in so far as the accrued liability of gratuity is concerned, most of the employees had not completed 5 years of service as on 31.3.2010 and thus in their cases there was no accrued liability of gratuity as on that date. However the Committee will duly factor the accrued liability of gratuity in respect of the employees who have completed 5 years of service as on 31.3.2010 and also the accrued liability of leave encashment in respect of all the employees. The school has also filed its own calculation sheet vide which it is claimed that the school was in deficit to the tune of Rs.8,51,36,627 after implementing the recommendations of the 6<sup>th</sup> pay commission and further that the school incurred more expenses out of development fee towards repair and maintenance of buildings and other assets and purchase of new assets, than the development fee recovered in the year 2009-10 and 2010-11. At the same time it is conceded that the school treated development fee as revenue receipt. No other submission has been made by the authorized representative appearing for the school.

Recommendations reserved.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



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Mata Gujri Public School, Greater Kailash, Delhi

Present: Ms. Daljeet K. Bhandari, Principal, Sh. J.S. Guman, Director, Sh. Hari Kishan, Advocate & Sh. Gaurav Nanda, Office Superintendent of the school.

The school has filed written submissions dated 3.10.2017 in rebuttal of the calculation sheet prepared by the Committee along with the written submissions. The school has also filed its own calculation sheet showing that instead of a surplus of Rs.21,56,452 provisionally determined by the Committee, the school was in deficit to the tune of Rs.60,43,787 after implementation of the recommendations of the 6<sup>th</sup> pay commission, after accounting for the arrear fee as well as incremental fee recovered by the school in pursuant of order dated 11.2.2009 issued by the Director of Education.

On going through the calculation sheet filed by the school the Committee observes that the school has disputed only the following figures which had been taken by the Committee in its calculation sheet.

Particulars	As per the calculation sheet of the Committee	As per the calculation sheet of the school
Loan to Mata Gujri Educational Society (Parent society of the school)	40,43,711	Nil
Loan against FDRs	Nil	19,00,0000

Further the school has claimed that it incurred capital expenditure to the tune of Rs.26,16,479 out of the development fee of Rs.22,53,925 recovered in 2010-11.

It is accordingly submitted that since the school was in deficit both on revenue account as well as on capital account after implementation of the recommendations of the 6<sup>th</sup> pay commission, the fee hike by the school and the arrear fee recovered by it pursuant to order dated 11.2.2009 ought to be considered as justified.

With regard to the exclusion of Rs.40,43,711, which the school has transferred to the parent society, it is submitted that the same was utilized by the society for additional class rooms to accommodate more students in the school. As per copies of the students strength available on the record of the Committee, the school had 1169 students as on 30.4.2007 which rose to 1454 as on 30.9.2010. The Committee observes that even as on 31.3.2007 the outstanding loan of the society in the book of the school was Rs.39,56,522, indicating that the loan was given in the prior years. The construction of additional classrooms is stated to have been carried out in the years starting from 2005 and went on till 2010.

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Secretary



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B-380

Be that as it may, the funds for construction of additional classrooms cannot be sourced from the fee charged from the students. It is an admitted case of the school that the school did not have any other source of income apart from fee charged from the students. The Committee, therefore, rejects this contention raised by the school that the funds diverted to the society out of fee charged from the students ought not be considered as available for meeting the additional liabilities of the school for implementing the recommendations of the 6<sup>th</sup> pay commission.

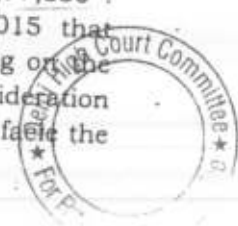
The next bone of contention with regard to liability of loan taken by the school against its own FDRs amounting to Rs.19 lacs on 3.8.2007 from Punjab & Sind Bank. The school has filed copy of bank statement in evidence that loan was taken against its own FDRs. The Committee has examined the bank statement filed by the school and observes that the entry with regard to transfer of the proceed of loan in the current accounts of the school bears the narration LABD i.e. loan against bank deposits. Accordingly, this contention raised by the school is accepted in principle however, the Committee observes that outstanding liability as on 31.3.2008 in respect of this loan was Rs.14,40,504. Accordingly, the Committee will factor this sum of Rs.14,40,504 while making its final determinations.

With regard to capital expenditure incurred by the school out of development fee charged for the year 2010-11, it is conceded case of the school that development fee is treated as a revenue receipt in the year 2010-11. The school has cited provisions of Rule 151 of the Delhi School Education Rules 1973 to justify its utilization for payment of salary to staff appointed on adhoc basis. The submissions made by the school are self contradictory as on one hand it is claimed that development fee was utilized for payment of salary to the adhoc staff and while on the other hand it is saying that it is used against capital expenditure. Moreover, Rule 151 does not even apply to the school as it is applicable only to aided schools. Although the school might have utilized the development fee charged in 2010-11 for acquisition of fixed assets like furniture and fixtures and equipments, it was not in compliance with the other pre conditions laid down by the Hon'ble Supreme Court in the case of Modern school i.e. treatment of development fee as capital receipt and maintenance of earmarked development fund and depreciation reserve fund for assets acquired out of development fee. This is the conceded position of the school as vide its reply dated 6.7.2015 the school has categorically stated "no" with regard to the queries regarding maintenance of earmarked development funds and depreciation reserve fund. In the same reply the school has also conceded that development fee was treated as a revenue receipt in the year 2010-11 which is also vried from the audited financials of the school of that year.

The Committee observes that the school also charged development fee in the year 2009-10 to the tune of Rs. 21,97,850 . However, the school incorrectly stated in its reply dated 6.7.2015 that it had not charged any development fee in that year. Relying on the contents of the reply, the Committee had not taken into consideration the development fee charged by the school in 2009-10. Prima facie the

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Secretary



03.10.2017

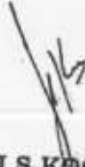
03.10.2017 000197  
B-380

Committee is of the view that the same is also required to be refunded as the school was admittedly not fulfilling the pre conditions laid down by the Hon'ble Supreme Court except that the school treated development fee as a capital receipt in that year. The school may file its response with regard to the refund of development fee charged in 2009-10 before the next date of hearing.

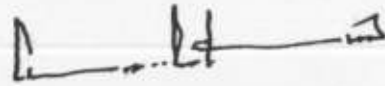
During the course of hearing it has also come out on examination of the audited financials of the school that the school was running a pre primary school by the name of Mata Gujri Kinder Kin, besides the Sr. Secondary school. It is conceded that the financials of the pre primary school are not included in the financials of the main school. The school will file its audited financials of the pre primary school for the years 2006-07 to 2010-11 and also furnish the information required by the Committee vide its notice dated 22.5.2015 in respect of the pre primary school. The same may be done within one week. Matter to come up for hearing on 16.11.2017 at 11.00 A.M.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON



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03.10.2017

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**B-138**

Army Public School, Dhaula Kuan, Delhi

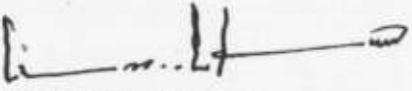
Present: Sh. S.C. Singhal, Bursur & Sh. Gunjan Sharma, Accountant of the school.

The school has been provided a copy of calculation sheet as prima facie it appears that the school had sufficient funds of its own and did not require to hike any fee or recover any arrear fee for the purpose of implementation of the recommendations of the 6<sup>th</sup> pay commission. Further the school was treating development fee as a revenue receipt and apparently was not fulfilling 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.

The authorized representative requested for some time to file a rebuttal on behalf of the school. Accordingly the matter is adjourned to 13th Nov. 2017 at 11.00 A.M. to enable the school to file its rebuttal.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON



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Secretary



Sachdeva Public School, Pitampura, Delhi

Present: Sh. Y.P. Rawala, C.A. and Sh. Rakesh Goel, Sr. Accounts Officer of the school.

Notice dated 12/09/2017 was issued to the complainant one Sh. Rajesh Kumar who had alleged that the school was recovering some fee for implementing the recommendations of VI Pay Commission in the name of another school "Better Future Sachdeva Junior School" which was run by the same society. The notice was issued by speed post and has not been received back undelivered. Accordingly the Committee considered the same as has been served. The Complainant has not appeared in response to the notice issued by the Committee. Moreover, the Manager of the school Sh. Raj Kumar Sachdeva had filed an affidavit stating that "Better Future Sachdeva Junior School" is not running under the Sachdeva Public School. The same has already been considered by the Committee on 12/09/2017. Earlier the school had filed a letter dated 10/02/2015 vide which it was stated that the above mentioned school was not run by Sh. Laxman Dass Sachdeva Memorial Education Society (Regd.), which is the parent society.

With regard to the justification for collection of arrears of development fund for the period Sept. 2008 to March 2009 which were apparently recovered @ 40% of the arrears of the tuition fee for the same period, the school has filed a chart showing the working of the arrear of development fee for the above mentioned period. With the assistance of this chart, the authorized representative appearing for the school has tried to explain that the arrears of development fee for the aforesaid period are only 15% & not 40% as observed by the Committee.

For appreciating the submissions made by the authorized representative, the following figures are culled out on the chart submitted by the school.

Class	Tuition Fees actually charged for the period 1.4.2008 to 31.08.2008	Development fee charged as per the fee schedule for the period 01.04.2008 to 31.08.2008.	Tuition fee actually charged for the period 01.09.2008 to 31.03.2009	Development fee charged for the period 1.9.2008 to 31.3.2009	Percentage of development fee to tuition fee for the period 01.09.2008 to 31.3.2009
I & II	10,000	1000	16,800	2520	15%
III to V	10,450	1000	18,130	2695	14.86%
VI to VIII	10,900	1000	18,760	2800	14.92%
IX to XII	11,250	1000	19,250	2800	14.54%

Accordingly it is contended that the arrears of development fee that was recovered but 15% of the arrears of tuition fee or near about.

The Committee has considered the aforesaid submissions made by the school. It is apparent that as per the fee schedule for the year 2008-09 filed by the school under section 17(3) of the Delhi School

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Secretary



03.10.2017

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Education Act, 1973 with the Directorate of Education, a copy of which has been filed by the school today, the school was charging development fee at a fixed rate of rs. 200 per month, irrespective of amount of tuition fee charged from the students of different classes. As such the development fee charged by the school was not linked to the tuition fee. The order dated 11/02/2009 issued by the Director of education did not authorize the schools to increase development fee. The order was limited to the increase in tuition fee only. However, since many schools charged development fee as a percentage of tuition fee within the overall cap of 15% laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India, any increase in tuition fee would automatically result in an increase in development fee in such cases. Recognizing this, para 15 of the order dated 11/02/2009 mandated that any additional increase in development fee on account of increase in tuition fee shall be utilized for meeting any shortfall on account of salaries/arrears only. It cannot be construed to be authorizing the schools to increase development fee to 15% of tuition fee where the schools were charging development fee at a rate it was less than 15% or in case the development fee charged was not linked to the tuition fee. The authorized representative submits that the meeting of the Managing Committee which authorized the fee hike was attended by a representative of the Directorate of Education and he did not raise any objection to the fee hike that was proposed.

The school collected a total sum of Rs. 39,54,600 towards arrears of development fee for the period 01/09/2008 to 31/03/2009, in respect of both the senior school as well as the junior school.

the Committee has prepared a calculation sheet to examine the justifiability of the recovery of arrear fee and the tuition fee hike effected by the school w.e.f. 01/09/2008, on the basis of the audited financials of the school as on 31/03/2008 and the information furnished by the school and verified by the Committee during the course of hearings. The Committee finds that the school hardly had any funds available with it as on 31/03/2008 out of which it could have met the additional liabilities arising on account of implementation of recommendations of VI Pay Commission. The total financial impact of the implementation of recommendations of VI Pay Commission was Rs. 4,99,12,031 upto 31/03/2010. The arrear fee recovered by the school and the additional revenue generated by the school by way of fee hike from 01/09/2008 to 31/03/2010 was to the tune of Rs. 4,72,19,215. Therefore the school clearly incurred a deficit on implementation of the recommendations of VI Pay Commission as such the Committee considers that the tuition fee hike by the school w.e.f. 01/09/2008 as well as the arrear fee recovered by it for the period 01/01/2006 to 31/08/2008 was justified and calls for no intervention by the Committee. However, the Committee considers that the arrears of development fee recovered by the school amounting to Rs. 39,54,600 were not justified as the order dated 11/02/2009 which was issued by the Director of Education in exercise of the powers vested under section 17(3) read with the other relevant provisions of law did not authorize the school to hike any development fee as they could have no additional development fee on account of increase in tuition fee due to the fact that the development fee charged by the school was not linked to the tuition fee charged by it. The order

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Secretary



03.10.2017

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did not authorize the school to increase development fee to 15% of tuition fee where the school was a fixed amount of development fee from all the students irrespective of the amount of tuition fee. Accordingly, the Committee is of the view that the school ought to refund the arrears of development fee recovered by it for the period 01/09/2008 to 31/03/2009 amounting to Rs. 39,54,600 along with interest @ 9% from the date of collection to the date of refund.

With regard to regular development fee charged by the school in the years 2009-10 and 2010-11, although the school was not complying with all the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583 , the Committee does not recommend its refund on account of the fact that besides incurring a deficit in implementing the recommendations of VI Pay Commission, the school did not have any funds for meeting its liabilities of gratuity and leave encashment or for any future contingencies. If these are taken into consideration, the development fee recovered in 2009-10 and 2010-11 is more than offset by the overall deficit.

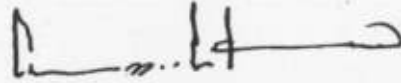
Detailed order to be passed separately.



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

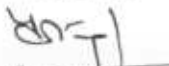


**J.S. KOCHAR**  
MEMBER



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

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Secretary

**Sachdeva Public School, Sec.-13, Rohini, Delhi**

Present: Sh. Y.P. Rawala, Chartered Accountant & Sh. Anup Mehrotra, Acct Officer, of the school.

Notice dated 12/09/2017 was issued to the complainant one Sh. Rajesh Kumar who had alleged that the school was recovering some fee for implementing the recommendations of VI Pay Commission in the name of another school "Better Future Sachdeva Junior School" which was run by the same society. The notice was issued by speed post and has not been received back undelivered. Accordingly the Committee considered the same as has been served. The Complainant has not appeared in response to the notice issued by the Committee. Moreover, the Manager of the school Sh. Sanjay Sachdeva has filed an affidavit stating that "Better Future Sachdeva Junior School" is not running under the Sachdeva Public School. Earlier the school had filed a letter dated 2015 vide which it was stated that the above mentioned school was not run by Sh. Laxman Dass Sachdeva Memorial Education Society (Regd.), which is the parent society.

The school has today furnished the details of arrear fee collected from the students in the years 2011-12 to 2016-17 and also the arrear salary paid during these years. These are required to be factored in calculations to be prepared by the committee.

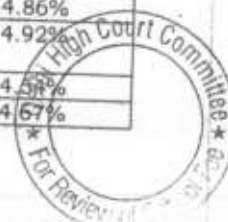
With regard to the justification for collection of arrears of development fund for the period Sept. 2008 to March 2009 which were apparently recovered @ 40% of the arrears of the tuition fee for the same period, the school has filed a chart showing the working of the arrear of development fee for the above mentioned period. With the assistance of this chart, the authorized representative appearing for the school has tried to explain that the arrears of development fee for the aforesaid period are only 15% & not 40% as observed by the Committee.

For appreciating the submissions made by the authorized representative, the following figures are culled out on the chart submitted by the school.

Class	Tuition Fees actually charged for the period 01.04.2008 to 31.8.2008	Development fee charged as per the fee schedule for the period 01.04.2008 to 31.8.2008.	Tuition fee actually charged for the period 01.09.2008 to 31.03.2009	Development fee charged for the period 01.09.2008 to 31.03.2009	Percentage of development fee to tuition fee for the period 01.09.2008 to 31.03.2009
I & II	10,000	1000	16,800	2520	15%
III to V	10,450	1000	18,130	2695	14.86%
VI to VIII	10,900	1000	18,760	2800	14.92%
IX & X	11,250	1000	19,250	2800	14.54%
XI & XII	11,125	1000	19,075	2800	14.67%

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*[Signature]*  
Secretary



03.10.2017

000203

Accordingly it is contended that the arrears of development fee that was recovered were 15% of the arrears of tuition fee or near about.

The Committee has considered the aforesaid submissions made by the school. It is apparent that as per the fee schedule for the year 2008-09 filed by the school under section 17(3) of the Delhi School Education Act, 1973 with the Directorate of Education, a copy of which has been filed by the school today, the school was charging development fee at a fixed rate of Rs. 200 per month, irrespective of amount of tuition fee charged from the students of different classes. As such the development fee charged by the school was not linked to the tuition fee. The order dated 11/02/2009 issued by the Director of education did not authorize the schools to increase development fee. The order was limited to the increase in tuition fee only. However, since many schools charged development fee as a percentage of tuition fee within the overall cap of 15% laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India, any increase in tuition fee would automatically result in an increase in development fee in such cases. Recognizing this, Para 15 of the order dated 11/02/2009 mandated that any additional increase in development fee on account of increase in tuition fee shall be utilized for meeting any shortfall on account of salaries/arrears only. It cannot be construed to be authorizing the schools to increase development fee to 15% of tuition fee where the schools were charging development fee at a rate it was less than 15% or in case the development fee charged was not linked to the tuition fee. The authorized representative submits that the meeting of the Managing Committee which authorized the fee hike was attended by a representative of the Directorate of Education and he did not raise any objection to the fee hike that was proposed.

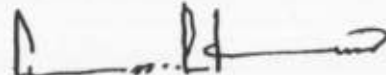
The calculation sheet with regard to the justifiability of hike in tuition fee and recovery of arrear fee requires to be prepared. Accordingly the matter will come up for further hearing on 14/11/2017.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



04.10.2017


000204  
B-184

Mira Model School, Janakpuri, Delhi

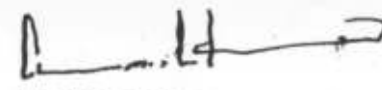
Present: Ms. Sadhna Bhalla, Principal & Sh. V. Haran, UDC of the school.

By going through the balance sheet of the school the Committee has observed that the school diverted substantial amount of money i.e. Rs. 7,55,94,989 towards land and building at Bakhargarh whereas the Mira Model school is situated in Janakpuri. The authorized representatives appearing for the school submit that this was met for a new school with hostel at Bakhargarh for which essentiality certificate was also issued by the Directorate of Education and the land use was also changed by the competent authority from agricultural to institutional. However, the proposal could not come to final shape on account of various difficulties and in March 2017, the parent society has returned the total amount to Mira Model School, Janakpuri.

The school is required to furnish copies of the essentiality certificate, the order regarding change of land use and the plan sanction by Municipal Corporation of Delhi. The school shall also explain as to why the funds of this school were diverted for another school to be set up by the Society. Had the funds been available with the school, probably there would have been no need to hike the fee for the purpose of implementation of the recommendations of the 6<sup>th</sup> pay commission. The school will also produce the bank statements showing the refund of money by the Society in March 2017 and also produce its books of accounts for the years 2007-08 to 2010-11, which the authorized representative contends, are maintained in Tally software. Matter to come up for further hearing on 9<sup>th</sup> November 2017.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



04.10.2017

000205

B-109

Dr. Radha Krishnan International School, Delhi

Present: Sh. Bal Krishan Sharma. Accountant & Sh. Umesh Chander,  
Consultant of the school.

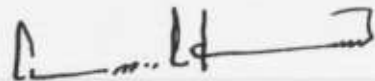
An oral request has been made on behalf of the school for extension of date for filing the receipt and payment accounts for the years 2006-07 to 2010-11. As requested the school may furnish the same by 31<sup>st</sup> October 2017 and the matter will come for hearing on 13<sup>th</sup> Nov 2017 at 11.00 A.M.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



04.10.2017

000206

B-6

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

Present: Ms. Neetu Sharma, Sr. Executive, Sh. Sanjay Kumar, UDC & Sh. Birander Singh, Accountant of the school.

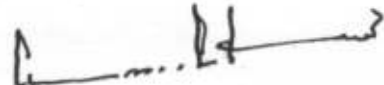
The Committee has prepared a calculation sheet to examine the justifiability of recovery of arrears of tuition fees and the hike in tuition fee w.e.f. 1.9.2008. It appears that the hike in tuition fee and the recovery of arrears of tuition fees were justified as the school could not have absorbed the total financial impact of implementing the recommendations of 6<sup>th</sup> pay commission out of the funds available with it at the beginning, after considering the requirement of the school to keep funds in reserve for accrued liability of gratuity and reserve for future contingencies. However, the Committee observes that the school increased the development fee w.e.f. 1.9.2008 to 15% of the tuition fee when it was charging development fee originally @10% in that year. Not only this the school subsequently also recovered differential development fee calculated @ 5% of tuition fee for the period 1.4.2008 to 31.8.2008. Thus effectively the school retrospectively hike the development fee w.e.f. 1.4.2008 to 15% of tuition fee from 10% of tuition fee. The order dated 11.2.2009 issued by the Directorate of Education permitted the fee hike only w.e.f. 1.9.2008 and further the order did not authorize the school to increase development fee to 15% of tuition fee where the school was charging the same at a lesser rate. Prima facie it appears that a sum of Rs.25,92,587 has been recovered in excess of what was permitted to the school by order dated 11.2.2009 and ought to be refunded alongwith interest @ 9% per annum. The authorized representatives appearing of the school have been provided with a calculation of the above amount of Rs. 25,92,587 for rebuttal, if any. The school may file its written submissions and rebuttal by 31<sup>st</sup> October 2017. Matter will come up for further hearing on 14<sup>th</sup> Nov. 2017 at 11.00 A.M.



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

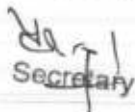


**J.S. KOCHAR**  
MEMBER



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

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Secretary





04.10.2017

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B-55

Titishka Public School, Sector-11, Rohini, Delhi

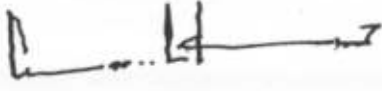
Present: Sh. R.K. Grover, Sr. Accountant, Sh. Arun Bhatt, Accountant & Sh. Rajesh Verma, Accounts Clerk of the school.

On the last date of hearing i.e. 14<sup>th</sup> Sept. 2017, the school was directed to furnish complete details of payments made to Ms. Ritambhra and Sh. H.K. Talwar for all the years in which such payments were made and also copies of agreements for appointment letters vide which their services were engaged by the school. The school has filed details of payments only for the years 2008-09, 2009-10 & 2010-11. Copies of agreements and appointments letters have not been filed. Consequently it is presumed that no such agreements and appointments letters exist. The school has filed written submissions dated 4.10.2017 contended that Titiksha public school is an unaided institution not formed by Rule 64 Sub Rule 1 Clause(g) which prescribed that only such no. of posts shall be filled as have been approved by the Director in accordance with the post fixation in pursuance of Rule 75. It is further contended that there is no rule for a recognized unaided school to hire the service of retired people on adhoc basis which is in the interest of the institution. It is also contended that Ms. Ritampara Chauhan was appointed a consultant in the year 2005 but she become the member of the society only in Nov. 2008 and that she is not in any manner related to the promoters of the school.

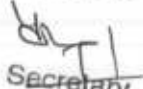
The school will file copies of the by laws of Memorandum of fixation of rules and by laws of the parent society and also furnish complete detail of payments made to these two persons upto 31<sup>st</sup> March 2011 since the date of their hiring. This may be done within two weeks. Matter will come up for further hearing on 16<sup>th</sup> Nov. 2017 at 11.00 A.M.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary




St. Marks Sr. Sec. School, Janakpuri, Delhi (B-266)  
St. Marks Girls Sr. Sec. School, A Block, Meera Bagh, Delhi (B-490)  
St. Marks, Sr. Sec. School, Meera Bagh, Delhi (B-489)

Present : Sh.R.C.Garg, Managing Committee Member , Sh.Sandeep Sethi, Sr. Advocate, Sh. Vedant Verma, Advocate, Sh. Bhavesh Garg, CA, Ms. Juhi Gupta. Accountant, Ms. Anupama Arora, Accountant & Ms. Sharmila Mohan, Accountant of the school

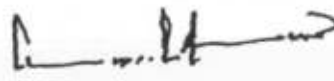
On the last date of hearing a submission was made that two pre primary school were being run by St. Marks Education Institutions Pvt. Ltd., whose Managing Director Sh. T.P. Aggarwal is also the Chairman of St. Marks Christen Educational Society which runs the Janakpuri & Meera Bagh schools which are from class 1st to class 12<sup>th</sup> on the last date of hearing. Sh. T.P. Aggarwal was directed to file consolidated balance sheet of St. Marks Educational Institution Pvt. Ltd and also individual balance sheet of St. Marks Preparatory school Janakpuri and Meera Bagh and their individual balance sheet within two weeks. However, the direction was not complied by Sh. T.P. Aggarwal. Today an appearance has been made by Sh. Sandeep Sethi Sr. Advocate with Sh. Vedant Verma, Advocate on behalf of St. Marks Educational Institution Pvt. Ltd., now known as Magic Beanstalk Institution Pvt. Ltd. He submits on behalf of the company that the two preparatory schools are run by a Private Limited Company and not by the Society which runs the two main schools. They are not recognized under the Delhi School Education Act and the jurisdiction of this Committee is confined to examine the accounts of the recognized schools only as per the judgment passed in WPC 7777 of 2009 by the Hon'ble Delhi high Court. It is also submitted that the Delhi School Education Act does not prohibit running of unrecognized schools at the pre primary level. Written submission has also been filed on behalf of the company which has been taken on record.

The school has also filed written submission dated 6<sup>th</sup> Oct. 2017 vide which it had contended that the school did not have adequate funds for the purpose of implementation of the 6<sup>th</sup> pay commission. However, despite a clear direction on the last date of hearing that the accounts of the schools, which are maintained in tally software shall be produced today in a laptop, the school has not produced the same and instead has produced voluminous print out of accounts 14 Volume for Jankapuri school, 12 Volumes for Girls school at Meera Bagh, & 14 for the Co ed school Meera bagh from the software. On the last date of hearing the schools had produced the accounts in a laptop however today it is stated that the accounts have since been deleted from the software.

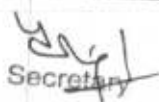
Hearing is closed. Recommendations reserved.

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

  
**J.S.KOCHAR**  
 MEMBER

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

TRUE COPY

  
 Secretary



Crescent Public School, Pitampura, New Delhi

Present : Puneet Batra, Advocate, Sh. Om Prakash, Accountant, Vandana, UDC of the school.

The school was required to furnish a comparative statement employee wise in respect of the total salary paid to each employee in 2008-09 and 2009-10 vide order dated 19.10.2015. Thereafter the records of the school were examined by the Audit Officer of the Committee on 2.11.2015 and the matter was again heard 13.11.2015 by the Committee. However the school did not furnish the said statement up to that stage. Even today the same has not been furnished by the school. While examining the salary records of the school for the year 2008-09 and 2009-10 in order to ascertain the fact whether the school has actually implemented the recommendations of 6<sup>th</sup> pay commission or not, it has emerged that the school makes payment of salaries to bulk of the employees by direct bank transfer to the accounts of the employees. However, in respect of five or six employees the school purportedly makes payment through individual cheques. Examination of the corresponding bank statements of the school show that apparently these cheques were bearer in nature, moreover, these employees do not appear to have been paid any salary for a few months particularly during the months of summer vacation. The authorized representative appearing for the school submits that he will furnish the explanation for these anomalies and also a certificate from the bank which would certify the mode of encashment of these individual cheques from the bank.

The Committee notices that the school increased the tuition fee @ Rs.300 p.m. for class pre school to 10<sup>th</sup> and @ 400 per month for classes 11<sup>th</sup> & 12<sup>th</sup> w.e.f. 1.9.2008 and accordingly the arrears of 7 months upto 31.3.2009 were collected. For the period 1.1.2006 to 31.8.2008, the school collected lump sum arrear @ 3000/3500 per student as per the order dated 11.2.2009 issued by the Director of Education.

The school has also filed revised information regarding fee and salary, revised reply to questionnaire regarding development fee, a summarized position of the account of the society in the books of the school, actuarial certificates for gratuity and leave encashment as on 31.3.2010. As per these certificates the actuaries have estimated the liability towards gratuity at Rs. 35,50,755 and leave encashment at Rs. 11,41,886. The school in its earlier submissions filed before the Audit Officer of the Committee on 2.11.2015 had given statement of gratuity due as on 31.3.2010 as per which the amount was Rs.22,68,100. This statement was prepared by the school itself on the basis of number of years of service of the employees. The school had also made a submission that it had no accrued liability towards leave encashment. The school will explain as to how the two different

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*[Signature]*  
Secretary



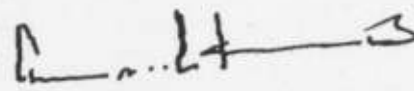
09/10/2017

position can be reconciled. Matter will now be taken up on 20<sup>th</sup> Nov. 2017 at 11.00 A.M. for further examination.

000210

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



09/10/2017

000211


B-274

Hemnani Public School, Lajpat Nagar, Delhi

Present: Mrs. Sunita Sharma, UDC of the school.

The Committee has prepared calculation sheet in order to examine the justifiability of fee hike effected by the school as well as the arrear fee recovered by it in pursuant to order dated 11.2.2009 issued by the Director of Education. As per the calculation sheet, although the school had small surplus after meeting its liabilities on account of implementation of the recommendations of the 6<sup>th</sup> pay commission, in view of the requirement of the school to keep funds in reserve for meeting its accrued liability of gratuity and for future contingencies the fee hike by the school does not appear to be unjustified. In respect of development fee also although the school is not fulfilling the pre conditions laid down by the Duggal Committee. No interference is called for in view of the requirement of the school for keeping funds in reserve as mentioned above.

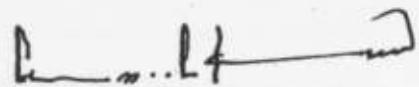
Detailed order to be passed separately.



**R.K. SHARMA**  
MEMBER

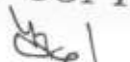


**J.S. KOCHAR**  
MEMBER



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

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Secretary

09/10/2017

000212

**B-90**

**Masonic Public School, Vasant Kunj, New Delhi.**

Present : Sh. Baljit Singh, Admn. Officer & Sh. Ravi Prakash,  
Accountant of the school.

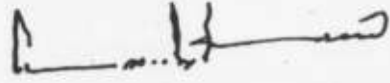
The school had filed on 31.10.2015 copy of a circular dated 16.3.2008 issued to the parents which merely stated that revised fee structure w.e.f. Sept. 2008 is being sent to meet the additional expenditure of 6<sup>th</sup> pay commission recommendations. However, the revised fee structure was not enclosed with the circular. Even at the time of hearing today the school has not produced the same nor the authorized representative appearing for the school in a position to furnish the information in that regard. The school will produce its revised fee structure w.e.f. Sept. 2008 that was sent to the students alongwith circular dated 16.3.2009 and also produce its complete books of accounts for the years 2008-09 and 2010-11 alongwith the bank statements and the salary record for those years in the next date of hearing. Matter to come up for further hearing on 20<sup>th</sup> Nov. 2017 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**



**J.S. KOCHAR  
MEMBER**



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

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Secretary

St. Angel's School, Sector-15, Rohini, Delhi.

Present: Sh. Ashutosh Bhardwaj, Member M.C., Sh. Archit Bhardwaj, Director, Sh. Sanjeev Bhargava, C.A. & Archit Bhargava, C.A. of the school.

The school has filed the financial of the junior school for the year 2006-07 to 2010-11. The financials of the years 2007-08 and 2008-09 do not appear to have been signed by the auditors. However, the school has produced the books of accounts of the junior school which are maintained in tally software. The same have been examined by the Committee and it appears that unaudited accounts which have been filed by the school are in agreement of the books of accounts so produced.

It is submitted that the school provided for a total liability of Rs. 17,16,291 towards the arrears payable to the staff of the junior school consequent to the implementation of the recommendations of VI Pay Commission in its accounts for the year 2008-09. The liability is stated to have been discharged partly on 22/10/2009 when a sum of Rs. 6,86,516 was disbursed to the staff and partly (Rs. 9,20,086) on 15/03/2012 when the cheques were issued in favour of the staff members. However, the certificate issued by the bank on 27/09/2017 shows the payment of only 8 cheques amounting 6,62,151 (net of TDS). It is submitted that the cheques issued to Ms. Deepika Kumar, Ms. Promila Soni, Ms. Meena Goel and Ms. Tamanna to whom the aggregate amount of Rs. 2,01,681 was due have not been collected by them till date as they have left the school. The certificate issued by the bank does not show the mode of the payment of cheques. The authorized representatives appearing for the school submit that the bank is requested to provide a fresh certificate.

The committee has examined the books of accounts of the school and observed that the entire amount of first installment of arrear i.e. 6,86,516 was paid in cash after withdrawing the same from its account with Oriental Bank of Commerce. The Committee has also observed that the regular salary paid by the school in the years 2008-09 and 2009-10 and even the some months in 2010-11 was also paid in similar way i.e. withdrawal of the exact amount in cash from the bank and then its disbursement to the staff. The following figures so far as are relevant for making the calculations are culled out from the financials of the school.

Particulars	2008-09	2009-10	2010-11
Arrear fee	13,45,500	8,635	3,755
Regular fee	38,82,225	43,16,625	42,38,520
Arrear salary*	17,16,291	0	0
Regular salary	21,28,819	43,90,213	44,37,729



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*[Signature]*  
Secretary

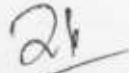
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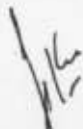
\*As noticed supra, only a sum of Rs. 14,04,921 was actually paid, as per the submission of the school. Remaining amount has yet not been paid.

The school has also filed copies of the order passed by the trial Court vide which charges were framed against the Manager of the school.

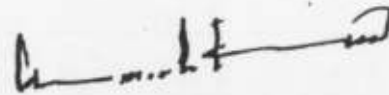
The matter will come up for further hearing on 21/11/2017 at 11.00 a.m. when the Committee will examine the books of accounts and other relevant records of the senior school. The school will also furnish a fresh certificate from the bank as stated by the authorized representative.



R.K. SHARMA  
MEMBER

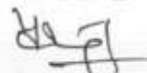


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



10/10/2017

B-277Hansraj Samarak School, Dilshad Garden, Delhi

Present : Sh. Rakesh Kumar Mahajan, UDC and Sh. Rajiv Gupta,  
Accountant of the school.

The Committee has examined the circular dated NIL that was reportedly issued to the parents regarding fee hike w.e.f. 01.09.2008 in pursuance of order dated 11.2.2009 issued by the Director of Education. As per the circular, the school collected a sum of Rs.1400/- per student of classes pre-primary to X, Rs.2100/- from the students of Class XI & XII for the period 01.09.2008 to 31.3.2009 indicating a fee hike of Rs.200 p.m. and Rs.300 p.m. for these classes. It is submitted that the school did not increase any development fee pursuant to order dated 11.2.2009.

In its reply to the questionnaire issued by the Committee, the school had stated that it had implemented the recommendations of 6<sup>th</sup> Pay Commission w.e.f. 01.09.2008 and also recovered the arrear fee w.e.f. the same date. During the course of hearing, the authorized representative appearing for the school submits that the school neither recovered the arrear of fee for the period 01.1.06 to 31.8.08 nor paid any arrear of salary for the above period.

With regard to development fee, it was stated that the school charged annual development fee in all the five years i.e. 2006-07 to 2010-11 for which the information was sought by the Committee. The same was treated as a revenue receipt and also spent mainly for meeting the revenue expenses incurred by the school like repair & maintenance of building, furniture, computers etc. It was further mentioned that the school do not maintain any earmarked depreciation reserve or development fund.

In response to notice dated 27.04.2015, issued by the Committee, the school furnished the required information. The same was furnished by the School under cover of its letter date 19.5.2015. As per the information furnished, the school recovered arrears of tuition fee amounting to Rs.10,57,600 in 2008-09 and Rs.11,93,600 in 2009-10 for the period 01.09.2008 to 31.3.2009. The total arrear salary paid by the school, as per the information furnished was Rs.18,74,004 in 2009-10 for the corresponding period. Further, as per the information furnished by the school, the normal tuition fees rose from Rs.1,24,39,569 in 2008-09 to Rs.2,01,28,465 in 2009-10. The salary also rose from Rs.95,14,753 in 2008-09 to Rs.1,54,19,100 in 2009-10.

Further, as per the information furnished, the school recovered a total sum of Rs.22,43,540 in 2009-10 and Rs.28,19,785 in 2010-11 as development fee which the school admits was treated as a revenue receipt.


The school has produced the print outs of its books of accounts which are maintained in tally software. However, the figures as furnished by the school along with written submissions dated 19/05/2015 do not

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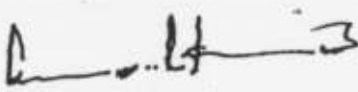


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10/10/2017

reconcile with the print outs of the relevant ledger accounts particularly tuition fee which the authorized representatives submit that it includes the arrears fee as well as other charges in the books. The Committee has examined the other charges accounts of the school and finds that heavy amounts have been shown to have been received on certain date as compared to nominal amounts on the other dates. The school is required to produce its books of accounts along with the tally software in a laptop for the years 2008-09 to 2010-11 for examination by the Committee on the next date of hearing. The school has filed certain details along with letter dated 10/10/2017 which have been taken on record. Matter to come up for further hearing on 27/11/2017 at 11.00 a.m. The financials of the school are not audited but only compiled from the books of accounts as certified by the Chartered Accountant.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



000217

10/10/2017

B-368

Hansraj Samarak School, Krishna Nagar, Delhi

Present: Sh. Rakesh Kumar Mahajan, UDC and Sh. Rajiv Gupta,  
Accountant of the school.

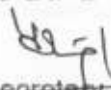
The school has filed certain details along with its letter dated 09/10/2017 which have been taken on record. The Committee observes that the financials of the school have not been audited but only compiled from the books of accounts as certified by the Chartered Accountant. The school is required to produce its books of accounts which are maintained in tally software in a laptop for examination by the Committee for the years 2008-09 to 2010-11. Matter to come up for further hearing on 27/11/2017.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



10/10/2017

000218

**B-437**

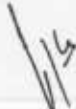
**Air Force Bal Bharti School, Lodi Road, New Delhi.**

Present : Sh. R.S. Chakraborty, Accountant, Sh. Manoj Ahuja, UDC and Ms. Puja Chitra, UDC of the school.

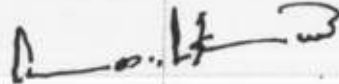
The school was required to file a copy of the writ petition filed by one of the parents against the fee hike effected by the school. Instantly the school has filed copy of the judgment of Delhi Abhibhavak Mahasangh vide which this Committee has been constituted. The school has today given the particulars of the case which was filed by one of the parents i.e. W.P. (C) 8297 of 2009. The school is required to file the copy of the writ petition case and also copy of the final order passed by the Delhi High Court. This may be done within 15 days. Calculation sheet to be prepared thereafter. Matter will come up for further hearing on 20/11/2017.



**R.K. SHARMA  
MEMBER**

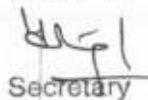


**J.S. KOCHAR  
MEMBER**



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

TRUE COPY

  
Secretary


B-69

S.M. Arya Public School, West Punjabi Bagh, New Delhi.

Present: Sh. Arvind Nagpal, Manager, Mr. Surjeet Singh, Chartered Accountant, Ms. Rashmi Bhatia, PA Management and Ms. Priyanka Goel, Accounts staff of the school.

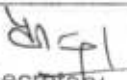
The Committee has perused copies of the circulars issued by the school to the parents regarding fee hike effected by it in pursuance of order dated 11/02/2009 which had been filed along with the written submission 12/09/2015. In the written statement, the school claims to have hiked the tuition fee only to the tune of Rs. 200 per month in pursuance of order dated 11/0/2009. However, on perusal of the copy of the circulars issued by the school, it emerges that the school hiked tuition fee at varying rates for different classes. The hike in fee effected for classes I to V @ Rs. 200 per month, for classes VI to X, it was @ Rs. 300 per month, for class XI, it was @ Rs. 500 per month for science section and Rs. 400 per month for commerce stream. For class XII, the hike was @ Rs. 300 per month for commerce section and @ Rs. 400 per month for science section. All these increases were w.e.f. 01/09/2008 and the school recovered the arrears for 7 months upto 31/03/2009. Besides, the school also recovered lump sum arrear fee for the period 01/01/2006 to 31/08/2008 as provided in the order dated 11/02/2009 issued by the Director of Education. Besides, the school also recovered arrears of increased development fee @ 15% of the arrears of increased tuition fee. The authorized rep. submit that originally the school was charging development fee around 15% of tuition fee with minor differences. It is submitted on behalf of the school it implemented the recommendations of VI Pay Commission and paid the arrear salary in two installments, in 2009-10 and 2010-11. Small payments were made in the subsequent years also. It is further submitted that all the payments were made by crossed payee cheque and the school produced its bank statement in support thereof. The school filed details of fee and salary and other expenses incurred by it from 2008-09 to 2011-12. However, on examination of print outs of the relevant accounts as produced by the school, the committee observed that there are differences between the figures emanating from the books of accounts and those provided by the school in statement. The authorized representatives appearing for the school seeks some time to explain the differences. They are directed to produce the books of accounts for the years 2008-09 to 2011-12 which are reportedly maintained in tally software. The same may be loaded in a laptop for examination by the Committee. Matter will come up for further hearing on 30/11/2017. The school will also furnish the copy of the audited balance sheet of the nursery school on that date.

  
R.K. SHARMA  
MEMBER

  
J.S. ROCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



11/10/2017**B-286****Mount Abu Public School, Sector-5, Rohini, Delhi**

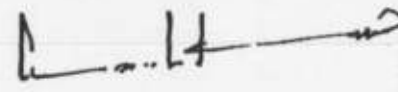
Present : Sh. Puneet Batra, Advocate, Sh. Bharat Arora, Treasurer & Ms. Jyoti Principal of the school.

The school has filed copies of actuarial certificates in respect of its liabilities towards gratuity and leave encashment as on 31.3.2008 and 31.3.2010.

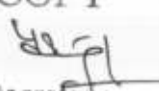
The school is directed to produce its books of accounts which are maintained in Tally software, in a laptop for examination by the Committee. The split balance sheet of the society giving the break up of figures of all the institutions run by it may also be furnished for the years 2007-08 to 2010-11. The needful be done. The next date of hearing is 6<sup>th</sup> Dec. 2017 at 11.00 A.M.

  
**R.K. SHARMA**  
MEMBER

  
**J.S. KOCHAR**  
MEMBER

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

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Secretary



11/10/2017

B-294

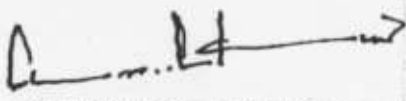
Mount Abu Sr.Sec.School, Sector-18, Rohini, Delhi

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

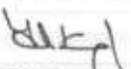
The school is directed to produce its books of accounts which are maintained in Tally software, in a laptop for examination by the Committee. The split balance sheet of the society giving the break up of figures of all the institutions run by it may also be furnished for the years 2007-08 to 2010-11. The needful be done. The next date of hearing is 6<sup>th</sup> Dec. 2017 at 11.00 A.M.

  
R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



11/10/2017

B-660

Tagore International School, East of Kailash, Delhi

Present : Sh. Nalin Chester, Admn. Manager, Sh. Sandeep, C.A., Sh. Rajiv Agarwal, Accountant & Sh. Vedant Verma, Advocate of the school.

The Counsel appearing for the school has been heard. The school has restricted the calculation sheet prepared by the Committee on the following accounts :

A. The funds applied for capital expenditure that indirect diversion to the parent society amounting 1,93,59,786 ought not be added to the funds to be available for the purpose for the implementation of the recommendations of the 6<sup>th</sup> pay commission for the following reasons :

1. The repayments of loans and interest thereon Rs. 18,02,132 represent the repayments of interest of loans taken for purchase of one bus and two cars which were purchased in usual course of the purposes of the school .
2. The salary paid to Mr. Deepk Sen and Mr. Nalin Chester amounting to Rs.67,91,103 ought not be considered as indirect transfer to the society as these two gentleman are on the regular pay rolls of the school and performing the school functioning and the salary paid to them is commensurate with the qualification capability and functions.
3. The cost of fixed assets amounting to Rs.1,07,67,551 which the Committee has included in the funds available ought not be so considered as Rule 177 of Delhi School Education Rules 1973 permits the savings to be applied for capital expenditure. Submissions recorded.

B. It is also contended that the liability of the school with respect of secured loans outstanding as on 31.3.2008 amounting to Rs.5,48,921 ought also be considered while working out with the funds available with the school for meeting its liabilities that arose on account of implementation of the recommendations of the 6<sup>th</sup> pay commission.

It is further contended that the amount Committee has estimated has reasonable reserve for future contingencies equal into 4 months salary for the year 2009-10 ought also be calculated in respect of a contractual employees and in respect of the expenditure of employees provident fund which are a part of salary but shown separately in the income and expenditure account. Lastly with regard to development fee it is conceded that the school was not fulfilling the prescribed conditions like maintenance of earmarked development fund and depreciation reserve funds, it is submitted that the school was treating the same as a capital receipt and had been more or less utilized it for purchase of furniture fixture and school equipments and to the extent it is so utilized the school ought to be given necessary relief.

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Secretary






11/10/2017

Further with regard to the refund of development fee for the year 2010-11, it is contended that this ought not be recommended as this Committee does not have jurisdiction to consider the fee for the year 2010-11.

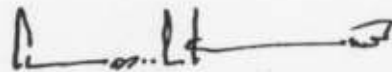
Recommendations reserved.



R.K. SHARMA  
MEMBER

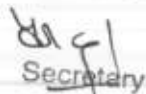


J.S. ROCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



11/10/2017

**B-60****The Heritage School, Sector-23, Rohini, New Delhi.**

Present: Sh. Susheel Dubey, Accountat, Sh. Naval Kishore, Accounts Asstt. Ms. Namratha , Advocate & Sh. Kamil Khan Advocate of the school.

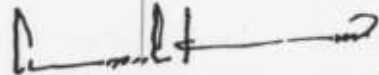
The school has filed objections to the calculation sheet prepared by the Committee. The counsel appearing for the school requests for adjournment as the Sr. Counsel engaged by it is pre occupied. As requested the matter will come up for hearing on 5<sup>th</sup> Dec. 2017 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**

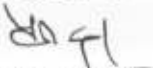


**J.S. KOCHAR  
MEMBER**



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

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Secretary

12/10/2017

B-544

Queen Mary's School, Model Town, Delhi

Present : Sh. Sandeep Masih Admn. & Accounts Officer of the school.  
Sh. Rohit Handa & Mrs. Ruchi Jain, Parents of Queen Mary's School student.

The Committee has received a complaint from Ms. Anu Diwan, Sh. Rohit Handa & Ms. Ruchi Jain. Sh. Rohit Handa and Ms. Ruchi Jain are present today at the time of hearing and they contend that the school had surplus funds with it and did not need to hike the fee for implementation of the recommendations of the 6<sup>th</sup> pay commission. In support the complainants have produced audited balance sheet of the school for the years 2008-09 & 2009-10.

In order to ascertain whether the school have surplus funds with it before the fee hike effected in pursuance of order dated 11.2.2009 issued by the Directorate of Education, the funds position requires to be ascertained with reference to the balance sheet of the school as on 31.3.2008 as the fee hike was effected w.e.f. 1.9.2008. Sh. Sandeep Masih, Admn. & Accounts Officer of the school, authorized by principal cum manager of the school to appear before this committee, submits that he can not object to an inspection of the record of the Committee by the parents of the students. Accordingly the office is directed to provide a copy of the balance sheet as on 31.3.2008, which is on the record of the Committee, to the complainant.

The complainant is directed to furnish a copy of the complaint alongwith all the documents which it relies upon to the school within 7 days. The school will file its response to the complaint within 3 weeks of today. The Committee will hear the complainants as well as the school on 21<sup>st</sup> November 2017 at 11.00 A.M.



R.K. SHARMA  
MEMBER

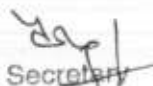


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary


12/10/2017


**B-295****Lions Public School, Ashok Vihar, Delhi**

Present: Sh.Harish Oberoi, Manager of the school.

The Committee has examined the circular dated 18.2.2009 issued by the school to the parents regarding fee hike in pursuance of order dated 11.2.2009. As per the circular the school decided to increase tuition fee @ Rs. 200 p.m. w.e.f Sept 2008 and development fee @ 10% of the annual tuition fee besides the school also demanded arrears for the period 1.1.2006 to 31.10.2008 amounting to Rs.2500 per student. During the course of hearing the Manager of the school who is present submits that the school increased the fee w.e.f. 1.4.2009 only. However, the school had earlier filed statement giving break up of fee and salary for the year 2008-09 and 2009-10 as per which the school recovered arrears of fee for the period 1.9.2008 to 31.3.2009 also contrary to what the Manager submits during the course of hearing. In this statement the school shows that it did not recover any arrears of development fee for the period 1.9.2008 to 31.3.2009 but the same was demanded from the parents as per the circular issued to them. It appears that there is lack of clarity on part of the Manager with regard to the fee hike effected and the arrear fee collected in pursuant to order dated 11.2.2.009. The school is required to provide clarity on this aspect.

Further on going through the details submitted by the school under cover of its letter 19.5.2015, it appears that while bulk of the arrear salary was paid by direct bank transfer to the accounts of the employees about 7 teachers were paid by individual cheques. All these individual cheques have been encashed from the bank on a signal date together. The Manager submits that the school did not issue any bearer cheques however from the bank statements it appears otherwise. The school will furnish a certificate from the bank which should indicate the mode of encashment of the individual cheques by which the arrears are claim to have been paid to such teachers. The certificate should cover the payments made in subsequent installments also. It appears from the bank statements which have been filed by the school that the regular salary was paid by the school by means of bearer cheques. The school has not produced its books of accounts nor its bank statements in full. A proforma sheet has been given to the Manager to indicate as to how much salary was paid by which mode in different months of the years 2008-09 and 2009-10. The school should also submit similar information with regard to the payment of arrears. The school will also produce its books of accounts and original bank statements for the years 2008-09 to 2010-11 on the next date of hearing. Matter will be taken up for further hearing on 30<sup>th</sup> Nov. 2017

TRUE COPY

  
**R.K. SHARMA**  
 MEMBER

  
**J.S. KOCHAR**  
 MEMBER

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


12/10/2017

**B-202****St. Gregorious School, Dwarka, Delhi**

Present : Sh. M.Boyaz, Principal & Sh. Sam Samuel, Accountant of the school.

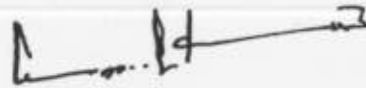
A request has been made on behalf of the school seeking more time for filing rebuttal to the calculation sheet. As requested the same be done within 3 weeks. Matter will come up for hearing on 21<sup>st</sup> November 2017 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**

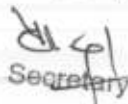


**J.S. KOCHAR  
MEMBER**



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

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Secretary

12/10/2017

**B-488**

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

Present: Sh. Vikas Goyal, C.A., Ms. Rooma Jain & Sh. Harish Kumar,  
Office Asstt. of the school.

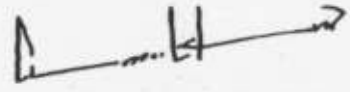
A copy of the calculation sheet has been given to the authorized  
representatives appearing for the school for filing its rebuttal. The  
same may be done within 3 weeks. Matter will come up further  
hearing on 21<sup>st</sup> Nov. 2017 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**

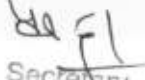


**J.S. KOCHAR  
MEMBER**



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

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Secretary



13/10/2017

B-227

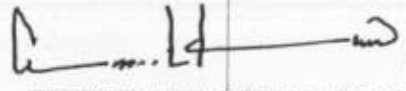
S.D.Public School, Nai Sarak, Delhi

Present : Ms. Kiran Kaul, Principal, Sh. Navin, Accountant, Sh. Nandan Singh, Lab Asstt. & Ashishet, TGT science of the school.

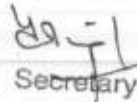
The Committee has examined the fee schedules for the years 2008-09 and 2009-10 filed by the school. It appears that the school hiked the more fee than was permitted to it by order dated 11.2.2009 issued by the Directorate of Education. The Principal of the school who is present at the time of hearing submits that they could not have implemented the recommendations of the 6<sup>th</sup> pay commission as the school did not have sufficient funds of itself and even if the hike that was permitted by the Director of Education, it could have not done so. Accordingly, the matter was put before the parents and they agreed to the fee hike that was effected by the school. The minutes of the meetings of the Managing Committee or the General Body of PTA are not on record of this Committee. She seeks sometime to put the necessary documents and also file an application seeking regularization of fee hike effected by the school in excess of the hike permitted by the Director of Education. Let these be filed within two weeks. Matter will come up for further hearing on 30<sup>th</sup> Nov. 2017 at 11.00 A.M.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



13/10/2017


**B-237****S.D.Public School, Kirti Nagar, Delhi**

Present: Sh. Ramesh Lamba, Manager, Sh. Subhash Kr. Saini, Accountant & Sh. Ravi Chauhan Asstt. of the school

The Committee has examined the circular issued by the school to the parents regarding fee hike effected by the school in pursuant to order dated 11.2.2009 issued by the Director of Education. As per the circular the school demanded fee arrears for the period Sept. 2008 to March 2009 @ Rs.300 per month ( Rs.2100 in addition to Rs.3000 per student for the period Jan 2006 to August 2008). The monthly fee hiked was @ Rs.300 per student. In accordance with the demand raised from the parents, the school collected arrears of tuition fee which amounted to Rs. 22,23,478 up to 31.3.2011. However, the fee arrears so collected were not disbursed to the staff as arrear salary and are being shown as current liability in the balance sheet as on 31.3.2011. The authorized representative appearing for the school submits that this balance is still outstanding even as per the latest balance sheet as on 31.3.2017. The school is required to file copy of its latest balance sheet within one week. It is submitted that the arrear fee collected was not disbursed with the staff and the same was utilized for payment of regular salary.

With regard to development fee the school in its reply to the questionnaire has submitted that the same was treated as a revenue receipt in the years 2008-09 to 2010-11 and no earmarked development fund or depreciation reserve funds accounts were maintained.

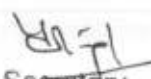
Matter will be taken up for further hearing on 30<sup>th</sup> Nov. 2017 after the school files the balance sheet as on 31/3/2017.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary





13/10/2017

**B-653****Apeejay School, Sheikh Sarai-I, New Delhi.**

Present : Sh. H.L. Tiku, Sr. Advocate, Sh. S.K. Murgai, Financial Adviser, Sh. Bharat Bhushan, General Manager, Mrs. Sarita Pande, Officiating Principal & Sh. Sunil Bhat, Sr. Accountant of the school

The school had filed written submissions dated 7.10.2017 in rebuttal of the preliminary calculations made by the Committee vide which it was determined that prima facie the school may be required to refund a sum of Rs.2,55,74,119 out of the fee hiked pursuant to order dated 11.2.009 issued by the Director of Education. The Sr. Counsel appearing for the school has been heard. He submits that the calculation in respect of the reserves required to be maintained is inaccurate in so far as while calculating the reserve for future contingencies which this Committee has taken to be equivalent to 4 months salary paid by the school in the year 2009-10. The details of which have been given in the written submission have not been considered as part of the salary aggregating Rs. 65,12,95 to be part of salary by this Committee. If they are considered, the resulting figure reserve for future contingencies would increase by Rs.21,70,798. Further it is submitted that the reserve accrued liability of gratuity and leave encashment which the Committee has taken in its calculations have been picked up from an early detail filed by the school in which certain errors had kept and consequently the school filed revised calculations under cover of its letter dated 10.3.2017. It is submitted that the figures as per the revised calculations ought to be taken into account. It is also submitted that the Committee has excluded the liability in respect of employees who had not completed 5 years of serve as on 31.3.2010 but at least in respect of employees who continued in the service of the school and completed 5 years subsequent to 31.3.2010 should be considered by the Committee. The detail of such employees and also the amount of liability for gratuity has been furnished by the school as an Annexure C to the written submissions. With respect to the liability for leave encashment also it is submitted that the Committee has picked up from an earlier detail filed by the school which was incorrect and subsequently had been corrected vide its letter dated 10.3.2017. The same ought to be taken into consideration.

Relying on the judgments of the Hon'ble Supreme Court mainly in the case of Islamic Academy of Education 2003 (6) SSC (687) it is further submitted that the school ought to be allowed to retain reasonable surplus equivalent to 15% of the tuition fee in the year 2009-10. Matter is heard. Recommendations reserved.

TRUE COPY

Secretary

R.K. SHARMA

J.S.KOCHAR

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

Tagore School, Maya Puri, New Delhi.

Present: Sh. Kamal Kishore, Accounts Officer, Sh. V.D. Sharma, Part Time Accountant, Sh. Pramod Kumar, Class IV of the school

The Committee has perused the circular dated 23.2.2009 issued by the school to the parents of the students with regard to the collection of fee arrear for the period 01.01.2006 to 31.08.2008 and 01.09.2008 to 31.3.2009. As per the circular it appears that the school increased the tuition fee for students of classes pre school to 10<sup>th</sup> @ Rs.200 per month and those for classes for 11<sup>th</sup> & 12<sup>th</sup> @ Rs.300 per month w.e.f. 1.9.2008 besides the school also collected lump sum arrear fee @ Rs.2500/Rs.3000 per student for the period 1.1.2006 to 31.8.2008. Vide letter dated 4.6.2015 the school had furnished the details of the break up of fee collected in 2008-09 to 2010-11 as well as salary paid in those years. The Committee has perused this statement and notices that the school besides recovering the arrear fee and regular tuition fee at enhanced rates also recovered a sum of Rs. 7,43,880 as examination fee from the students. Such fee has been recovered only in this year. The fee schedule filed by the school under Sec.173 of Delhi School Education Act 1973, a copy of which has been placed on record by the school today, does not include any examination fee. Further it is apparent the aforesaid statement of fee and salary filed by the school that it recovered a total sum of Rs.16,70,930 towards arrear fee but till 31.3.2011 no arrear salary had been paid by the school. The school claims to have paid the arrear salary in the year 2011-12 for which neither the books of accounts have been produced nor the balance sheets for that year has been produced before this Committee. The school will produce the same on the next date of hearing alongwith the audited balance sheet as on 31.3.2017. The school had furnished details of its accrued liability of gratuity and leave encashment as per which the accrued liabilities on these accounts were Rs.26,21,822 and Rs.15,04,594 respectively as on 31.3.2010.

In reply to the questionnaire regarding development fee the school conceded that it charged development fee in all the five years for which the information was sought i.e. 2006-07 to 2010-11. It is further conceded that the same was treated as a revenue receipt and no earmarked development fund or depreciation reserve funds were maintained by it.

The school was required to furnish the audited financials of its Nursery Branch for the years 2006-07 to 2010-11. However, the school submitted the same only for the year 2008-09, 2009-10 & 2010-11. Regarding 2006-07 & 2007-08 it is submitted that those are not traceable.

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*[Signature]*  
Secretary



3/10/2017

000233

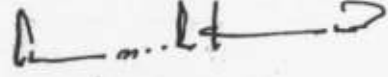
Matter will come up for further hearing on 5<sup>th</sup> Dec. 2017 at 11.00 A.M.



R.K. SHARMA  
MEMBER

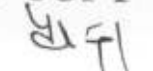


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary

13/11/2017

000234

B-346

St. Mary's School, Mayur Vihar, Delhi

Present : Sh. Prince Paul & Sh. Naresh Raut, Office Assistants of the school.

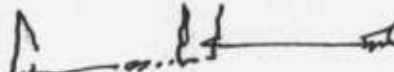
An application has been filed on behalf of the school seeking a fresh date of hearing after 15<sup>th</sup> January 2018. The request of the school cannot not be acceded to, however, one more opportunity is granted to the school to be present with all its fee accounts and salary records on 13<sup>th</sup> December 2017 at 11.00 A.M.



R.K. SHARMA  
MEMBER

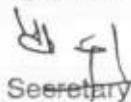


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary

13/11/2017

000235

**B-407**

**Saraswati Vidyalaya Sr.Sec.School, Darya Ganj, Delhi**

Present: Ms. Geeta K. Prvthi, Administrator & Sh. M.D.Sanwal, Accountant of the school.

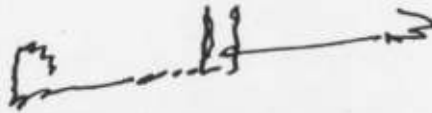
The school has furnished a revised information chart in respect of the arrear fee, regular fee, arrear salary & regular salary for the years 2006-07 to 2010-11 alongwith the payment sheet of arrear salary paid to the staff. Mrs. Geeta Prvthi, the Administrator of the school submits that information was furnished vide submissions dated 17.8.2015 inadvertently omitted certain papers. She further says that the school paid a total sum of Rs. 41,76,336 towards arrear salary while the recovery of arrear fee was only to the tune of Rs.25,80,150 and thus the school utilized its existing reserve funds to the tune of Rs.15,96,186 for implementation of the recommendations of the 6<sup>th</sup> pay commission. She submits that keeping this in view the Committee contends the fee hike effected by the school as justified. Calculation sheet to be prepared. Matter will come up for further hearing on 13<sup>th</sup> December 2017 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**

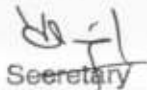


**J.S.KOCHAR  
MEMBER**



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

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Secretary



13/11/2017

000236

**B-138**

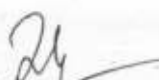
**Army Public School, Dhaulan Kaun, Delhi**

Present : Brig. S. Sajjanhar, Chairman, Sh. Gunjan Sharma, Accountant & Sh. S.C. Singhal, Burser of the school.

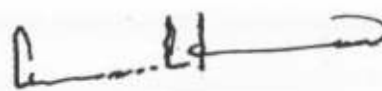
The school has filed written submissions dated 11.11.2017 and the authorized representatives appearing for the school have been heard. The main thrust of the argument of the school is that the FDRs to the tune of Rs.13,95,30,000 are being maintained in order to generate interest income so that the fee charged from the students kept at minimum. Further, it is submitted that the Committee has also not given any consideration to the FDRs which are held viz. a viz the asset replacement fund which the school has kept aside for replacement of fixed assets. The amount outstanding in depreciation reserve fund as on 31.3.2008 is Rs. 4,11,58,203. It is further submitted that the development fee which the school charges is also utilized for meeting the revenue expenses of the school mainly the salary of staff. It is further submitted that the sum of Rs.1,82,96,331 was received as corpus fund from the Army Hq. to make up the shortfall of the funds to the school. However, this sum was refundable and has actually been refunded along with 50% of the interest received on 24.5.2016. The school has furnished a copy of the letter dated 16.3.2016 received from AWES Cell Hqs. Western Command, directing the school to refund the amount and also a copy of letter dated 24.5.2016 vide which the school gave details of the amount refunded in terms of the aforesaid letter. It is submitted that the Committee ought to take the aforesaid sum of Rs. 1,82,96,331 as liability of the school while making the relevant calculations.

It is also submitted by Brig. Sanjay Sajjanhar, Chairman of the school that the school should be payable to its regular revenue expenditure including salary out of its current years income in normal course. The existing reserves of the school which the school utilize for reducing the fee of the students by generating interest ought not be disturbed.

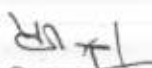
Arguments heard. Recommendations reserved.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



13/11/2017

000237

**B-109**

**Dr. Radhakrishnan International School, Defence Colony, Delhi**

Present: Sh. Bal Krishan Sharma, Accountant of the school.

The school has filed copies of receipt and payments account for the years 2006-07 to 2010-11. It is observed that the school had taken a vehicle loan which was repaid alongwith interest in the years 2010-11. The total repayments made and interest paid on the during 2006-07 to 2009-10 are as follows:

Year	Loan repayment	Interest on loan
2006-07	3,09,962	44,291 -
2007-08	2,89,472	37,478
2008-09	2,01,180	
2009-10	3,33,524	

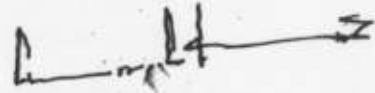
Calculation sheet to be prepared. Matter will come up for further hearing on 12.12.2017 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**

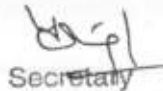


**J.S. KOCHAR  
MEMBER**



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

TRUE COPY

  
Secretary

14/11/2017

000238

**B-378**

**Dev Samaj Modern School-2, Sukhdev Vihar, Delhi**

Present : Mrs. Asha Batra, Office Assistant of the school

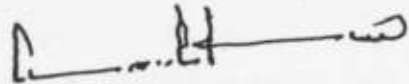
An application has been filed on behalf of the school seeking adjournment of hearing by two weeks. Although the Committee is not inclined to give further time to the school in view of the fact that sufficient time had already been given to the school in the past to produce its records. A submission has been made that the school has since paid the balance 50% of arrears to the staff after the matter was heard last, keeping in view this submission the school is granted one more opportunity to produce the necessary evidence of the payment of balance arrears of a salary and also its other financial records like books of accounts, fee registers and salary registers for the years 2008-09 to 2010-11 and also for the years in which the balance payments have been made i.e. 2015-16 & 2016-17. Matter will come up for further hearing on 5<sup>th</sup> December 2017 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**

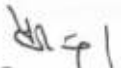


**J.S. KOCHAR  
MEMBER**



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

TRUE COPY

  
Secretary





14/11/2017

000239

B-633

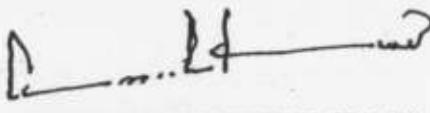
Dev Samaj Modern School, Nehru Nagar, Delhi

Present : Mrs. Asha Batra, Office Assistant of the school

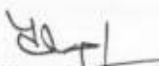
An application has been filed on behalf of the school seeking adjournment of hearing by two weeks. Although the Committee is not inclined to give further time to the school in view of the fact that sufficient time had already been given to the school in the past to produce its records. A submission has been made that the school has since paid the balance 50% of arrears to the staff after the matter was heard last, keeping in view this submission the school is granted one more opportunity to produce the necessary evidence of the payment of balance arrears of a salary and also its other financial records like books of accounts, fee registers and salary registers for the years 2008-09 to 2010-11 and also for the years in which the balance payments have been made i.e. 2015-16 & 2016-17. Matter will come up for further hearing on 5<sup>th</sup> December 2017 at 11.00 A.M.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



14/11/2017

000243

B-6

Ahlcon Public Schol, Mayur Vihar, Ph.-1, Delhi

Present : Ms. Neetu Sharma, Sr. Exectuvie, Sh. Sanjay Kumar, UDC  
& Sh. Birander Singh, Office Assistant of the school.

The school has filed written submissions dated 24.10.2017 as per which it is stated that the incremental development fee charged by the school in pursuant to order dated 11.2.2009 issued by the Director of Education was in order in view of the fact that the maximum development fee that would be charged by the school was increased to 15% of the annual tuition fee vide clause 14 of the said order.

It is further submitted that the increased amount of development fee has only been utilized for meeting the additional salary on account of implementation of 6<sup>th</sup> pay commission.

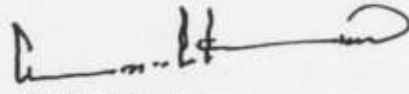
Arguments heard. Recommendations reserved.



**R.K. SHARMA  
MEMBER**

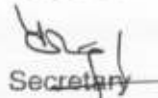


**J.S. KOCHAR  
MEMBER**



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

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Secretary



14/11/2017

000241

B-49

Sachdeva Public School, Sector-13, Rohini, Delhi

Present: Sh. Anup Mehrotra, Accounts Officer & Sh. Y.P. Rawla, C.A.  
of the school

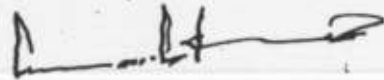
Copy of the calculation sheet has been given to the authorized representatives appearing on behalf of the school for rebuttal, if necessary. Prima facie it appears that the school recovered more fee than was required and also was not full filling the pre conditions for charging of development fee. The rebuttal may be filed on or before the next date of hearing. Matter will come up for further hearing on 18<sup>th</sup> December 2017 at 11.00 A.M.



R.K. SHARMA  
MEMBER

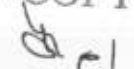


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



20.11.2017

000242  
B-70

S.D.Public School, East Punjabi Bagh, Delhi

Present : Mrs. Anita Gupta, Accounts Officer & Sh. R.K. Batra C.A. of the school.

The authorized representatives appearing for the school submit that the school agrees with the finding of the Committee that it recovered a sum of Rs.163,065 in excess of what was recoverable as arrears of development fee in terms of order dated 11.2.2009 issued by the Directorate of Education. They further submit that the school had sent letters to the individual parents to collect the cheques from the school. Some of the parents turned up and collected the cheques which has since been encashed from the bank. A copy of the bank statement is placed on the record in support of the submission. It is further submitted that many parents still have not turned up and the school is keeping the cheques ready for delivery as and when they turn to collect the same.

As the school agrees with the findings of the Committee, it may take appropriate steps to deliver the cheques to the parents within one month. Matter is heard finally.

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



20.11.2017

000243

**B-235**

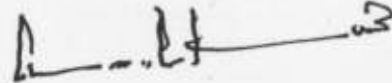
**Crescent Public School, Pitanpura, Delhi**

Present: Sh. Puneet Batra, Advocate & Ms. Vandana UDC of the school.

The Counsel appearing for the school seeks a short adjournment to work out the exact impact of implementation of the recommendations of the 6<sup>th</sup> pay commission in respect of the staff salaries increased as well as on some of the staff members who came as replacement for the staff who left after the implementation of the recommendations of the 6<sup>th</sup> Pay Commission. At his request the matter is posted for further hearing on 22<sup>nd</sup> November 2017 at 11.00 A.M.

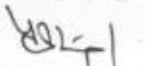


**J.S. KOCHAR  
MEMBER**



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

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Secretary

20.11.2017

000244

B-90

**Masonic Public School, Vasant Kunj, Delhi**

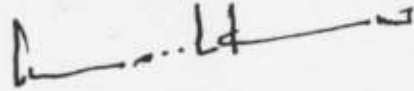
Present : Nemo.

A letter dated 15<sup>th</sup> Nov. 2017 had been received from the school by post stating that the school is preoccupied with the preparation of fixation of salary on account of implementation of 7<sup>th</sup> pay commission as the school is to submit the details to the Department of Education on 30<sup>th</sup> Nov. 2017. An adjournment is requested till 2<sup>nd</sup> week of Dec. 2017.

As requested, the matter is adjourned to 11<sup>th</sup> Dec. 2017 at 11.00 A.M. A fresh notice may be issued to the school for that date.



**J.S. KOCHAR  
MEMBER**



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

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Secretary

20.11.2017

000245

B-437

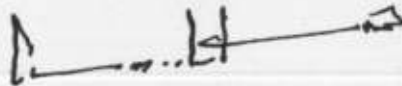
Air Force Bal Bharti School, Lodi Road, Delhi.

Present: Sh. R. S .Chakrabarti, Accountant & Ms. Puja Chitra, UDC of the school.

A copy of the calculation sheet prepared by the Committee has been given to the authorized representatives appearing for the school as it appears that the fee hiked by the school, coupled with the amount recovered as arrear fee pursuant to order dated 11.2.2009 issued by the Director of Education, was more than what the school was required to offset the increased financial burden on account of implementation of the recommendation of 6<sup>th</sup> pay commission. The school may file its rebuttal of the calculation sheet on or before the next date of hearing . The matter will come up for hearing on 11th Dec. 2017 at 11.00 a.m.



**J.S.KOCHAR**  
MEMBER



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

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Secretary



21.11.2017

000246

B-56

St. Angel's School, Sector-15, Rohini, Delhi

Present : Sh. Sanjeev Bhargava, C.A., Sh. Archit Bhargava, C.A. & Sh. Archit Bhardwaj, Director of the school.

The Committee has examined the books of accounts of the senior school which are maintained in tally software and have been produced by the school in a laptop. On verification of the information provided by the school vide its written submissions dated 14th Sept. 2017 from the accounts, it has emerged that the school made a total provision of Rs.1,44,75,144 as arrears payable to the staff consequent to implementation of the recommendation of 6<sup>th</sup> pay commission in the year 2008-09. Out of this, a sum of Rs.15,64,669 was still outstanding as on 31.3.2012. Further, cheques of the value of Rs.9,09,216 are reportedly still lying with the school as it has been submitted that the concerned staff members have left the school. A sum of Rs. 4,90,931 was purportedly paid in cash on 7.10.2009. The examination of the payment register in respect of these cash payments shows that even sums as large as Rs. 85,182 (paid to Ms. Pratima Bhatia) have been purportedly paid in cash. Further, there are 4-5 other payments between Rs. 40,000 and Rs. 60,000 also. A sum of Rs.71,50,726 is reportedly paid by individual cheques. The bank certificates which have been produced by the school do not show whether these cheques were bearer cheques encashed or were account payee cheques. The authorized representatives appearing for the school submit that they will get fresh certificate from the bank which will show the mode of encashment of cheques. Further examination of the salary ledgers of the school for the years 2008-09 and 2009-10 shows that almost 25 to 30% salary in both the years was paid in cash. In 2008-09, out of a sum of Rs.1,57,47,152, a sum of Rs.36,57,503 was paid in cash. Even after the implementation of the recommendation of the 6<sup>th</sup> pay commission w.e.f. 1.4.2009, a large sum of Rs.95,90,911 was paid in cash out of a total salary expenditure of Rs. 2,80,01,345 for the whole year 2009-10.

Further, the Committee has verified from the books of accounts that the school recovered a total sum of Rs.45,25,910 as arrear fee for the period 1.01.2006 to 31.08.2008 and Rs.54,21,350 for the period 01.09.2008 to 31.3.2009.

The school has submitted that a total sum of Rs.42,80,971 was its accrued liability of gratuity as on 31.3.2010. However, the employee-wise detail of such liability has not yet been provided by the school. The authorised representative submits that this would be provided on or before the next date of hearing. However, there is no mention about any accrued liability on account of leave encashment. The authorized representative submits that this would also be provided on or before the next date of hearing. The school has today filed the Balance Sheet duly signed by the auditors of junior school.

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Secretary





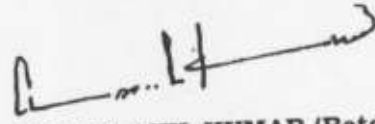
21.11.2017

000247

for the years 2007-08, 2008-09. At the request of the school, the matter is posted for further hearing on 11<sup>th</sup> Dec. 2017 at 11.00 A.M.




**J.S. KOCHAR**  
MEMBER



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

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21.11.2017

000243


B-544

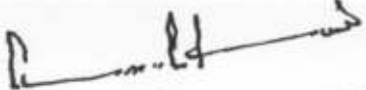
Queen Mary's School, Model Town-III, Delhi

Present: Sh. Sandeep Masih, Administrative Officer & Sh. Pradeep Kr. Verma, UDC of the school.

Complainant: Sh. Rohit Handa & Ms. Ruchi Jain parents of the students of the school.

The complainants have filed a complaint dated 20.10.2017 with the school. The school has filed its reply dated 13.11.2017. The Committee observes that the contention of the complainant is that the school earned huge profits amounting to 49.86 lacs in 2007-08, Rs.98.75 in 2008-09 and Rs. 10.61 lacs in 2009-10 and thus the school was possessed of sufficient funds and ought not have to increase the fee for implementation of the recommendation of the 6<sup>th</sup> pay commission. It is further contended that the school was collecting transport fee from the students but the same is not reflected in the audited financials of the school. It is also contended by the complainant that the school collected amount for school almanac, class photographs, picnics and workshops also, the receipts of which are not reflected in the financials of the school. Rest of the issues raised by the complainant are not related to the fee hike effected by the school for the purpose of implementation of the recommendations of the 6<sup>th</sup> pay commission. The authorized representative appearing for the school submits that the transport was outsourced in those years and whatever collections were made from the students were paid *in toto* to the transporter. The school will produce its books of accounts which are reportedly maintained in tally software in a laptop on the next date of hearing. The accounts should be produced for 2006-07 to 2010-11. The matter will come up for further hearing on 6<sup>th</sup> Dec.2017 at 11.00 A.M.

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



21.11.2017

000249

B-202

St. Gregorious School, Dwarka, Delhi

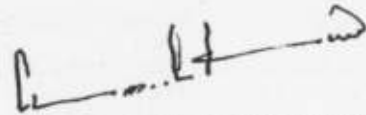
Present : Sh.K.K. Khanna C.A. & Sh. Samuel Sam, Accounts Officer of the school.

The school has filed written submissions dated 10.11.2017 in rebuttal of the calculation sheet prepared by the Committee. The authorized representatives of the school have been heard. It is contended that the Committee ought not to have taken the transfer of funds to the society for the years 2008-09 and 2009-10 as the funds position has been taken as on 31.3.2008 for the purpose of ascertaining the availability of funds with the school. It is further contended that the Committee has not taken into account the liability of Rs.20 lacs payable to the society which is reflected in the Balance Sheet as on 31.3.2008. The further contention of the school is that the Committee ought to have taken into consideration the amount of Rs.37,61,110 for the year 2008-09 and Rs. 40,50,670 for the year 2009-10 while working out the normal fee as these represent concessions to EWS students and scholarships.

Matter heard. Recommendations reserved.




**J.S. KOCHAR  
MEMBER**



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

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Secretary



21.11.2017

000253

**B-488**

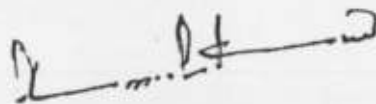
**Queen Mary's School, Sector-25, Rohini, Delhi**

Present: Sh.Vikas Goyal, CA, Ms. Rooma Jain, CA & Sh. Harsh Kumar, Office Assistant of the school.

The school has filed written submissions dated 20.11.2017. The authorized representatives appearing for the school have been heard. Recommendations reserved.

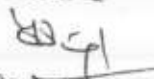


**J.S.KOCHAR  
MEMBER**



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

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Secretary



22.11.2017

000251

**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**

**The Cambridge International School**

**Jawahar Park, Delhi.(B-649)**

**And in the matter of**

**Application dated 16-06-17 for**

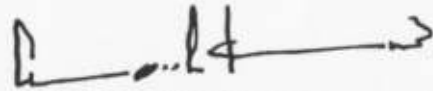
**reconsideration / review of**

**recommendations dated 4-10-15**

**in the matter of school.**

Present: Sh. P.S. Siwas, Manager & Sh. Gaurav Sharma, Advocate of  
the school.

The learned Counsel appearing for the school seeks  
adjournment. List on 19<sup>th</sup> Dec. 2017 at 11.00. A.M.



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



**J.S.KOCHAR  
MEMBER**

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Secretary



22.11.2017

000252

**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**

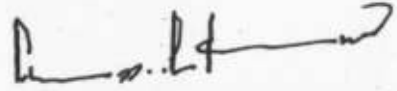
Canterbury Public School,  
Maujpur, Delhi. (B-333)

**And in the matter of**

Application dated 04-09-17 for  
reconsideration / review of  
recommendations dated 01-08-15  
in the matter of school.

Present: Sh. Krishan Kumar Yadav, Clerk of the school.

An application has been filed on behalf of the school seeking an adjournment on account of illness of president of the school. As requested, the matter is adjourned to 19<sup>th</sup> Dec. 2017 at 11.00 A.M.



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON



J.S. KOCHAR  
MEMBER

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Secretary

22.11.2017

000253

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

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

**In the matter of**

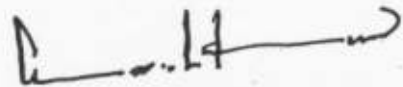
**Bhai Joga Singh Public School,  
Karol Bagh, Delhi( B-116)**

**And in the matter of**

**Application dated 31/10/17 for  
reconsideration / review of  
recommendations dated 20/12/12  
in the matter of school.**

Present: Ms. Kamalpreet Kaur, Coordinator & Sh. Nikhil Sharma, PRO  
of the school.

An application has been filed on behalf of the school seeking an  
adjournment on the ground of illness of the Counsel. As requested,  
the matter is adjourned to 7<sup>th</sup> Dec.2017 at 11.00 A.M

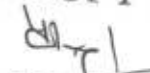


**JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON**



**J.S.KOCHAR  
MEMBER**

TRUE COPY



Secretary



22.11.2017

**B-335****Bhai Parmanand Vidya Mandir, Surya Niketan, Delhi**

Present : Sh. Rahul Jain, C.A., Sh. Braj Bhushan Ojha, Accountant  
& Sh. Rameshwar P. Pokhriyal, Accountant of the school.

The authorized representative appearing for the school submits that as per the previous order of the Committee, the discrepancies in the accounting of annual charges in the year 2008-09 were explained to the Audit officer which had been verified by her. However, on perusal of the note dated 11.8.2015 of the audited officer, it appears that the actual discrepancies in the accounting were not gone into detail but the hypothetical calculations filed by the school based on the fee structure and the student strength was verified by her. This exercise may not be sufficient for the purpose of making the relevant calculations to examine the justifiability of fee hike pursuant to order dated 11.2.2009 of the Director of Education. The school should pin point the specific entries of annual charges which had wrongly been booked under the head tuition fee in its books of accounts. Accordingly, the figure of tuition fee for the year 2008-09 will also get affected. After carrying out this exercise, the school is directed to file a revised annexure 1 of its letter dated 29.7.2015 incorporating therein the correct amount of tuition fee and annual charges. This may be done within two weeks. Calculation sheet to be prepared thereafter. Matter will come up for hearing on 12<sup>th</sup> Dec. 2017 at 11.00 A.M.



**J.S. KOCHAR**  
MEMBER



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

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Secretary





22.11.2017

**B-340****Preet Public School, Preet Vihar, Delhi**

Present: Sh. Rahul Jain, C.A. and Mrs. Veena Kumari Principal of the school.

It is contended that though the school had initially demanded the arrear fee from the students in accordance with the circular dated 11.2.2009 issued by the Director of Education for the purpose of payment of arrears of salary to the staff which arose consequent to the implementation of the recommendations of the 6<sup>th</sup> pay commission, very few students actually paid the arrear fee and in most of the cases the arrear fee collected was adjusted against the regular tuition fee for the year 2009-10. However a balance sum of Rs.1,81,191 is still available with the school which has not been adjusted against the regular fees. It is further submitted that for this reason the school did not pay the arrears of salary to the staff as the school did not have adequate funds of its own out of which the payment could have been made.

The principal of the school who is present at the time of hearing has offered that the school will refund the balance amount of arrear fee i.e. Rs. 1,81,191 which has not been adjusted against the regular fee, to the students and the Committee may afford some time for this purpose.

As requested, the hearing is adjourned to 12<sup>th</sup> Dec. 2017 at 11.00 A.M.

  
**J.S. KOCHAR**  
 MEMBER

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

TRUE COPY

  
 Secretary



22.11.2017

**B-172****Ganga International School, Sawda Ghevra, Delhi**

Present : Dr. B.K. Yadav, Principal, Sh. A.K. Behera, Accountant, Sh. Rohit, Accountant & Sh. Vipul, Accountant of the school.

The authorized representatives appearing for the school contended that neither any arrear fee was recovered from the students nor any arrear salary was paid to the staff on account of implementation of recommendation of 6<sup>th</sup> pay commission. However, the salary was enhanced w.e.f. April 2009 in accordance with the rates prescribed as per the recommendations of the 6<sup>th</sup> pay commission. It is further contended that the fee of the students was also increased prospectively w.e.f. 1.4.2009 at the rates permitted by the Director of Education vide order dated 11.2.2.009. It is further contended that the school did not issue any circular to the parents regarding the enhanced fee w.e.f. 1.4.2009 but the parents were informed of the increase through the fee bills which were issued to them.

However the school has not produced copies of its fee bills either for the year 2008-09 or for the year 2009-10 for perusal by the Committee. The school has also not produced copies of its bank statements which would have reflected the payment of increased salaries pursuant to the recommendations of the 6<sup>th</sup> pay commission. The authorized representative seeks some time for producing the same. The same may be produced on the next date of hearing. The Committee has examined the books of accounts of the school which are maintained in tally software and have been produced in a laptop. The following figures which are relevant for the calculations emerged on examination of the books of accounts :

	2008-09	2009-10	2010-11
Tuition Fees	76,76,457	1,19,71,576	1,42,22,119
Salaries (regular staff)	68,27,736	1,16,63,872	1,42,57,105
Development fee (treated as revenue receipt)	8,37,492	19,40,104	22,90,500

The matter will come up for hearing on 13<sup>th</sup> Dec. 2017 at 11.00 A.M.

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Secretary

**J.S. KOCHAR**  
MEMBER

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



000257

22.11.2017

**B-677**

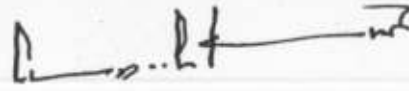
**Ganga International School, Hiran Kunda, Delhi.**

Present: Sh. R.K. Narang, Accounts Officer of the school.

At the request of the authorized representative appearing for the school the hearing is adjourned to 13<sup>th</sup> Dec. 2017 at 11.00 A.M.

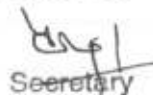


**J.S. KOCHAR  
MEMBER**



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

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Secretary



22.11.2017

000258

**B-235**

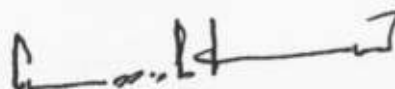
**Crescent Public School, Pitampura, Delhi.**

Present: Sh. Lalit Kumar Sharma, Lab Asstt. of the school.

An application has been filed on behalf of the school seeking an adjournment on account of illness of Counsel of the school. As requested, the matter is adjourned to 7<sup>th</sup> Dec. 2017 at 11.00 A.M.

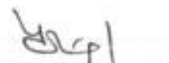


**J.S. KOCHAR  
MEMBER**



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

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Secretary



27/11/2017

000259

**B-380**

**Mata Gujri Public School, Greater Kailash, Delhi**

Present : Sh. H.S.Dugal, Gen. Secy., Mrs. Daljeet Kaur, Principal & Sh.. Ghuman, Director of the school.

The authorized representatives appearing for the school has been heard. It is contended that the school is a minority institution and as such it enjoys autonomy with regard to fixation of fee etc. It is further contended that the school charges very reasonable fees and even as on date the fee charged by the school is very much in the lower side as compare to the other schools in the locality. It is also contended that the balance sheet of the main school and pre primary school ought not to be considered in isolation but only on consolidated basis. The school has placed on records the consolidated balance sheet of the school and the society for the years 2006-07 to 2010-11 and it is submitted that the fund position as emerging on after consolidation of balance sheet ought to be taken into an account.

The Committee observes that while the school has filed the individual balance sheet of the pre primary school as well as consolidated balance sheet of the society, it has not furnished the information on the lines it submitted in respect of the senior school under cover of its letter dated 6.7.2015. The authorized representative seeks some time for doing the needful. The same may be done within one week. All the information sought vide the Committee's notice dated 22.5.2015 be furnished besides the fee and salary chart in respect of the pre primary school or better still on a consolidated basis of both the pre primary and senior secondary school since the school desires that the Committee examined the fund position on a consolidated basis. Matter to come up for further hearing on 11<sup>th</sup> Dec. 2017 at 11.00 A.M.

  
**R.K. SHARMA**  
MEMBER

  
**J.S. KOCHAR**  
MEMBER

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

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27/11/2017

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B-55

Titiksha Public School, Sec.-11, Rohini, Delhi

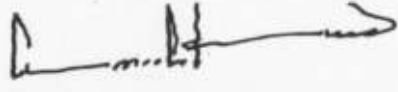
Present : Sh. R.K. Grover, Sr. Accountant & Sh. R.K. Verma,  
Accountant of the school.

In compliance of the directions given to the school on 4.10.2017, the school filed copies of accounts of Ms. Ritambhara and Sh. Harish Talwar and also a copy of the certificate of registration and Memorandum of Association of Titiksha Academic Society Delhi. It is contended that Ms. Ritambhara Chauhan is not related to any founder member of the society and she was appointed as consultant in 2005 and became a member of the society in 2008.

Calculation sheet to be prepared. Matter to come up for further hearing on 18.12.2017 at 11.00 A.M.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

TRUE COPY

  
Secretary



27/11/2017

000261

B-277

Hans Raj Samarak School, Dilshad Garden, Delhi

Present : Sh. Rajiv Gupta, Accountant of the school.

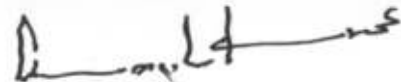
The school has produced its books of accounts which are maintained in tally software in a laptop. On verifying the same with the information filed by the school with regard to fee and salary under cover of its letter dated 19.5.2015 and 20.8.2015, the Committee observes that the figures are at variance with the amounts which the school collected as fee under different heads as per its books of accounts. Further, the Committee has gone through the annual returns filed by the school under Rule 180 of the Delhi School Education Rules 1973 and observes that the school had not given complete detail of the fee charged by it to the Director of Education. It gave information with regard to tuition fee alone where the school charges fees under, various other heads like admission charges, annual charges, development charges, exam fee, lab fee, other charges, registration fee and transport fee besides tuition fee. The information furnished to this Committee is also incomplete as many heads of fee are not reflected in the information chart. The school is required to furnish the complete and full details of fee charged under different heads during the years 2008-09 to 2010-11. Similarly in respect of salary payments also the school will furnish complete details in the same chart. This is required to be done both in the case of Sr. secondary school and the nursery school. This may be done within two weeks. Matter will come up for further hearing on 18<sup>th</sup> Dec. 10<sup>7</sup> at 11.00 A.M.



**R.K. SHARMA**  
MEMBER

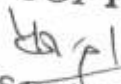


**J.S. KOCHAR**  
MEMBER



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

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Secretary



27/11/2017

000262

**B-368**

**Hans Raj Samarak Sachool, Krishna Nagar, Delhi**

Present: Sh. Rakesh Kumar Mahajan, UDC & Sh. Shiva, Driver of the school.

The school has produced its books of accounts which are maintained in tally software in a laptop. On verifying the same with the information filed by the school with regard to fee and salary under cover of its letter dated 19.5.2015 and 20.8.2015, the Committee observes that the figures are at variance with the amounts which the school collected as fee under different heads as per its books of accounts. Further, the Committee has gone through the annual returns filed by the school under Rule 180 of the Delhi School Education Rules 1973 and observes that the school had not given complete detail of the fee charged by it to the Director of Education. It gave information with regard to tuition fee alone where the school charges fees under, various other heads like admission charges, annual charges, development charges, exam fee, lab fee, other charges, registration fee and transport fee besides tuition fee. The information furnished to this Committee is also incomplete as many heads of fee are not reflected in the information chart. The school is required to furnish the complete and full details of fee charged under different heads during the years 2008-09 to 2010-11. Similarly in respect of salary payments also the school will furnish complete details in the same chart. This is required to be done both in the case of Sr. secondary school and the nursery school. This may be done within two weeks. Matter will come up for further hearing on 18<sup>th</sup> Dec. 10<sup>7</sup> at 11.00 A.M.



**R.K. SHARMA  
MEMBER**



**J.S. KOCHAR  
MEMBER**



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

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Secretary





29/11/2017

B-623

Col.Satsangi's Kiran Memorial School,Chattarpur, Delhi

Present : Sh.S.Krishna, Cost Consultant, Sh.Ram Lal Pandit, Sr. Accountant, Sh. Sunil Kohli, Accounts Supervisor & Sh. Surendra Prasad, Asstt. Manager of the school.

The Committee has examined the audited balance sheets of the parent society of the school and bases thereon it appears that the school had ample funds available with it for meeting the additional burden on account of implementation of recommendations of the 6<sup>th</sup> pay commission and as such did not need to hike any fee or recover any arrear fee pursuant to the recommendations of 6<sup>th</sup> pay commission. A calculation sheet with regard to the funds apparently available with the society as on 31.3.2008 has been given to the authorized representative appearing for the school for rebuttal, if any. Further the Committee observes that the information given by the school with regard to different components of fee and salary for the years 2008 -09 to 2011-12 under cover of its letter dated 8<sup>th</sup> June 2015 was ex facie incorrect as the amount of tuition fee reflected by the school therein was nowhere near the amount that the school ought to have recovered from its student strength and the monthly tuition fee charged by it. The school submitted a revised information chart under cover of its letter dated in the shape of a certificate issued by its auditors M/s. Vidya & Co. Chartered Accountant under cover of its letter dated 16.6.2017, however while furnishing this information the school aggregated the fee charged by it under various heads like annual charges, PTA, day boarding charges, boarding fee etc. instead of giving the details thereof head wise as it was required to give by the notice issued by the Committee. The authorized representative submits that the school will furnish a fresh certificate from its auditors giving the necessary break up of fee recovered by the school under different heads. Let the same be done within one week. Response to the calculation sheet with regard to the funds available with the school may also be furnished along with that. The matter will be listed for further hearing on 12<sup>th</sup> Dec. 2017 at 11.00 A.M.

Received  
Sunil Kohli  
29/11/17

R.K. SHARMA  
MEMBER

J.S. ROCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

Secretary



29/11/2017

**B-604****Lal Bahadur Shastri Smarak School, R.K. Puram, Delhi**

Present : Sh. Devender Kumar, Accountant, Sh. K.K. Arora, Consultant & Sh. A Ghosh, A.O. of the school.

The Committee has perused the circular issued by the school to the parents regarding fee hike effected by it pursuant to order dated 11.2.2009 issued by the Director of Education. The school initially hiked the tuition fee of the students by Rs.200 per month, the hike to which it was entitled as per the aforesaid order. Subsequently, by a circular dated 6.8.2009 the school raised a further demand of Rs. 3900 per student for recovery of lump sum arrear fee @ Rs.2500 for the period 1.1.2006 to 31.8.2008 and Rs.1400 for the period 1.09.2008 to 31.3.2009.

In the information filed by the school in response to the notice dated 20.8.2015 issued by the Committee, the school has stated that it recovered a total sum of Rs.38,09,010 towards arrear fee in the year 2009-10 and the same amount was paid to the staff as arrear salary. However, during the course of hearing Sh. A. Ghosh the administrative officer appearing for the school submits that the staff was paid full arrears according to their entitlement and the amount was not restricted to the amount of arrear fee recovered from the students. In view of this inconsistency, the school is required to furnish a revised fee and salary chart for the years 2008-09 to 2010-11 in the format given by the Committee in its notice dated 20.8.2015. The Committee also observes that the school mention that it had not recovered any development fee during the years 2008-09 to 2010-11 however the audit officer of the Committee who examined the accounts of the school on 17.9.2015 has recorded that the school recovered development fee but the same was credited to the account of the parent society instead of the account of the school. The school was required to furnish the relevant information with regard to the development fee charged by it for the years 2006-07 to 2010-11. The school furnished its reply under cover of its letter dated 21.9.2015 vide which it admitted that it had been collecting development fee in all the five years for which the information was sought. It further stated that the development fee had been utilized in full on payment of property tax, ground rent and building maintenance in the years 2006-07 to 2010-11. The same was treated as a revenue receipt and no earmarked depreciation reserve fund was maintained, only a provisions made in the books of accounts.

**TRUE COPY** The Committee also observes that the fee charged by the school under other heads goes from Rs.38.21 lacs in 2008-09 to Rs.96.97 lacs in 2009-10. The school has not given any bifurcation of the fee recovered under other heads. The school is required to give the bifurcation of the fee charged by it under other heads and also justify this abnormal increase of Rs. 38.21 Lacs to Rs. 96.97 lacs in 2009-10.

*[Signature]*  
Secretary



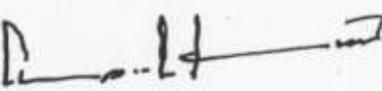
29/11/2017

particularly as per the fee schedules filed by the school, there does not appear to any abnormal hike in fee under any head. The school will also give a complete detail of arrears due to the staff viz a viz. the payments made to them and the balance, if any still outstanding. The payments ought to be supported by the relevant bank statements/entries in the cash book and the relevant payment vouchers. The same will be produced in the next date of hearing. The Committee has also come across a complaint filed by one of a parent namely Sh. Naresh Kumar Garg against the school. However, on perusal of the same, the Committee finds that the same relates to withdrawal of fee concession by the school and not with regard to the fee hiked by the school pursuant to order dated 11.2.2009 issued by the Director of Education. As such the committee does not issue any notice to the complainant.

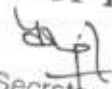
For further hearing the matter is fixed for 19<sup>th</sup> Dec. 2017 at 11.00 A.M.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



29/11/2017

B-642

Apeejay School, Pitampura, Delhi

Present : Sh.S.K.Murgai, Financial Advisor, Sh. Bharat Bhushan, General Manager, Mrs. Veena Goyal, Vice Principal, Sh. Rajiv Jain, Sr. Accountant, Sh. Uday Bhan, Internal Auditor and Sh. Suraj Pal, Accountant of the school.

The Committee has perused the circular dated 12.3.2009 issued by the school to the parents as per which they were informed of the fee hike permitted by the Director of Education vide order dated 11.2.2009. It was also informed that the arrear would be collected in two or three installments. However the quantum of fee hike or the arrear fee that the parents were required to pay was not mentioned in the circular. They were mentioned in the supplementary fee bills which were reportedly issued to the students. However, the school has not filed copies of the supplementary fee bills through which the arrear fee and the enhanced fee was advised to the parents. The school will furnish copies of such bills for all the installments through which the arrears were collected for each class within one week.

The school has implemented the recommendations of the 6<sup>th</sup> pay commission in full. Payment of arrear salary as well as the regular salary is made by the school through banking channels. The school has also furnished the details of its accrued liabilities of gratuity and leave encashment and other information and documents asked for by the Committee from time to time.

On perusal of the break up of fee charged by the school under different heads during the years 2008-09 to 2010-11, the Committee observes that the school recovered arrears of development fee amounting to Rs.24,46,317 for the period 1.9.2008 to 31.3.2009 whereas the arrears of tuition fee for the same period which the school recovered amounted to Rs. 43,51,624. In % terms the arrears of development fee recovered by the school are almost 56% of the arrears of tuition fee charged by the school. Since the school has not given the details of the arrear fee recovered by the school from the students of different classes as the same are not mentioned in the circular, the school will furnish the explanation with regard to the apparent discrepancy in recovering arrear development fee which ought not have to exceeded 10% of tuition which the school was charging in the year 2008-09 for which the arrears of differential development has been recovered.

The calculation sheet prepared by the Committee, a copy of which has been furnished to the school for rebuttal shows that apparently the school recovered more fee than was required to offset the increase financial burden on account of implementation of the 6<sup>th</sup> pay commission to the tune of Rs.2,79,263. Besides prima facie it appears that the school was not fulfilling the pre conditions prescribed by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India.

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29/11/2017

The school has filed its rebuttal to the calculation sheet vide its written submissions dated 30.10.2017.

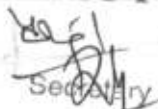
With regard to development fee, the school has filed a detailed chart showing development fund collected and utilized from 1999 to 2010-11. The details of utilization of development fund has also been furnished and it is contended that the school utilized the development fund only for the permitted purposes i.e. acquisition of furniture and fixtures and equipments. The school has also furnished the details of depreciation reserve on the assets required out of development fund during these years. The Committee observes that as on 31.3.2008 the unutilized development fund held by the school amounting to Rs.40,58,674 and the depreciation reserve fund on assets required out of development fund were Rs.30,21,100 totaling Rs.70,79,774. The school further submits that it held a sum of Rs.10092246 in earmarked FDRs and saving bank accounts.

It is apparent that the school claims more earmarked funds than the reserves held by it to the tune of Rs.30,12,472. This position is untenable and Committee is of the view that this amount was available to the school for the purpose of implementing the recommendations of the 6<sup>th</sup> pay commission.

The school has further submitted that while taking the funds available with the school the Committee has included the entire amount of FDRs and balances in saving bank accounts out of which a sum of Rs.70,79,773 ought to have been excluded as they were held against development fund and depreciation reserve fund. The Committee agrees with this submission and will rework the calculations accordingly. The school has also submitted that total amount of FDRs are also appears to the tune of Rs.7,76,621 which are jointly held with the Director of Education and CBSE and such were not available with it for utilization for the purpose of payment of increase salaries/arrears consequent upon the implementation of the recommendations of the 6<sup>th</sup> pay commission. The Committee agrees with this pre position also. The Committee is also satisfied that the school was fulfilling the pre conditions laid down by the Duggal Committee with regard to charging of development fee however it is of the view that the arrears of development fee recovered by the school for the period 1.9.2008 to 31.3.2009 to the extent they represent excess over 10% of the arrears of tuition fee for that period was neither justified nor authorized by the order dated 11.2.2009 issued by the Director of Education. The school may furnish its explanation as to why the committee should not order the refund of this amount.

The next date of hearing is on 7<sup>th</sup> Dec. 2017 at 2.00 P.M.

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Secretary

R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON



29/11/2017

000268

B-184


Mira Model School, Janajpuri, Delhi

Present: Sh. Gautam Suri, Chartered Accountants and Sh. V. Hari Haran, UDC Accounts of the school.

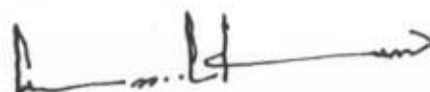
The school has furnished the relevant documents like essentiality certificate issued by the Directorate of Education for setting up a school at Bhakargarh, copy of resolution passed by MCD for change of land use, approved lay out plan of the school at Bhakargarh. No objection certificate from the Fire Department and completion certificate issued by MCD. It has been submitted by the school that the project at Bhakargarh was delink from the school and the investment made by the school amounting to Rs. 8.81 crores has been returned to the school by Education Society which is the parent society of the school in the year 2016-17. It has further submitted that the school has transferred a sum of Rs. 6.00 crores to the development fund account which was earlier not kept in an earmarked account. However, the school has not produced copy of its earmarked bank account for development fund in which the amount has been purportedly been transferred. The authorized representatives appearing for the school seeks some time for producing the same.

The Committee also observes that while the development fee received by the school is capitalized and reflected as development charges in the balance sheet of the school, the utilization on account of acquisition of fixed assets is not deducted from the same. Therefore, the balance reflected as development charges/fund in the balance sheet may not represent the total unutilized balance of development fund which is required to be kept in an earmarked account. The authorized representative submit that the school started charging development fee in 2006-07. Accordingly the school will file a detailed statement showing year wise collection of development fund, utilization and the balance remaining unutilized at the end of the year as also the accumulated depreciation reserve fund in respect of assets acquired out of development fund. The school will also reflect the balances in earmarked FDRs/saving bank accounts against development fund and depreciation reserve fund, if any. This exercise will be carried out upto the year 2016-17 when the school reportedly transferred a sum of Rs. 6.00 crores in the earmarked development fund account. The aforesaid information/documents may be submitted within one week.

Matter to come up for further hearing on 07/12/2017 at 02.00 p.m.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



30/11/2017

000269

B-69

**S.M.Arya Public School, West Punjabi Bagh, Delhi**

Present : Capt.Laxmi Narain, Care taker of the school.

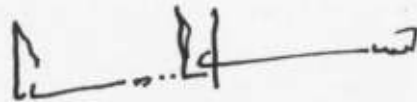
An application has been received on behalf of the school seeking adjournment on the ground that the school has to do the necessary paper work for revision of salary and payment of arrears as per the recommendations of 7<sup>th</sup> pay commission by 30.11.2017 i.e. today and the same is required to be submitted to the Director of Education also by today evening. The Committee observes that in the past also the school has been taking adjournment on one ground or the other and the direction given on the last date of hearing which took place about 50 days earlier was merely to produce the books of accounts which are maintained in tally software in a laptop. The school was not required to prepare anything afresh. In the interest of justice one last opportunity is given to the school to produce the books of accounts in a laptop on 6<sup>th</sup> Dec., 2017 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**

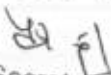


**J.S. KOCHAR  
MEMBER**



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

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Secretary



30/11/2017

000270

B-295

Lions Public School, Ashok Vihar, Delhi

Present : Sh. Harish Oberoi, Manager of the school.

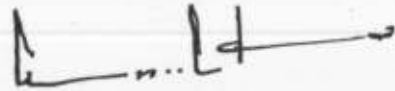
An application has been received on behalf of the school seeking adjournment for 2<sup>nd</sup> week of December on the ground that the school has not been able to get the certificate from the bank which it was required to obtain to file with this committee vide order dated 12.10.2017. The Committee observes that the school applied for issue of such certificate only on 20.11.2017 when the order was made by the Committee on 12.10.2017. In the circumstances the Committee is not inclined to give any adjournment however in the interest of justice one more opportunity is being given to produce the required certificates. Accordingly the hearing of matter is adjourned to 19<sup>th</sup> Dec. 2017 at 11.00 A.M..



**R.K. SHARMA  
MEMBER**

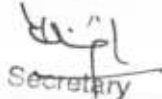


**J.S. KOCHAR  
MEMBER**



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

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Secretary





30/11/2017

000271

B-227

**S.D.Public School, Cheerakhana, Nai Sarak, Delhi**

Present : Ms.Kiran Kaul, Principal., Sh. Navin Chaurasia, Accountant, Sh. Nandan Singh, Lab Astt. & Sh. Abhishek Chawla, TGT (science) of the school.

On the last date of hearing the Committee had observed that the school had hiked more fee than it was permitted vide order dated 11.2.2009 issued by the Director of Education. It also noticed that the school had not received any arrear fee from the students nor had paid any arrear salary to the staff. Hence the only issue to be examined by the Committee whether the fee that was prospectively hiked by the school w.e.f. 1.4.2.009 was justified or not.

The school represents before this Committee that the school did not have enough funds of its own out of which it could have absorbed the impact of implementation of the recommendations of the 6<sup>th</sup> pay commission even prospectively w.e.f. 1.4.2009 and the fee hiked that was permitted by the Director of Education vide order dated 11.2.2009 could not have taken care of the entire additional expenditure on account of the revised salaries as per the recommendations of the 6<sup>th</sup> pay commission. It therefore represented first to the Director of Education vide letter dated 26.12.2008 to be allowed to hike the fee by 50% of the existing fee. This was before the Director of Education had issued the order dated 11.2.2.009. After the aforesaid order was issued the school again represented to the Director of Education vide letter dated 13.4.2009 that the school ought to be allowed to increase tuition fee by Rs.500 per month of all the classes instead of Rs.100 p.m. that was permitted by the order dated 11.2.2009 for nursery class to class 3<sup>rd</sup>, Rs.200 for class 4<sup>th</sup> to class 8<sup>th</sup> and Rs. 300 for class 9<sup>th</sup> to class 12<sup>th</sup>. Thereafter, the school also made a representation to the Grievance Redressal Committee constituted by the Director of Education by order dated 11.2.2009. Ms. Kiran Kaul the principal of the school who is present at the time of hearing submits that the school did not get any communication from the grievance Redressal Committee on redressal of its grievances raised before it.

The Committee notices that the actual fee hike effected by the school was Rs.430 to Rs.500 per month for classes pre school to 3<sup>rd</sup> while it was permitted to hike the same by only Rs.200 per month by order dated 11.2.2009. Similarly for classes 4<sup>th</sup> to 8<sup>th</sup> the hike was to the tune of Rs.420 per month while the permitted hike was only Rs.300 per month. For classes 9<sup>th</sup> to 12<sup>th</sup> the actual hike was Rs.430 per month while the permitted hike was Rs.300 per month.

The Committee has examined the position of availability of funds with the school as on 31.3.2009. As per its audited balance sheet, the school had a total sum of Rs. 35,15,319 as its current assets and FDRs with banks, against which it had current liabilities amounting to Rs.11,10,931, leaving a sum of Rs.24,04,388 with the school. The school has filed a statement of its accrued liability of gratuity as on 31.3.2010. The school has filed a detail of its accrued liability towards

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30/11/2017

gratuity of the staff as on 31.3.2010, which aggregates Rs.39,03,419. The Committee has taken a consistent view that school ought to retain sufficient funds for meeting its accrued liabilities of gratuity and leave encashment besides a reasonable surplus for future contingencies, which the Committee has determined to be equivalent to 4 months salary. If the liability of gratuity alone is taken into consideration, the school would not have any funds available with it for meetings its increased liabilities on account of implementation of 6<sup>th</sup> pay commission and in fact there would be a shortfall.

The Committee has determined that the additional expenditure that the school incurred in 2009-10 on account of increased salaries amounted to Rs. 30,54,899 while the additional revenue generated by the school by increased fee in 2009-10 amounting to Rs.25,37,033. This despite the fact that the school increased more fee than it was permitted to increase vide order dated 11.2.2009 issued by the Director of Education.

In the judgment dated 11.8.2011 delivered by the Hon'ble High Court of Delhi in WPC 77 77 of 2009, by which this Committee was constituted, it was mandated that where the schools are able to establish that the fee hike allowed by an order dated 11.2.2009 was not sufficient to meet the additional expenditure on account of salaries due to implementation of the recommendations of the 6<sup>th</sup> pay commission, the schools could set up a claim for an additional fee hiked before this Committee. The Committee notices that the school tried to exhaust its remedies as provided by order dated 11.2.2009 by making a representation before the Grievances Redressal Committee but the same remained unredressed. As discussed above the school has been able to establish that the fee hike permitted by order dated 11.2.2009 was not sufficient to fully offset the increased liabilities on account of implementation of the recommendations of the 6<sup>th</sup> pay commission.


We therefore accept the contention of the school that the fee hike effected by it to the extent it was actually hiked was justified.

Although the Committee notices that the development fee charged by the school in the year 2009-10 and 2010-11 was not in accordance with the recommendations made by the Duggal Committee which were upheld by the Hon'ble Supreme Court in the case of Modern school vs. Union of India, keeping in view the fact that the school did not have any funds for reasonable reserve equivalent to 4 months salary which amounts to Rs.30,92,739, as against which the development fee recovered by the school in these two years was Rs.21,43,500, the Committee is not inclined to take any adverse view with regard to recovery of development fee also. Pronounced in the open meeting after the conclusion of hearing.

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Secretary  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON



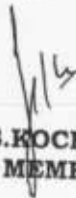
30/11/2017B-237S.D.Public School, Kirti Nagar, Delhi

Present: Ramesh Lamba, Manager, Sh. Subhash Kumar Saini, Accountant & Sh.Ravi Chauhan, Assistant of the school.

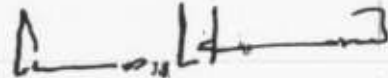
As directed by the Committee vide its order dated 13.10.2017, the school filed a copy of its balance sheet as on 31.3.2017. The arrear fee collected by the school in 2008-09 to 2010-11 amounting to Rs. 22,23,478 for the purpose of payment of arrear salary to the staff is still outstanding as a liability in the balance sheet of the school as on 31.3.2017. The authorized representatives appearing for the school seek some time to inform the Committee as to how the school proposes to deal with this collection i.e. whether to pay the arrear salary to the staff or to refund the fee collected from the students. As requested the matter is adjourned to 19th Dec. 2017 at 11.00 A.M.



**R.K. SHARMA**  
MEMBER



**J.S. KOCHAR**  
MEMBER



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

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Secretary


05/12/2017

000274

B-60

The Heritage School, Sector-23, Rohini, Delhi

Present: Sh. Nand Kishore, Admn. Asstt., Sh. Pulikit Malhotra, Advocate and Sh. Kamil Khan, Advocate Sh. Susheel Dubey, Accountant of the School, and  
Sh. Ajay Kumar, Advocate and Sh. Ajay Aggarwal, Parent on behalf of the Complainant.

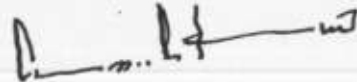
An oral request has been made by the counsel appearing for the school seeking adjournment on the ground that the father of Sh. Sachin Suri, arguing counsel has expired. As requested, the matter is adjourned to 17/01/2018 at 11.00 a.m.



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

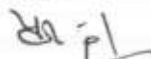


**J.S. KOCHAR**  
MEMBER



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

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Secretary



05/12/2017

000275


B-638

Tagore School, Maya Puri, Delhi

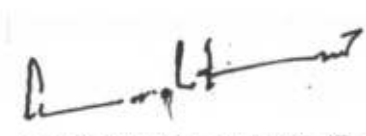
Present: Sh. Kamal Kishore, A.O., Sh.V.D. Sharma, P/T Accountant & Sh. Pramod kumar, Peon of the school.

During the course of verification of books of accounts, the Committee has observed that though most of employees of the school have account in the same bank in which the school has its own account i.e. Oriental Bank of Commerce, the school did not pay the arrear salary to the staff by means of direct bank transfer through a single cheque. It issued individual cheques to the staff. It appears that all the employees of the school were not given the cheques together but the delivery of cheques over a period of 2-3 months. The authorized representatives appearing for the school submit that the cheques were delivered as and when the school had sufficient balance in its bank account to meet those cheques. This clears to a strange as the school admittedly collected the arrear fee in the years 2008-09 and 2009-10 while the arrear salary was purportedly paid in the year 2011-12 & the total amount of arrears that was purportedly paid was Rs.12,47,675 as against the collection of arrear fee which amounted to Rs.1670930.

With regard to regular salary also the Committee observes that the payments were made by means of individual cheques. The bank statement produced by the school reflects only the names of the payees and mode of encashment of cheques is not discernable their from. The school has not filed the statement of mode of payments of salaries, month wise for the years 2008-09 and 2009-10 in the format which was posted on the website of Director of Education for submission to the Committee. The school will file the information in the aforesaid format and also furnish a certificate from the bank regarding mode of payment of individual cheques of salaries paid in the year 2009-10 and the arrears paid in the year 2011-12. Matter will come up for further hearing on 8<sup>th</sup> January 2018 at 11.00 A.M. The school will also file the balance sheet of the nursery school as on 31.3.2008 and also the information pertaining to fee and salary of the nursery school in the format given in the notice dated 27.4.2015 issued by this Committee.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



05/12/2017

000276

B-378

**Dev Samaj Modern School, Sukhdev Vihar, Delhi**

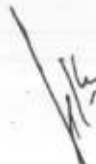
Present: Sh. Bhagat Singh, UDC, Sh. S.K. Sharma, Accountant & Ms. Jayasme, Office Assistant of the school.

Despite clear directions to the school to produce its books of accounts, fee registers and salary registers for the years 2015-16 and 2016-17 in which the school claimed to have paid arrears of salary to the staff for the period 1.1.2006 to 31.8.2008, the school has not produced the same for reasons not known. It appears that the school is avoiding scrutiny of its claim for payments of arrears in 2015-16 & 2016-17 and the sources of such payments. Admittedly, the school recovered a sum of Rs. 58,7,740 as arrear fee in the years 2008-09 and 2009-10 for the purpose of payment of arrear salary to the staff. Yet the school paid only a sum of Rs. 23,63,795 towards arrears on 9.7.2010 and withheld the balance amount with itself. During the course of proceedings before this Committee, the school claimed to have paid a sum of Rs. 24,08,353 on 1.8.2015 i.e. 6 years after the amounts were collected. A further sum of Rs.21,29,660 is claimed to have been paid on in Sept. 2016. Unless the books of accounts, fee schedules, fee registers & salary registers for the years 2015-16 & 2016-17 are produced, the source of payment of these arrears cannot be ascertained and also it cannot be ascertained whether the school raised any further fee from the students in these two years for the payment of arrears.

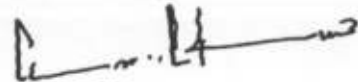
In the circumstances, the Committee is inclined to draw an adverse influence against the school with regard to source of payment and arrears in 2015-16 2016-17. Calculation sheet to be prepared without taking into account the alleged payment of arrears in 2015-16 & 2016-17. Matter is posted for further hearing on 8<sup>th</sup> January 2018 at 11.00 A.M.



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



**J.S.KOCHAR  
MEMBER**



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

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Secretary



06/12/2017

000277

B-286

Mount Abu Public School, Sector-5, Rohini, Delhi

Present: Ms. Jyoti Arora, Principal of the school.

Ms. Jyoti Arora, principal of the school has filed an application for extending the date of hearing by 15 days on account of non availability of the Sr. Accounts officer of the school due to illness. As requested the hearing is adjourned to 12<sup>th</sup> January 2018 at 11.00 A.M.

*24*

Dr. R.K. SHARMA  
MEMBER

*J.S.*

J.S.KOCHAR  
MEMBER

*Justice Anil Kumar*

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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*Deep*  
Secretary



06/12/2017

000278

B-294

Mount Abu Sr. Sec. School, Sector-18, Rohini, Delhi

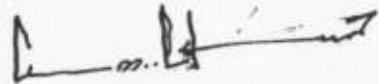
Mr. Puneet Batra Counsel of the school is reported to be unwell accordingly the hearing is adjourned to 12<sup>th</sup> January 2018 at 11.00 A.M.



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

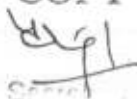


**J.S. KOCHAR**  
MEMBER



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

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06/12/2017

000279

B-544

Queen Mary's School, Model Town-II, Delhi

Present: Sh.Sandeep Masih, Admn. & Accounts Officer & Sh. Pradeep Kumar Verma, UDC of the school and

Sh. Rohit Handa, Parent of the student- complainant.

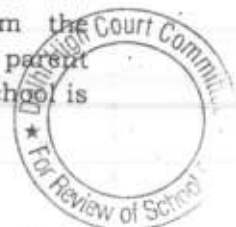
The books of accounts of the school , which have been produced in a laptop have been examined by the Committee with reference to the contentious issues raised by the complainant. The Committee has observed as follows:

1. With regard to the transport fee, the complainant had contended that the school was collecting the same but not reflecting it in its financials. On examination by the Committee, it is observed that the school collected a sum of Rs.43,98,702 as transport fee in 2006-07, Rs.45,60,215 in 2007-08, Rs. 79,32,175 in 2008-09 and Rs.31,75,480 in 2009-10. The entire collection of this account, after deduction of a royalty of Rs.55,000 per annum, was paid to the transport contractor M/s. Sun beam Travels. It is submitted by the complainant that the transport contractor was in some way related to the principal of the school. However, the authorized representative appearing for the school submits that there is no such relationship as alleged. On query by the Committee, the authorized representative submits that initially there was no formal contract with M/s Sun Beam Travels and the understanding was that whatever transport fee collected from the students would be passed over to them. However, subsequently a formal contract was entered into with them. The school will produce a copy of the contract on the next date of hearing. It is submitted that since there was no net surplus from the transport fee, the same is not reflected in the income and expenditure account. However, the Committee observes that neither the transport fee receipt nor the expenditure incurred by the school on transport is reflected in the receipt and payment account also which is intangible. It is also contended by the authorized representative that from the year 2010-11 the school did not collect any transport fee and the parents were advised to deposit the same directly with the transporter. The complainant concurs with this submission of the school.

2. The next issue raised by the complainant was that the school was not reflecting the collections on various accounts like school almanac, Class photographs, picnics and workshops etc in its financials. The Committee has examined the books of accounts from this angle also and observes that there may be some truth in the allegation as the school has transferred the savings out of such activities or collections to the parent society . Although the school had accounted for the collections on these accounts in its books. It has reduced the expenditure incurred on these activities from the collections and the savings have been transferred to the parent society instead of being reflected as income of the school. The school is

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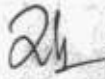


06/12/2017

000280

required to file a detailed statement of collections under various heads of miscellaneous activity, expenditure incurred against such activities, the net income reflected as income of the school and the amount transferred to the parent society out of the surplus generated from such activities.

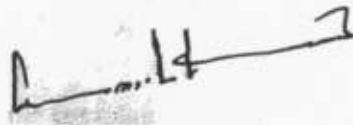
Hearing is adjourned to 10<sup>th</sup> January 2018 at 11.00 A.M. The school will keep its books of accounts in the laptop handy on that date also.



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



**J.S. KOCHAR**  
MEMBER



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

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Secretary



06/12/2017

B-69

S.M. Arya Public School, West Punjabi Bagh, Delhi

Present: Sh. Arvind Nagpal, Manager, Sh. Surjeet Singh, C.A., Ms. Rashmi Bhatia, PA & Ms. Ranjana Goel, Accounts Clerk of the school.

The school has furnished audited financials of the nursery school as well as a revised statement of fee and salary for the years 2008-09 to 2011-12. The same has been verified with reference to the books of accounts of the school which have been produced in a laptop. The following figures which are relevant for the for purpose of calculations of justifiability of fee hike effected by the school pursuant to order dated 11.2.2009 issued by the Director of Education, are culled out as follows:

Particulars	Main School	Nursery School	Total
Salary arrears paid to the staff in 2009-10	30,48,987	3,64,774	34,13,761
Salary arrears paid in 2011-12	29,96,558		29,96,558
Salary arrears paid in 2012-13	3,13,549		3,13,549
Salary arrears paid in 2014-15	2,90,193		2,90,193
Regular salary for the year 2008-09	1,65,90,428	16,91,199	1,82,81,627
Regular salary for the year 2009-10	2,31,43,033	26,44,154	2,57,87,187
Arrear fee received in 2008-09	14,48,224		14,48,224
Arrear fee received in 2009-10	55,11,909		55,11,909
Arrear fee received in 2010-11	2,68,475		2,68,475
Arrear fee received in 2011-12	3,825		3,825
Regular tuition fee for the year 2008-09	2,20,72,624	14,35,704	2,35,08,328
Regular tuition fee for the year 2009-10	2,98,90,561	20,41,265	3,19,31,826

The Committee has observed that the school receives the development fee from the students @ 15% of tuition fee. 50% of the same is treated as a revenue receipt in the books of the school. The remaining 50% is transferred to a separate building maintenance account and is spend chiefly on maintenance of building. The authorized representative of the school submits that the amount that is retained in the school, though it is treated as a revenue receipt, it is utilized for the purpose of additions to the school building which is in progress for the last number of years. He further submits that no part of development fee is utilized for purchase or up gradation of furniture

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Secretary



**06/12/2017**

and fixture or fittings. The total development fee received by the school in the years 2008-09, 2009-10 and 2010-11 is as follows:

Year	Development Fee Receipt	Transfer to building maintenance account	Utilized for addition to building
2008-09	30,45,355	15,22,678	61,95,036
2009-10	38,30,310	19,15,155	57,45,738
2010-11	39,13,856	19,58,100	36,44,812

The school has not furnished the details of its accrued liabilities of gratuity and leave encashment as on 31.3.2010. The authorized representatives submit that they will file the details within two weeks. Calculation sheet to be prepared thereafter. Matter will come up for further hearing on 17<sup>th</sup> January 2017 at 11.00 A.M.

24

Dr. R.K. SHARMA  
MEMBER

J.S.KOCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



07/12/2017

000283

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

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

**In the matter of**

**Bhai Joga Singh Public School**

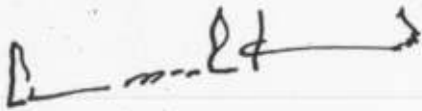
**New Delhi (B-116)**

**And in the matter of**

Application dated 31/10/17 for  
reconsideration / review of  
recommendations dated 20/12/12  
in the matter of school.


Present: Ms. Kamalpreet Kaur, Coordinator & Sh. Nikhil Sharma, PRO of  
the school.


An application has been received from the school seeking  
adjournment on the ground that its counsel Sh. Puneet Batra is not  
well. Accordingly the matter is adjourned to 12<sup>th</sup> January 2018 at  
11.00 A.M.



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

  
**J.S. KOCHAR  
MEMBER**

  
**R.K. SHARMA  
MEMBER**

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**Secretary**



07/12/2017

000284

B-235

Crescent Public School, Pitampura, Delhi

Present: Sh.Lalit Kumar Sharma, Lab Asstt. of the school.

An application has been received from the school seeking adjournment on the ground that its counsel Sh.Puneet Batra is not well. Accordingly the matter is adjourned to 12<sup>th</sup> January 2018 at 11.00 A.M.

*24*

Dr. R.K. SHARMA  
MEMBER

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

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

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*[Signature]*  
Secretary



07/12/2017

000285

B-200 642

Apperjay School, Pitampura, Delhi

Present : Sh.D.K. Bedi, Principal, Sh.Suraj Pal Ghai, Accountant, Sh. S.K. Murgai, Financial Advisor, Sh. Bharat Bhushan, General Manager, Sh. Rajiv Jain, Sr. Accountant & Sh. Uday, Internal Auditor of the school.

The school filed letter dated 3.12.2017 alongwith which it has enclosed copies of supplementary bills issued to the students for first installment of arrears pursuant to order dated 11.2.2009 issued by the Director of Education. The letter also gives the manner of calculation of arrears of development fee charged by the school pursuant to the aforesaid order of the Director of Education.

The Committee observes that in so far as the recovery of lump sum arrear for the period 1.1.2006 to 31.8.2008 and recovery of the arrear of increased fee for the period 1.9.2008 to 31.3.2009, are concerned the same are in accordance with what the school was permitted to hike vide the aforesaid order of the Director of Education. However in respect of the arrears of development fee, the school recovered the arrears for the period 1.9.2008 to 31.3.2009 @ 15% of the revised tuition fee while the school was charging development fee @ 10% of tuition fee as per its fee schedules filed under section 173 of the Delhi School Education Act 1973 for the year 2008-09. The school relies upon a subsequent order dated 25.5.2009 issued by the Director of Education which, in the opinion of the school, permits the schools to recover the arrears of development fee for the period 1.9.2008 to 31.3.2009 @ 15% of the tuition fee. A copy of the order is placed on record by the school.

The school has further submitted that the break up of arrears of tuition fee lump sum fee and development fee as given by it in its compilation filed on 24.9.2015 was erroneous. The Committee has picked up the figures from the same compilation in its calculation sheet. It is further submitted that the school had given the correct bifurcation vide its letter dated 31.10.2013 which was in response to the questionnaire issued by the Committee. The correct break up as given by the school in its latest submission dated 3.12.2017 is as follows :

Arrear fee for the period 1.1.2006 to 31.8.2008	78,17,290
Arrears of tuition fee for the period 1.9.2008 to 31.3.2009	68,38,758
Arrears of development fee for the period 1.9.2008 to 31.3.2009	24,46,317

Arguments heard. Recommendations reserved.

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Secrety R.K. SHARMA  
MEMBER

J.S.KOCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON



07/12/2017

000286

B-ONE 184

Mira Public School, Janakpuri, Delhi

Present: Sh. V.Hari Haran, UDC Accounts & Sh. Gautam Suri, C.A. of the school.

The authorized representative appearing for the school files written submissions dated 7.12.2017 alongwith which the school has enclosed a statement showing collection and utilization of development fee from 2005-06 to 2016-17, copies of balance sheet and schedules of fixed assets required out of development fund for the said period and also a list of FDRs and saving bank accounts against earmarked development fund. Copies of FDRs and saving bank pass books are also enclosed by the school.

Calculation sheet to be prepared. Matter will be heard on 17<sup>th</sup> January 2018 at 11.00 A.M.

2h

Dr. R.K. SHARMA  
MEMBER

J.S.KOCHAR

J.S.KOCHAR  
MEMBER

Justice Anil Kumar

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary





11/12/2017B-437Air Force Bal Bharti School, Lodi Road, Delhi

Present: Mrs. Sunita Gupta, Principal, Gp. Capt. C.P. Nigam, Admin Officer & Sh. R.S.Chakrabarti, Accountant of the school.

The school has rebutted the calculation sheet prepared by the Committee vide its written submissions dated 11.12.2017. It has contended that the Committee ought to have taken the amount of Rs.4,71,00000 deposited with IAFBA as earmarked funds against depreciation reserve fund. The only reason why the amount was placed with IAFBA i.e. Indian Air Force Benevolent Association was that it offered a higher rate of interest than the schedule banks. The principal of the school Mrs. Sunita Gupta who is present at the time of hearing has drawn the attention of the Committee to the audit report on the balance sheet of the school as on 31.3.20008 wherein the auditors have also considered this as part of investment in depreciation fund.

It is further contended that the advance to the contractor of the military engineering services amounted to Rs.1,31,14000 was given out of development fund for up gradation/renovation and the same was adjusted after completion of the work in 2010-11 and hence was not available with the school for the purpose of meeting its increased financial obligation on account of implementation of the recommendations of the 6th pay commission. As such it ought not be considered as part of funds available.

It is contended that if these amendments are made to the calculation sheet, the school would come in deficit after implementation of the recommendation of the 6<sup>th</sup> pay commission.

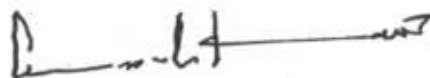
Arguments heard. Recommendations reserved.



Dr. R.K. SHARMA  
MEMBER



J.S.KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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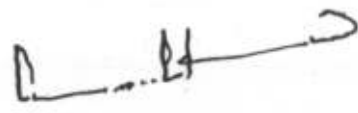
11/12/2017**B-90****Masonic Public School, Vasant Kunj, Delhi**

Present : Sh. Baljit Singh, Admn. Officer & Sh. Ravi Prakash, Accountant of the school.

The school has filed copies of its fee schedules for the years 2006-07, 2007-08, 2008-09 and 2009-10. However, the school has not filed a copy of the revised fee structure with effect from Sept. 2008 that was sent to the parents alongwith circular dated 16.3.2009. The school has also not produced its fee receipts for the relevant years. Therefore it is not possible to ascertain as to how much was the fee recovered from the parents as arrear fee or increased fee w.e.f. Sept. 2008 in pursuance of the circular dated 16.3.2009 issued by the school. The school will produce all its books of accounts, bank statements, salary registers, fee registers and fee receipts for the years 2008-09 to 2010-11 before the audit officer of the Committee on 19<sup>th</sup> Dec. 2017. The audit officer will examine the record as to how much fee was recovered by the school for the purpose of implementation of recommendations of the 6<sup>th</sup> pay commission in light of the circular dated 16.3.2009 issued by the school and also in how many installments the arrear fee was recovered as the authorized representative submits that the arrears were recovered only in two installments although the circular issued by the school envisages recovery in three installments. The information regarding fee and salary furnished by the school under cover of its letter dated 17.10.2015 will also be verified with reference to the books of accounts of the school and its audited financials. Thereafter a calculation sheet would be prepared as usual. The next date of hearing is fixed on 19<sup>th</sup> January 2018 at 11.00 A.M.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



11/12/2017B-56St. Angels's School, Sector-15, Rohini, Delhi

Present: Sh. Archit Bhardwaj, Director & Sh. Archit Bhargava, C.A. of the school.

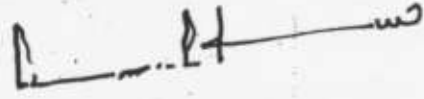
The school has filed copy of certificates issued by Oriental Bank of Commerce showing the mode of payment in respect of the cheques which were given to the staff towards arrears salaries. The certificate shows that all the cheques have been paid either in clearing or by transfer. The school has also furnished details of its accrued liabilities of gratuity and leave encashment in respect of the junior school as well as the Sr. school. Calculation sheet to be prepared. Matter will come up for further hearing on 17<sup>th</sup> January 2018 at 11.0 A.M.



Dr. R.K. SHARMA  
MEMBER

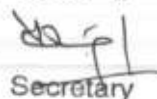


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



11/12/2017**B-380****Mata Gujri Public School, Greater Kailash, Delhi.**

Present: Sh.J.S.Ghuman, Director, Mrs. Daljit Kaur, Principal & Sh. H.S.Duggal, Gen. Secy. of the school.

The school furnished details of its accrued liabilities on account of leave encashment as on 31.3.2010 under cover of its letter dated 8.12.2017. The total liability that has been projected by the school is Rs.30.03 lacs. Further with regard to the abnormal hike in the activity fee/annual charges which rose from Rs.22.61 lacs in 2008-09 to Rs.70.84 lacs in 2009-10, the school has given the explanation that during the year 2009-10 other charges fee was clubbed with annual charges/activity fee. And if the two were considered together, the result in figures would be Rs.55.90 lacs in 2008-09 and Rs.70.87 lacs in 2009-10. Accordingly it is submitted that the hike in fee on this account was not abnormal in 2009-10.

The Committee has prepared a calculation sheet with reference to the consolidated balance sheet of the school with its parent society i.e. Mata Gujri Education Society at the insistence of the school as it was contended that the parent society has no other activity except running the Sr. Secondary and the Pre Primary school and the over all position can be judged better by examining the consolidated balance sheet. The Committee observes that after accounting for the accrued liability on account of leave encashment which the school has submitted only two days back, the school was in deficit after implementation of the recommendations of the 6<sup>th</sup> pay commission even after accounting for the development fee which the school recovered in 2009-10 and 2010-11. Accordingly the Committee is of the view that no intervention is required so far as the recovery of arrear fee and increased fee pursuant to order dated 11.2.2009 is concerned or the development fee charged by the school in 2009-10 and 2010-11.

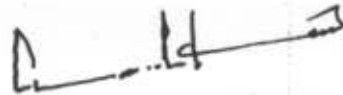
Detailed order to be passed separately.



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

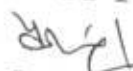


**J.S. KOCHAR**  
MEMBER



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

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Secretary


12/12/2017~~B-1000~~ 109Dr. Radha Krishna International School, Defence Colony, Delhi

Present: Sh. Bal Krishan Sharma, Accountant of the school.

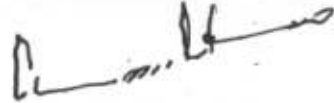
After the issuance of order dated 11.2.2009 by the Director of Education permitting the schools to hike tuition fee and recover arrears of fee since 1.1.2006 for implementation of the recommendations of the 6<sup>th</sup> pay commission, the school issued a circular dated 15.2.2009 requiring the students to pay lump sum arrear of Rs.3500 for the period 1.1.2006 to 31.8.2008 as well as the increased fee w.e.f. 1.9.2008. The tuition fee that was increased by the school was @ Rs. 400 per month. The school was charging development fee @ 15% of tuition fee as per its original fee schedules filed under section 17 (3) of the Delhi School Education Act 1973. As per

As per a fresh circular dated 30.3.2009, the school advised the parents to pay a further amount of Rs.822 as arrears of development fee in respect of classes nursery to 8<sup>th</sup>, Rs.930 in respect of class 9<sup>th</sup> & 10<sup>th</sup> & Rs.1200 in respect of classes 11<sup>th</sup> & 12<sup>th</sup>.

The arrears of tuition fee which were recovered @ Rs. 400 per month w.e.f. 1.9.2008 amounted to Rs. 2800 upto 31.3.2009. On the face of it, it appears that the recovery of arrears of development fee was much more than 15% of the arrears of tuition fee. The school is required to give the calculations as to how it arrived at the aforesaid figures of arrears of development fee, which are stated to be @ 15% of the arrears of tuition fee. The same may be done within one week. Matter will come up for further hearing on 10<sup>th</sup> January at 11.00 A.M.

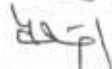
  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

  
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12/12/2017

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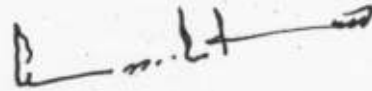
  
Secretary



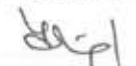
12/12/2017B-335Bhai Parmanand Vidya Mandir, Surya Niketan, Delhi

Present : Sh. Nishant Garg, Accountant of the school.

An application has been received on behalf of the school from its authorized representative seeking adjournment on account of some unavoidable medical reasons. As requested the matter is adjourned to 10<sup>th</sup> January at 11.00 A.M.

Dr. R.K. SHARMA  
MEMBERJ.S. KOCHAR  
MEMBERJUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary

12/12/2017B-340Preet Public School, Preet Vihar, Delhi

Present: Sh. Nishant Garg, Accountant of the school.

A request has been received on behalf of the school from its authorized representative seeking adjournment on ground of some unavoidable medical reasons. As offered by the principal of the school during the course of hearing on 22.11.2017, the school appears to have refunded the amount of Rs.1,81,191 to the students from whom the arrear fees were collected but had not been adjusted against their regular fee. This was done with respect to other students but it appears that the students who had left the school after 10<sup>th</sup> or 12<sup>th</sup> or other classes were not refunded. The refund of arrears fee was offered by the principal as the school did not pay the arrear salary to the staff. The school has filed copies of cheques now issued to those students who had not been refunded earlier alongwith copies of the speed post receipts through which the said cheques were sent. The school has also filed copies of its bank statements showing that some of such cheques have been encashed by the students.

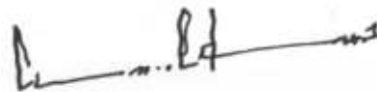
The school was required to produce its books of accounts for verification of the information furnished by it under cover of its letter dated 28.5.2015. As an adjournment has been sought on medical grounds the same is allowed. Matter will come up for further hearing on 10<sup>th</sup> January 2018 at 11.00 A.M. The school will produce its books of accounts along with the necessary fee and salary records for the years 2008-09 to 2010-11.



Dr. R.K. SHARMA  
MEMBER

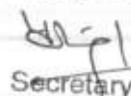


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary


12/12/2017**B-623****Col.Satsangi's Kiran Memorial School, Chhattarpur, Delhi**

Present: Sh.Rohit Jain, Legal Consultant, Sh. S. Krishna, Cost Consultant, Sh. Surendra Prasad, Asstt. Manager, Sh. Ram Lal Pandit, Sr. Accountant & Sh. Sunil Kohli, Accounts Supervisor of the school.

The school has filed written submissions dated 8.12.2017 controverting the preliminary calculation sheet prepared by the Committee with regard to availability of funds as on 31.3.2008. A number of contentions have been raised by the school with regard to inclusion of certain items in the statement of funds available and with regard to omission of certain items which as per the contention of the school are required to be excluded therefrom. The parent society of the school runs one school in Delhi one in Bhiwadi and one in Navrangpur. They have inter school transactions. For the purpose of facilitating the relevant calculations the Committee had required the school to file the consolidated balance sheet of the parent society in columnar form representing the financials of the different entities under the society. The same has not been done till date. What the school did was to present the individual balance sheet of the different entities in the columnar form without consolidation. The authorized representative appearing for the school seeks some more time for filing the consolidate balance sheet in the manner required by the Committee.

The Committee has perused the aforesaid written submissions dated 8.12.2017 and observes that there are factual inaccuracies even with regard to the different component of fee receipts and salary paid by the school in the years 2008-09 onwards. The mistakes have been admitted by the authored representatives appearing for the school and again time is sought for furnishing fresh figures.

The school has filed so many different written submissions, chart, balance sheets and every time the same sought to be retraced/corrected. In the circumstances the Committee directs the school to revert back to the notice of dated 26.5.2015 issued by the Committee vide which the information relevant for making the calculations was sought and furnish a fresh reply along with the necessary documents. The consolidated balance sheet of the society with columns for different entities run by it be also filed as already directed. Let this be done in two weeks. Matter will come for further hearing on 19<sup>th</sup> January 2018 at 11.00 A.M.

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12/12/17

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Dr. R.K. SHARMA  
MEMBER

J.S.KOCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON





13/12/2017B-346St. Mary's School, Mayur Vihar, Delhi

Present: Ms. Lizy Jobi, Head Clerk & Sh. Devender, LDC of the school.

The Committee has perused the circular issued by the school to the parents regarding fee hike and arrear fee to be collected from the students pursuant to order dated 11.2.2009 issued by the school. The first circular which was issued sometime before 31.3.2009 required the parents to pay the arrears of increased fee for the period 1.9.2008 to 31.3.2009 at the following rates:

Class	Arrear fee for the period 1.9.2008 to 31.3.2009 (Rs)
KG to 5 <sup>th</sup>	1610
6 <sup>th</sup> to 10 <sup>th</sup>	2415
11 <sup>th</sup> & 12 <sup>th</sup>	3220

Another circular was issued by the school on 16.9.2009 requiring the parents to pay the lump sum arrear fee for the period 1.1.2006 to 31.8.2008 at the following rates :

Class	Amount (Rs.)
1	833
2 <sup>nd</sup> & 3 <sup>rd</sup>	1667
4 <sup>th</sup> to 6 <sup>th</sup>	2500
7 <sup>th</sup> to 11 <sup>th</sup>	3000
12 <sup>th</sup>	3500

Since the arrear fee as per the second circular was collected in the next financial year, they relate to one class before in so far as the comparative arrear fee as per the first circular is concerned.

It appears that the arrear fee for the period 1.9.2008 to 31.3.2009 was arrived at as follows :

For classes KG to 5<sup>th</sup>, it was Rs. 1400 towards tuition fee and Rs.210 (15%) towards development fee. Similarly for classes 6<sup>th</sup> to 10<sup>th</sup> it was Rs.2100 towards tuition fee and Rs.315 (15%) towards development fee and for classes 11<sup>th</sup> and 12<sup>th</sup> it was Rs.2800 towards tuition fee and Rs.420(15%) towards development fee.

The annual returns of the school filed under Rule 180 of the Delhi School Education Rules 1973 are not on record of the Committee and therefore it is not possible to verify from the fee schedule of 2008-09 as to how much was the fee that was charged by the school prior to hike effected w.e.f. 1.9.2008. The school is required to file copies of its fee schedules filed before the start of the academic session with the Director of Education for the years 2006-07 to 2010-11.

The school claims to have implemented the recommendations of the 6<sup>th</sup> pay commission w.e.f. 1.9.2009. It is submitted that the school paid arrears for the period 1.1.2006 to 31.8.2009. The total amount of arrears as claimed to have been paid for the aforesaid period is Rs.2,39,81,897. It is submitted that the arrears were paid in 6 installments in April 2009, August 2009, January 2010, February

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13/12/2017

2010, October 2010 & December 2010. Besides a sum of Rs. 2,94,255 is also claim to have been paid to one Sh. Selen Raju on 23.3.2011.

The school has today furnished a statement showing arrears, separately for the period 1.1.2006 to 31.8.2008, 1.9.2008 to March 2009 and April 2009 to August 2009. As per the statement the school paid a total sum of Rs.1,26,04,751 for the period 1.1.2006 to 31.8.2008, Rs,62,36,713 for the period Sept. 2008 to March 2009 and the balance amount of Rs.51,40,433 for the period April 2009 to August 2009. The school made a provision for a total sum of Rs.2,36,61,971 in its balance sheet for the year 2009-10. However, the arrears upto March 2009 amounted to Rs.1,88,41,464 only. The remaining amount of 48,20,507 provided by the school, obviously represents the arrears for the period 1.4.2009 to 31.8.2009. The same is required to be treated as a regular salary for the year 2009-10 and not as arrears paid pursuant to implementation of the 6<sup>th</sup> pay commission.

In the salary statement, filed by the school in response to notice dated 9<sup>th</sup> July 2015 issued by the Committee shows the full amount of Rs.2,36,61,971 as arrears for the period 1.1.2006 to 31.8.2008, which is factually incorrect. Accordingly, the breakup of salary is recast as follows :

Particulars	F Y 2008-09	F Y 2009-10
Arrear salary for the period 1.1.2006 to 31.8.2008		1,26,04,751
Arrear salary for the period 1.9.2008 to 31.3.2009		62,36,713
Regular salary for the year	1,53,99,520	2,44,93,215+48,20,507=2,93,13,722

The Committee has examined the fee details furnished by the school as Annexure VI of the written submissions dated 30.7.2015 and observes that even this statement has been incorrectly cast by the school. The school showed the recovery of arrear fee in 2008-09 also as part of the recovery in 2009-10, probably on account of the fact that the school did not treat the recovery in 2008-09 as its income in that year but carried it over to next year. Accordingly the recasted fee statement is as follows:

Particulars	F Y 2008-09	F Y 2009-10	F Y 2010-11
Fee Arrears for the period 1.1.2006 to 31.8.2008		38,60,687	13,04,945
Tuition fee arrears for the period 1.9.2008 to 31.3.2009	26,37,226	6,85,364	
Development fee arrears for the period 1.9.2008 to 31.3.2009	3,88,363	1,14,895	
Regular tuition fee for the year	2,62,37,942	3,35,69,790	

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Secretary




13/12/2017

With regard to the contention made by the school in its earlier submissions that treatment of development fee as a revenue receipt by the school ought to be treated as a mere accounting error as despite treating it as a revenue receipt the school had earmarked the unutilized development fund and depreciation reserve fund in a separate bank account and further the development fee was being utilized only for purchase of furniture and fixtures and equipments. The school was required to furnish a statement showing how the school was having adequate development fund despite treating it as a revenue receipt which would have been utilized for meeting its revenue expenses also. Ms. Lizy Jobi, Head Clerk of the school who is duly authorized by the principal to appear before this Committee has furnished a statement showing the surplus in income and expenditure account viz a viz the development fee received by the school and the net cash surplus that remains with the school if the development fee is taken out from the income and expenditure account.

Calculation sheet to be prepared. Matter to come up for further hearing on 22<sup>nd</sup> January 2018 at 11.00 A.M.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



13/12/2017B-407Saraswati Vidyalaya School, Darya Ganj, Delhi

Present : Mrs. Geeta K. Pruthi, Administrator & Sh. M.D. Sanwal,  
Accountant of the school.

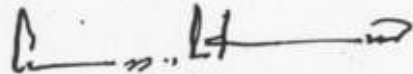
A copy of the calculation sheet has been given to the authorized representative appearing for the school as it prima facie appears that the school recovered more fee than it was required keeping in view the funds already available with the school. The school may file its written submissions in rebuttal of the calculation sheet. Matter will come up for hearing on 18<sup>th</sup> January 2018 at 11.00 A.M.



Dr. R.K. SHARMA  
MEMBER

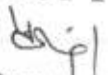


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



13/12/2017

B-172

Ganga International School, Swada Ghevra, Delhi

Present: Dr. B.K. Yadav, Principal, Sh. Vipul, Accountant, Sh. Agasti Kumar, Accountant & Sh. Rohit, Accountant of the school.

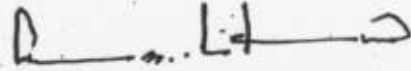
The hearing is adjourned to 18/01/2018 due to paucity of time.



Dr. R.K. SHARMA  
MEMBER

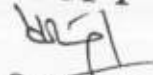


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary

13/12/2017B-677Ganga International School, Hiran Kudna, Delhi

Present: Sh.R.K. Narang, Accounts Officer & Sh. Rakesh Khanduri, Accounts Assistant of the school.

The Committee has examined the details of arrear fee and arrear salary which the school furnished under cover of its letter dated 05/06/2017 with reference to the books of accounts produced by the school in a laptop which are maintained in a tally software. As per the statement filed by the school, it recovered a total sum of Rs. 52,64,897 as arrear fee spread over seven years from 2009-10 to 2015-16. Further as per the aforesaid statement, the school claims to have paid a total sum of Rs. 48,67,453 as arrear salary spread over six years from 2009-10 to 2014-15.

On examination of the books of accounts of the school, the Committee observes as follows:

The total arrear fee collected by the school amounted to Rs. 51,07,962 instead of Rs. 52,64,897 as stated by the school. The difference of Rs. 1,56,935 is on account of the fact that certain transfer instructions regarding arrear salary for the credits of accounts of staff were not carried out by the bank for various reasons and instead of reversing them to salary payable account, the school reversed this sum to the arrear fee account. This has also resulted in reporting of excess arrear payment by the school in 2014-15 to the same extent. The total arrears payments as submitted by the school were Rs. 48,67,453 but the actual payments are Rs. 47,10,515. The Committee has also examined the details of arrear payments claimed to have been made by the school. In the year 2009-10, out of a total payment of Rs. 9,57,483 as claimed, a sum of Rs. 79,572 was purported to have been paid to one Mr. Rakesh Khatri in cash for which no vouchers have been produced before the Committee. In the year 2012-13, the school claimed to have paid Rs. 7,69,902 on account of arrears of VI Pay Commission. However, included in this amount is Rs. 14,000 which has not been paid to any staff members but to the Director of Education against certain demands made by him. The remaining amount of Rs. 7,55,902 has also not been paid to the staff but is claimed to have been adjusted against notice pay payable to them as they purportedly left without giving any notice. The school has not produced any evidence with regard to the notice pay that it demanded from the concerned staff members or with regard to any letter written to them regarding adjustment of their arrears against the notice pay allegedly due. In the year 2013-14, a sum of Rs. 10,93,000 is claimed to have been paid to five employees who filed a case in the High Court claiming not only the arrears of VI Pay Commission but also other dues like gratuity, leave encashment etc. The school has not furnished any detail with regard to the amount that was paid on account of arrears of VI Pay Commission upto 31/03/2009 and how much has been paid on account of other

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The regular fee recovered by the school in the years 2008-09 to 2010-11 has culled out from the books of accounts produced by the school. The same is as follows:

Particulars	F.Y. 2008-09	F.Y. 2009-10	F.Y. 2010-11
Tuition fee	2,43,30,307	2,92,99,62	3,27,90,305
Development fee	25,27,412	45,47,419	50,34,008

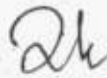


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The Committee notices that the school is treating development fee as a revenue receipt and the same is also expended on revenue expenses. No development fund or depreciation reserve fund account is maintained by the school.

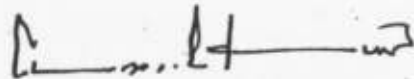
Calculation sheet to be prepared. Matter will come up for further hearing on 18/01/2018 at 11.00 a.m.



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

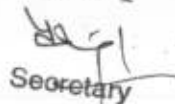


**J.S. KOCHAR**  
MEMBER



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

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Secretary

18/12/2017

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B-49

Sachdeva Public School, Sector-13, Rohini, Delhi

Present: Sh.Anup Mehrotra, A.O., Sh. Y.P. Rawla, CA & Sh. Rakesh Goel, Sr. A.O. of the school.

The school has disputed the calculation sheet prepared by the Committee vide its written submissions dated 15.12.2017. The school has contended as follows:

- A. While the Committee has considered the net amount transferred to the society in the years 2006-07 and 2008-09, as also the repayments of loans and interest thereon during the years 2006-07 to 2009-10 as diversion of funds from the school to the society or for incurring capital expenditure, the Committee has not taken into consideration the sources out of which the aforesaid funds came into the hands of the school. In this connection it has been submitted that in the year 2006-07 a sum of Rs.43,82,910 was received by the school in the shape of increased overdraft from bank, in the year 2007-08 a sum of Rs.34,88,456 was inducted into the school by the society and further in 2008-09 a sum of Rs.1,01,34,723 accrued to the school in the shape of increased overdraft and a secured loan taken for purchase of buses.
- B. It is further contended that a sum of Rs.49,72,042 was taken as loan from Sachdeva Public School, Pitampura in the years 2006-07 and 2007-08, a part of which to the tune of Rs.44,04,977 was repaid in 2008-09, the Committee has not considered that a sum of Rs.5,67,065 became available to the school out of such loan.
- C. The school has further contended that it had only a sum of Rs.17,89,598 out of the tuition fee for the years 2006-07 to 2009-10 which ought to have been considered as funds available with the school for the purpose of implementation of the recommendations of the 6<sup>th</sup> pay commission and has furnished a working as annexure A to the written submission.
- D. The school has filed an actuarial report as per which the estimated liability of gratuity and leave encashment of the school is Rs.2,42,64,573 as on 31.3.2010 instead of Rs.1,29,94,002, as taken in the calculation sheet by the Committee.

It is further submitted that the development fee received in 2009-10 and 2010-11 has been fully utilized for purchase/up gradation of fixed assets. The authorized representative of the school has drawn attention of the Committee to the schedule of development fund account in these two years which form part of the balance sheet, in support of its contention.

The Committee has considered the submissions made by the school in its written submissions as well as the arguments of the authorized representatives appearing for the school.

TRUE COPY So far as the source of funds which the school claims with regard to the diversions made in the years 2006-07 and 2007-08, the Committee is in agreement with the contention of the school. However for the year 2008-09 the Committee observes that the sum of Rs.1,01,34,723 comprises of two figures namely Rs.83,89,399 as accretion to the overdraft account of the school and Rs.17,45,323 which the school took as loan for purchase of buses. The Committee observes that it has not taken into consideration the cost of buses purchased

Secretary





18/12/2017

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out of the loan taken by the school for this purpose. This amounts to Rs. 26,39,000. The contention raised by the school requires to be moderated to this extent.

So far as the contention with regard to the receipt of funds from Sachdeva Public School, Pitampura amounting to Rs.5,67,065 is concerned, the Committee accepts the contention made by the school.

With regard to the availability of funds out of tuition fee head only which the authorized representative submits that should be taken as funds available for the purpose of implementation of the recommendations of the 6<sup>th</sup> pay commission, the Committee does not agree with this contentions. It has taken into account the overall funds available with the school as on 31.3.2008 and not just from one head of fee that is tuition fee. Committee has also gone through the commutation of the figures given by the school in this connection and finds that the school has arrived at such figures after accounting for the capital expenditure on purchase of fixed assets. Moreover, this computation does not take into account the funds that the school actually had as on 31.3.2008 but only takes into consideration the funds generated by the school in 4 years from 2006-07 to 2009-10. The same ignores the reserves available with the school out of the earlier years revenues.

With regard to the accrued liabilities of gratuity and leave encashment, the Committee observes that it had taken the figures in the calculation sheet which were based on the detailed calculations of the accrued liabilities employee wise considering the date of joining, length of service and the qualifying service for ascertaining the accrued liability of gratuity as per the provisions of the payment of gratuity act. The only adjustment made by this Committee in r/o of the employees who have not completed 5 years of service. When such detailed calculations are available in which no mistakes has been pointed out by the school, the actuarial valuation cannot be considered as that is an estimate based on future projections of the rate of return, life expectancy etc. which may or may not hold good.

With regard to development fee, the Committee has observed that in the schedule of development fee annexure to the balance sheet, the school has given aggregate figures of the amounts utilized for additional, alteration/up gradation of certain furniture and fixtures for equipments without giving any details and without specifying whether they were capital expenditures or revenue expenditures. Moreover, it is conceded at the time of hearing by the authorized representative of the school that since the fixed assets acquired out of development fee have not been capitalized, there would be no question of any depreciation reserve fund in respect thereof. It is also conceded that the school was not maintaining any earmarked bank accounts of investment for development fee or depreciation reserve fund.

At this state the authorized representative submits that the school will furnish an explanation with regard to the difference between

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Secretary



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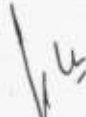
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the calculations made by the school and those made by the actuary in respect of accrued liabilities of gratuity and leave encashment. The same may be done within 7 days.

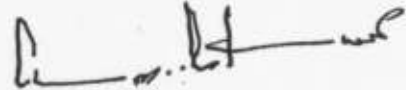
Arguments heard. Recommendations reserved.



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

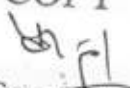


**J.S. KOCHAR**  
MEMBER



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

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Secretary

18/12/2017

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B-55

Titiksha Public School, Sector-11, Rohini, Delhi

Present : Sh.Rajesh Kr. Verma, Accountant of the school.

The Committee has prepared the calculation sheet with regard to the justification of fee hike by the school pursuant to order dated 11.2.2009 issued by the Director of Education. The school did not pay any arrears of salary for the period 1.1.2006 to 31.3.2009 and at the same time did not recover any arrears of tuition fee for the corresponding period.

As per, the calculation sheet, the school had a sum of Rs.11,57,338 available with it as on 31.3.2009. The incremental revenue generated by the school on account of fee hike as per order dated 11.2.2009 during the year 2009-10 amounted to Rs. 62,61,129 while the incremental salary for the same period consequent to implementation of the recommendations of the sixth pay commission amounted to Rs.72,84,049.

Apparently the school recovered a sum of Rs.1,34,418 in excess of what was required for implementation of the recommendations of the sixth pay commission prospectively w.e.f. 1.4.2009, after taking into consideration the funds already available with it. However, keeping in view the fact that while working on the above figures, the Committee has not taken any reserve for future contingencies, which the Committee has been taking into consideration in case of all the schools, the Committee does not deem it a fit case where the school should be asked to refund the excess amount of Rs.1,34,418.

Detailed order to be passed separately.

24

Dr. R.K. SHARMA  
MEMBER

J.S. KOCHAR  
MEMBER

Justice Anil Kumar (Retd.)

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



18/12/2017

000306

B-277

Hans Raj Smarak School, Dilshad Garden, Delhi

Present: Sh. Rajiv Gupta, Accountant of the school.

The school has filed a letter dated 18.12.2017 alongwith which it has furnished the revised statements of different components of fee and salary in respect of the Sr. school only. As per the direction given by the Committee on 27.11.2017 the school was required to file the revised statement in respect of both the Sr Secondary school as well as the Nursery school, as the Committee had observed that certain figures have been taken by the school on hypothetical basis and they did not tally with the books of accounts of the school. The school is directed to file the revised figures of different components of fee and salary in r/o of the nursery school also on actual basis which ought to tally with the books of accounts of the school and its audited balance sheets. The same may be produced before the Audit Officer of the Committee alongwith the books of accounts in a laptop on 27.12.2017 at 11.00 A.M.. Matter to come up for further hearing on 22nd January 2018 at 11.00 A.M.

24

Dr. R.K. SHARMA  
MEMBER

J.S. KOCHAR

J.S. KOCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



18/12/2017

000307

B-368

Hans Raj Smarak School, Krishna Nagar, Delhi

Present: Sh.Rakesh Kumar Mahjan, UDC of the school.

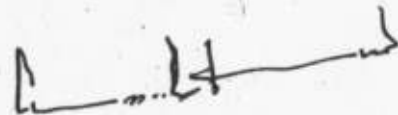
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**Dr. R.K. SHARMA**  
**MEMBER**



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



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



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Secretary

19/12/2017

000308

B-236

**Maharaja Aggarsain Adarsh Public School, Pitampura, Delhi**

Present: Dr. Harsh Arya, Principal, Ms. Neha Gupta, PGT Accounts & Sh. Lalit Kumar, Accounts Officer of the school.

The Committee has prepared a calculation sheet based on the information furnished by the school, during the course of hearing as well as on the audited financials of the school which were forwarded to the office of the Committee by the Education Officer Zone 11 of Directorate of Education. The Committee has also heard the arguments put forth by the principal of the school who is present at the time of hearing.

The Committee has determined that the school had a net current asset plus investment amounting to Rs.96,90,096. Besides the school had transferred a net amount of Rs.19,81,807 to Aggarwal Dharamshala Trust which runs the school from the year 2006-07 to 2010-11. After considering the funds required to be kept in reserve by the school, the Committee observes that the school did not have any funds of its own which could have been utilized for meeting the additional liabilities arising on implementation of the recommendations of the 6<sup>th</sup> pay commission. The additional liabilities upto 31.3.2010 have been worked out by the Committee at Rs.1,94,45,084. These were partially met by the school by recovering arrear fee for the period 1.1.2006 to 31.3.2009 and by increasing the tuition fee for the year 2009-10. The funds generated in this manner amounted to Rs.1,06,57,545. Thus there was a gap of Rs.87,87,539. This was also partially met to the extent of Rs.13,65,325 by introducing fee under a new head namely computer fee. This still left a gap of Rs.74,22,240. It has been submitted by the principal of the school that the school invested a sum of Rs.37,02,866 in computers in the year 2010-11 in which the computer fee was discontinued. Therefore, the school did not generate any revenue out of computer fee that it charged in 2009-10. In support of this submission the school has drawn the attention of the Committee to its audited balance sheet as on 31.3.2011 which shows the addition of computers in the fixed assets.

In view of the submissions made, the Committee is of the view that the fee hiked by the school pursuant to order dated 11.2.2009 for implementation of the recommendations of the 6<sup>th</sup> pay commission and the computer fee recovered by it in 2009-10 call for no interference.

So far as the development fee is concerned the Committee notices that the school was not fulfilling any of the pre conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School as the school admittedly treated development fee as a revenue receipt in its accounts which was also utilized for meeting the revenue expenses. The total recovery on this account in the years 2009-10 and 2010-11 amounted to Rs.41,66,074. However, in view of the deficit incurred by the school in implementing the recommendations of the 6<sup>th</sup> pay commission, which was larger than the total collection of development fee in these two years, Committee is not inclined to take any adverse view in respect of development fee also.

Detailed order to be passed separately.

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Dr. R. K. SHARMA  
MEMBER

J. S. HOCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON



19/12/2017

000309

B-604

Lal Bahadur Shastri Smarak School, R.K.Puram, Delhi

Present : Sh.A.Ghosh, Administrator, Sh.K.K. Arora, Consultant & Sh. Devender Accountant of the school.

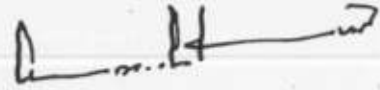
The school seeks short adjournment for filing the details as required by the Committee on 29.11.2017 and for producing its books of accounts with fee and salary records. Accordingly, the hearing is adjourned to 8<sup>th</sup> January 2018 at 11.00 A.M.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
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Secretary



19/12/2017

000310

B-237

S D Public School, Kirti Nagar, Delhi

Present: Sh.Ramesh Lamba, Manager, Sh.Subhash Kumar Saini & Sh. Ravi Kumar Chawla, Assistant of the school.

The Manager of the school has submitted a letter dated 19.12.2017 stating therein that the management of the school is of the view to disperse the amount of arrears of 6<sup>th</sup> pay commission in proportion to the amount received within 6 months. The Committee is not inclined to grant so much of time as already about 8 years lapse since the school collected the arrear fee from the students. At this stage request has been made by the Manager that time may be granted upto the 2<sup>nd</sup> week of April 2018, when the school is likely to be having the required funds for payment as the earlier fee collected has already been consumed in payment of regular salaries.

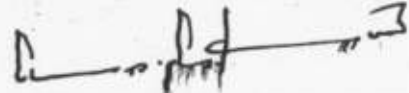
As requested the school is given time upto 15<sup>th</sup> April 2018 to disperse the arrear salary to the staff. The amount ought to be paid either by direct transfer to the accounts of the staff or by account payee cheques, the evidence of which can be produced by the school on the next date of hearing. Fresh notice for a date after 15<sup>th</sup> April 2018 will be issued in due course.



Dr. R.K. SHARMA  
MEMBER

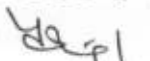


J.S. NOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



19/12/2017

000311

B-295

Lions Public School, Ashok Vihar, Delhi

Present: Sh. Harsh Oberoi, Manager of the school.

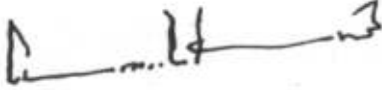
The school has furnished the details and documents which were required to be furnished vide order dated 12.10.2017. As per the certificates issued by the bank, it is apparent that seven employees, to whom individual cheques were given for an amount of Rs.59,718 each, the same were paid to bearer on 15.4.2009. Even in the second installment of arrear the cheques given to these employees were paid by bank to the bearer. The total amount of payments through bearer cheques amounted to Rs.4,18,026 out of arrears paid in 2008-09 and Rs.25,245 out of arrears paid in 2009-10. The figures given in the fee and salary statement filed by the school on 29.5.2015 have been checked with reference to the books of accounts of the schools. The authorized representative appearing for the school has clarified that the school did not recover any arrears of development fee but the development fee mentioned in the circular was to be recovered w.e.f. 1.4.2009.

During the course of hearing it has emerged that the parent society of the school was also running a pre primary school whose financials are separately maintained. The school is required to furnish the information required by the Committee vide its notice dated 6.5.2015 in respect of the pre primary school also. The school is also required to furnish the audited financials as well as fee schedules of fees of the pre primary school for the years 2008-09 to 2010-11. While giving the details of arrears paid to the staff of the pre primary school the school will specifically mention whether the same have been paid through direct bank transfer or account payee cheques or bearer cheques/cash. On the next date of hearing the school will produce the books of accounts, fee records and salary records of the pre primary school.

Matter to come up for further hearing on 19<sup>th</sup> January 2018 at 11.00 A.M.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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